



## CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
  - A. Employee Service Awards Presentation
  - B. Colorado Gives Day Proclamation
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. 2011 Sewer Tap Fee Increase
  - B. 2011 Park Pavilion Reservation Fees
  - C. 2010 Construction Crew Utility Materials Purchase
  - D. Water Treatment Facility Process Instrumentation Purchase
  - E. Semper Water Treatment Facility Valve Equipment Purchase
  - F. 2010 Purchase of Network Hardware, Services and Maintenance
  - G. Financial Audit Firm Contract for Fiscal Years 2010-2014
  - H. Semper Water Treatment Facility Painting Project Contract
  - I. Stipulation and Plan re Exclusion of Properties from North Metro Fire Rescue District
  - J. Second Reading of Councillor's Bill No. 58 re Shoenberg Farm Concrete Silo Grant Supplemental Appropriation
9. Appointments and Resignations
10. Public Hearings and Other New Business
  - A. Resolution No. 38 re Exclusion of Properties from North Metro Fire Rescue District
  - B. Resolution No. 39 re City of Westminster 2011 Legislative Policy Statement
  - C. Resolution No. 40 re City of Westminster 2010 Natural Hazards Mitigation Plan
  - D. Councillor's Bill No. 59 re Amend W.M.C. Sect. 11-4-11 re Use of City Property by Telecommunication Companies
  - E. Legal Services re Requests by Private Telecommunication Companies to use City Owned Property and Facilities
  - F. Implementation of the Process to Review Requests by Private Telecommunication Companies to use City Property
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session
  - A. City Council
  - B. Executive Session – Discuss strategy and progress on potential acquisition of certain real property by the Westminster Economic Development Authority for the Westminster Urban Reinvestment Project pursuant to CRS 24-6-402(4)(a) and (e)
13. Adjournment

**GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

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

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, OCTOBER 25, 2010 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Winter, to approve the minutes of the regular meeting of October 11, 2010, as written. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that the City Clerk's office was a drop-off ballot site for both Adams and Jefferson Counties and reviewed the hours the site would be open through November 2.

The annual Halloween Carnival would be from 4 to 7 p.m. on October 30 at City Park Recreation Center. Children aged 10 and under were the focus of this fun event.

Following tonight's meeting Council would meet as the Board of Directors of the Westminster Economic Development Authority. There was no post-meeting or executive session scheduled after that meeting.

COUNCIL REPORTS

Councillor Briggs reported that first-time attendees of the Business Appreciation Luncheon last Friday at the Westin Conference Center were impressed and appreciative of the event and the City's recognition of businesses operating within the community. Last week he had the opportunity of talking to the Chamber's Leadership Class about Westminster history. Additionally, last week Saint Anthony's North Hospital had opened a new wound care center, the first in Colorado.

Mayor McNally reported that the Westin Conference Center was sponsoring a Halloween event from 3 to 5 p.m. on October 31. The community was invited to dress in costume and come join in the fun.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: accept the September 2010 Financial Report; accept the third quarter 2010 Insurance Claims Report; authorize the Mayor to execute a revised employment agreement with J. Brent McFall for his services as City Manager for 2011 with an effective date of January 1, 2011, and automatic renewal for 2012 unless terminated pursuant to the provisions of the agreement; authorize the Mayor to execute a revised employment agreement with John A. Stipech for his services as Presiding Judge for 2011 with an effective date of January 1, 2011, and an automatic renewal for 2012 unless terminated by City Council; authorize the Mayor to execute a revised employment agreement with Martin R. McCullough for his services as City Attorney for 2011 with an effective date of January 1, 2011, and an automatic renewal for 2012 unless terminated pursuant to the terms of the agreement; authorize the City Manager to sign the Fourth Amendment to the Second Intergovernmental Agreement between the City and Hyland Hills Park and Recreation District concerning the Ice Centre; authorize the City Manager to sign the amended intergovernmental agreement with the Urban Drainage and Flood Control District and Adams County for the construction of drainage improvements on the Shaw Heights Tributary between Circle Drive and Rotary Park and authorize the expenditure of \$180,000 in additional funding for this project; authorize the City Manager to sign the amended

intergovernmental agreement with the Urban Drainage and Flood Control District and Adams County to provide additional funding for the Little Dry Creek Regional Detention Pond and related channel improvements; authorize the City Manager to execute a \$4,497,000 contract with Moltz Construction, Inc., the low bidder, for construction of the expansion of the Reclaimed Water Treatment Facility, authorize a 10% construction contingency, and based on the City Manager's recommendation, find that the public interest would best be served by authorizing the City Manager to execute a \$750,000 contract amendment with Black & Veatch Corporation to provide construction phase engineering services related to the expansion of the Reclaimed Water Treatment Facility, and authorize a 10% contingency; based on the City Manager's recommendation, find that the public interest would best be served by authorizing the City Manager to execute a \$683,904 contract with HDR Engineering, Inc. for flow monitoring and sampling field data collection services related to the Little Dry Creek/Big Dry Creek Sewer Rehabilitation Phase I project and authorize a \$65,000 contingency; authorize the City Manager to execute a \$61,000 agreement, in substantially the same form as that distributed in the agenda packet, with West 117th Master Homeowners' Association for cost sharing of the connection of West 117th Master Homeowners' Association to the City's reclaimed water system; based on the City Manager's recommendation, find that the public interest would best be served by authorizing the City Manager to execute a \$18,100 contract amendment to the Project Oversight Services Agreement with CH2M-Hill in order to perform Helium Leak testing and a Desktop Feasibility Study analysis related to the Gasoline Recovery at the Municipal Service Center for a total contract amount of \$65,500; pass on second reading Councillor's Bill No. 52 amending Section 9-8-3 of the Westminster Municipal Code concerning the Infrastructure Fee; pass on second reading Councillor's Bill No. 53 appropriating funds for the 2011/2012 budget; pass on second reading Councillor's Bill No. 55 providing for supplementary appropriations to the 2010 budget of the General, Debt Service and Golf Course Funds; pass on second reading Councillor's Bill No. 56 amending Section 4-1-3 of the Westminster Municipal Code concerning retailer collection fees; and pass on second reading Councillor's Bill No. 57 amending Title IV of the Westminster Municipal Code concerning the collection of tax on infrastructure.

Mayor McNally heard no one ask to remove any item from the consent agenda and Mayor Pro Tem Dittman moved, seconded by Councillor Major, to approve all items on the consent agenda. The motion carried.

**RESOLUTION NO. 37 AUTHORIZING EXECUTION OF IGA FOR HISTORIC PRESERVATION GRANT**

Upon a motion by Councillor Briggs, seconded by Councillor Winter, the Council voted unanimously on roll call vote to adopt Resolution No. 37 authorizing the City Manager to execute an intergovernmental agreement with the State of Colorado concerning the use of State Historical Fund grant monies awarded to the City of Westminster for the Shoenberg Farm concrete silo stabilization and preservation.

**COUNCILLOR'S BILL NO. 58 HISTORIC PRESERVATION GRANT SUPPLEMENTAL APPROPRIATION**

Councillor Lindsey moved to pass on first reading Councillor's Bill No. 58 appropriating funds granted by the State Historical Fund in the amount of \$71,033 for the City's stabilization of the Shoenberg Farm concrete silo. Mayor Pro Tem Dittman seconded the motion, and it passed unanimously at roll call.

**ADJOURNMENT**

There being no further business to come before the City Council, it was moved by Kaiser and seconded by Major to adjourn. The motion carried and the meeting adjourned at 7:11 p.m.

ATTEST:

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

\_\_\_\_\_  
Mayor



## Agenda Item 6 A

### WESTMINSTER COLORADO

#### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Presentation of Employee Service Awards

**Prepared By:** Debbie Mitchell, Human Resources Manager  
Dee Martin, Human Resources Administrator

#### Recommended City Council Action

Present service pins and certificates of appreciation to employees celebrating 20, 25 and 30 years of service with the City and provide special recognition to the City's 25-year employees with the presentation of a \$2,500 bonus.

#### Summary Statement

- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- In the sixth grouping of 2010, employees with 20, 25, and 30 years of service will be celebrated tonight.
  - Councillor Faith Winter will present the 20-year certificates
  - Mayor Nancy McNally will present the 25-year certificates and checks
  - Councillor Mark Kaiser will present the 30-year certificates

**Expenditure Required:** \$5,000

**Source of Funds:** General Fund - Police Department \$2,500  
Utility Fund - Information Technology Department \$2,500

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

The following 20-year employees will be presented with a certificate and service pin:

Louis Engleberg	Senior Police Officer	Police Department
Heather Wood	Senior Police Officer	Police Department

The following 25-year employees will be presented with a certificate and service pin:

David Puntteney	IT Director	Information Technology
Robert Maxeiner	Senior Police Officer	Police Department

The following 30-year employees will be presented with a certificate and service pin:

Dave Downing	City Engineer	Community Development
Jo Meissner	Library Associate II	Parks, Recreation & Libraries
Richard Infranca	Senior Police Officer	Police Department

On November 17, 2010, the City Manager will host an employee awards luncheon. During that time, 2 employees will receive their 15 year service pin, 11 employees will receive their 10 year service pin, and 15 employees will receive their 5 year service pin. Recognition will also be given to those celebrating their 20<sup>th</sup>, 25<sup>th</sup>, and 30<sup>th</sup> anniversaries. This will be the sixth luncheon in 2010 to recognize and honor City employees for their service to the public.

The aggregate City service represented among this group of employees for the sixth luncheon is 395 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens.

The recognition of employee's years of service addresses Council's Strategic Plan goal of Financially Sustainable City Government Providing Exceptional Services as part of the overall recognition program developed to encourage and recognize employee commitment to the organization. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their most valuable resource – employees.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 6 B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Proclamation re Colorado Gives Day

**Prepared By:** Linda Yeager, City Clerk

### Recommended City Council Action

Mayor McNally to present the proclamation for Colorado Gives Day on December 8, 2010.

### Summary Statement

- The Community First Foundation and FirstBank have partnered to sponsor a new initiative to increase philanthropy in Colorado through online giving.
- Colorado Gives Day will provide a 24-hour window to “Give Where You Live” beginning at 12 a.m. on December 8, 2010.
- Donations to Colorado charities will be accepted through GivingFirst.org with a goal of raising \$1 million in one day for Colorado nonprofits.
- Representatives of FirstBank and Community First Foundation will be present to accept the proclamation.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

This marks the inaugural year of Colorado Gives Day, a new initiative to increase philanthropy in Colorado through online giving. This initiative is sponsored by Community First Foundation and FirstBank and will take place during a 24-hour period starting at 12 a.m. on Wednesday, December 8, 2010, when donations will be accepted through the website [GivingFirst.org](http://GivingFirst.org). The first-year goal is to raise \$1 million in one day for Colorado nonprofits.

Through its participation, the City of Westminster joins other municipalities in Colorado to convey a unified commitment to the success of the state's non-profit sector. The purpose of this proclamation indirectly supports all of Council's strategic goals, as local non-profit organizations and agencies contribute to the community's financial sustainability and a strong, balanced local economy, and also promote a safe and secure community, vibrant neighborhoods, and a beautiful and environmentally sensitive City.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**WHEREAS**, charitable giving in the state of Colorado must increase to better support the nonprofit organizations that make our state such a desirable place to live; and

**WHEREAS**, we must come together as a community to make a difference in the charitable sector; and

**WHEREAS**, all donations, whether large or small, can make a difference to nonprofits in need; and

**WHEREAS**, research shows an increase in online giving both locally and nationally, and many believe it is the future of philanthropy; and

**WHEREAS**, GivingFirst.org is an online giving website and an ideal resource for facilitating charitable giving to Colorado nonprofits; and

**WHEREAS**, Community First Foundation and FirstBank have partnered with the local community in an effort to increase charitable giving in our state.

**NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim December 8, 2010 as**

## **COLORADO GIVES DAY**

in the City of Westminster and encourage our citizens to donate to the local nonprofit organization of their choice on December 8 so the services provided by those organizations to residents of the community can continue to meet demands.

Signed this 8<sup>th</sup> day of November, 2010.

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Nancy McNally, Mayor



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** 2011 Sewer Tap Fee Increase

**Prepared By:** Mike Smith, Director of Public Works and Utilities  
Mike Happe, Utilities Planning and Engineering Manager  
Stu Feinglas, Water Resources Analyst

**Recommended City Council Action**

Increase the City's 2011 Sewer Tap Fees by \$290 on January 1, 2011 to reflect a planned 2011 sewer tap fee increase by the Metro Wastewater Reclamation District.

**Summary Statement**

- The City is served by two wastewater treatment plants. The north part of Westminster is served by the City's Big Dry Creek Wastewater Treatment Facility; and the south part of Westminster is served by the Metro Wastewater Reclamation District (Metro), per an agreement with Metro signed in 1964.
- When new development occurs in the areas served by Metro, Metro charges the City for new sewer connections. The City then charges the developer the same amount.
- Metro annually adjusts the tap fee for new connections within the City to the Metro wastewater system and has notified the City that it will increase its tap fee by \$290, from \$2,600 to \$2,890 on January 1, 2011.
- Staff is recommending that Council similarly increase the City's sewer tap fees by \$290 on January 1, 2011.
- The total sewer tap fee will increase by 7%. This represents only a portion of the total water and sewer tap fee charged for new development. The overall tap fee increase for a single family combined water and sewer tap will be 1.4%.
- This proposed tap fee increase supports the City's strategy of long-term sustainability for the Utility and will help the Utility address the rising costs of business associated with outside entities such as Metro.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City increase its sewer tap fee by \$290 to match Metro's planned increase?

**Alternative**

The City may choose not to implement the proposed Metro sewer tap fee increase. This is not recommended as the City will not fully cover the actual cost of providing sewer service to new customers in the Metro service area and will therefore be required to pay connection fees to Metro in excess of the amount collected from new connections.

**Background Information**

Sewer tap fees are charged to connect new development to either the City's wastewater system or Metro's wastewater system, depending on the location of the development in the City. There are two components of a sewer tap fee. The sewer transport portion of the sewer tap fee funds the repair and replacement costs of the wastewater collection system throughout the City and is applied to the sewer tap fee regardless of the development location. The treatment portion covers the cost of treating the wastewater at either the Big Dry Creek Wastewater Treatment Facility or Metro.

The City has been notified that Metro will raise its sewer tap fees by \$290 (from \$2,600 to \$2,890) effective January 1, 2011. This increase is part of a 2-year planned connection fee increase based on Metro's re-evaluation of current capital costs. Staff recommends increasing the treatment portion of the City's sewer tap fees on January 1, 2011 by \$290 to match the planned Metro increase. For 2011, the total sewer tap fee (including the treatment and transport portions) will effectively increase by 7%, raising the single family sewer tap fee from \$4,138 to \$4,428.

The sewer tap fee is only a portion of the total water and sewer tap fee charged to new development. The current 2010 combined sewer and water tap fee for a single family is \$20,192. The proposed combined water and sewer tap fee for 2011 will be \$20,482 and will remain below the current 2010 regional average of \$21,364. It is anticipated that all cities that are served by Metro will raise their sewer tap fees similarly to the amount the City is proposing, resulting in an even higher regional average in 2011.

The City's Tap Fee Program supports the City Council's Strategic Plan goal of "Financially Sustainable City Government" by funding a portion of the repair and replacement of the City's water and sewer infrastructure.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** 2011 Park Pavilion Reservation Fees

**Prepared By:** Richard Dahl, Park Services Manager

**Recommended City Council Action**

Authorize Staff to increase park pavilion reservation fees for 2011 and approve changes to the scheduling of park pavilion reservations.

**Summary Statement**

- In 1997, the City began charging for park pavilion use permits. Fees were increased in 2003 and have not changed since that time.
- There are currently nine picnic shelter locations and one amphitheater (Promenade Terrace) available in the park system for use through the permit reservation program. Staff will be adding the City's new Westminster Center Park to the reservation program in 2011, which will bring the total reservable picnic shelter locations to ten.
- The existing park pavilion reservation program allows for a half-day permit at a reduced cost. This requires Park Services Staff to clean the pavilions twice per day. Due to the core service reductions in staffing and resources incorporated into the 2011 and 2012 budgets, the City will only accept one park pavilion reservation per park, per day. This operational change could have a negative impact on park pavilion revenues, but Staff believes that this will be minimal and will be offset by savings in Staff time.
- Staff has collected 2010 picnic shelter rental fee information from comparable municipalities in the Denver metro area, which shows that Westminster's park pavilion fees are some of the lowest fees of all of the municipalities.
- Staff recommends the following fee increases to help cover some of the administrative and maintenance costs of these shelters:
  - Increase park shelter fees as shown on attached chart.
  - Increase the alcohol permit fee from \$30 to \$50.
  - The park pavilion cancellation policy will be revised as follows: \$10.00 for cancellation requests received a minimum of 15 calendar days prior to the scheduled event, after that time deposits or full payment will be forfeited. Refunds will not be issued due to inclement weather, but Staff will make every effort to reschedule the reservation at no additional charge based on availability within the same calendar season. Rescheduling requests due to inclement weather must be made within 24 hours of the event by calling the Department of Parks, Recreation and Libraries.
  - Discontinue allowing Westminster non-profit organizations to reserve park pavilions for free Mondays – Thursdays and Fridays before 4 p.m. (There were 61 free non-profit reservations in 2010.)
- Staff's recommended park pavilion fee changes were previously presented to City Council at the November 1, 2010, Study Session and Council directed that these be brought back for official action.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should Staff pursue for 2011 an increase in the park pavilion rental fees and alcohol permit fees and a change in the pavilion reservations?

**Alternative**

Do not increase the park pavilion rental fees or change in reservations at this time. Staff does not recommend this option, however, as the cost of providing service continues to escalate each year and the City is not being adequately reimbursed for the costs of maintaining and cleaning these facilities.

**Background Information**

In 1997, the City began charging for park pavilion use permits. Fees were increased in 2003 and have not changed since that time. In 2010, the Department of Parks, Recreation and Libraries issued 433 resident and 111 non-resident picnic shelter permits (544 total), serving 23,051 participants. Alcohol permits (3.2 beer only) are available, at additional cost, subject to approval by the Park Services Manager. There were a total of 96 alcohol permits issued in 2010. Revenues from pavilion permit fees for 2010 totaled \$26,700 (Resident Fees - \$19,320; Non-Resident Fees - \$7,380). An additional \$2,880 was collected in 2010 for alcohol permit fees.

Previous City Councils have chosen not to attempt to recover full maintenance costs involved in permitting out of the City's park pavilions. Costs associated with park pavilion rentals include trash removal, cleaning, fixture repair, portable toilets, vandalism repairs, and administrative costs. Staff estimates the direct costs associated with pavilion reservations total approximately \$56,538 per year.

Staff is recommending an increase in park pavilion reservation fees to help cover some of the direct costs of permit reservations. The first chart attached ("Proposed Park Pavilion Rental Fees – 2011") reflects the current and proposed fees for 2011. Staff has collected 2010 picnic shelter rental fee information from comparable municipalities in the Denver metro area, which shows that Westminster's current park pavilion fees are some of the lowest fees of all of the municipalities. (See attached chart: "Park Pavilion Rental Fee Comparison – 2010 Fees")

Squires Park, located at 99<sup>th</sup> Avenue and Lowell Boulevard, is the City's most popular park for pavilion reservations mainly due to the large number of people that can be accommodated (up to 200). The City's next largest reserveable pavilion is Oakhurst Park (one pavilion that accommodates up to 100). Due to the reduction in Park Services Staff and expenditure budgets in 2011 and 2012, the City will no longer offer "half-pavilion" and "half-day" park pavilion reservations due to staff reductions and the core service Park Services plan. All reservations will be permitted for a full day, 10 a.m. to 8 p.m.

This item was presented to City Council for their review at the study session on November 3, 2010, and recommended changes by the Council have been incorporated into this memorandum.

The park pavilion reservation program meets the City's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

City of Westminster  
 Department of Parks, Recreation and Libraris  
 Park Services  
 Proposed Park Pavilion Rental Fees - 2011

	Resident		Non-Resident	
	Current	Proposed	Current	Proposed
	Whole Day	Whole Day	Whole Day	Whole Day
Big Dry Creek Bishop Square City Park Cotton Creek Faversham	\$60	\$75	\$120	\$150
Nottingham (2 Pavilions)	1 Pavilion \$40	1 Pavilion \$75	1 Pavilion \$60	1 Pavilion \$150
Wolff Run (2 Pavilions)	Both Pavilions \$60	Both Pavilions \$120	Both Pavilions \$120	Both Pavilions \$200
Oakhurst	1/2 Pavilion \$40		1/2 Pavilion \$60	
Squires	Whole Pavilion \$60	\$120	Whole Pav \$120	\$200
Westminster Center (Large Pavilion Only)	N/A	\$120	N/A	\$200
Alcohol Permit 3.2 Beer Only	\$30	\$50	\$30	\$50

Park Pavilion Rental Fee Comparison  
2010 Fees

<b>Agency</b>	<b>Resident</b>	<b>Non-Resident</b>	<b>Alcohol Permit</b>
Arvada	\$60 to \$150 (no bathrooms included)	Same as resident	\$15
Aurora	\$80 to \$200	Same as Resident	\$0
Boulder	\$100 to \$400 (no electricity)	\$130 to \$520 (no electricity)	\$25 (3-hour limit)
Commerce City	\$45 to \$75	\$75 to \$105	\$25R/\$35NR
Lakewood	\$75 to \$180 (no electricity or water)	Same as resident	\$105
Northglenn	\$60 to \$400	\$100 to \$550	\$25
Thornton	\$50	\$100	\$0
<b>Westminster</b>	<b>\$40 (1/2 pavilion) to \$60 (whole pavilion)</b>	<b>\$60 (1/2 pavilion) to \$120 (whole pavilion)</b>	<b>\$30</b>
Wheat Ridge	\$50 to \$200	Same as resident	\$0

All Fees based on a 10-hour/all-day reservation unless otherwise indicated.  
The majority of fees vary from one entity to the other based on size of pavilion and day of the week.



## Agenda Item 8 C

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** 2010 Construction Crew Utility Materials Purchase

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

**Recommended City Council Action**

Authorize the City Manager to purchase waterworks materials in the amount of \$120,458 from low bidder Dana Kepner and in the amount of \$65,477 from low bidder Mountain States Pipe and Supply for a total cost of \$185,935.

Authorize cumulative purchases from Dana Kepner Company in an amount not to exceed \$190,000 for 2010. Authorize cumulative purchases from Mountain States Pipe and Supply in an amount not to exceed \$105,000 for 2010.

