



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 Meeting

4. Report of City Officials

A. City Manager's Report

5. City Council Comments

6. Presentations

A. Special Presentation Recognizing Westminster's Centennial Year and Celebration

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. Legal Services Agreement with Carlson, Hammond and Paddock

B. Engineering Services Agreement with Slattery & Hendrix Engineering

C. City Park Fitness Center Strength Equipment Purchase

D. First Amendment and Renewal of Concessionaire Agreement to Operate City's Golf Course Restaurants

E. 2009 Annual Audit Services Ratification of Additional Expense

F. Alpine Waste & Recycling Cumulative Purchases over \$50,000 in 2010

G. Tanglewood Creek Channel and Pond Improvements IGA with UDFCD

H. 2010 Illuminated Street Name Sign Project

I. Landscape Maintenance Services Contract Award

J. 2011 Asphalt Pavement Crackseal Project Contract

K. Sewer and Waterline Repairs Project

L. Oracle Annual Service Contract for the JD Edwards System

M. Second Reading of Councillor's Bill No. 60 re 2010 3rd Quarter Budget Supplemental Appropriation

N. Second Reading of Councillor's Bill No. 61 re 2010 Refunding COPs Budget Appropriation

O. Second Reading of Councillor's Bill No. 62 re LGS Innovations Proposed Economic Development Agreement

P. Second Reading of Councillor's Bill No. 63 re The Bedrin Organization Proposed EDA for Murdoch's

9. Appointments and Resignations

10. Public Hearings and Other New Business

A. Resolution No. 43 re Revised Ambulance Fee Schedule

B. Councillor's Bill No. 65 Amending W.M.C. re Licensing & Regulations, Trespassing, Soliciting & Temporary Uses

C. Councillor's Bill No. 66 Clarifying Applicable Penalties for Various Violations of the W.M.C.

D. Councillor's Bill No. 67 re Cost Recovery for 144th Avenue, Zuni Street to Jason Drive Project

11. Old Business and Passage of Ordinances on Second Reading

A. Second Reading of Councillor's Bill No. 64, as Amended, re Rental Property Fee Structure & License Program

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

A. City Council

B. Executive Session – Obtain Direction from City Council re Proposed Economic Development Agreement with Drury Inn & Suites pursuant to W.M.C. sections 1-11-3(C)(4) and (7) and CRS §24-6-402(4)(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, NOVEMBER 22, 2010 AT 7:02 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 Carla Koeltzow, Deputy City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Councillor Major, to approve the minutes of the regular meeting of November 8, 2010, as written. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reminded everyone that City offices would be closed in observance of Thanksgiving on November 25th.

He also noted that next Monday would be the fifth Monday of the month and Council would not conduct a study session. However, the Mayor and Councillors would meet that night, November 29th, with State legislators for dinner at the Grill at Legacy Ridge.

COUNCIL REPORTS

Councillor Kaiser introduced everyone to "Flat Stanley". He explained that he is participating in his Grandson Austin's school project to help "Flat Stanley" go to as many places as possible.

Councillor Briggs noted that he would be standing during the meeting due to a bad back.

Councillor Winter invited everyone to two upcoming lighting ceremonies: Hometown Christmas at 73rd Avenue and Bradburn Blvd at 6:30 p.m. on Thursday, December 2nd and the Holiday Lighting Ceremony at City Hall on December 4th at 5:30 p.m.

CITIZEN COMMUNICATION

Several people spoke in opposition to Agenda Item 10F, Councillor's Bill No. 64 re Amend W.M.C. Title V and Title XI re Rental Property Fees and Licensing Program. The following parties spoke representing rental property owners or rental management companies: Cherie Shaw, Meredith Wright, Jennifer Routon, Rocky Sundling, Vic Sulzer, Meagan Gutenkauf, Stephanie Brooks, Bryan Stern and Nancy Burke. They asked Council to vote no or to postpone the vote so that there would be more opportunity for input from those who oppose the proposed amendments. Concerns expressed were that the fees would have a large and negative impact on budgets already set for the upcoming year, owners only recently found out about the new policy changes and did not feel that they would be able to pass the fees on to renters, inspections may violate renter's rights, the fee based program could lower property values, and subsidized housing already had an inspection program in place. Charles Henry, a resident of affordable housing, also asked for a no vote.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: accept the October 2010 Financial Report; authorize the City Manager to enter into an agreement with Ms. Barbara Banks for special legal counsel services in an amount not to exceed \