**Summary Statement**

- This request consists of the purchase of eight individual lots of related waterworks materials.
- Formal bids for these materials were issued and a bid opening took place on October 26, 2010. A total of three vendors provided bids on this purchase.
- Dana Kepner was the lowest bidder on five lots totaling \$120,458, Mountain States was low bid on three lots totaling \$65,477, and HD Supply was the lowest bidder on none of the lots.
- Adequate funds were budgeted in the Utilities Operations budget for this expense.

**Expenditure Required:** \$185,935

**Source of Funds:** Utility Fund - Utilities Operations Division Operating Budget

**Policy Issue**

Should the City invest Utility Fund monies to purchase materials for water main replacements as specified in the contract/project documents?

**Alternative**

Purchase materials only on an as-needed basis and negotiate prices for each purchase individually. This would take a large amount of staff time and likely increase the prices for each piece of material purchased. Also, this option would require City Council action for each expenditure that exceeds \$50,000. This option is not recommended since the City requested and received bids for these materials and would most likely get higher unit costs if purchased on an as-needed basis.

**Background Information**

The Construction Crew Utility Material Purchase is an annual purchase of commonly used waterworks materials for use by the Utilities Operations Division’s construction crew for the installation of the approximately four miles of replacement water mains installed annually. The Construction Crew Utility Material Purchase was advertised on the Internet site “Demand Star” with bids being opened on October 26, 2010. As written, each lot was a separate purchase and a bidder could submit pricing for any or all lots of material. Delivery is to be immediate and in one shipment.

The results of the submitted bids are as follows (numbers in bold indicate low bid):

Lot Description	Dana Kepner	HD Supply	Mountain States
1. Mechanical Joint Fittings	No Bid	\$20,214.40	<b>\$19,794.00</b>
2. Mechanical Joint Restraints	<b>\$10,545.00</b>	\$11,314.50	\$14,950.00
3. Fire Hydrants	<b>\$58,181.70</b>	No Bid	No Bid
4. Valves	\$45,129.00	\$42,869.23	<b>\$39,695.00</b>
5. Brass/Copper	<b>\$22,566.58</b>	\$23,659.15	\$25,497.00
6. Miscellaneous	<b>\$15,415.60</b>	\$16,915.00	\$16,540.00
7. Water Main Repair Clamps	\$6,072.34	\$6,216.10	<b>\$5,988.00</b>
8. Fire Hydrant Parts	<b>\$13,748.60</b>	No Bid	No Bid

At the April 12, 2010 Council Meeting the Utilities Operations Division was authorized to make cumulative purchases from Dana Kepner Company, HD Waterworks and Ferguson Waterworks in amounts not to exceed \$100,000 for each vendor for 2010. Based on the current purchases, the upper limit for Dana Kepner is requested to be increased to \$190,000 for 2010, leaving a \$25,000 margin for the balance of 2010. Based on the following purchases, the upper limit for Mountain States Pipe and Supply is requested to be set at \$105,000 for 2010, leaving a \$25,000 margin for the balance of 2010.

These purchases help achieve the City Council’s Strategic Plan Goals of “Financially Sustainable City Government, Safe and Secure Community and Vibrant Neighborhoods and Commercial Areas” by meeting the following objectives:

- Well-maintained City infrastructure and facilities
- Citizens are safe anywhere in the City
- Maintain and improve neighborhood infrastructure and housing

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** Water Treatment Facility Process Instrumentation Purchase

**Prepared By:** Richard Clark, Utilities Operations Manager  
Tom Settle, Water Treatment Superintendent

**Recommended City Council Action**

Based on the recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to proceed with the purchase of replacement water quality process instrumentation from the Hach Company in an amount not to exceed \$108,000.

**Summary Statement**

- The drinking water treatment facilities utilize a wide variety of water quality instruments that continually monitor/control the treatment process.
- Installation of turbidimeters in the facilities is mandated by federal and state water quality regulations for monitoring the clarity of drinking water at various stages of the treatment process.
- The current instruments are 9 years old, experiencing failures, and are obsolete.
- Each category of instruments is replaced on a 7-10 year schedule to ensure reliability and best available technology.
- Staff continually works with vendors to conduct long-term pilot studies of new instrument technologies searching for the next generation of each type that will be the appropriate replacement.
- Twelve of the 38 instruments being replaced utilize laser measurement technology that is only sold by Hach Company. For this reason, Hach Company is recommended as the sole supplier of the package for standardization of the networking components that link to the facility control systems.
- Staff used the size of the order to negotiate a 7.2% discount from the standard prices that the City would pay for small quantity replacements.
- City Council authorized the necessary funding in the 2010 Utilities Operations/Water Plants operating budget and the recently approved 2011 Utility Fund CIP budget.

**Expenditure Required:** Not to exceed \$108,000

**Source of Funds:** 2010 Utility Fund/Utilities Operations/Water Plant Operating Accounts (\$34,000)  
2011 Utility Fund/Capital Improvement Project/Semper Water Treatment Major Repairs (\$74,000)

**Policy Issue**

Should the City continue to replace water treatment facility instrumentation based on life expectancy to ensure reliability, performance and accuracy in meeting water quality regulations?

**Alternative**

Forgo the replacement of the complete package and replace instruments only as failure occurs. This alternative is not recommended for the following reasons:

- All of the turbidimeter instruments are now obsolete and not supported by the manufacturer, meaning repair parts are now in declining supply.
- As individual units fail, water treatment capacity is lost through the inability to operate the filters the instruments monitor due to regulatory mandate.

**Background Information**

The Semper and Northwest Water Treatment Facilities (WTFs) use a total of 80 water quality instruments to monitor the treatment processes, including turbidity (clarity), pH, chlorine residual and other elements. These instruments are maintained entirely by the water treatment operators on a daily basis to achieve regulatory compliance and superb process control.

Water Treatment staff closely monitor the “health” of the water quality instruments as they age, as the instruments approach the end of their useful life (7-10 years). Staff reviews the offerings of various vendors and assess the equipment on measuring technology, accuracy, in-house serviceability, capital and operating costs and networking capability. Vendors of the best candidates are asked to provide demonstration units for real-life evaluations. Operations staff then install, setup and operate the instruments to confirm the research findings. Using this method ensures that the instruments selected truly meet the needs of the City of Westminster’s drinking water processes.

The Water Treatment Facilities utilize a total of 46 turbidimeters of various types for tracking clarity of the drinking water, ranging from Standley Lake water at the start of the process to the drinking water as it is pumped into the water distribution system. Federal and state drinking water regulations require the facilities to continually monitor the turbidity of the water as it leaves the 34 filtration units (sand or membranes) and again after the water has been blended and is ready for delivery to the distribution system. The data they generate is then screened for the highest values measured in a given month and provided in water quality reports to the Colorado Department of Public Health and Environment.

Twenty six of these new instruments use incandescent light refraction for measurement and will be deployed on the dual-media sand filters at the SWTF. The remaining twelve new units utilize laser light technology to achieve the higher degree of accuracy necessary when measuring the clarity of water filtered by membranes. Three of these twelve units will be used on the new membrane racks currently being installed as part of the NWTF Expansion Project and eight units will replace those installed on the existing membrane racks. The last unit of the twelve at Northwest Water Treatment Facility is used for verifying and calibrating the eleven operational units.

Hach Company manufactures both types of instruments and uses a common networking system for communication with plant process control systems. This will minimize the different types of communication hardware and software necessary, reducing spare hardware inventory and streamlining staff training on software elements. Typically for water quality instrument suppliers, pricing is normally firm and as published. However, Staff has utilized the magnitude of this instrument replacement project to negotiate a 7.2% discount on the package from Hach Company. Staff has a long history of using various Hach Company products with great success. They have also become research partners with Hach

Company on many occasions, assisting with the advancement of many of the water quality analysis technologies. The City has enjoyed a great deal of non-typical technical support in this relationship as well as equipment donations at the end of various research sessions, saving many thousands of dollars over the past ten years.

This purchase helps achieve three of the City Council's Strategic Plan Goals: 1) Achieving a "Financially Sustainable City Government" by contribution to the objective of well-maintained and operated City facilities; 2) Contributing to a "Beautiful and Environmentally Sensitive City" by enhancing the reliability of the City's drinking water treatment system; and 3) Achieving a "Safe and Secure Community" by increasing the reliability of the drinking water treatment processes for meeting regulatory requirements.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** Semper Water Treatment Facility Valve Equipment Purchase

**Prepared By:** Richard A. Clark, Utilities Operations Manager  
Tom Settle, Water Treatment Superintendent

**Recommended City Council Action**

Based on the recommendation of the City Manager, the City Council finds that the public interest will be best served by authorizing the City Manager to execute a sole source purchase with Municipal Treatment Equipment, Inc. for the purchase of sixty-six valve controllers and ninety-two valves with a scheduled partial delivery date in 2011 in the amount of \$221,906 and the final delivery in 2012 in the amount of \$224,962 for a total expenditure of \$446,868, to replace aging equipment at the Semper Water Treatment Facility.

**Summary Statement**

- The Public Works & Utilities Department began a process of updating 104 aging filter valves and controllers in the Semper Water Treatment Facility (WTF) in 2007, with a test purchase of eight components to assess quality and overall value before committing to a large single purchase.
- Competitive bids were sought in 2007 for any applicable valve/controller combination that could be used in the filter system. As a result of the bid process, eight units were initially purchased and installed. Staff installed, utilized, and maintained these units with highly successful results.
- A total of 30 valve controllers and four valves were purchased in 2009 during the first phase at a cost of \$149,000.
- The current request represents the next two phases with the purchase of 30 valve controllers and 52 valves at a cost of \$221,906 in 2011 and \$224,962 in 2012.
- Pricing for this request is the same as the lower 2009 per-unit pricing guaranteed by the vendor for orders placed through 2011 and deliveries up to 2012.
- The project will standardize the equipment on all 104 valves and controllers to maintain/improve filter operations, maintenance efficiency, and maintain spare parts inventory at a lower cost.
- City Council previously approved \$225,000 in the 2011 Utilities Capital Replacement Fund and \$232,000 in the 2012 Utilities Capital Replacement Fund for these purchases.

**Expenditure Required:** Not to Exceed \$446,868

**Source of Funds:** Utility Fund  
– SWTF Major Repair & Replacement Capital Improvement Project

## **Policy Issue**

Should the City proceed with the purchase of standard valve equipment for 2011 and 2012?

## **Alternative**

City Council could reject the purchase of the specified valve equipment and direct staff to initiate a new bidding process. This is not recommended as the original bid process was intended to identify a standard valve and controller to be utilized throughout the plant. Results of the initial purchase have been successful and garnered monetary savings by avoiding future price increases.

## **Background Information**

The Semper WTF was originally constructed in 1969 and has undergone a series of major expansions through 1996 to achieve its current configuration of 26 filters providing 44 million gallons per day of potable water. During those expansions, attention was not given to consistency of equipment brand or style, but only general functionality and lowest price. There are three different types of valve controllers in use at the facility, with 50% now exceeding their useful life. As the facilities have grown, or new equipment added, the need for standardization has become more clear to facilitate efficient repairs and maintenance staff training, and reduce parts inventory costs.

The 104 filter valve replacements are needed due to the issues of aging infrastructure and potential for failure. Some of the valves and controllers were installed in the 1986 Semper WTF plant expansion, while the most-recent units were added in 1996. There have been increasing failures of the controller units and in most cases repair parts are no longer available. Properly functioning filter valve controllers are needed to stabilize filter operation and meet regulatory water quality requirements for turbidity. Valve failure is also occurring in the form of seat wear and leak-by. This also affects filter operation and ability to control the quality of the filtered water. To the extent possible, the 104 controller units should be replaced concurrently to maintain continuity of wiring, control programming, spare parts management and staff training. The valves and controllers will be replaced according to control criticality and age, with the 1996-installed units being done in the final phase.

As part of the 2007 Utilities Capital Improvement Project (CIP) program, the Department of Public Works and Utilities budgeted \$80,000 to replace the effluent valves and controllers on filters 1-8 at the Semper WTF. Staff determined that these funds would be utilized to identify a standard valve and electric controller configuration that could be utilized on all valve components at the Semper WTF to improve efficiency and training of maintenance staff and spare parts management. Based on this, Staff solicited bids from vendors that could provide valves and controllers meeting certain specifications.

Staff recommended the low bidder, Municipal Treatment Equipment, Inc., and acquired 8 Rotork brand controllers and DeZurik valves on a trial basis to assess their ability to meet the needs. The units were installed and maintained by City staff for one full year in 2008-2009. The Rotork/DeZurik units proved to be very reliable operationally and easily maintained/adjusted on an in-house basis. Staff recommended these be used as the standard controller and valve combination for the Semper WTF.

Municipal Treatment Equipment, the exclusive distributor for the Rotork/DeZurik units in the Rocky Mountain Region, proposed lower unit pricing for the remainder of the valve/actuator units in 2009. Municipal Treatment also guaranteed this lower and competitive pricing of the controllers and valves for orders through 2011 and delivery up to 2012. Funding was approved by City Council in the 2011 and 2012 Utilities Capital Replacement Fund for the remaining valve equipment, based on the proposed pricing.

The originally proposed unit cost of the two sizes of valves and 3 different controllers is listed in the following table:

<u>Description</u>	<u>Unit Cost</u>
Rotork IQT1000 FA12 (open/close)	\$4,114 ea.
Rotork IQT1000 FA12 base (modulating)	\$5,233 ea.
Rotork IQT2000 FA14 base (open/close)	\$4,344 ea.
DeZurik AWWA 14" diameter butterfly valves flanged	\$1,333 ea.
DeZurik AWWA 18" diameter butterfly valves flanged	\$2,152 ea.

The 2011/2012 equipment orders will complete replacement of the remaining filter controllers and valves. A total of 66 Rotork controllers and 92 DeZurik valves will be purchased in this next phases, with the orders split for separate deliveries in 2011 and 2012.

For 2011, the following units will be ordered:

<u>Qty</u>	<u>Description</u>	<u>Total Cost</u>
10	Rotork IQT1000 FA12 (open/close)	\$41,140
20	Rotork IQT2000 FA14 base (open/close)	\$86,880
22	DeZurik AWWA 14" diameter butterfly valves flanged	\$29,326
30	DeZurik AWWA 18" diameter butterfly valves flanged	\$64,560
	Total 2011	\$221,906

For 2012, the following units will be ordered:

<u>Qty</u>	<u>Description</u>	<u>Total Cost</u>
12	Rotork IQT1000 FA12 (open/close)	\$49,368
24	Rotork IQT2000 FA14 base (open/close)	\$104,256
18	DeZurik AWWA 14" diameter butterfly valves flanged	\$23,994
22	DeZurik AWWA 18" diameter butterfly valves flanged	\$47,344
	Total 2012	\$224,962

This authorization for valve equipment purchase meets Council's Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government by keeping the City's water treatment facility in good operational condition.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** 2010 Purchase of Network Hardware, Services and Maintenance

**Prepared By:** David Puntteney, Information Technology Director

**Recommended City Council Action**

Find that the Western States Contracting Alliance pricing meets City Charter bidding requirements and authorize Staff to proceed with 2010 calendar year purchases of network switches, transceivers, maintenance and consulting through 24/7 Networks, Incorporated in an amount not to exceed \$105,000.

**Summary Statement**

- The City uses Cisco network switches and other hardware to provide City network connectivity for 29 City facilities.
- The City purchases network hardware maintenance and services, including maintenance for the City's RSA two factor authentication product.
- City Council authorized adequate funds in the 2010 Utility Fund, Information Technology Department operating budget, to purchase network equipment and services.
- The City purchases network hardware through 24/7 Networks, Incorporated below the Western States Contracting Alliance (WSCA) contract prices, therefore meeting the City Charter bidding requirements.
- The City replaces network equipment after four to five years of use to maintain reliability and to improve network performance.
- In 2010, the City installed new network equipment at the Irving Street Library, Standley Lake, Fire Stations 2, 3 and 4, Court, and the PSC.
- The City has purchased \$47,429 in products, services and maintenance from 24/7 Networks through October 15th, 2010.
- Additional network hardware purchases and maintenance planned before year end 2010 will result in a total expenditure greater than \$50,000, requiring City Council approval.
- Adequate funds are budgeted and available for this expense.

**Expenditure Required:** \$105,000

**Source of Funds:** Utility Fund - Information Technology Department Operating Budget

**Policy Issue**

Should the City continue to replace aged network switches and related equipment and purchase maintenance to ensure high network availability, security, performance and capacity to support City computer users?

**Alternative**

Forgo the remainder of 2010 replacement of computer network hardware. This alternative is not recommended for the following reasons:

- The expected performance and reliability of network hardware more than five years old is unacceptable for the City's operations.
- Maintaining and upgrading the City's network infrastructure is critical to provide exceptional internal and external customer service.

**Background Information**

The City's network infrastructure consists of 74 network switches providing network connectivity within and between 29 City facilities. The network provides computer connectivity between computer servers, printers, desktop/laptop PCs and the Internet. Upgrading and replacing aged switch equipment is critical to the reliability, security and performance of the City network. The City uses intelligent Cisco network switches that are capable of operating at 10/100/1,000 Mbps (fast) speeds. Network switches are replaced on a four to five year schedule.

The City has used 24/7 Networks Incorporated as the vendor of choice since 2004 for products and services such as network switches, routers, transceivers, maintenance for two factor authentication, maintenance for Cisco hardware and consulting services. 24/7 Networks provides the City with a negotiated discount for Cisco hardware that is greater than the discount available through the Western States Contracting Alliance (WSCA). Due to the number of switches scheduled for replacement in 2010, and several special projects, the staff is requesting City Council authorization to exceed \$50,000 in expenditures with 24/7 Networks for end of year switch purchases and maintenance.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 G

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Financial Audit Firm Contract for Fiscal Years 2010-2014

**Prepared By:** Cherie Sanchez, Accounting Manager

### Recommended City Council Action

Based on the recommendation of the City Manager, the City Council finds that the public interest would be best served by awarding a contract to the firm of BKD, LLP for independent, professional auditing services for the City's annual financial audit for the fiscal year 2010 with an option to renew for four years, subject to annual appropriation.

### Summary Statement

- The City's auditing services contract expired at the conclusion of the 2009 financial audit. On August 25, 2010 a request for proposal (RFP) was sent directly to eight auditing firms and was publicly posted on the City's website through Demand Star. The RFP solicited bids for independent financial auditing services for the City's annual financial audit as required by City charter.
- Six firms submitted bids for consideration. A panel consisting of the Finance Director, Accounting Manager, Sales Tax Manager, Accountants, and Financial Analyst evaluated and graded proposals based on each firm's expertise and experience, audit approach, and price. The panel interviewed four of the firms and performed reference checks on two.
- Staff is recommending that BKD, LLP (BKD) be awarded the contract, having emerged as the most economical, responsive, responsible bidder. BKD is one of the 10 largest CPA firms in the country with more than 350 city, county and state governmental clients nationwide. They offer the resources of a national firm and the accessibility of a local firm with offices in both Denver and Colorado Springs.
- BKD's cost proposal for a five year period would be an increase of 11% over the last contract agreement that was signed in 2005 with the City's former auditor. Sufficient funds have been budgeted and are available for 2011 and 2012. Funding of additional fiscal year audits would be contingent upon annual appropriation.

**Expenditure Required:** \$327,150

**Source of Funds:** General Fund - Finance Operating Budget

**Policy Issue**

Should the City engage in a contract for independent auditing services with BKD?

**Alternative**

Council could decide not to contract with BKD for independent auditing services and require Staff to undergo the bid process again. This is not recommended. BKD's proposal and bid were satisfactory in meeting the City's specifications for independent auditing services as outlined in the request for proposal. Reopening the bidding process would be inefficient for Staff in terms of planning and preparing for the audit as well as for the audit firm in performing auditing services within a mutually beneficial timeframe.

**Background Information**

Per the City's charter, a financial audit of the City's basic financial statements must be performed in conformity with Generally Accepted Accounting Principles at least annually. The audit must be conducted by certified public accountants experienced in municipal accounting that have been selected by Council. The RFP process was administered in accordance with the US General Accountability Office guidelines, as summarized in the Government Finance Officers Association Committee on Accounting, Auditing and Financial Reporting Best Practice guide for audit procurement.

Historically, Council has engaged in five-year contracts with audit firms, subject to annual review and appropriation. A five year contract is preferred over a shorter term contract to allow for continuity in the audit, and is endorsed by the Government Finance Officers Association as the appropriate duration of a contract when obtaining the services of independent auditors.

On August 25, 2010 Staff sent the RFP to eight financial auditing service firms. As members of the Colorado Government Finance Officers Association, these businesses were targeted given their track records, overall competence and familiarity with governmental auditing. Public access to the RFP was also made available on the City's website through Demand Star.

Firms were asked to submit a technical as well as a cost proposal. The technical portion of the proposal was to outline the firm's qualifications, competence and capacity to undertake an independent audit for the City in conformity with the requirements of the RFP. The cost proposal was to include a total all-inclusive maximum price, staff rates and hours, as well as costs for optional and additional professional services.

Six firms submitted bids for consideration. A seven member panel consisting of the Finance Director, Accounting Manager, Sales Tax Manager, Accountants, and Financial Analyst evaluated and graded each proposal based on a firm's expertise and experience, audit approach, and price. Interviews with four firms were conducted by the panel and reference checks on two firms were performed by the Accounting Manager.

Of the six firms considered, BKD emerged as the most responsive, responsible, economical bidder. BKD was selected by staff based on their technical abilities and philosophy on coordination and communication throughout the audit. Reference checks were overwhelmingly positive. "Top notch," "on top of things," "the most responsive firm [they'd] ever worked with," "competent and knowledgeable," "national resources, streamlined service," were some of the comments used to describe BKD's client experience.

Should Council accept Staffs’ recommendation to hire BKD, the overall price of the audit service contract would increase 11% from the last contract agreement that was signed in 2005 with the City’s former auditor. A summary of each bidder’s cost proposal is shown below. While McGladrey Pullin was the lowest bidder, BKD’s depth of experience and qualifications were stronger.

Year	McGladrey Pullin	BKD	Swanhorst	Eide Bailly	Clifton Gunderson	KPMG
2010	61,500	62,250	70,000	68,900	79,750	91,500
2011	63,350	63,800	70,000	71,020	81,400	93,730
2012	65,250	65,400	70,000	73,250	83,100	96,540
2013	67,200	67,000	72,000	75,590	84,800	99,440
2014	69,200	68,700	72,000	78,040	86,500	102,420
	<u>\$ 326,500</u>	<u>\$ 327,150</u>	<u>\$ 354,000</u>	<u>\$ 366,800</u>	<u>\$ 415,550</u>	<u>\$ 483,630</u>

BKD, the second lowest bidder, is one of the 10 largest CPA firms in the country with more than 350 city, county and state governmental clients nationwide. They offer the resources of a national firm and the accessibility of a local firm with offices in both Denver and Colorado Springs. BKD’s National Not-for-Profit and Government Group includes more than 180 professionals, staffed with approximately 115 auditors. Some of the firm’s similar audits over the past five years have included the City and County of Denver, City of Aurora, Aurora Public Schools, Denver Urban Renewal Authority and the Colorado Water Resources and Power Development Authority.

Individual staff members that would be assigned to the City’s audit have between three and thirty years of audit experience with government entities. BKD has experience with the City’s more complicated reporting items such as special districts, urban renewal authorities, housing authorities, the Single Audit, and complex debt structures and well as new Governmental Accounting Standards Board reporting requirements. The firm partner and manager would perform the final review of the audit work papers on site, lending to an efficient audit. Through their e-mail alerts and governmental training seminars provided frequently to the local government community, Staff has evidenced first hand BKD’s proactive style, their awareness of new accounting pronouncements and familiarity with requirements, as well as their knowledge of generally accepted accounting principles.

This recommendation supports the City’s goal of Financially Sustainable City Providing Exceptional Services.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

- Contractual Services Contract
- (Appendixes A-1, A-2 and B are not attached but are available to view in the City Clerk’s Office)

AGREEMENT TO FURNISH INDEPENDENT PROFESSIONAL FINANCIAL AUDITING SERVICES TO THE CITY OF WESTMINSTER FOR THE PERFORMANCE OF THE ANNUAL FINANCIAL AUDIT AND OTHER SPECIAL CONSIDERATIONS

THIS AGREEMENT, made and entered into this \_\_\_ day of November, 2010, between the **CITY OF WESTMINSTER**, hereinafter called the “City,” and **BKD, LLP**, a limited liability partnership organized pursuant to the laws of the State of Missouri, hereinafter called the “Auditor,” is as follows:

WHEREAS, the City desires to engage the Auditor to render professional independent auditing and accounting Services described in this Agreement and the Auditor is qualified and willing to perform such Services; and

WHEREAS, sufficient authority exists in Charter and statute and sufficient funds have been budgeted for these purposes and are available and other necessary approvals have been obtained; and

WHEREAS, the City desires the Auditor to perform a financial audit for the fiscal year ending December 31, 2010, with an automatic extension for four renewal terms of one year each (the audit years 2011, 2012, 2013, 2014), subject to annual appropriation at the City’s sole discretion; and

WHEREAS, the City desires the Auditor to express an opinion on the fair presentation of the City’s basic financial statements, provide in-relation-to opinions on the combining statements, supplemental information, and schedule of expenditures of federal awards, as well as perform certain procedures involving required supplementary information for the fiscal years audited; and

WHEREAS, this Agreement is expressly contingent upon the approval of the City of Westminister's City Council of all the terms set forth herein. In the event this Agreement is not approved in its entirety by City Council, neither Party shall be bound to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, the City and the Auditor agree as follows:

I. AUDITOR’S SERVICES AND RESPONSIBILITIES

The Auditor will provide the professional and technical Services as described in Appendix A, Parts 1-2, attached hereto and incorporated herein by this reference.

II. ADDITIONAL SERVICES

When authorized by the City, the Auditor agrees to furnish additional professional Services subject to mutual agreement as to additional compensation for additional Services. Such additional compensation for additional services shall be no greater than at the Auditor’s standard billing rates, as contained in Appendix B, attached hereto and incorporated herein by this

reference. No additional services will be paid for unless agreed to in an addendum to this contract.

### III. AUDITOR'S FEE

The compensation for the Services shall be at the Auditor's standard billing rates, as contained in Appendix B, attached hereto and incorporated herein by this reference, including reimbursable expenses as described therein. The maximum amount billable under this Agreement shall not exceed \$62,250, \$63,800, \$65,400, \$67,000, \$68,700 for the City and the Westminster Commons for audit years 2010 through 2014, respectively. However, the maximum amount billable under this Agreement excluding the Westminster Commons housing authority, should it be sold during the term of the audit engagement, shall not exceed \$57,250, \$58,700, \$60,150, \$61,600, \$63,200 for years 2010 through 2014, respectively. The Auditor shall submit invoices to the City for services rendered during the preceding month, such invoices to be in such form and detail as shall reasonably be required by the City. Reimbursable expenses shall be itemized. The City agrees to pay the Auditor within thirty (30) days of receipt of properly documented invoices.

Progress payments will be made based on an agreed upon percentage of the overall contract to be paid following completion of the Auditor's proposed segmentation of the audit. The agreed upon percentage shall be consistently applied each year the Auditor performs the audit engagement. Out-of-pocket expenses incurred in accordance with the Auditor's dollar cost bid proposal will be reimbursed upon receipt of the Auditor's invoice.

### IV. COMMENCEMENT & COMPLETION OF SERVICES

The Auditor understands and agrees that time is an essential requirement of this Agreement. The Services shall be completed as soon as good practice and due diligence will permit. In any event, the audit report will be presented to City Council no later than the second Study Session meeting in June, exclusive of delays beyond the control of the Auditor. This contract will be for the financial audit for the fiscal year ending December 31, 2010, with the option to audit the City's financial statements for each of the four subsequent fiscal years, subject to annual appropriation.

### V. TERMINATION

This Agreement shall terminate at such time as the work in Section II is completed and the requirements of this Agreement are satisfied, or upon the City's providing Auditor with seven (7) days advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Auditor for all work previously authorized and completed prior to the date of termination plus any Services the City deems necessary during the notice period. Said compensation shall be paid upon the Auditor's delivering or otherwise making available to the City all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Auditor in performing the Services included in this Agreement, whether completed or in progress.

### VI. INSURANCE

During the course of the Services, the Auditor shall maintain Workers' Compensation Insurance in accordance with the Workers' Compensation laws of the State of Colorado,

Professional Liability Insurance in the minimum amount of \$500,000, but in any event sufficient to cover Auditor's liability under paragraph X.D.1. below, Automobile Liability of \$500,000 per person/\$1,000,000 per occurrence, and Commercial General Liability of \$500,000 per person/\$1,000,000 per occurrence. The City shall be named as an additional insured under the Auditor's Automobile and Commercial General Liability coverages, providing that such insurance is primary with respect to claims made by the City, and these coverages shall be occurrence-based policies, and shall specifically provide that all coverage limits are exclusive of costs of defense, including attorney fees. The Auditor shall provide certificates of insurance to the City indicating compliance with this paragraph.

## VII. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this Agreement, the Auditor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disability. Such actions shall include, but not be limited to the following: employment; upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

## VIII. PROHIBITED INTEREST

A. The Auditor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. The Auditor further agrees that in the performance of the Agreement, no person having any such interests shall be employed.

B. No official or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## IX. GENERAL PROVISIONS

A. Independent Contractor. In the performance of the Services, the Auditor shall act as an independent contractor and not as agent of the City except to the extent the Auditor is specifically authorized to act as agent of the City.

B. Books and Records. The Auditor's books and records with respect to the Services and reimbursable costs shall be kept in accordance with recognized accounting principles and practices, consistently applied, and will be made available for the City's inspection at all reasonable times at the places where the same may be kept. The Auditor shall not be required to retain such books and records for more than three (3) years after completion of the Services.

C. Ownership of Audit Work Papers. All work papers and the like relating to the Services shall be the property of the Auditor.

D. Responsibility; Liability.

1. Professional Liability. The Auditor shall exercise in its performance of the Services the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services. The Auditor shall be liable to the City for any loss, damages or costs incurred by the City for the repair, replacement or correction of any part of the Project which is deficient or defective as a result of any failure of the Auditor to comply with this

standard.

2. Indemnification. To the fullest extent permitted by law and except for all professional liability claims, damages, losses and expenses, the Auditor shall indemnify, defend, and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Services, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting therefrom, and only to the extent caused by the negligent act or omission of, or breach of contract by, the Auditor, any subcontractor of the Auditor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

To the fullest extent permitted by law, the Auditor shall indemnify and hold harmless the City and its agents and employees from and against all professional liability claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Services, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Project itself) including the loss of use resulting there from, but only to the extent caused by the negligent act or omission of, or breach of contract by, the Auditor, any subcontractor of the Auditor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph D.2. The City may, if it so desires, withhold the payments due the Auditor so long as shall be reasonably necessary to indemnify the City on account of such injuries.

In any and all claims against the City or any of its agents or employees by any employee of the Auditor, any subcontractor of the Auditor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this paragraph D.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Auditor or any subcontractor under the workers' compensation acts, disability benefit acts or other employee benefit acts.

E. Communications. All communications relating to the day-to-day activities for the Project shall be exchanged between the respective Project representatives of the City and the Auditor who will be designated by the parties promptly upon commencement of the Services.

All other notices and communications in writing required or permitted hereunder shall be delivered personally to the respective representatives of the City and the Auditor set forth below or shall be mailed by registered mail, postage prepaid, return receipt requested to the parties at their addresses shown herein. Notices hereunder shall be effective three (3) days after mailing.

F. Assignment. The Auditor shall not assign this Agreement in whole or in part, including the Auditor's right to receive compensation hereunder, without the prior written consent of the City; provided, however, that such consent shall not be unreasonably withheld with respect to assignments to the Auditor's affiliated or subsidiary companies, and provided, further, that any such assignment shall not relieve the Auditor of any of its obligations under this Agreement. This restriction on assignment includes, without limitation, assignment of the Auditor's right to payment to its surety or lender.

G. Applicable Laws and Venue. This Agreement shall be governed by the laws of the State of Colorado and the Charter of the City of Westminster. This Agreement shall be deemed entered into in both Adams County and Jefferson County, State of Colorado, as the City is located in both counties. At the City's option, the location for settlement of any and all claims, controversies and disputes arising out of or related to this Agreement or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in either county.

H. Remedies. Auditor agrees that the economic loss rule as set forth in *Town of Alma v. Azco Construction, Inc.*, 10 P.3d 1256 (Colo. 2000) shall not serve as a limitation on the City's right to pursue tort remedies in addition to other remedies it may have against Auditor. Such rights and remedies shall survive the Project or any termination of this Agreement.

I. Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Services for the Project.

J. Subcontracting. Except subcontractors clearly identified and accepted in the Auditor's Proposal, Auditor may employ subcontractors to perform the Services only with City's express prior written approval. Auditor is solely responsible for any compensation, insurance, and all clerical detail involved in employment of subcontractors.

K. Enforcement of Agreement. In the event it becomes necessary for either party to bring an action against the other to enforce any provision of this Agreement, in addition to any other relief that may be granted, the prevailing party in such action shall be entitled to an award of its reasonable attorney fees as determined by the Court.

L. Authorization. The person or persons signing and executing this Agreement on behalf of each Party, do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Agreement and to validly and legally bind such Party to all the terms, performances and provisions herein set forth.

INSURANCE CERTIFICATES REQUIRED BY THIS AGREEMENT SHALL BE SENT TO FINANCE DEPARTMENT, ATTENTION: Cherie Sanchez, Accounting Manager.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the date first appearing above.

BKD, LLP

CITY OF WESTMINSTER

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address:

Address:

\_\_\_\_\_

4800 West 92nd Avenue

Westminster, Colorado 80031

ATTEST:

\_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

City Clerk

APPROVED AS TO LEGAL FORM

By: \_\_\_\_\_

City Attorney

*Rev. 2/09*



## Agenda Item 8 H

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Semper Water Treatment Facility Painting Project Contract

**Prepared By:** Tom Settle, Water Treatment Superintendent  
Richard Clark, Utilities Operations Manager

### Recommended City Council Action

Authorize the City Manager to enter into a contract with the low bidder, National Coatings, Inc. in the amount of \$135,205 for painting services at the Semper Water Treatment Facility and authorize a 15% contingency in the amount of \$20,280 for a total budget of \$155,485.

### Summary Statement

- City Council previously approved adequate funds for this expense in the 2009 and 2011 Utilities Capital Improvement Fund.
- The project consists of preparation and painting of the interior of the two north settling basin buildings and portions of the interior filter building at the Semper Water Treatment Facility.
- Formal bids were solicited from seven contractors with two responding.
- The low bidder, National Coatings, Inc., was approximately 40% lower than the next closest bid, and meets all of the City bid requirements and has good reference reviews.

**Expenditure Required:** \$155,485

**Source of Funds:** Utilities Capital Improvements/Semper WTF Major Repairs

**Policy Issue**

Should City Council authorize the City Manager to execute a contract with the low bidder, National Coatings, Inc. for site preparation and painting services at the Semper Water Treatment Facility (WTF) as specified in the contract documents for this project?

**Alternative**

Direct staff to forego the painting maintenance at the water treatment facility. This alternative is not recommended due to the corrosion that is becoming apparent in the basin buildings, and will begin affecting the structural integrity of the building if not addressed.

**Background Information**

The Semper Water Treatment Facility (WTF) Painting Project will address failing paint coating systems in the two North Settling Basin structures. These two structures have a total footprint of approximately 16,000 square feet. New roofs were applied to the buildings in the spring of 2010 to address leaks and resulting damage. The building interiors were last painted in 1986. For purposes of bidding the project was divided into two tasks. The Task 100 portion of the project will include sandblast preparation and painting of all the exposed roof steel components and interior concrete block of the basin buildings. This will restore needed corrosion protection.

The Task 200 portion of the project will repair peeling paint in the main floor filter gallery area of the Semper Water Treatment Facility (WTF). Many areas of the painted concrete-beam ceiling in this room are experiencing paint failure, leaving large sections of paint hanging from the ceiling and at times falling into the filter units. Staff has done spot repairs in the past, but failure has become more widespread and requires a significant degree of surface preparation to make the paint repairs permanent and improve the overall aesthetics of the facility.

Seven painting contractors were selected for their experience with the specified paint systems of the project and provided bid notices. Three contractors attended the required pre-bid meeting on September 27, 2010 and two bids were received on October 14<sup>th</sup>. The low bid meeting all city specifications and requirements was from National Coatings, Inc. Bids received were as follows:

National Coatings, Inc	Task 100 - \$ 90,575 Task 200 - \$ 44,630
Applewood Painting	Task 100 - \$194,200 Task 200 - \$ 47,440

Due to the significant discrepancy in bids on Task 100 (North Basin painting), staff did extensive research into the company's background and the proposed schedule of values for the project, and contacted recent Colorado references. All information provided supported the bid and no issues were identified. Staff does recommend a 15% contingency allowance for the project, due to the potential of unseen corrosion issues possibly exposed during the surface preparation portions of the project.

City Council has previously approved adequate funding for this project in the 2009 and 2011 Semper WTF Major Repair and Replacement project as part of Utilities Capital Improvement Program.

This contract helps achieve City Council's Strategic Plan Goals of Safe and Secure Community and Financially Sustainable City Government by keeping the City's water treatment facility in good operational condition and extending its longevity.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 8 I

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Stipulation and Plan re Exclusion of Properties from North Metro Fire Rescue District

**Prepared By:** Tami Cannon, Legal Administrator

### Recommended City Council Action

Approve the Stipulation and Plan for exclusion of recently annexed territory from the North Metro Fire Rescue District.

### Summary Statement

- The City has been negotiating with the District regarding the exclusion of recently annexed properties from the District. The District is scheduled to consider the Stipulation on first reading on November 2 and adopt the Stipulation following second reading on November 16.
- This Stipulation (copy attached) will allow the City to proceed in an uncontested manner in Adams County District Court for the purpose of obtaining an Order excluding the three (3) parcels of property recently annexed by the City and covered under the Stipulation. All of the three parcels are within Adams County.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City approve the Stipulation agreeing to provide fire protection services to properties recently annexed to the City and proposed to be excluded from the District?

**Alternative**

Do not approve the Stipulation and Plan for exclusion of properties from the North Metro Fire Rescue District. This is not recommended, since it would result in double taxation and duplicative fire protection services to the properties.

**Background Information**

The important components of the Stipulation are as follows: (1) An agreement that the quality of fire protection service to be provided by the City will be comparable and not inferior to the fire protection service now provided by the District; (2) Existing indebtedness of the District for which the excluded properties would remain liable; (3) An agreement that the District shall have the right to levy a mill levy not to exceed 0.5 mill against the excluded properties for five consecutive years for the District's Volunteer Firemen's Pension Fund; and (4) Transfer of fire protection service responsibilities to be effective January 1, 2011. Vicinity maps showing the areas to be excluded are also attached.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

District Court, Adams County, Colorado Adams County Justice Center 1100 Judicial Center Drive Brighton, CO 80601 303-659-1161	<b>▲ COURT USE ONLY ▲</b>
<p><b>Petitioners:</b></p> <p>THE CITY OF WESTMINSTER, COLORADO, a home-rule City, and THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER</p> <p><b>Defendant:</b></p> <p>THE BOARD OF DIRECTORS OF THE NORTH METRO FIRE RESCUE DISTRICT, and All Taxpaying Electors of the NORTH METRO FIRE RESCUE DISTRICT, as a class.</p>	
City of Westminster Martin R. McCullough, #13364 City Attorney 4800 West 92 <sup>nd</sup> Avenue Westminster, CO 80031 Phone: 303-658-2400 Fax: 303-706-3920 E-mail: mmccullo@cityofwestminster.us	Case Number: 4825  Division: A  Courtroom:
<b>STIPULATION AND PLAN FOR EXCLUSION OF CERTAIN TERRITORY FROM          THE NORTH METRO FIRE RESCUE DISTRICT</b>	

COME NOW the parties hereto, by their respective counsel, and stipulate as follows:

PREAMBLE

1. This action is based upon the Petition of the City of Westminster pursuant to section 32-1-502, et seq., C.R.S., as amended, to exclude certain territory from the North Metro Fire Rescue District (hereinafter "District") because that territory is located within the City of Westminster which also provides fire protection service. The territory sought to be excluded is described in Exhibit "A" attached hereto and incorporated herein by reference.

2. This Stipulation and Plan is submitted pursuant to and in satisfaction of the requirements of section 32-1-502(2)(c) which provides that as a condition to the exclusion of the property which is the subject of this petition, the governing body of the City and the board of directors of the District shall each submit a plan for the disposition of assets and continuation of services to all areas of the District, and that said plans shall include, if applicable, provisions for the maintenance and continuity of facilities to be utilized by the territories both within and without the municipal boundaries and of services to all territories served or previously served by the special district, and further, that if the City and the District agree upon a single plan and enter into a contract incorporating its provisions, the court shall review such contract, and if it finds the contract to be fair and equitable, the court shall approve the contract and incorporate its provisions into its exclusion order.

3. The City Council of the City of Westminster, as its governing body, has met, considered and approved all of the terms of this Stipulation and Plan.

4. The Board of Directors of the District, as its governing body, has met, considered and approved all of the terms of this Stipulation and Plan.

#### STIPULATION AND PLAN

5. All notice requirements of the statute and of the Colorado Rules of Civil Procedure have been fully, completely and properly complied with. No objection to the exclusion has been made by any taxing elector, individually or on behalf of the class designated Taxpaying Electors. The District and the City consent to the exclusion of the property described in Exhibit "A," subject to the provisions of this Stipulation and Plan.

6. The parties further stipulate that:

A. The City of Westminster has provided and is now providing comparable fire protection services that the District provided in or to the territory proposed for exclusion.

B. The governing body of the City of Westminster agrees, and has agreed, by resolution, to provide the service provided by the District to the area described in the exclusion petition effective immediately upon entry of the exclusion order regardless of its later effective date.

C. The quality of fire protection service to be provided by the City of Westminster will not be inferior to the fire protection service now provided by the District in the territory proposed for exclusion and described in the Petition for Exclusion.

D. No election has been held or is required to be held pursuant to subsection (5) of section 32-1-502, C.R.S., as amended, and it is stipulated that the quality of service including, but not limited to, the fire insurance costs for the improvements within the excluded area will not be adversely affected by this exclusion.

E. The District owns no facilities or assets located within the territory that is proposed for exclusion.

F. The District has a current outstanding bonded indebtedness of \$24,630,000.

7. Commencing the taxable year 2011, the District, for a period of five (5) years, shall have the right to assess and collect the proceeds of a mill levy of one-half (1/2) mill against the assessed value of the applicable excluded property, which proceeds shall be paid to and for the exclusive benefit of the District's Firemen's Pension Fund.

8. Pursuant to section 32-1-502, C.R.S., as amended, District and City agree to the following plan for disposition of assets and contribution of services to all areas of the District:

A. The District owns no real property or improvements within the territory described in the Petition for Exclusion and the City does not seek ownership of any such assets located in any other part of the District.

B. The City does not seek ownership of any firefighting equipment or other personal property now owned by the District and the Order of Exclusion may so state.

C. The City shall provide fire protection to the territory described in the Petition and shall continue to honor any mutual aid agreement with the District applicable to any District territory not excluded.

D. All other resources of the City Fire Department will be available to respond as the circumstances of any emergency or other situation may require.

E. City officers will also be responsible for safety inspections and other fire code enforcement within the territory described in the Petition.

F. Primary responsibility for fire protection in all territory of the District not proposed for exclusion shall remain with the District.

9. The City of Westminster shall assume fire protection service responsibility to the excluded area from the District effective January 1, 2011. Nothing in this Stipulation and Plan shall impair or negate the validity or effectiveness of any existing mutual aid agreement between the parties.

10. The District and its firefighters, including those residing in the excluded area, shall continue to have the right to operate District and personal vehicles and equipment as authorized emergency vehicles within said excluded area and the City of Westminster, for bona fide emergency purposes, as the District may deem necessary in fulfilling District obligations. Authorized emergency vehicles shall be those as defined by section 42-1-102, C.R.S., as amended, and shall include the right of District firefighters who reside in the excluded area to respond to emergency calls in personal vehicles and District vehicles which are operated as emergency vehicles.

11. Pursuant to section 32-1-503, C.R.S., as amended:

A. The change of boundaries of the District, which is accomplished by the Court Order, shall not impair nor affect its organizations, nor shall it affect, impair or discharge any contract, obligation, lien, or charge on which it might be liable or chargeable had such change of boundaries not been made.

B. For the taxable year 2011 and thereafter, the excluded property shall not be subject to any property tax levied by the District for operating costs.

C. For the purpose of retiring the District's outstanding indebtedness and the interest thereon existing at the effective date of the exclusion order, the applicable excluded territory shall be obligated only for that proportion of the District's outstanding indebtedness and the interest thereon existing immediately prior to January 1, 2011.

D. The excluded territory shall in no event become obligated for the payment of any bonded indebtedness created after the date of the Court's exclusion order.

E. Commencing the taxable year 2011, the District, for a period of five (5) years, shall have the right to assess and collect the proceeds of a mill levy of one-half (1/2) mill against the assessed value of the applicable excluded property, which proceeds shall be paid to and for the exclusive benefit of the District's Firemen's Pension Fund.

12. This Court may, immediately upon presentation of this Stipulation and Plan, enter an Order consistent herewith excluding the territory described in Exhibit "A" from the District. The Order shall become effective, as provided by statute, on January 1, 2011. The form of the Order is attached hereto as Exhibit "B" and all of the terms of said Order are hereby incorporated by reference in this Stipulation and Plan.

13. The Court's Exclusion Order shall become effective January 1, 2011.

Respectfully submitted,

SHEARER & CALL, PC

CITY OF WESTMINSTER

By: \_\_\_\_\_  
Richard L. Shearer #8792  
Attorney for Respondent  
1675 Broadway, Suite 2525  
Denver, CO 80202  
720-833-4220

By: \_\_\_\_\_  
Martin R. McCullough #13364  
Attorney for Petitioners  
4800 W. 92nd Avenue  
Westminster, CO 80031  
303-658-2400

APPROVED:

NORTH METRO FIRE  
RESCUE DISTRICT

CITY OF WESTMINSTER, a  
home-rule City

By \_\_\_\_\_  
Randall Sullivan, President

By \_\_\_\_\_  
Nancy McNally, Mayor

By \_\_\_\_\_  
Joseph Bruce, Chief

By \_\_\_\_\_  
J. Brent McFall  
City Manager

ATTEST:

ATTEST:

\_\_\_\_\_  
Richard Perse, Secretary

\_\_\_\_\_  
Linda Yeager, City Clerk

**EXHIBIT A**

**FELDMAN ANNEXATION:**

A PARCEL OF LAND BEING A PART OF NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTH QUARTER CORNER OF SAID SECTION 33;

THENCE ALONG THE EASTERLY LINE OF SAID NORTHWEST QUARTER SOUTH 00°28'19" EAST, A DISTANCE OF 404.91 FEET;

THENCE DEPARTING SAID EASTERLY LINE SOUTH 89°31'41" WEST, A DISTANCE OF 40.00 FEET TO THE WESTERLY LINE OF THE MCGUIRE PROPERTY ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. 20050310000248610 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE AND THE **POINT OF BEGINNING**.

THENCE ALONG SAID WESTERLY LINE SOUTH 00°28'19" EAST, A DISTANCE OF 521.86 FEET TO THE NORTHERLY LINE OF THE EGGING PARCEL ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. C0397605 IN SAID RECORDS;

THENCE ALONG SAID NORTHERLY LINE SOUTH 89°19'07" WEST, A DISTANCE OF 377.72 FEET TO THE EASTERLY LINE OF THE STINGRAY PROPERTY ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. 956482 IN SAID RECORDS;

THENCE ALONG SAID EASTERLY LINE NORTH 00°18'11" WEST, A DISTANCE OF 521.87 FEET TO THE SOUTHERLY LINE OF SAID MCGUIRE PROPERTY ANNEXATION;

THENCE ALONG SAID SOUTHERLY LINE NORTH 89°19'07" EAST, A DISTANCE OF 376.18 FEET TO THE **POINT OF BEGINNING** CONTAINING AN AREA OF 4.516 ACRES (196,714 SQUARE FEET) MORE OR LESS.

**THE 144<sup>TH</sup> AVENUE AND TEJON STREET PROPERTY:**

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN THENCE N89°57'07"E ALONG THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 1309.53 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21; THENCE S00°19'35"E ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING; THENCE S00°19'35"E ALONG SAID EASTERLY LINE A DISTANCE OF 50.13 FEET; THENCE S35°01'57"W A DISTANCE OF 29.16 FEET; THENCE S35°19'56"W A DISTANCE OF 125.59 FEET; THENCE S89°58'53"W A DISTANCE OF 4.86 FEET; THENCE N00°01'07"W A DISTANCE OF 10.00 FEET; THENCE S89°58'53"W A DISTANCE OF 166.00 FEET; THENCE N00°01'07"W A DISTANCE OF 116.76 FEET; THENCE S89°57'11"W A DISTANCE OF 207.51 FEET; THENCE N00°02'53"W A DISTANCE OF 49.54 FEET; THENCE N89°57'07"E ALONG A

LINE WHICH IS 30 FEET SOUTHERLY OF AND PARALLEL TO THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 467.54 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1.122 ACRES (48,880 SQ. FT.), MORE OR LESS.

**THE 144<sup>TH</sup> AVENUE AND ZUNI STREET PROPERTY:**

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 16, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN THENCE N89°57'07"E ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16 A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ZUNI STREET EXTENDED AND THE POINT OF BEGINNING; THENCE N00°22'19"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF ZUNI STREET A DISTANCE OF 60.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WEST 144<sup>TH</sup> AVENUE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING SEVEN (7) CONSECUTIVE COURSES; 1.) N89°57'07"E A DISTANCE OF 604.68 FEET; 2.) THENCE S00°27'07"E A DISTANCE OF 20.00 FEET; 3.) THENCE N89°57'07"E A DISTANCE OF 599.70 FEET; 4.) THENCE N00°32'16"W A DISTANCE OF 15.00 FEET; 5.) THENCE N89°57'07"E A DISTANCE OF 55.00 FEET TO A POINT ON THE EASTERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; 6.) THENCE N89°57'07"E A DISTANCE OF 80.00 FEET; 7.) THENCE S00°32'16"E A DISTANCE OF 25.00 FEET; THENCE S89°57'07"W A DISTANCE OF 80.00 FEET TO A POINT ON THE EASTERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE S00°32'16"E ALONG SAID EASTERLY LINE A DISTANCE OF 30.00 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE S00°19'35"E ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 30.00 FEET; THENCE S89°57'07"W ALONG A LINE WHICH IS 30 FEET SOUTHERLY OF AND PARALLEL TO THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 467.54 FEET; THENCE S00°02'53"E A DISTANCE OF 49.54 FEET; THENCE S89°57'07"W A DISTANCE OF 8.00 FEET; THENCE S00°02'49"E A DISTANCE OF 32.50 FEET; THENCE S89°57'11"W A DISTANCE OF 82.88 FEET; THENCE N00°02'49"W A DISTANCE OF 32.50 FEET; THENCE S89°57'11"W A DISTANCE OF 100.40 FEET; THENCE 135.45 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 991.50 FEET, A CENTRAL ANGLE OF 07°49'38" AND A CHORD WHICH BEARS N86°08'00"W A DISTANCE OF 135.34 FEET TO A POINT ON THE WESTERLY LINE OF BARNETT ESTATES RECORDED JULY 28<sup>TH</sup>, 1995 AT FILE NO. 17, MAP NO. 409, RECEPTION NO. C0091433; THENCE ALONG THE WESTERLY AND NORTHERLY LINE OF SAID BARNETT ESTATES THE FOLLOWING TWO (2) CONSECUTIVE COURSES 1.) S00°15'12"E A DISTANCE OF 217.81 FEET; 2.) THENCE S89°57'48"W A DISTANCE OF 475.58 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ZUNI STREET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) CONSECUTIVE COURSES; 1.) N00°15'12"W A DISTANCE OF 258.01 FEET; 2.) THENCE N89°56'37"E A DISTANCE OF 10.00 FEET; 3.) THENCE N00°15'12"W A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 5.607 ACRES (244,254 SQ. FT.), MORE OR LESS.

District Court, Adams County, Colorado Adams County Justice Center 1100 Judicial Center Drive Brighton, CO 80601 303-659-1161	<b>▲ COURT USE ONLY ▲</b>
<b>Petitioners:</b>  THE CITY OF WESTMINSTER, COLORADO, a home-rule City, and THE MAYOR AND CITY COUNCIL OF THE CITY OF WESTMINSTER  <b>Defendant:</b>  THE BOARD OF DIRECTORS OF THE NORTH METRO FIRE RESCUE DISTRICT, and All Taxpaying Electors of the NORTH METRO FIRE RESCUE DISTRICT, as a class.	
City of Westminister Martin R. McCullough, #13364 City Attorney 4800 West 92 <sup>nd</sup> Avenue Westminster, CO 80031 Phone: 303-658-2400 Fax: 303-706-3920 E-mail: mmccullo@cityofwestminster.us	Case Number: 4825  Division: A  Courtroom:
<b>ORDER FOR EXCLUSION OF CERTAIN TERRITORY FROM NORTH METRO FIRE RESCUE DISTRICT</b>	

THIS MATTER comes before the Court this \_\_\_\_ day of \_\_\_\_\_, 2010, upon the Stipulation and Plan of the parties to this action for entry of an Order excluding certain territory from the North Metro Fire Rescue District, upon terms and conditions set forth in the Stipulation and Plan and hereinafter approved and adopted.

The parties appear by Martin R. McCullough, City Attorney, counsel of record for Petitioners, and Richard Shearer, counsel for Respondents, the Board of Directors of the North Metro Fire Rescue District. No other parties or counsel have appeared in this action.

The Court, having reviewed the Stipulation, heard statements of counsel, and being fully advised of the facts and circumstances surrounding this action,

**Exhibit "B"**

DOTH ORDER, ADJUDGE AND DECREE:

1. The Stipulation and Plan for Exclusion of Certain Territory from the North Metro Fire Rescue District presented to the Court this date, which Stipulation and Plan was approved by counsel for both parties to the action and by the governing bodies of the City of Westminister, Colorado, and the North Metro Fire Rescue District, as evidenced by the signatures of the appropriate officers of each governing body, hereby finds that the Stipulation and Plan for Exclusion constitutes a contract which is fair and equitable. The provisions of said Stipulation and Plan are hereby approved and incorporated in the remaining paragraphs of this Order.

2. All notice requirements of the statute and of the Colorado Rules of Civil Procedure have been duly, completely and properly complied with. No objection to the exclusion has been made by any taxing elector, individually or on behalf of the class designated Taxpaying Electors.

3. The Court has jurisdiction of all necessary parties and of the subject matter of this action.

4. The Court finds:

A. The City of Westminster has provided and is now providing comparable fire protection services which the North Metro Fire Rescue District has provided in or to the territory proposed for exclusion.

B. The governing body of the City of Westminster agrees, and has agreed, by resolution, to provide the service provided by the North Metro Fire Rescue District to the area described in the exclusion petition effective immediately upon entry of the exclusion order regardless of its later effective date.

C. The quality of fire protection service to be provided by the City of Westminster will not be inferior to the fire protection service now provided by the North Metro Fire Rescue District in the territory proposed for exclusion and described in the Petition for Exclusion.

D. No election has been held or is required to be held pursuant to subsection (5) of section 32-1-502, C.R.S., as amended, and the quality of service including, but not limited to, the fire insurance costs for the improvements within the excluded area will not be adversely affected by this exclusion.

E. The District owns no facilities or assets located within the territory which is proposed for exclusion.

F. The District has a current outstanding bonded indebtedness of \$24,630,000.

G. The District owns no real property or improvements within the territory described in the Petition for Exclusion and the City does not seek ownership of any such assets located in any other part of the District.

H. The City does not seek ownership of any firefighting equipment or other personal property now owned by the District and the Order of Exclusion may so state.

I. The City shall provide fire protection to the territory described in the Petition and shall continue to honor any mutual aid agreement with the District applicable to any District territory not excluded.

J. City officers will also be responsible for safety inspections and other fire code enforcement within the territory described in the Petition.

K. Primary responsibility for fire protection in all territory of the District not proposed for exclusion shall remain with the District.

5. The Court orders:

A. The District shall have the right to levy, collect, and pay the proceeds of a mill levy not to exceed one-half (1/2) mill against the applicable excluded property to the District's Firemen's Pension Fund for five (5) consecutive years, commencing taxable year 2011.

B. The City of Westminster shall assume fire protection service responsibility to the excluded area from the District effective January 1, 2011.

Nothing in the Stipulation and Plan shall impair or negate the validity or effectiveness of any existing mutual aid agreement between the parties.

C. The North Metro Fire Rescue District and its firefighters, including those residing in the excluded area, shall continue to have the right to operate District and personal vehicles and equipment as authorized emergency vehicles within said excluded area and the City of Westminster, for bona fide emergency purposes, as the District may deem necessary in fulfilling District obligations.

Authorized emergency vehicles shall be those as defined by section 42-1-102, C.R.S., as amended, with privileges as provided by section 42-4-108, C.R.S., as amended, and shall include the right of District firefighters who reside in the excluded area to respond to emergency calls in personal vehicles and District vehicles which are operated as emergency vehicles.

D. The change of boundaries of the District, which is accomplished by this Court Order shall not impair nor affect its organization, nor shall it affect, impair or discharge any contract, obligation, lien or charge on which it might be liable or chargeable had such change of boundaries not been made.

E. For the taxable year 2011, and thereafter, the excluded property shall not be subject to any property tax levied by the District for operating costs.

F. For the purpose of retiring the District's outstanding indebtedness and the interest thereon existing on January 1, 2011, the applicable excluded property shall be subject only for that proportion of the District's outstanding indebtedness and the interest thereon existing immediately prior to January 1, 2011.

G. The excluded territory shall in no event become obligated for the payment of any bonded indebtedness created after the effective date of this Exclusion Order.

H. This Order shall become effective January 1, 2011.

DONE AND SIGNED in Open Court this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

BY THE COURT:

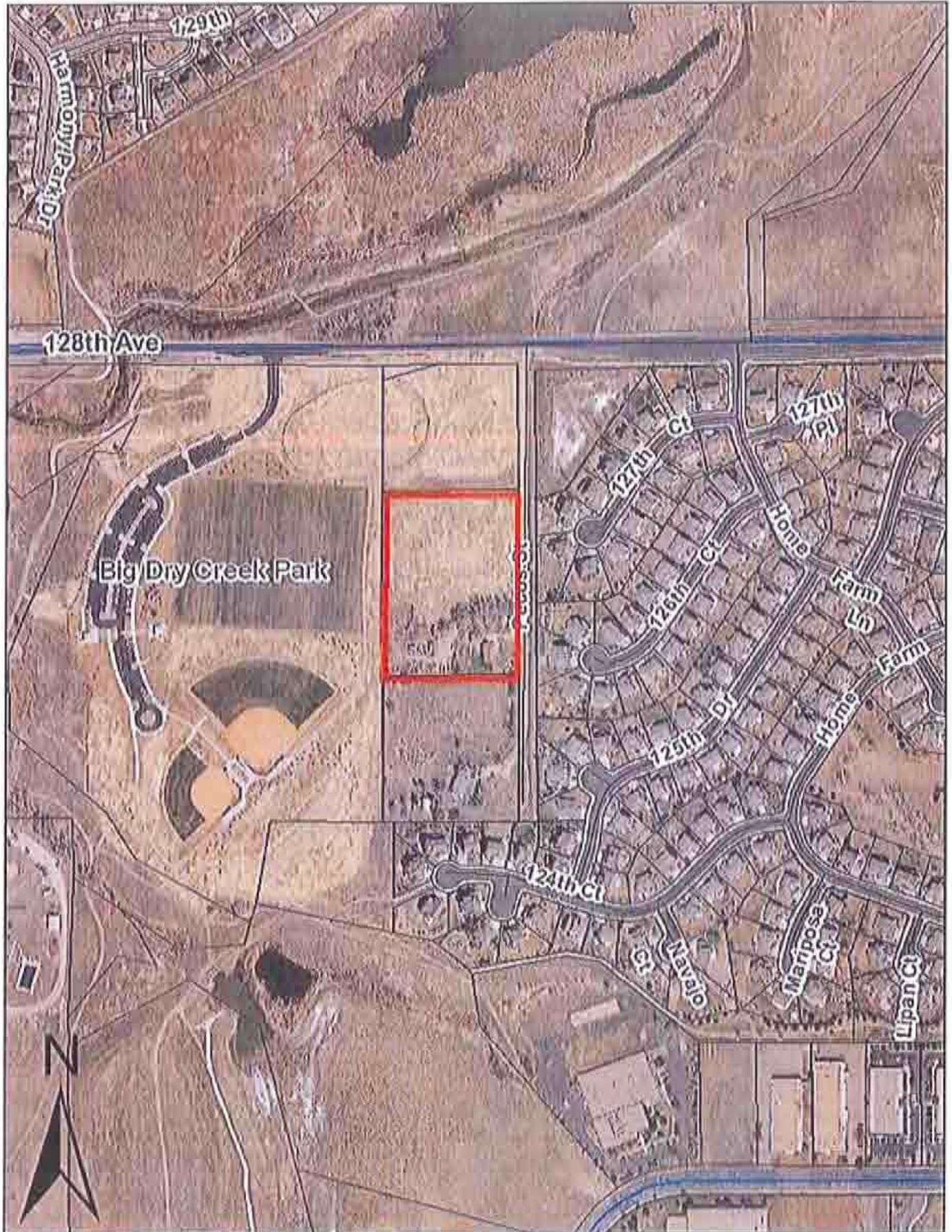
\_\_\_\_\_  
District Court Judge

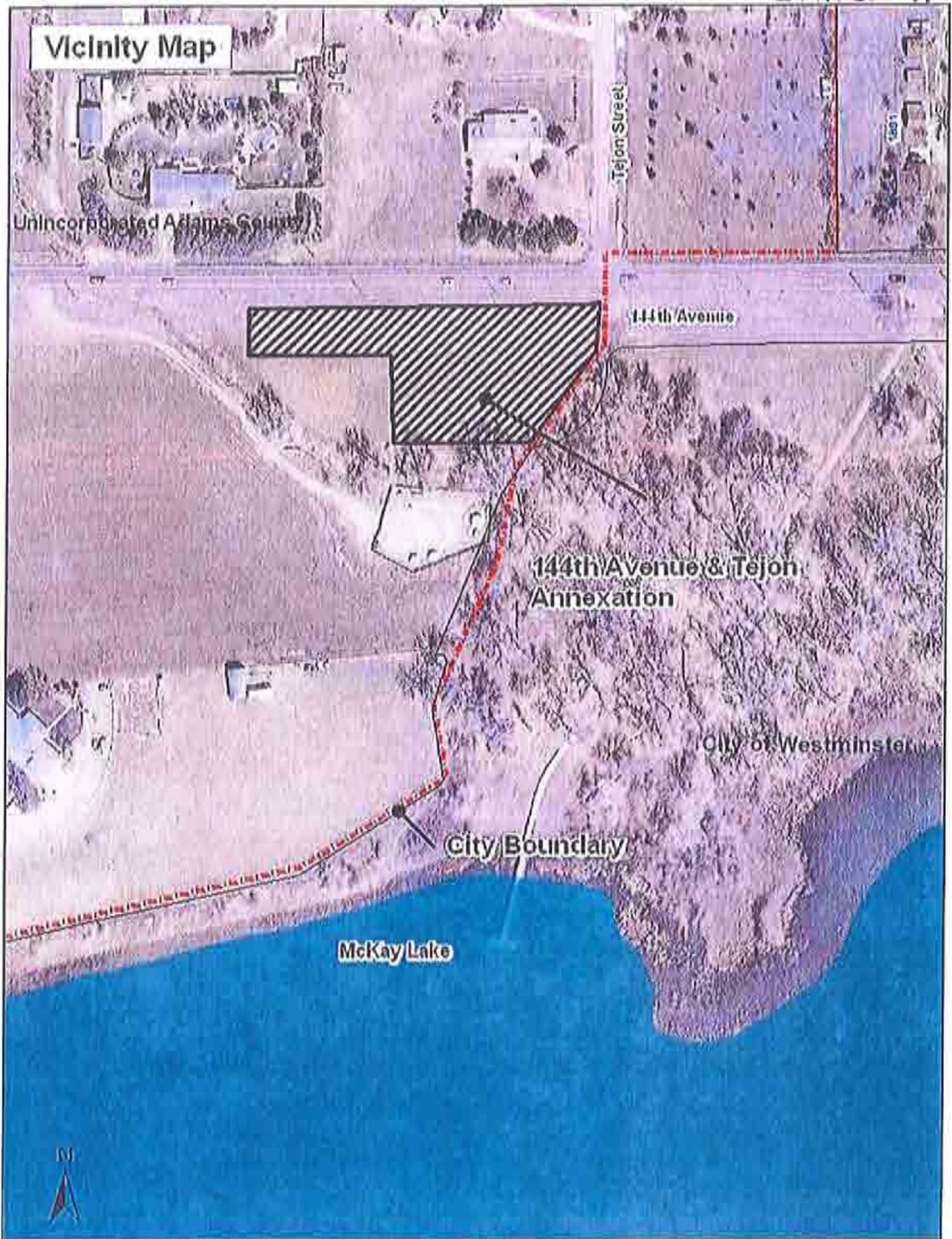
APPROVED AS TO FORM:

CITY OF WESTMINSTER

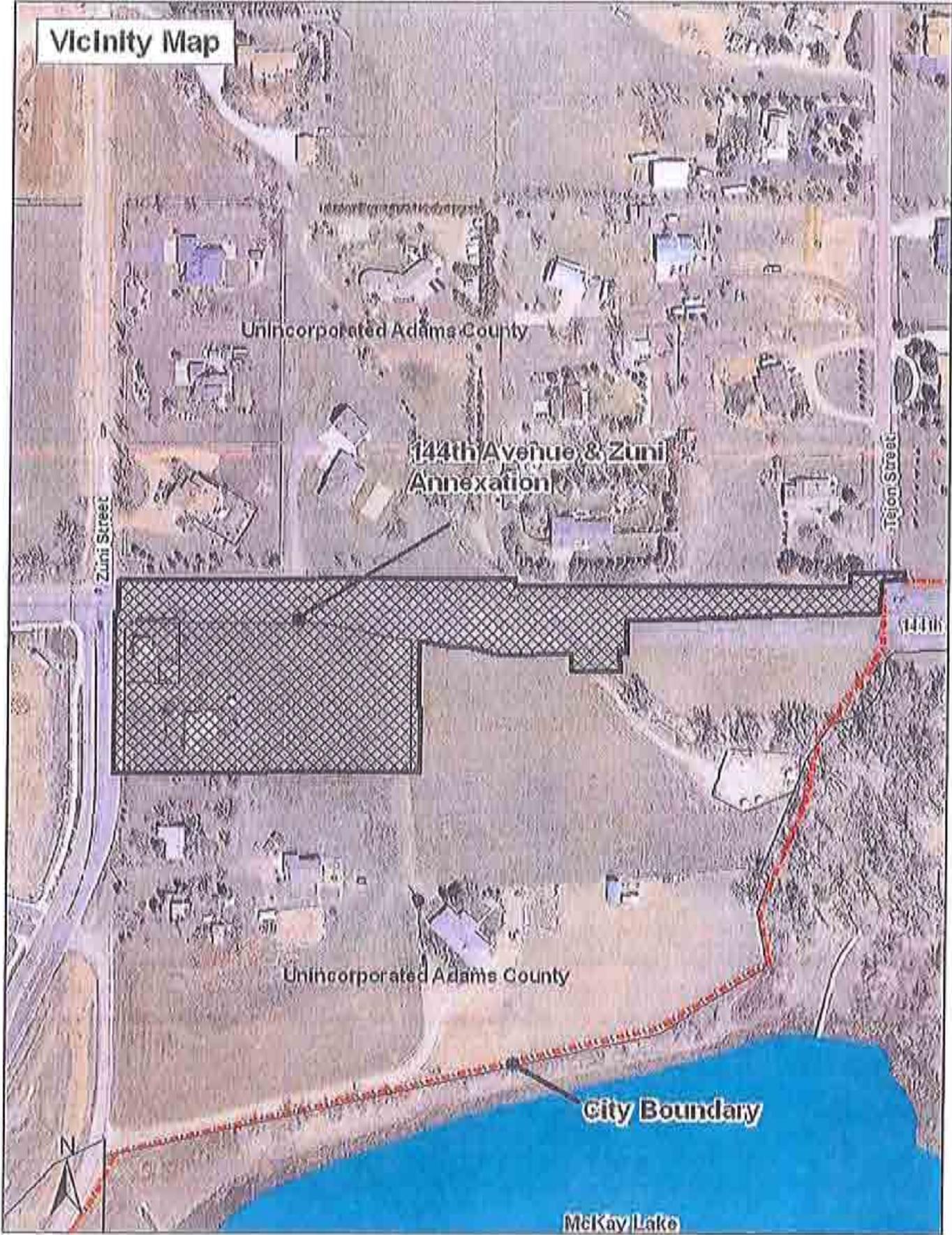
By \_\_\_\_\_  
Martin R. McCullough #13364  
City Attorney for Petitioners  
4800 W. 92nd Avenue  
Westminster, CO 80031  
(303) 658-2400

By \_\_\_\_\_  
Richard L. Shearer #8792  
Attorney for Respondent District  
Shearer & Call, PC  
1675 Broadway, Suite 2525  
Denver, CO 80202  
(720) 833-4220





Vicinity Map



Unincorporated Adams County

144th Avenue & Zuni  
Annexation

Zuni Street

Tejon Street

144th

Unincorporated Adams County

City Boundary

McKay Lake



**WESTMINSTER**  
**COLORADO**

**Agenda Item 8 J**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** Second Reading of Councillor's Bill No. 58 re Shoenberg Farm Concrete Silo Stabilization Grant Supplemental Appropriation

**Prepared By:** Vicky Bunsen, Community Development Programs Coordinator

**Recommended City Council Action**

Pass Councillor's Bill No. 58 on second reading appropriating funds granted by the State Historical Fund in the amount of \$71,033 for the City's stabilization of the Shoenberg Farm concrete silo.

**Summary Statement**

- On August 1, 2010, the State Historical Fund awarded the City a grant in the amount of \$71,033 for the stabilization of the Shoenberg Farm concrete silo. The property is located at 5202 West 73<sup>rd</sup> Avenue.
- In order to complete this project, the City is required to contribute a cash match of up to \$23,678, which was budgeted in 2009 and 2010.
- This Councillor's Bill was passed on first reading on October 25, 2010.

**Expenditure Required:** \$71,033

**Source of Funds:** State Historical Fund Grant

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **58**

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
**Lindsey - Dittman**

**A BILL  
FOR AN ORDINANCE AMENDING THE 2010 BUDGET OF THE GENERAL CAPITAL  
IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM  
THE 2010 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2010 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3432 is hereby increased by \$71,033. This appropriation is due to the receipt of state grant funds.

Section 2. The \$71,033 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10B, October 25, 2010 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	\$71,033
Total	\$71,033

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 25<sup>th</sup> day of October, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 8<sup>th</sup> day of November, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

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



## Agenda Item 10 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Resolution No. 38 re Exclusion of Properties from North Metro Fire Rescue District

**Prepared By:** Tami Cannon, Legal Administrator

### Recommended City Council Action

Adopt Resolution No. 38 approving the exclusion of recently annexed properties from the North Metro Fire Rescue District.

### Summary Statement

- This item is related to the approval of the Stipulation and Plan for exclusion also appearing on the November 8 City Council agenda. All three parcels to be excluded are within Adams County.
- City Council has acted on these annexations (listed in Exhibit A) over the last several months. This action is necessary to complete the technical requirements for exclusion from the North Metro Fire Rescue District.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City approve the exclusion of recently annexed properties from the District in order to avoid double taxation and duplicative fire protection services?

**Alternative**

Do not approve the exclusion of recently annexed properties from the District. This is not recommended, since it would result in double taxation and duplicative fire protection services to the properties.

**Background Information**

In order for the City Attorney's Office to proceed with the filing of the exclusion documents, the exclusion statutes require that City Council adopt the attached Resolution indicating the City's agreement to provide the fire protection services provided by the District to the area described in the Stipulation and Plan within one year from the effective date of the exclusion order as required by statute.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment: Resolution

RESOLUTION

RESOLUTION NO. **38**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

---

**A RESOLUTION FOR EXCLUSION OF TERRITORY  
FROM THE NORTH METRO FIRE RESCUE DISTRICT**

WHEREAS, it is in the public interest and a policy of the City of Westminster to eliminate the overlapping of services provided by local governments and the double taxation that may occur because of annexation when all or part of the territory lies within the boundaries of both the City of Westminster and a special district; and

WHEREAS, Colorado statutes provide an orderly procedure to eliminate such overlapping of services and double taxation, which procedure is found in section 32-1-502, et seq., C.R.S., as amended; and

WHEREAS, the City Council of the City of Westminster has been informed by City Staff and now finds that such a situation exists in the area described on Exhibit "A" attached hereto and incorporated herein by reference and that there is an overlapping of fire protection services by the City of Westminster and the North Metro Fire Rescue District (hereinafter "District") and double taxation resulting from the territory described in Exhibit "A" being within the boundaries of both the City and the District; and

WHEREAS, the City Council, based upon information provided by its Staff, has found that the quality of service to be provided by the City of Westminster will not be inferior to the service provided by the District in the territory described in Exhibit "A" attached hereto, based upon the Westminster Fire Department's service capability, which includes operations out of six (6) existing fire stations that are strategically located throughout the City; an extensive fleet of sophisticated firefighting and emergency medical vehicles including five (5) fire engines, two (2) aerial trucks, three (3) reserve fire engines, five (5) ambulances, two (2) reserve ambulances, two (2) attack units, one (1) Heavy Rescue and other support apparatus, operated by an authorized full-time career staff of one hundred and thirty-six (136) personnel, one hundred and seventeen (117) of which are highly trained front-line firefighters and paramedics; and

WHEREAS, evidence gathered in previous proceedings for exclusion from other Districts, and applicable to this proceeding also, establishes that fire insurance costs for the improvements within the excluded area will not be adversely affected by such exclusion.

WHEREAS, City officials and representatives of the District are negotiating the City's proposal to exclude from the Fire District, and are working towards a mutually acceptable exclusion agreement; and

WHEREAS, the City Council of the City of Westminster is willing to agree by this Resolution to provide the service provided by the District to the area described in Exhibit "A" within one year from the effective date of the exclusion order as required by statute, and more specifically, immediately upon the effective date of the exclusion order;

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

1. That the City proceed at once to exclude the territory described in Exhibit "A" from the District by filing its Petition in the District Court of Adams County, pursuant to the provisions of section 32-1-502, et seq., C.R.S., as amended.

2. That the City Council of the City of Westminster agrees, by this Resolution, to provide the service provided by the District to the area described in Exhibit "A" within one year from the effective date of the exclusion order as required by statute, and specifically, immediately upon the effective date of the exclusion order.

3. That the quality of service to be provided by the City of Westminster will not be inferior to the service provided by the District in the territory described in Exhibit "A" and the fire insurance costs for the improvements within the excluded area will not be adversely affected by such exclusion.

4. That the City Attorney is instructed to petition the Court and carry out all notification requirements as contained in applicable state statutes.

PASSED AND ADOPTED this 8th day of November, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
City Attorney's Office

**EXHIBIT A**

**FELDMAN ANNEXATION:**

A PARCEL OF LAND BEING A PART OF NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTH QUARTER CORNER OF SAID SECTION 33;

THENCE ALONG THE EASTERLY LINE OF SAID NORTHWEST QUARTER SOUTH 00°28'19" EAST, A DISTANCE OF 404.91 FEET;

THENCE DEPARTING SAID EASTERLY LINE SOUTH 89°31'41" WEST, A DISTANCE OF 40.00 FEET TO THE WESTERLY LINE OF THE MCGUIRE PROPERTY ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. 20050310000248610 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE AND THE **POINT OF BEGINNING**.

THENCE ALONG SAID WESTERLY LINE SOUTH 00°28'19" EAST, A DISTANCE OF 521.86 FEET TO THE NORTHERLY LINE OF THE EGGING PARCEL ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. C0397605 IN SAID RECORDS;

THENCE ALONG SAID NORTHERLY LINE SOUTH 89°19'07" WEST, A DISTANCE OF 377.72 FEET TO THE EASTERLY LINE OF THE STINGRAY PROPERTY ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. 956482 IN SAID RECORDS;

THENCE ALONG SAID EASTERLY LINE NORTH 00°18'11" WEST, A DISTANCE OF 521.87 FEET TO THE SOUTHERLY LINE OF SAID MCGUIRE PROPERTY ANNEXATION;

THENCE ALONG SAID SOUTHERLY LINE NORTH 89°19'07" EAST, A DISTANCE OF 376.18 FEET TO THE **POINT OF BEGINNING** CONTAINING AN AREA OF 4.516 ACRES (196,714 SQUARE FEET) MORE OR LESS.

**THE 144<sup>TH</sup> AVENUE AND TEJON STREET PROPERTY:**

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN THENCE N89°57'07"E ALONG THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 1309.53 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21; THENCE S00°19'35"E ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING; THENCE S00°19'35"E ALONG SAID EASTERLY LINE A DISTANCE OF 50.13 FEET; THENCE S35°01'57"W A DISTANCE OF 29.16 FEET; THENCE S35°19'56"W A DISTANCE OF 125.59 FEET; THENCE S89°58'53"W A DISTANCE OF 4.86 FEET; THENCE N00°01'07"W A DISTANCE OF 10.00 FEET; THENCE S89°58'53"W A DISTANCE OF 166.00 FEET; THENCE N00°01'07"W A DISTANCE OF 116.76 FEET; THENCE S89°57'11"W A DISTANCE OF 207.51 FEET; THENCE N00°02'53"W A DISTANCE OF 49.54 FEET; THENCE N89°57'07"E ALONG A

LINE WHICH IS 30 FEET SOUTHERLY OF AND PARALLEL TO THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21, A DISTANCE OF 467.54 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1.122 ACRES (48,880 SQ. FT.), MORE OR LESS.

**THE 144<sup>TH</sup> AVENUE AND ZUNI STREET PROPERTY:**

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 16, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN THENCE N89°57'07"E ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16 A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ZUNI STREET EXTENDED AND THE POINT OF BEGINNING; THENCE N00°22'19"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF ZUNI STREET A DISTANCE OF 60.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WEST 144<sup>TH</sup> AVENUE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING SEVEN (7) CONSECUTIVE COURSES; 1.) N89°57'07"E A DISTANCE OF 604.68 FEET; 2.) THENCE S00°27'07"E A DISTANCE OF 20.00 FEET; 3.) THENCE N89°57'07"E A DISTANCE OF 599.70 FEET; 4.) THENCE N00°32'16"W A DISTANCE OF 15.00 FEET; 5.) THENCE N89°57'07"E A DISTANCE OF 55.00 FEET TO A POINT ON THE EASTERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; 6.) THENCE N89°57'07"E A DISTANCE OF 80.00 FEET; 7.) THENCE S00°32'16"E A DISTANCE OF 25.00 FEET; THENCE S89°57'07"W A DISTANCE OF 80.00 FEET TO A POINT ON THE EASTERLY LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE S00°32'16"E ALONG SAID EASTERLY LINE A DISTANCE OF 30.00 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE S00°19'35"E ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 30.00 FEET; THENCE S89°57'07"W ALONG A LINE WHICH IS 30 FEET SOUTHERLY OF AND PARALLEL TO THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 21 A DISTANCE OF 467.54 FEET; THENCE S00°02'53"E A DISTANCE OF 49.54 FEET; THENCE S89°57'07"W A DISTANCE OF 8.00 FEET; THENCE S00°02'49"E A DISTANCE OF 32.50 FEET; THENCE S89°57'11"W A DISTANCE OF 82.88 FEET; THENCE N00°02'49"W A DISTANCE OF 32.50 FEET; THENCE S89°57'11"W A DISTANCE OF 100.40 FEET; THENCE 135.45 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 991.50 FEET, A CENTRAL ANGLE OF 07°49'38" AND A CHORD WHICH BEARS N86°08'00"W A DISTANCE OF 135.34 FEET TO A POINT ON THE WESTERLY LINE OF BARNETT ESTATES RECORDED JULY 28<sup>TH</sup>, 1995 AT FILE NO. 17, MAP NO. 409, RECEPTION NO. C0091433; THENCE ALONG THE WESTERLY AND NORTHERLY LINE OF SAID BARNETT ESTATES THE FOLLOWING TWO (2) CONSECUTIVE COURSES 1.) S00°15'12"E A DISTANCE OF 217.81 FEET; 2.) THENCE S89°57'48"W A DISTANCE OF 475.58 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ZUNI STREET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) CONSECUTIVE COURSES; 1.) N00°15'12"W A DISTANCE OF 258.01 FEET; 2.) THENCE N89°56'37"E A DISTANCE OF 10.00 FEET; 3.) THENCE N00°15'12"W A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 5.607 ACRES (244,254 SQ. FT.), MORE OR LESS.



## Agenda Item 10 B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Resolution No. 39 re City of Westminster 2011 Legislative Policy Statement

**Prepared By:** Ben Goldstein, Management Analyst  
Steve Smithers, Assistant City Manager

### Recommended City Council Action

Adopt Resolution No. 39 adopting the City of Westminster 2011 Legislative Policy Statement.

### Summary Statement

- The Legislative Policy Statement identifies general legislative issues of interest to the City of Westminster and articulates the City's policy principles on these issues. Staff uses the Policy Statement as direction when reviewing and analyzing bills that may have an impact on the City's interests.
- Adopting the Legislative Policy Statement will allow Staff and Council to move quickly when legislation is introduced at the Capitol. The ability to act in a timely manner increases the City's overall effectiveness when it comes to influencing legislation that affects municipalities.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should City Council adopt the proposed City of Westminster 2011 Legislative Policy?

**Alternatives**

1. Do not adopt a City of Westminster 2011 Legislative Policy Statement. This is not recommended, as the adoption of a Legislative Policy Statement is an important component of the City of Westminster's legislative program.
2. Direct staff to revise the proposed Policy Statement to reflect any changes that Council wishes to make.

**Background Information**

In 2007, City Council adopted the first City of Westminster Legislative Policy Statement. The goal of the Policy Statement is to identify general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues. These issues could have been addressed in the past at the legislature, or they could be issues that are anticipated in the future. Staff's goal for this proposed document is to be broad, yet as inclusive as possible to capture important issues to the City.

Staff will continue to utilize the Council approved Legislative Policy Statement as a guiding policy when reviewing and analyzing bills introduced in the General Assembly that may have an impact on the City. When significant legislation is identified, Staff will provide City Council with a brief summary of legislation of substance and will recommend official City positions that are consistent with the principles of the adopted Legislative Policy Statement. If Council does not express any concerns with the positions that Staff has recommended on specific bills, Staff will communicate these positions to the City's lobbyist and update the City's legislative scorecard to communicate the City's positions to the public. If a majority of City Council expresses concerns about a specific position that Staff is presenting, discussion on the item will be scheduled for a subsequent meeting.

Staff has also attached a copy of the 2011 State Legislative Issues Guide for City Council's information and use.

As State legislation can have a significant impact on the City of Westminster and its citizens, the proposed City of Westminster 2011 Legislative Policy Statement supports all five of City Council's Strategic Plan Goals.

Respectfully submitted,

J. Brent McFall  
City Manager

**Attachments**

- Resolution
- Proposed Policy Statement
- State Legislative Issue Guide

RESOLUTION

RESOLUTION NO. **39**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

---

**A RESOLUTION ADOPTING THE CITY OF WESTMINSTER  
2011 LEGISLATIVE POLICY STATEMENT**

WHEREAS, the City of Westminster follows legislative activity in the Colorado General Assembly very closely in order to identify any potential impacts on the City and its citizens; and

WHEREAS, due to the fast-paced nature of the State legislative process and the ever-changing language of numerous bills of substance, it is critical that the City of Westminster maintains an effective and responsive system for taking and communicating official City positions on relevant legislation; and

WHEREAS, an integral part of this system is the adoption of a City of Westminster 2011 Legislative Policy Statement, which identifies general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues; and

WHEREAS, Staff will utilize the City of Westminster 2011 Legislative Policy Statement as a guiding policy when reviewing and analyzing bills that have an impact on the City's interests; and

WHEREAS, the City of Westminster 2011 Legislative Policy Statement incorporates the City Council's Strategic Plan Goals and Objectives.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the attached City of Westminster 2011 Legislative Policy Statement are hereby adopted representing the City of Westminster's policy principles on these issues.

PASSED AND ADOPTED this 22<sup>nd</sup> day of November, 2010.

ATTEST:

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Mayor

---

City Clerk

APPROVED AS TO LEGAL FORM:

---

City Attorney's Office



WESTMINSTER

**PROPOSED  
CITY OF WESTMINSTER 2011  
LEGISLATIVE POLICY STATEMENT**

**NOVEMBER 22, 2010**

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## **OVERVIEW**

The City of Westminster 2011 Legislative Policy Statement identifies general legislative issues of interest to the City of Westminster along with the City's policy principles on these issues. The following policy statements are necessarily broad and by no means all-inclusive. Staff will utilize the 2011 Legislative Policy Statement as a guiding policy when reviewing and analyzing bills that have an impact on the City's interests. The City of Westminster will take Official City Positions on a limited number of significant bills. The City will have discretion in determining which specific bills to take Official City Positions. Official City Positions are not automatically assumed on bills simply that are congruent with the policy statements contained in this document. When significant legislation is identified, Staff will provide City Council with a brief summary of the substance of the legislation and a proposed Official City Position that is consistent with the principles of the 2011 Legislative Policy Statement. If Council does not express any concerns with the position, Staff will communicate this position to the City's lobbyist and update the City's legislative scorecard to communicate the City's position to the public. The City will continue to contact legislators regarding Official City Positions on specific bills throughout legislative session.

The City of Westminster welcomes the opportunity to discuss the City's legislative positions with legislators. In addition to communication on specific bills, this 2011 Legislative Policy Statement provides a reference tool for legislators to use when considering legislation that may impact the City of Westminster. For more information on the City's legislative program, please contact Assistant City Manager Steve Smithers at 303-658-2014 or Management Analyst Ben Goldstein at 303-658-2007.

## **CITY OF WESTMINSTER STRATEGIC PLAN**

Each year, the City of Westminster City Council reviews and recommitments the City organization to a five-year Strategic Plan. The 2010-2015 Strategic Plan identifies the City's underlying principles on which decisions are based and includes goals to be achieved through 2015. Each goal is further defined by a set of objectives and short-term actions to be taken to achieve the associated goal. The Strategic Plan reinforces long-term planning for both day-to-day operations and services, and long-term investment projects such as road construction, water distribution and sewer maintenance programs. As a statement of City Council's goals and vision for the City, the Strategic Plan helps Staff successfully plan City projects and budgets to achieve this vision and associated goals. Accordingly, the City of Westminster 2011 Legislative Policy Statement is intended to be consistent with and to support City Council's Strategic Plan Goals and Objectives.

Therefore, the City of Westminster:

- Supports legislation that is consistent with and supports the achievement of the City's Strategic Plan Goals and Objectives.
- Opposes legislation that runs counter to or prevents the achievement of the City's Strategic Plan Goals and Objectives.

The following is a summary of the five major goals and corresponding objectives that are identified in the City's 2010-2015 Strategic Plan.

# Strategic Plan

## 2010-2015 Goals and Objectives

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### **Financially Sustainable City Government Providing Exceptional Services**

- Invest in well-maintained and sustainable city infrastructure and facilities
- Secure and develop long-term water supply
- Focus on core city services and service levels as a mature city with adequate resources
- Maintain sufficient reserves: general fund, utilities funds and self insurance
- Maintain a value driven organization through talent acquisition, retention, development and management
- Institutionalize the core services process in budgeting and decision making
- Maintain and enhance employee morale and confidence in City Council and management



### **Safe & Secure Community**

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



### **Strong, Balanced Local Economy**

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



### **Vibrant Neighborhoods in One Livable Community**

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



### **Beautiful and Environmentally Sensitive City**

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



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

# **POLICY PRINCIPLES**

## **HOME RULE AND LOCAL CONTROL**

The City of Westminster believes strongly in the principles of home rule authority and local control. Article XX of the Colorado Constitution grants home rule municipalities such as Westminster “the full right of self-government in local and municipal matters.” The City of Westminster believes that home rule authority increases the effectiveness and efficiency of local government services, enhancing the quality of life in the community and the value provided to local taxpayers.

Therefore, the City of Westminster:

- Encourages State legislators to respect and support home rule and Colorado’s tradition of local control.
- Supports legislative efforts to strengthen home rule authority of municipal governments.
- Opposes legislation that attempts to weaken municipal home rule authority and flexibility.
- Opposes legislation that mandates state intervention in matters of local concern, especially when that intervention unnecessarily or adversely affects the City’s ability to manage these matters pursuant to its home rule authority.

## **STATE AND FEDERAL MANDATES**

Programs and regulations mandated by the State or Federal government have the potential to stretch the financial resources of the City of Westminster. If additional costs brought about by these mandated programs or regulations are not paid by the State or Federal government, they can have a direct negative impact on the City budget. This can prevent the City of Westminster from meeting the needs of residents and achieving the City’s strategic priorities.

Therefore, the City of Westminster:

- Supports the TABOR Constitutional requirement for the Colorado General Assembly to reimburse municipalities for the cost of State mandates and to make this requirement clear in State fiscal notes prepared for the General Assembly.
- Opposes unfunded State and Federal mandates that impose unfair financial burdens on municipalities and their citizens.

## **GOVERNMENTAL IMMUNITY**

The City of Westminster recognizes that the complexity and diversity of City operations and services required to meet the needs of citizens may expose the City, its officers, and employees to liability for damage and injury. The City strongly believes that public officers and employees need to be assured that municipal liability will not impair the lawful and proper provision of necessary services to the public.

Therefore, the City of Westminster:

- Supports legislation that protects the interests of municipalities, their officers, and their employees in the lawful and proper performance of their duties and responsibilities.
- Supports legislation that discourages baseless and frivolous claims and demands made against municipalities, their officers, and their employees.
- Supports the availability of public liability insurance at reasonable costs and the ability of municipalities to reduce these costs through self-insurance.
- Opposes legislation that expands or increases municipal liability, or, conversely, further limits municipal immunity.

## **SALES AND USE TAX**

The City of Westminster levies, administers, and collects its own sales and use taxes under its home rule authority. Sales and use tax revenue is the primary source of funding for City of Westminster services and operations, comprising over 60% of general fund revenues. Appropriate actions at Federal, State and local levels must preserve or enhance this critical local revenue.

Therefore, the City of Westminster:

- Supports legislation that maintains local control over base, rates, collections and administration of sales and use taxes.
- Supports legislation that allows state and local governments to require businesses to collect state and local sales and use taxes on remote sales.
- Supports voluntary, cooperative efforts among Colorado municipalities to standardize sales and use tax practices and utilization of technology for the convenience of taxpayers, the business community, and municipalities.
- Opposes legislation that preempts local authority to impose and collect sales and use taxes.
- Opposes legislation that grants jurisdictions other than the State, cities, and counties the authority to impose sales or use taxes.

## **GENERAL FINANCE**

The City of Westminster is a full-service community. While sales and use tax revenue comprises the primary funding source for general government services, the City's wide variety of services are also funded through a balanced array of other taxes, user fees, and other financing sources. Consequently, the City of Westminster is impacted by State and Federal financial policies.

Therefore, the City of Westminster:

- Supports the continuation of existing local government financing methods and the addition of new methods for local government to support the provision of municipal services to citizens.
- Supports equitable sharing with municipalities of existing and future State revenues derived from traditional State-collected, locally shared revenues, such as the cigarette tax, Highway Users Tax Fund, and the lottery.

- Opposes State-granted exemptions or other State actions that erode municipal sales taxes, use taxes, property taxes, and other revenue sources unless the State provides adequate replacement revenues.
- Opposes State-mandated reductions to the current property tax structure without specific revenue replacement provisions.

## **LAND USE, DEVELOPMENT, AND REVITALIZATION**

The City of Westminster works constantly to achieve its Strategic Plan Goal of “Vibrant Neighborhoods in One Livable Community.” The City believes that local control with land use planning contributes greatly to the achievement of this goal and the overall quality of life in the City of Westminster. In addition, one of the City’s Strategic Plan Objectives is to “develop and implement revitalization plans.” In order for redevelopment and revitalization efforts to succeed, the City feels very strongly that appropriate urban renewal tools need to be preserved and strengthened.

Therefore, the City of Westminster:

- Supports legislation that removes barriers to local land use planning and land development regulation.
- Supports appropriate legislation that facilitates the creation of Transit-Oriented Developments (TOD).
- Supports legislation to enable cooperative urban renewal projects between multiple jurisdictions.
- Supports appropriate legislation and funding that encourages and facilitates historic preservation and rehabilitation.
- Support legislation that provides for an opportunity to reset the 25 year tax increment financing (TIF) clock.
- Opposes legislation that prescribes comprehensive land use and other community planning at the State level.
- Opposes legislation that would inappropriately limit local government authority to impose growth impact fees.
- Opposes legislation that would unreasonably restrict the use of tax increment financing or eminent domain for redevelopment projects.

## **ECONOMIC DEVELOPMENT**

The City of Westminster strives to develop and maintain a “Strong, Balanced Local Economy” per its Strategic Plan. Whether it is maintaining a healthy retail base or retaining and expanding targeted businesses and primary employers, the City recognizes the importance of a healthy economic climate to the overall quality of life for citizens and businesses.

Therefore, the City of Westminster:

- Supports the development of a statewide economic development strategy that addresses issues of business climate and economic direction at the State level, but allows for local control of economic development.

- Supports appropriate State tax policies and incentive programs, including enterprise zones, business incentive agreements, or other legislative initiatives, that encourage business expansion and retention through primary job creation, investment in capital equipment, and employer facility development.

## **WATER RESOURCES AND TREATMENT**

Since the 1950's, the City of Westminster has invested substantial public funds into the creation and protection of an independent water supply. Westminster has an obligation to provide the highest quality water and wastewater services in a financially sound, reliable, safe, and environmentally acceptable manner. The City supports legislative measures to further this goal.

Therefore, the City of Westminster:

- Supports legislation that reasonably limits liability exposure and protects investment in water and wastewater facilities and operations.
- Supports legislation that maintains the authority delegated to the State to administer Federally mandated water and wastewater environmental regulatory programs.
- Supports water quality legislation that results in cost effective water quality control regulations and measurable water quality benefits.
- Supports the Constitutional doctrine of prior appropriation and the Constitutional priority given to domestic water use.
- Supports legislation and policies to ensure junior well depletions are fully replaced so that senior water rights are fully protected.
- Supports legislation that protects water rights as private property, and preserves the right to purchase and to change the use of water rights within the State.
- Supports appropriate water conservation efforts and sustainable water resources management practices by all users.
- Supports sufficient appropriations and adequate fee-based revenue to permit the State to continue water resources administration, protection, development and conservation.
- Supports continued Federal and State funding for water and wastewater treatment infrastructure to reduce local costs and expedite construction of necessary treatment, distribution, and collection facilities to comply with Federal and State mandates.
- Supports legislation that provides adequate Federal and State funding for mandated programs under the Safe Drinking Water and Clean Water Acts, including funding for protection of critical infrastructure while providing an equitable distribution of program costs between State general fund monies and user fees.
- Supports legislation and regulations that promote the appropriate and beneficial use of reclaimed water.
- Supports legislation and regulations that promote the beneficial use of biosolids.
- Supports the State's participation in Federal endangered species cooperative agreements and recovery programs and urges continued funding as appropriate.
- Supports legislation that protects water supplies from the costly and environmental impacts of aquatic nuisance species. An infestation of these species would adversely affect the City's ability to provide basic water services to its residents.

## **TRANSPORTATION**

The City of Westminster believes that the movement of goods and people is vital to the continued economic success of the State of Colorado and to the maintenance of the high quality of life that Coloradans enjoy. In order to preserve these, the State Legislature must be willing to invest in the maintenance and expansion of the State's transportation network including roads, bridges, and mass transit. With the current shortfall in transportation dollars for the Colorado Department of Transportation, municipal and county governments have taken on greater construction, maintenance, and financial responsibilities. For example, two interchanges on I-25 at 144<sup>th</sup> Avenue and 136<sup>th</sup> Avenue were built and paid for entirely by the Cities of Westminster and Thornton. The City of Westminster has demonstrated that it is willing to partner on projects, but is against efforts to pass along additional State roadway construction or maintenance responsibilities to local governments without increased and adequate funds to meet these additional responsibilities.

Therefore, the City of Westminster:

- Supports an appropriate State-wide transportation plan that not only funds repair and maintenance needs, but also commits to network and mobility improvements and expansions, including actions that address congestion relief in the Denver metropolitan area.
- Supports legislation to enhance transportation funding equity within the State.
- Supports continuation of the transit funding created by SB 09-108, and the continuation of the full local government portion of this funding.
- Supports legislation and regulatory action that maintains or increases the level of funding provided by the State or passed through the State by the Federal government to transportation activities at the local level.
- Supports State and Federal assistance and funding for the planned U.S. 36 expansion.
- Supports additional funding alternatives to construct structured parking near existing and proposed FasTracks commuter rail stations.
- Supports funding needed to complete the full Northwest Rail Project.
- Supports funding needed to complete the US 36 Bus Rapid Transit Project.
- Opposes legislation to transfer maintenance responsibility of State-owned roads to municipalities without adequate short and long-term funding to meet these additional responsibilities.

## **TELECOMMUNICATIONS**

The City of Westminster recognizes the importance of telecommunications services to economic development and the quality of life in the City. The City of Westminster supports increased competition in the cable and video market and has taken steps in preparation to work with companies who are interested in providing video service in our community. However, the City's view is that statewide franchising should not override the City's authority to ensure the best possible service to its citizens and to regulate the use of public right-of-way.

Therefore, the City of Westminster:

- Supports the retention of municipal franchising and regulatory authority over cable television systems.

- Supports legislation that preserves municipal control and autonomy over public rights-of-way and other assets, along with the right of local governments to receive fair and reasonable compensation for their use.
- Supports the ability of municipalities to require “reasonable” build-out for potential new video providers per the Federal Communications Commission’s executive order.
- Opposes State or Federal restrictions on municipal franchising, regulatory, and taxing authority over telecommunications systems.

## **WORKERS’ COMPENSATION**

The City of Westminster recognizes that the Colorado Workers’ Compensation Act was developed as a no-fault system established “to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of any litigation, recognizing that the workers’ compensation system in Colorado is based on a mutual renunciation of common law rights and defenses by employers and employees alike.” The City self-insures its Workers’ Compensation program to ensure the most cost effective, efficient delivery of these benefits to employees. The City is concerned about any legislation that will erode the ability of an employer to control their claim costs and inhibits an employer’s ability to get competitive quotes from the market for quality insurance coverage.

Therefore, the City of Westminster:

- Supports legislation that maintains the spirit of the Colorado Workers’ Compensation Act, for the protection of both Colorado employers and employees.
- Opposes legislation that creates presumptive eligibility coverage within the law.
- Opposes legislation that increases insurance premium costs to employers.
- Opposes legislation that adds administrative burdens or taxes to self-insurance programs.
- Opposes legislation that promotes litigation.

## **HUMAN RESOURCES**

Employees are the City of Westminster’s most important resource. The City is an equal opportunity employer and works to ensure excellent and fair salaries and benefits for employees, along with growth and development opportunities. Like many other organizations, the City of Westminster’s budget is continuously pressured by increasing compensation and benefit costs. The City constantly balances fair compensation and benefits with responsible expenditures of tax dollars.

Therefore, the City of Westminster:

- Supports legislation that maintains or reduces the employer and employee Fire and Police Pension Association (FPPA) pension and retiree health insurance costs.
- Supports continuation of State matching funds to assist in retiring unfunded liabilities that have accrued under the Fire Death and Disability Plan.
- Opposes any legislation that interferes with a municipality’s ability to determine the terms and conditions of municipal employment.
- Opposes legislation that mandates collective bargaining for public employees.
- Opposes legislation that requires mandatory participation or participation rates in employment or benefit programs.

- Opposes mandated Social Security coverage for public employees, mandated benefit levels or funding standards for municipal employee pension plans, or other unreasonable burdens or restrictions in connection with the administration of municipal employee benefit plans.
- Opposes legislation that reduces current State funding of death and disability benefits for emergency services personnel or legislation that shifts the funding of this State responsibility to local governments.

## **OPEN SPACE**

As stated in the City’s Strategic Plan, Westminster works to maintain and develop a “Beautiful and Environmentally Sensitive City.” Increasing and preserving open space is a high priority in the City of Westminster. As build-out approaches, the City is striving to achieve its goal of maintaining 15% of the City’s land area as open space. Open space, along with trails, contribute greatly to the quality of life in the City of Westminster.

Therefore, the City of Westminster:

- Supports maintaining funding, and adding additional funding where appropriate, to State and Federal land conservation programs that will help to increase the amount of open space within the City, thereby helping to achieve the goal of “Beautiful City.”
- Supports legislation that generally enables and empowers the use of conservation easements.
- Supports legislation that provides further incentives to preserve open space.

## **ENVIRONMENT**

For the City of Westminster, the environment is a priority as is shown in the City’s programs and services that secure clean air, water, and land. Westminster is one of the most environmentally-friendly cities in the area and has signed the U.S. Conference of Mayors Climate Protection Agreement. The City of Westminster recognizes the importance of working cooperatively with other governmental entities to implement and manage efficient, cost-effective, and scientifically-based environmental control programs. It is the intent of the City to meet or exceed compliance with all applicable environmental laws and regulations. However, the City does not support State or Federal programs that place a severe financial burden on municipalities.

Therefore, the City of Westminster:

- Supports appropriate legislation and regulations that promote pollution prevention.
- Supports legislation and regulations that provide incentives for green building and sustainable design without imposing unfunded mandates.
- Supports energy conservation efforts and appropriate legislation that accelerates the development of clean, economical energy resources and fuel-efficient technologies such as wind and solar energy, waste to energy, fuel cells, and other appropriate and effective technologies.
- Supports reasonable legislation and regulations that increase the fuel efficiency of motor vehicles.
- Supports legislation that limits liability for waste cleanup costs under Federal law where the municipality demonstrates due care and absence of fault in connection with waste

- disposal at a site and provides an early and fair means of settlement for municipalities named as liable parties at waste cleanup sites.
- Opposes legislation or standards that weaken current air quality standards or regulations.
- Opposes legislation that limits the ability of local government to regulate the activities of private waste or recycling collectors or to provide waste or recycling collection or processing services to citizens

## **PUBLIC SAFETY**

“Safe and Secure Community” is one of the top goals identified in the City of Westminster’s Strategic Plan. The City works diligently towards keeping citizens safe anywhere in the City. The City of Westminster recognizes the critical importance of maintaining public order, providing a safe environment, and protecting the lives and property of the citizens of Westminster. The role of the Police Department in the City of Westminster is to enforce the law in a fair and impartial manner, recognizing both the statutory and judicial limitations of police authority and the constitutional rights of all persons. The Westminster Fire Department works to minimize injuries and property losses due to fire, to provide quality emergency medical care and transport services, and to provide other services including fire inspections and emergency preparedness planning. Finally, the City of Westminster’s Municipal Court works to ensure that justice is carried out fairly and effectively.

Therefore, the City of Westminster:

## **POLICE**

- Supports legislation that facilitates the eviction of public nuisance tenants.
- Supports legislation that facilitates the use of a TASER as a safe and effective tool for law enforcement.
- Supports legislation that ensures flexibility for municipalities when implementing Federal and State criminal justice programs.
- Supports legislation providing enhanced sentences for criminal offenses committed by proven members of gangs.
- Supports legislation that enhances the integration of local and State criminal justice agency information systems in order to increase the efficiency and information sharing capacity of law enforcement agencies.
- Supports legislation that maintains and strengthens the provision of community-based mediation and other alternative dispute resolution services.
- Supports legislation that provides resources and support to victims of domestic violence.
- Supports legislation to make not wearing a seatbelt while operating a motor vehicle a primary offense.
- Supports legislation that requires reasonable and practical preservation of DNA and other evidence.
- Supports legislation that sets new standards for the collection of 9-1-1 service charges to support growing demand for new equipment based on technology improvements.
- Supports legislation to provide for criminal asset forfeitures to be returned to local law enforcement agencies to be used to fund law enforcement activities.
- Supports legislation that protects Senior Citizens from criminal exploitation.
- Supports legislation that protects society against Identity (ID) Theft.
- Supports legislation that protects juveniles from sexual predators on the internet.

- Opposes legislation that inappropriately transfers immigration and illegal alien enforcement responsibilities from the Federal government to local government and diverts local law enforcement resources from other priorities.
- Opposes legislation that will change District Attorneys' right to direct file (charge juveniles as adults).
- Opposes legislation that compromises officers' and the public's safety.
- Opposes legislation that requires criminal justice agencies to pay fees to obtain financial disclosure information from banking institutions.

### **MUNICIPAL COURT**

- Opposes legislation that limits the authority of municipalities to enforce their own ordinances in municipal courts.
- Opposes imposition of State surcharges on municipal court fines for the purpose of funding State programs.

### **FIRE AND EMERGENCY MEDICAL SERVICES**

- Supports legislation that assists in the development of interoperable communication systems for public safety.
- Supports legislation to require the installation of appropriate fire protection systems in structures to enhance life safety and property protection.
- Supports legislation that strengthens the City's ability to prohibit the use and sale of all fireworks, along with legislation that allows counties and fire districts to prohibit and otherwise control fireworks.
- Opposes legislation that restricts the City from adopting local strategies and regulations for safely addressing hazardous materials or legislation that restricts the City's ability to review and approve the location of facilities that use or store hazardous materials or hazardous waste.

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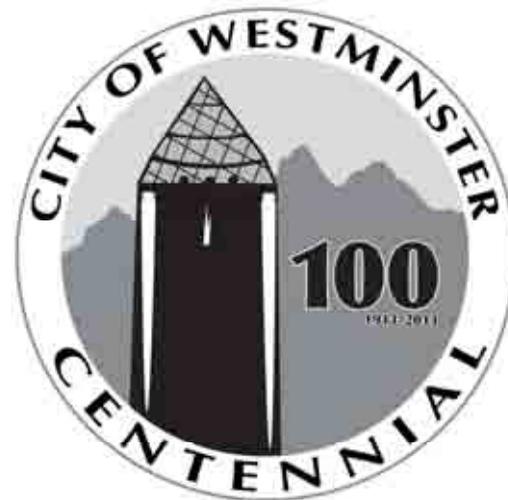
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# 2011 STATE LEGISLATIVE ISSUES GUIDE



City of Westminster

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### SUMMARY OF KEY ISSUES:

#### Home Rule

- Keeping local control local

#### Transportation

- Keeping Colorado connected

#### Water

- Protecting the quality, rights, and use of our most valuable resource

*(For more information, see inside)*

### CITY OF WESTMINSTER: COMMUNITY PROFILE

Incorporated in 1911, Westminster's progressive council/manager form of government is consistently recognized for excellence in management and delivery of full services to businesses and residents, without the need for additional service districts and taxing authorities. The City provides police, fire, parks, recreation, library, streets, water, and wastewater services.

The City of Westminster adopted its 2011 - 2012 Budget in October 2010. The City's 2011 Budget totals \$160 million (exclusive of contingency and reserves). The City's property tax mill levy will remain unchanged for the eighteenth consecutive year at 3.65 mills, one of the lowest property tax rates in Colorado.

A recipient of the International Livable Communities Award and noted as one of *Money Magazine's "Top 100 Places to Live"*, Westminster is a great place to live, work, and play. Dramatic mountain views and generous open space, trails, parks, and golf courses capitalize on Colorado's outdoor-oriented lifestyle. The City is well planned with

beautiful residential neighborhoods and streetscapes, enhanced landscaping, and interesting architectural details.

Increasing and preserving green space is a high priority in the City of Westminster. In November 2006, Westminster voters approved an extension of the Parks, Open Space, and Trails 1/4<sup>th</sup> cent sales tax, allowing the City to issue \$20 million in bonds for the maintenance and expansion of the City's existing 63 miles of trails, 2,700 acres of open space, and 65 community parks and facilities. Westminster is a three award winner of top parks, recreation, and libraries department in the country.

With the approval of RTD's FasTracks program, the City is working on planning efforts for Transit Oriented Developments (TOD) at rail stations that will be located in South Westminster, City Center (adjacent to the Westminster Mall site), and at Church Ranch (adjacent to the new Shops at Walnut Creek). The planned rail stations in South Westminster and at the Westminster Mall site both promise to provide exciting opportunities for redevelopment at those sites.

### CITY OF WESTMINSTER STRATEGIC PLAN GOALS:

- Financially Sustainable City Government Providing Exceptional Services
- Safe & Secure Community
- Strong, Balanced Local Economy
- Vibrant Neighborhoods in One Livable Community
- Beautiful and Environmentally Sensitive City

## HOME RULE: KEEPING LOCAL CONTROL LOCAL



*Westminster's  
First City Hall*

The City of Westminster believes strongly in the principles of home rule authority and local control. Article XX of the Colorado Constitution grants home rule municipalities such as Westminster “the full right of self-government in local and municipal matters.” The City of Westminster believes that home rule authority increases the effectiveness and efficiency of local government services, thereby enhancing the quality of life in the community and the value provided to local taxpayers.

The City encourages state legislators to respect and support home rule and Colorado’s tradition of local control. The City of Westminster will oppose legislation that mandates state intervention in matters of local concern, especially when that intervention unnecessarily or adversely affects the City’s ability to manage these matters pursuant to its home rule authority.

The City of Westminster strongly supports local control in employee-employer relations. The City of Westminster strives to maintain the highest levels of communication and cooperation between management and frontline personnel, and works to resolve issues with fair, reasonable, and equitable actions. At the federal level, legislation has been passed the House, and considered in the Senate, which would mandate collective bargaining for all police, fire, and emergency medical workers without regard to state laws and constitutions, much less local authority. Westminster currently has outstanding employee-employer relations without collective bargaining, and having Congress attempt to mandate how we must deal with employment issues with our employees is an unwelcome and unnecessary

intrusion into local affairs. The impact of legislation mandating collective bargaining impacts far more than just employee-employer relations. Mandated collective bargaining with police and fire employees will lead to less effective public safety services and higher costs to taxpayers. Furthermore, mandated collective bargaining will have a negative impact on other municipal services due to decreased resources available to fund those services.

Urban Renewal Areas and Tax Increment Financing are other areas in which Westminster supports local control. The current law governing tax increment financing and urban renewal areas is working well. Citizens, counties, cities, the state, and special districts all benefit from the current TIF/URA law in several ways. TIF can fund needed public improvements without an increase in taxes. Some examples of Tax Increment Financing at work include The Orchard at 144<sup>th</sup> Avenue and I-25, The Shops at Walnut Creek near Church Ranch Boulevard and US-36, and the new Walmart at 72<sup>nd</sup> Avenue and Sheridan. Without Tax Increment Financing, none of these projects would have occurred in the time or fashion that they did. All of these areas needed significant assistance to complete, and in some cases, start the project.

## TRANSPORTATION: KEEPING COLORADO CONNECTED



*Bradburn Blvd in  
early 1900's*

The movement of goods and people is vital to the continued economic success of the State of Colorado and to the maintenance of the high quality of life that Coloradans enjoy. In order to preserve these, the state legislature must be willing to invest in the maintenance and expansion of the state’s transportation network including roads, bridges, and mass transit.

The gap between projected revenues and the calculated needs for transportation over the next 25 years is widening daily. The Colorado Department of Transportation estimates that to simply maintain existing infrastructure through 2035, the state needs an additional \$53 billion. In 2009, the General Assembly passed and the Governor approved the Funding Advancements for State Transportation and Economic Recovery (FASTER) Bill. The Bill was a positive step in that it increased by \$130 million (starting in 2010) the annual CDOT funding for bridge reconstruction and road safety projects. The City believes that it is very important that the revenue stream available through FASTER remain intact.

The City of Westminster also hopes that the legislature pursues options that continue to plan for and address congestion relief in the Denver metro area. Projects impacting Westminster and the Front Range such as the planned U.S. 36 expansion require State assistance and the State’s active role in maintaining funding sources for projects such as this that provide congestion relief. The City of Westminster and the local jurisdictions of the U.S. 36 Corridor appreciate the assistance that State legislators provided during our efforts to secure Federal funding and look forward to the continued multi-jurisdictional efforts to garner funding for US 36 and commuter rail.

## WATER: PROTECTING QUALITY, RIGHTS, AND USE OF OUR MOST VALUABLE RESOURCE



*Standley Lake in  
1930*

Since the 1950’s, Westminster has invested substantial public funds into the creation and protection of an independent water supply. Westminster continues to be very diligent with

regard to protecting its water supply both in terms of quantity and quality. Westminster remains concerned about a number of potential water-related legislative issues.

Westminster is very active in water quality issues and consistently supports and promotes water quality protection. Westminster is extremely concerned about protecting Standley Lake from two related aquatic nuisance species: Quagga and Zebra Mussels. These species have been recently discovered in Colorado, and we have learned that these invasive species multiply rapidly and profusely and destroy lake ecology. They can also seriously compromise water treatment plant infrastructure with massive accumulations of mussels. Westminster supports continued State legislation protection of water bodies from this noxious species. Senate Bill 226, passed in 2008, recognized the destructive impacts of aquatic nuisance species. The Bill also implemented funding and measures for detecting and eradicating those species from Colorado’s water bodies. The City supports the State’s efforts to prevent and eradicate all invasive species from the State’s water supplies.

Well regulation on the South Platte River is another important topic to the City of Westminster. Any proposed legislation regarding well regulation must ensure that junior well depletions are fully replaced so that senior water rights are fully protected. Westminster is concerned about potentially harmful changes to existing Colorado water law, including those designed to repeal or amend the prior appropriation doctrine. Senior water rights holders such as Westminster have invested substantial sums of money in a water supply based on certain expectations of stream flow and water rights administration. Efforts to revise the administration in order to allow junior well users to continue to take water belonging to senior water right holders could damage Westminster’s critical water supply planning efforts and make it significantly more difficult and more costly to meet future water needs for Westminster citizens.



## Agenda Item 10 C

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
November 8, 2010



**SUBJECT:** Resolution No. 40 re City of Westminster 2010 Natural Hazards Mitigation Plan

**Prepared By:** Mike Reddy, Emergency Management Coordinator  
John Burke, Senior Engineer

### Recommended City Council Action

Adopt Resolution No. 40 adopting the City of Westminster 2010 Natural Hazards Mitigation Plan.

### Summary Statement

- The primary purpose for a City of Westminster Natural Hazards Mitigation Plan (Plan) is to better protect the people and property of the City of Westminster from the effects of natural hazard events.
- A secondary purpose for adopting the Plan is to make the City of Westminster eligible for federal pre-disaster assistance from the Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program. In addition, in the event of a federally declared disaster, an approved and adopted plan allows the City to pursue federal mitigation grant assistance in the rebuilding process.
- The Plan has been developed with input from a number of City departments along with county and state agencies. State and federal official reviews have found the plan to be in full compliance with their combined review criteria.
- City Council reviewed the Plan and provided Staff with comments during the October 18th Study Session.
- Formal adoption by Council is the final step in the Natural Hazards Mitigation Plan process.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City of Westminster formally adopt the 2010 Natural Hazards Mitigation Plan as a guide for City natural hazard mitigation decisions in order to reduce harm to people and property from future natural disaster occurrences?

**Alternatives**

1. Council could choose not to adopt the Plan, thereby making the City of Westminster ineligible for receiving pre and post disaster federal mitigation grant assistance in the future.
2. Council could direct staff to modify the Plan which will required a second review and adoption by state and federal officials prior to final City of Westminster adoption.

Staff does not recommend either of these alternatives and recommends adoption of the 2010 Natural Hazards Mitigation Plan by Resolution.

**Background Information**

Many natural disasters are predictable, and much of the damage caused by these events can be alleviated or even eliminated through mitigation efforts. The City of Westminster has a long history in mitigating the risks posed by natural hazards. These efforts include land use planning efforts, adoption of progressive building and fire codes, comprehensive open space planning, dam mitigation and stabilization programs and a comprehensive storm water management program.

The City of Westminster Natural Hazard Mitigation Plan (1) identifies natural hazards and associated risks to the City of Westminster; (2) identifies hazard mitigation initiatives that the City has taken in the past; (3) documents the process used in developing this Plan; and (4) develops future mitigation strategies to lessen vulnerability and improve resiliency to natural hazards.

The Plan is required by the Federal Emergency Management Agency in order for the City to qualify for pre and post disaster mitigation grants that can help solve problems before a disaster and help the City recover should a disaster occur. A copy of the Plan was distributed to City Council with the October 25<sup>th</sup> Study Session packet. The Plan is available on the City's website at [www.ci.westminster.co.us/639.htm](http://www.ci.westminster.co.us/639.htm).

Adoption of the 2010 Natural Hazards Mitigation Plan supports the City of Westminster strategic plan under the guiding principle of a safe and secure community. The means to achieve this principle is to adopt a guide for hazard mitigation planning to better protect the people and property of the City of Westminster from the effects of natural hazard events.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **40**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

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**A RESOLUTION TO ADOPT  
THE CITY OF WESTMINSTER 2010 NATURAL HAZARDS MITIGATION PLAN**

WHEREAS, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

WHEREAS, under the Federal Disaster Mitigation Act of 2000, an adopted Natural Hazards Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

WHEREAS, a City of Westminster Natural Hazards Mitigation Plan been prepared in accordance with FEMA requirements at 44 C.F.R. 201.6, and

WHEREAS, the City of Westminster has fully participated in the FEMA prescribed mitigation planning process to prepare this Natural Hazards Mitigation Plan.

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

1. That the City of Westminster hereby adopts the 2010 City of Westminster Natural Hazards Mitigation Plan, copies of which are available in the City Clerk's Office and the City's Office of Emergency Management, as an official plan upon approval by the Colorado Division of Emergency Management and the Federal Emergency Management Agency (FEMA); and

2. That the City of Westminster will submit this Resolution to the Colorado Division of Emergency Management and Federal Emergency Management Agency, Region VIII officials to enable the Plan's final approval.

PASSED AND ADOPTED this 8<sup>th</sup> day of November, 2010.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
November 8, 2010



**SUBJECT:** Councillor’s Bill No. 59 re Use of City Owned Property and Facilities by Private Telecommunication Companies

**Prepared By:** Mac Cummins, AICP, Planning Manager  
Marty McCullough, City Attorney

**Recommended City Council Action**

1. Pass Councillor’s Bill No. 59 amending the Westminster Municipal Code section 11-4-11 to separate the process for reviewing the use of private property for telecommunication uses from the process for reviewing the use of City owned property and facilities by private telecommunication companies, and authorizing the City Manager to charge such fees as the City Manager may deem reasonable for the processing and review of the latter requests, including any consulting fees that the City may incur.
2. Authorize the City Manager to execute an agreement with the law firm of Kissinger and Fellman, in substantially the same form as attached, for consulting and negotiating services related to the review of requests by private telecommunication companies to use public property and facilities for telecommunication purposes.
3. Direct the City Manager and Staff to implement the process described in this agenda memo for the processing and review of requests for the use of public property and facilities by private telecommunication companies and to modify and supplement such procedures as the City Manager may, in the future, deem necessary.

**Summary Statement**

- The City has been permitting certain City owned facilities to be used by cell phone companies for some time now. The Department of Community Development currently works with the cell phone companies on their requests. With the elimination of the position within Community Development that oversaw this effort, staff has sought alternatives for meeting the community needs for good cellular phone service and generating revenue for the City, while recognizing that the City does not currently have any staff trained or available to broker these somewhat technical agreements. At the heart of staff’s proposal is staff’s belief that the business of renting City property and buildings to telecommunication companies is not a City core service. The proposal is to contract with an outside negotiator with telecommunications expertise, who will follow the City’s policy objectives concerning the licensing of public property for private use, and the City will charge a fee sufficient to cover his/her costs. In addition to this, the City will generate revenue from the program when it permits private telecom companies to use City property.
- The code changes described in this agenda memo are mostly clarification in nature, and making it explicit that requests to utilize City owned property will not be subject to an Official Development Plan requirement. The proposed changes include authority for the City Manager to charge such fees as the City Manager may deem reasonable in connection with the City’s processing and review of requests to use City property by private telecommunication companies.

**Expenditure Required:** \$0

**Source of Funds:** N/A

## **Policy Issues**

There are two policy issues: 1) Is the City interested in continuing to permit City owned property to be used by private companies for telecommunication purposes; and 2) If so, does City Council concur with Staff's approach laid out in this agenda memorandum to address these decisions?

## **Alternatives**

Do not continue to allow space at City owned facilities to be used by private telecommunications facilities and/or do not use an outside negotiator to help the City staff in terms of negotiating these agreements. This is not recommended by staff because there are experts in this field that stay very current with the rates paid by telecom companies, issues in the technology and the needs of the companies, and maintain relationships with those companies. In addition, the City continues to receive 2-3 requests a week from telecommunication companies asking to meet, review and discuss proposed agreements or amendments to existing agreements, and the time required to respond to these requests has been largely overwhelming and detracts from other key City staff responsibilities. It may be necessary to use City property for telecommunication facilities to achieve proper coverage of the Westminster area. Staff believes the use of a private fee-supported consultant for this work is much preferable to adding another staff person to handle this work.

## **Background Information**

After the elimination of the position that oversaw this program from the Department of Community Development, the City staff has become aware of the significant staff resources that go into the negotiation of a cell tower agreement for publicly owned property. This workload has created a "backlog" of "would be" applicants to the City to utilize City owned land for their cell tower placement (and pay the City rent) that is exceeding the staff ability to respond to these applicants. The issues can be significant in terms of property rights, valuation determinations and easement issues, siting and aesthetic concerns, etc.

Overall, several different Departments within the City are involved in the process, and have some knowledge of the key areas that are relevant. The Department of Community Development staff is ready to review and discuss whether the aesthetics of the proposed facility are consistent with the design guidelines and zoning provisions of the City, but lack the adequate resources to evaluate the proposed agreement's terms and real estate issues. The City Attorney's Office (CAO) can evaluate the legality of the real estate issues relating to property rights, but would be understaffed to negotiate each individual agreement, and would not be in a position to make real estate policy choices for the affected operating department (e.g., if there were a proposal at a park or golf course, CAO would not be in a position to make decisions that affect those facilities). The operating departments that manage facilities on the land (e.g., golf courses or parks, for example) can potentially make decisions on how the proposed tower will affect their operations, but would not be in a position to keep current on City design guidelines, zoning, or current market rates. No City staff has up-to-date knowledge on the "going rate" for cell tower permits, which likely vary based upon the desirability of the location.

Staff believes there is a need to retain an outside professional who remains current on all of these telecom issues that can be a single point of contact for the telecommunications industry, when proposing facilities on City owned land.

Application

Staff is proposing to streamline the process to a single point of contact in terms of requesting whether or not the City is potentially interested in allowing its public lands to be used, and, if so, then negotiating the full terms of such an agreement. Staff is proposing a two pronged application process:

- 1) Pre-application: Staff is proposing to implement a pre-application process, where an applicant would pay a fee (proposed for \$250), and indicate at which location the facility would be installed, what type of cell tower would be built, etc; and submit to City staff. Staff will review the pre-application and determine if the City is potentially interested in the idea. This discussion will follow the City's adopted Public Lands Policy and includes several Division Managers, Department Heads, and the City Manager. The fee will "weed out" applicants that are not directly intending to use City property from those that are legitimate telecom applicants; and will lower the overall workload impact to senior City staff and administrative officers in making these types of real estate decisions.
  
- 2) Application: The application will be coordinated by the outside negotiator. First, a concept review of the proposed use would be considered by the department having responsibility over the proposed property, and the City's Development Review Committee (DRC) that is comprised of the City Manager, Assistant City Manager, Director of Community Development, Planning Manager, and other key staff. If the DRC approves the proposed use in concept, the applicant would be so informed and should the applicant decide to proceed with a technical review of the proposal, a fee of up to \$2,000 (Plus \$500 to be paid to the City for staff review time incurred during the application process) would be charged. Those fees would be transferred to the consultant's trust account as a retainer against the subsequent negotiations work and more detailed review of the proposed facilities. It should be noted that applicants will be refunded any unused portion of the retainer should the negotiation process be minimal (excluding the \$500 for staff time, this would be non-refundable). Conversely, in order to be cost neutral to the City, applicants who require extensive negotiations will be required to reimburse the City for any additional consultant fees. The City's consultant will also consult with the Department of Community Development and affected operating departments regarding the applicant's proposed facilities and use. The latter issues are typically presented in the form of exhibits to the agreement showing the proposed improvements, structures, power lines and access routes to the site, and similar details.

ODP Process and Code Changes

The majority of the ordinance changes proposed to the Westminster Municipal Code (WMC) Section 11-4-11 are "housekeeping" in nature and non-substantive. However, there are some key areas which are proposed for change:

Currently, WMC 11-4-11(D) requires the approval of an Official Development Plan (ODP) prior to constructing any telecommunication facilities on private or public property. The current ODP review process requires telecommunication providers to demonstrate that their facilities are necessary, in conformance with all federal regulations, designed to minimize visual impacts, located at the most appropriate site among other alternatives, and meet all City design standards. In addition, co-locations on existing telecommunication structures are encouraged. The Code also requires a maintenance agreement and a performance bond and Federal Communications Commission certification. Staff is proposing changes to this section to make it clear that no ODP will be required for these types of installations on City owned property. The license agreement and exhibits will effectively take the place of this ODP approval requirement.

WMC 11-4-11(J) provides that telecommunication agreements for the use of City owned property may be administratively approved, but it does not expressly state whether or not such installations are also exempt from the ODP requirement contained in WMC 11-1-11(D). Further, because the City Attorney's Office believes that the proposed telecommunication agreements are within the legislative intent of City Charter Section 13.4, which requires any "lease" of City property to be approved by ordinance, and because City Charter requirements may not be superseded by City Code provisions, staff believes that 11-4-11(J) needs to be clarified through a City Code amendment at this time.

#### Survey of Other Communities

Staff contacted several other communities to see how they process requests by telecom companies for use of their property. Generally, the cities surveyed were significantly different in terms of how they approached the fee structure for this effort, and which department negotiated the terms. Overall, most cities charged some sort of fee, and the operating department responsible for the facility managed the contract. The range in fees was difficult to ascertain, because many cities negotiate the contracts and charge fees on a case by case basis. The ones which did have set fees are Boulder (\$2,440) and Arvada (\$600 to \$2,400 depending on case). Most cities did not have a pre-application process, so there was no fee associated with that process. The staff proposal for a \$250 concept review fee and a \$2,500 retainer fee for consultant and staff review time is within the range that other cities along the Front Range have been charging to look at these proposals.

Passing this Councillor's Bill and authorizing the steps outlined in this agenda memo will further Council's Strategic Plan Goals of Financially Sustainable City Government Providing Exceptional Services, Strong, Balanced Local Economy, and Beautiful and Environmentally Sensitive City.

Respectfully submitted,

J. Brent McFall  
City Manager

#### Attachments:

- Ordinance
- Attachment 1 - K. F. Agreement
- Exhibit A - Scope of Work

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **59**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING SECTIONS 11-4-11 AND 11-4-12  
OF THE WESTMINSTER MUNICIPAL CODE CONCERNING  
TELECOMMUNICATIONS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 11-4-11, W.M.C., is hereby AMENDED to read as follows:

**11-4-11: ANTENNAS, TOWERS AND TELECOMMUNICATION FACILITIES:** (2534 3135)

(A) **INTENT AND PURPOSE:** In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary to:

- (1) Establish a local policy concerning telecommunications providers and services;
- (2) Promote competition in the provision of telecommunications services;
- (3) Facilitate the provision of wireless telecommunications services to the residents and businesses of the city;
- (4) Minimize adverse visual effects of towers through careful design and siting standards;
- (5) Encourage and maximize the use of existing and approved towers, buildings, and other structures to accommodate new wireless telecommunications antennas in order to reduce the number of towers needed to serve the community; and
- (6) Secure fair and reasonable compensation to the city and its residents for the use of any appropriate public property for use as a site for wireless telecommunications facilities.

(B) **APPLICABILITY:**

(1) The provisions of this ~~Section~~**Chapter** shall apply throughout the City of Westminster, except as noted herein, and it shall be unlawful for a tower, antenna, or telecommunications facility to be placed except in compliance with these provisions.

(2) The following facilities are not subject to the requirements of subsections (D) through (H) below:

(a) Antennas or towers up to the maximum height specified for principal structures in the applicable zoning district or ODP which are used by FCC-licensed amateur radio operators shall be permitted in any zoning district up to the maximum height specified for principal structures for

~~that district, subject to the requirements of this Section.~~ In PUD districts, ~~t~~he operator applicant must apply for an Official Development Plan (ODP), ODP amendment, or ODP waiver to establish permissible structure heights if ~~the~~an ODP fails to specify height limitations for that district.

~~(b)~~ Television or radio antennas, located on single family dwellings or duplexes, less than five feet above the highest point of the existing principal structure, ~~shall not be subject to subsections (D) through (H) below.~~

(c) Telecommunications facilities located on City-owned property.

~~(4)~~(3) The ~~requirements~~limitations of this Section may be waived by the City Manager in the case of ~~a structure~~telecommunications facilities owned or operated by a governmental entity or public utility if it is demonstrated that the public good cannot be adequately served within the limitations of this Section.

#### (C) DEFINITIONS:

(1) ALTERNATIVE TOWER STRUCTURE means man-made trees, clock towers, bell steeples, light poles, buildings, and similar alternative design mounting structures that are compatible with the natural setting and surrounding structures, and camouflages or conceals the presence of antennas or towers. This term also includes any antenna or antenna array attached to the alternative tower structure.

(2) ANTENNA means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

(3) CO-LOCATION means the placement of antennas or other telecommunications facilities by two or more telecommunications providers in the same location or on the same tower or alternative tower structure.

(4) LANDOWNER means a natural person or persons, partnership, company, corporation or other legal entity recorded, in the records of the Adams or Jefferson County Clerk and Recorder, as the owner of the real property upon which the telecommunications facility is located or proposed to be located. For the purposes of a telecommunications facility located on a building or other existing structure that is owned by a different legal entity than the owner of the real property, both the real property owner and the owner of the building or structure will be considered to be landowners.

(5) SCREEN WALL means an opaque structure, typically located on top of, but integrated with the design of, a building that conceals mechanical, telecommunications or other equipment from view from the surrounding rights-of-ways and properties.

(6) TELECOMMUNICATIONS FACILITIES or FACILITY means the plant, equipment, and personal property, including but not limited to, cables, wires, conduits, ducts, pedestals, antenna, towers, alternative tower structures, electronics and other appurtenances used to transmit, receive, distribute, provide, or offer telecommunication services.

(7) TELECOMMUNICATIONS PROVIDER means a person, partnership, company, or corporation that constitutes the business entity who owns or will own, once constructed, the telecommunications facilities that are proposed for review and approval under this Section.

~~(5)~~(8) TELECOMMUNICATIONS SUPPORT FACILITIES means support building structures, and equipment cabinets containing electrical and mechanical equipment and devices used for the reception of or transmission of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities.

~~(6)~~(9) TOWER ~~shall~~ means any structure designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, and monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and other similar structures. This term also includes any antenna or antenna array attached to the tower structure.

(D) REVIEW AND APPROVAL PROCESS:

(1) Except as provided in Subsection (J) below, a use of land for a telecommunication facility must be approved in an Official Development Plan (ODP), amended ODP, or ODP waiver, including facilities located on public ~~property, or~~ rights of way. If the applicable ODP does not include a height limitation for the principal structure, an ODP amendment or waiver to specify the permitted height for the facility shall be required.

(2) A telecommunication facility must receive a building permit, and be in compliance with the building code adopted by the city.

(3) An application may be approved~~shall be reviewed~~ by the City Manager or his designee(s); with the exception of telecommunication facilities proposed to be located above-ground on public rights-of-way, which must be approved at a public hearing before the ~~city~~ Planning Commission pursuant to the procedures set forth in Title 11, Chapter 5.

(E) PREREQUISITES FOR APPROVAL: No ODP, ODP amendment, or ODP waiver relating to a telecommunications facility shall be approved unless the following findings have been met:

(1) Such facility is necessary to provide adequate services to locations that the telecommunications provider applicant is not able to serve with existing approved facilities;

(2) The telecommunications provider applicant certifies that the facility conforms to all applicable regulations promulgated by the federal communications commission (FCC), the federal aviation administration (FAA), and any other federal agency with jurisdiction;

(3) The facility will be designed and constructed in a manner which minimizes visual impact and preserves view corridors;

(4) The location of the facility is the most appropriate site among those available within the technically feasible area for the location of a telecommunication facility;

(5) The telecommunications applicant~~provider~~ has considered whether co-use is possible or permissible, based on legal, financial, and technical consideration in order to avoid the need for additional structures; and

(6) The ~~telecommunications provider~~applicant has satisfactorily addressed the design standards herein.

(F) APPLICATION: ~~An application for a telecommunication facility shall follow~~ The procedures and requirements, ~~as~~ set forth in Title 11, Chapter 5 of the Westminster Municipal Code, will apply to any application for a telecommunications facility. In addition, the application shall contain the following:

(1) (a) Certification by the telecommunications provider that the telecommunication facility is or will be in compliance with the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with authority to regulate telecommunications facilities; and

(b) A written agreement from the ~~telecommunications provider owner~~ that, if such standards and regulations are changed, the ~~owners of the~~ telecommunication provider facilities shall bring such facilities into compliance and that the facilities will be brought into compliance within the time frame mandated by the controlling federal agency. The ~~telecommunications provider~~owner also will agree in writing, that if the facility causes interference with public safety communications, ~~it~~ the owner will correct this interference at ~~its~~ the owner's expense. The ~~telecommunications provider~~owner will further agree in writing that failure to do so shall authorize the City to shut down the facility until compliance is demonstrated.

(2) A written agreement by the ~~telecommunications provider~~owner that ~~it~~ the owner of a tower shall ensure that any tower is maintained in compliance with standards contained in applicable local building codes, as amended from time to time. Evidence may consist of a structural report by a Colorado licensed professional engineer demonstrating that the tower or alternative tower structure facility will comply with applicable structural standards.

(3) An acknowledgment binding the ~~applicant~~telecommunications provider, the ~~property~~landowner (if other than the ~~applicant~~telecommunications provider) and both of their applicant's and owner's successors in interest to properly maintain the exterior appearance of and to ultimately remove the tower, antenna and other telecommunications facilities in compliance with the provisions of this Chapter and the applicable ODP.

(4) An acknowledgment by the landowner of the property and the telecommunications provider that the city may enter up on the property and the telecommunications facility and undertake any maintenance or removal activities so long as if: the

~~(a)~~ — The city has provided the ~~applicant~~telecommunications provider with written notice requesting the work needed to comply with this Chapter and providing the telecommunications provider~~applicant~~ at least forty-five days to complete it. Such notice shall be sent to the address provided by the telecommunications provider on the ODP;;  
~~and~~

~~(b)~~ — The city shall not be required to provide advance notice if there is a significant risk to the public health and safety requiring immediate remedial measures.

(5) For applications to place a telecommunications facility in the public right of way, a An agreement to post a performance bond, letter of credit or other financial guarantee as listed in Section 11-6-4(A)(2), W.M.C., at the time a permit is issued, in an amount to be set by the city, reasonably

related to the costs that the city may incur should the telecommunications provider~~applicant~~ fail to comply with any of its obligations pursuant to subsection (IH) (concerning removal of abandoned facilities). The bond, letter of credit, or other financial guarantee shall remain in effect ~~for a period of ten years from the date of permit issuance. Or in the case of facilities located in a public right of way,~~ until such facilities are removed.

(6) ~~An acknowledgement by the landowner~~If the applicant seeks a permit to locate on leased property, applicant shall obtain and submit a written statement of the landlord indicating that the ~~landowner~~ is not precluded by contract or otherwise from permitted to entering into leases of the same property with other telecommunications providers.

(7) The ~~identity and legal status of the applicant with the~~ names, addresses, and telephone numbers of the ~~land~~property-owner and the telecommunications provider, and any authorized officer, agent, or employee responsible for the application and with whom communications may be exchanged.

(8) Information sufficient to determine that the telecommunications provider~~applicant~~ has received or has applied for any operating license or other approvals required by the FCC to provide telecommunications services or facilities within the city.

(9) A site plan, to scale, meeting the design standards of subsection (G) below, that shows the relative shape, size, and location of the proposed telecommunications facilities, which shall include:

- (a) A design description, including height above grade, materials, and color for the proposed antenna on a tower or alternative tower structure;
- (b) A landscaping and visual mitigation plan, detailing how screening from the public view will be accomplished, and how design characteristics will have the effect of reducing or eliminating visual obtrusiveness, how the landscaping will be maintained, and who is responsible for the maintenance;
- (c) Proposed ingress and egress;
- (d) Proximity of the tower or other telecommunications facility to residential structures and residential district boundaries;
- (e) Nature of uses on adjacent and nearby properties within two hundred (200) feet of cellular facility;
- (f) Surrounding topography; and
- (g) Tree coverage within two hundred (200) feet of cellular facility.

(G) DESIGN STANDARDS: An application shall be reviewed to determine that all required information has been submitted and that the following standards have been met. The applicant must demonstrate that the following minimum standards have been met;~~has the burden of persuasion on each issue.~~

(1) At least ten feet of horizontal clearance must exist between any antenna and any power lines; more clearance may be required to meet Colorado Public Utilities Commission standards.

(2) No guy wires employed may be anchored within the area in front of any primary structure on a parcel.

(3) Setbacks.

(a) All telecommunication facilities and telecommunications support facilities must be designed or sited so that they are set back a minimum of two hundred (200) feet from the nearest residential use or residentially zoned property ~~line~~ and do not pose a potential hazard to nearby residences or surrounding properties or improvements.

(b) Telecommunication facilities adjacent to non-residential uses shall be set back, at a minimum, a distance equal to at least the height of the tower from any adjoining lot line.

(c) All parts of the structure, including but not limited to supports, fences, and guy wires, shall be set back from the property line, at a minimum, the same distance that is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment or waiver shall be obtained specifying the setbacks for the structure.

(d) Additional setback may be required to contain on-site all ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Additionally, telecommunication facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public rights-of-way, utility lines and other telecommunication facilities.

(e) If the applicable zoning district setback requirements are greater than the height of the tower, the more restrictive setback must be met. Guy anchors and accessory buildings must satisfy the minimum zoning setback requirements.

(4) Towers, telecommunications facilities, telecommunications support facilities, alternative tower structures, landscaping, fencing, etc. ~~s~~shall be maintained in accord with the ODP.

(5) All structures and equipment shall be screened and protected by a fence or wall not less than six (6) feet in height from ground level, unless other screening methods are approved or waived through the ODP process. Such fence or wall shall be ~~either constructed from~~ (i) masonry or (ii) vinyl fencing ~~if may be~~ used with brick, stone, stucco, or masonry columns. The fence or wall must effectively screen the telecommunication structure and equipment.

(6) At a tower site, the design of the buildings and related telecommunications facilities shall use materials, colors, textures, screening, and landscaping that will blend the facilities ~~with~~ the natural setting and ~~to~~ the built environment. If the built environment is anticipated to change significantly during the usable life of the tower or alternative tower structure, such as within an urban renewal district, the tower or structure shall be compatible with the anticipated future built environment

(7) Equipment installed on a rooftop shall be concealed by a screen wall. Such screen wall shall be designed to appear integrated into the building architecture.

~~(7)~~(8) If an antenna is installed on a structure other than a tower, the antenna and supporting telecommunications facilities must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.

~~(8)~~(9) For telecommunication facilities, including alternative tower structures, to be located above-ground and located adjacent to the traveled portions of streets or sidewalks, the setback must be, at a minimum, equal to the height of the proposed facility, and shall not exceed the height of standard utility poles in the vicinity.

~~(9) All parts of the structure, including supports, fences, and guy wires, shall be set back from the property line the same distance as is required for a principal structure under this Code or the applicable ODP and shall not be closer to the front property line than the front of the existing principal structure on the property, if any. If the applicable ODP does not specify setbacks, an ODP amendment or waiver shall be obtained specifying the setbacks for the structure.~~

~~(10) Additional setback may be required to contain on site all ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Additionally, telecommunication facilities shall be constructed so as to minimize the potential safety hazards and located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structure, public rights of way, utility lines and other telecommunication facilities.~~

~~(11)~~(10) Landscaping shall be accomplished with a buffer of plant materials that effectively screens the view of the telecommunications support facility from adjacent property and in accordance with city landscaping standards. All vegetation shall be maintained in a living condition. Automatic irrigation shall be provided to ensure the on-going maintenance of the landscaping.

~~(12)~~(11) The use of any portion of a telecommunications facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited. The city may require the installation of signage with safety and contact information.

~~(13)~~(12) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority.

~~(14)~~(13) No portion of any antenna array may extend beyond the property line.

~~(15)~~(14) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury. By way of example, and not of limitation, security fencing together with a lack of pegs of the bottom portion of the tower, shall be considered sufficient anti-climbing measures. There shall be no permanent climbing pegs within fifteen feet of the ground. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off-site.

(15) In addition to the foregoing standards, the

~~(16) The decision maker may shall consider if, if applicable, the following criteria in determining whether to approve an ODP or ODP amendment pursuant to this Section, the:~~

~~(a) Aesthetic impacts, including design and appearance of the structure and obstruction of view corridors, outweigh the benefits to the public of improved wireless service;~~

~~(b) Quality and effectiveness of any landscaping and screening of the base of the structure;~~

~~(c) Whether co-use of the structure by governmental agencies and other persons is possible or permissible, based on legal, financial and technical considerations, in order to avoid the need for additional structures; and~~

~~(d) Whether alternative sites are reasonably available, taking into consideration lease terms and conditions based upon industry and market standards.~~

(H) CO-LOCATION: The shared use of existing towers or other alternative tower structures shall be preferred to the construction of new facilities. The application for any ODP or ODP amendment shall include evidence that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing alternative tower structure within a reasonable distance, regardless of municipal boundaries, of the site. The ~~telecommunications provider~~ applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunications facilities due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other alternative tower structures, considering existing and planned use for those facilities;

(2) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented;

(3) Existing or approved telecommunications facilities or other alternative tower structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;

(4) Other technical reasons make it impracticable to place the proposed equipment ~~proposed by the applicant~~ on existing facilities or structures;

(5) The land-owner or owner of the existing telecommunication facility or other alternative tower structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates;

(6) No existing towers or alternative tower structures are located within the geographic area required to meet the ~~telecommunications provider~~ applicant's engineering requirements;

(7) Existing towers or alternative tower structures are not of sufficient height to meet the ~~telecommunication provider~~ applicant's engineering requirements;

(8) Existing towers or alternative tower structures do not have sufficient structural strength to support ~~the applicant's~~ proposed antennas and related equipment; and

~~(9) Any other reason, in the reasonable discretion of the City Manager or his designee.~~

(I) ABANDONMENT; REPAIR; REMOVAL:

(1) At the time of submission of the application for a telecommunication facility, the ~~telecommunications provider and the landowner~~ applicant shall execute an agreement in a form acceptable to the city, to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower or structure used as a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than one hundred and eighty (180) days. Upon removal, the land shall be restored and re-landscaped, at the operator's expense, to the level of finish of the adjacent landscaped area.

(2) If upon inspection, the city concludes that a telecommunications facility fails to comply with the approved ODP or constitutes a danger to persons or property, then upon notice being provided to the representative as listed on the ODP of a telecommunications facility, the ~~telecommunications provider~~owner, shall have thirty days to bring such telecommunications facility into compliance with the ODP. If the ~~owner~~telecommunications provider fails to bring such facility into compliance within said thirty (30) days, the city may remove the facility at the ~~owner~~telecommunications provider's expense.

(3) Any telecommunication facility that is not operated for a continuous period ~~of~~of one hundred and eighty (180) days shall be considered abandoned. The city, in its sole discretion, may require an abandoned tower, antenna, or any other ancillary telecommunications equipment to be removed within ninety (90) days of receipt of notice from the city notifying the ~~owner~~telecommunications provider and the landowner of such abandonment. Upon removal, the site shall be restored or re-vegetated to blend with the surrounding environment. If such removal is not completed within said ninety days, the city may remove and dispose of the same at the ~~owner~~telecommunications provider's or the landowner's expense. If there are two or more users of a single tower or alternative tower structure, then this provision shall not become effective until all users cease using the tower.

(4) Any telecommunication facility placed in a public right of way shall be removed within one hundred and twenty (120) days after notification by the city that the right of way is needed by the city for the expansion, construction, or reconstruction of a street or highway or other use by the city for any city project. Such removal shall be at the sole expense of the ~~owner~~telecommunications provider and if ~~owner~~telecommunications provider fails to remove the facility within the said one hundred and twenty (120) days, the city may remove and destroy the facility and charge the costs to the ~~owner~~telecommunications provider.

(J) LOCATIONS ON CITY PROPERTY: When it is in the interest of the city, the City Manager or his designee may, but is not required to, negotiate ~~and enter into~~ an agreement with a telecommunications services provider for the use of city-owned property (except public rights-of-way) for the location of towers, alternative tower structures, antennas, and other telecommunications facilities. Any such agreement must be approved by the City Council by ordinance, prior to the installation of any telecommunications facility on City-owned property. When so located, proposals to place telecommunications facilities on City-owned property may be considered by the City Manager without meeting the preceding requirements of this section.~~the agreement may be reviewed administratively.~~ The City Manager is authorized to adopt reasonable rules and regulations for the review of such facilities, including establishing such fees as may be reasonably necessary to adequately reimburse the City for its costs in evaluating and processing such requests.

Section 2. Section 11-4-12, subsection (I), W.M.C., is hereby AMENDED to read as follows:

**11-4-12: SATELLITE EARTH STATIONS: (2534)**

(I) VARIANCES:

(1) Any person may seek ~~to vary a variance from~~ the provision of subsection (D)(2) of this Section by applying to the ~~Planning Manager~~Chief Building Official or his designee. The decision of the ~~Planning Manager~~Chief Building Official may be appealed to the ~~Planning Commission~~Board of Adjustment and Appeals.

(2) All ~~variance~~ requests to vary the setback requirements of subsection (D)(2) shall be made in writing on a form provided by the City of Westminster.

(3) Special circumstances or conditions, such as the following, may justify the granting of a variance:

(a) Existence of buildings, topography, vegetation, satellite structures, or other matters on adjacent lots or within the adjacent public right-of-way which would substantially restrict the effectiveness of the satellite earth station. Such special circumstances or conditions must be peculiar to the particular residence, business, or enterprise of the applicant and not applicable generally to all residences, businesses, or enterprises.

(b) The variance, if authorized, will weaken neither the general purpose of the satellite earth station ordinance nor the regulations prescribed for the zoning district on which the satellite earth station is located.

(c) The variance, if authorized will not alter the essential character of the zoning district in which the satellite earth station is located.

(d) The variance, if authorized, will not substantially or permanently injure the appropriate use of adjacent conforming property.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of November, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

\_\_\_\_\_  
City Attorney's Office

**KISSINGER & FELLMAN, P.C.**

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PAUL D. GODEC  
 SPECIAL COUNSEL

ROBERT E. JAROS  
 1941 - 2002

**REPRESENTATION AGREEMENT**

CITY OF WESTMINSTER ("City"), hereby employs the law firm of Kissinger & Fellman, P.C., ("the Firm") to act as legal counsel in legal matters related to negotiations with wireless facilities providers ("Providers") and related matters in connection with the use of City-owned property for placement of wireless telecommunications facilities. Legal fees and costs will be billed to the Providers in accordance with the terms of the City's application process for placement of wireless telecommunications facilities on City-owned property, the Firm's Billing rates set forth below, and pursuant to the Scope of Work attached hereto as Exhibit A. With respect to any provisions of this Representation Agreement that are inconsistent with the Scope of Work, the Scope of Work shall control.

The City shall require from time to time an advance fee deposit/retainer from Providers for the Firm's services and fees prior to the Firm beginning any new or additional work on the Providers' matters. In this particular situation, an initial fee deposit/retainer of \$2500.00 paid to the Firm has been agreed upon, \$500.00 of which will be sent by the Firm to the City. The remaining \$2000.00 of the deposit/retainer will be placed in the Firm's trust account and applicable disbursements will be made from the trust account to the Firm each month at the time of billing, to cover fees earned and expenses accrued. Prior to exceeding \$2000.00 in fees, Firm agrees to notify the City so that the City may request an additional deposit/retainer amounts from the Provider. No further services shall be rendered by the City or the Firm until such additional deposit/retainer has been received by the Firm.

**BILLING POLICIES**

Our regular hourly charges for professional services of each attorney in the firm are as follows:

Abramson	\$250 per hour		
Fellman	\$250 per hour		
	<i>(KSF hourly rate reduced)</i>	Riley	\$190 per hour
Godec	\$250 per hour	Rodgers	\$190 per hour
		Paralegal/Law Clerk	\$ 75 per hour
Kissinger	\$250 per hour		

Adjustments in the Firm's rates and charges do occur from time to time, and we endeavor to notify all our then active clients of any changes at the time they are to take place. However, no rate increases shall be applied without amendment to this agreement, and no such increases shall apply to any Provider's matter after the initial retainer/deposit has been paid to the Firm. Nonetheless we still encourage all client inquiries concerning the rates in effect at the beginning of each project and will provide an updated copy of these Billing Policies upon every request.

If there are services which can be performed by our law clerks or paralegals, this time will be charged at \$75 per hour. Billing will reflect all time expended on Providers' matters, such as: office conferences, legal research, telephone calls, correspondence, travel time, drafting, court or hearing preparation and appearances, etc. Direct costs or expenses relating to work (i.e., photocopies, postage, long distance telephone calls, mileage, parking, etc.) will be billed in addition to our hourly charges for professional services rendered.

Billing will normally be between the 20th and the last day of the month covering the services and expenses incurred prior to the 20th of the current month. On matters which are not ongoing, a final billing may be made at the conclusion of the matter. Billing will be made to the City with copy to the Providers.

#### **DOCUMENT/FILE RETENTION POLICY**

When our engagement in this matter ends, we will return to the City a complete copy of all materials/property the City provided to the Firm during the course of the negotiations and the original or a complete copy of the Provider's file. You agree that we have the right to make copies of all documents generated or received by us from any source during the course of our representation of you. The cost of transmitting original documents to you and/or the cost of providing you with copies of other documents will be charged to the Providers. During the course of the representation, we may generate certain documents related to the matter that will be retained by us (as opposed to being sent to you) or destroyed. These documents include, for example, firm administrative records, time and expense reports, personnel and staffing materials, credit and account records, and internal lawyers' work product (such as drafts, notes, internal memoranda, legal research, and factual research, including investigative reports prepared by or for the internal use of lawyers on the case or in the firm).

#### **ILLEGAL ALIENS / PUBLIC CONTRACTS FOR SERVICES**

To the extent services performed pursuant to this Representation Agreement constitutes a public contract for services pursuant to C.R.S. § 8-17.5-101 et seq., the following provisions shall apply: The Firm shall not knowingly employ or contract with an illegal alien to perform work under this Representation Agreement. In addition, the Firm shall not enter into a contract with a subcontractor that fails to certify to the Firm that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Representation Agreement. If the Firm obtains actual knowledge that a subcontractor performing work under this Representation Agreement knowingly employs or contracts with an illegal alien, the Firm shall notify the subcontractor and Client within three (3) days that the Firm has actual knowledge that the subcontractor is employing or contracting with an illegal alien. Furthermore, the Firm shall terminate such subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to this paragraph, the subcontractor does not stop employing or contracting with the illegal alien. Except that the Firm shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Firm certifies that, prior to executing this Representation Agreement, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-verify program administered by the United States Department of Homeland Security and the Social Security Administration (the "E-verify Program"), or the employment verification program administered by the Colorado Department of Labor and Employment (the "Colorado Verification Program"). The Firm shall not use either the E-verify Program or the Colorado Verification Program procedures to undertake pre-employment screening of job applicants while performing this Representation Agreement.

The Firm shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. § 8-17.5-102(5).

To the extent required by C.R.S. § 8-17.5-102(1), by entering into this Representation Agreement, the Firm certifies that at the time of execution of this Representation Agreement it did not knowingly employ or contract with an illegal alien who will perform work under this Representation Agreement, and that the Firm will participate in the E-verify Program or the Colorado Verification Program in order to verify the employment eligibility of all employees who are newly hired for employment to perform work under this Representation Agreement.

KISSINGER & FELLMAN, P.C.  
Attorneys at Law

CITY OF WESTMINSTER, COLORADO

By: \_\_\_\_\_  
Kenneth S. Fellman  
Vice President

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Address: 4800 W. 92<sup>nd</sup> Avenue  
Westminster, CO 80031  
Telephone: 303-658-2400

**EXHIBIT A TO REPRESENTATION AGREEMENT  
FOR CITY OF WESTMINSTER**

**SCOPE OF WORK**

The City is retaining the Firm (primarily through Ken Fellman) to act on its behalf in the negotiations with wireless facilities providers and their agents (“Providers”) in connection with the use of City-owned property for placement of wireless telecommunications facilities. Once the City notifies the Firm that an interested party seeks approval to locate wireless telecommunications facilities on City-owned property, and that the City is willing to enter into such negotiations, the Firm will be the primary point of contact for the City’s negotiations for any licenses or other City-approved authorizations for these uses of City property. The Firm will also communicate and coordinate with the City staff, primarily Mac Cummins, Planning Manager, to coordinate any feedback that may be necessary regarding land use, site design for wireless facilities and related matters. The Firm will develop the standard City forms for licensing City property for the use of wireless facilities, and use those forms as the starting point for negotiations with interested parties.

The Firm understands that the City intends for all legal fees and costs to be funded 100% from fees generated by the entity seeking to utilize City property. In this regard, a Provider will be required to pay an initial fee to cover the City’s preliminary review (initially a \$250 “Request Fee”) to determine whether the property is available for negotiations. The City will provide a copy to the Firm of the initial request. If the City determines the property is available for negotiations, there will be an “Application Fee,” which initially will be \$2,500.00 to cover the cost of negotiations with the Firm and final City approval. The Application Fee will be paid in full to the Firm, and the Firm will promptly transfer \$500 of that amount to the City to cover the City’s costs associated with staff review of the application and staff participation in the negotiations.

Similar to application fees paid for other City services in connection with land use matters, the City will advise Providers that the City’s consultant (the Firm) will keep track of the time spent on the lease negotiations, in accordance with the hourly rates set forth in the Representation Agreement, and if the Firm’s total fees exceed \$2,000.00, the additional amounts will be billed by the Firm to the City prior to continuing work on the application. The City will inform Providers that it is the Provider’s responsibility to pay directly to the Firm amounts due on additional bills and that no further services will be rendered by the City or the Firm until such additional deposit/retainer amounts are received by the Firm. If the time spent results in a fee of less than \$2,500.00, the applicant will receive a refund for the difference. The \$2,500 application fee will be paid to the Firm and, with the exception of the initial \$500 transfer to the City, will be maintained in the Firm’s trust account, until either earned by the Firm or any unearned amounts are returned to the applicant. Any additional billings above the initial deposit will be made by the Firm to the City with a copy to the Provider.

In addition to negotiations and communicating with City staff when necessary, the Firm will keep the City apprised of any developments in the law that impact the wireless industry as it affects the use of City-owned property. Because these transactions are not anticipated to be the types that require formal land use authorization from the City, it is not expected that the FCC “shot clock” rules apply. However, the Firm will endeavor to complete negotiations with Providers in a timely manner, and will advise the City periodically as to the status of pending matters. If any actions trigger the FCC shot clock rules, the Firm will also take the lead of working with staff to ensure that the rules are being appropriately addressed.

Because this is anticipated to be an ongoing engagement between the Firm and the City, there may be issues involved in managing the relationship that will need to be addressed from time to time. The Firm will remain flexible to make any necessary modifications to ensure an effective working relationship with the City.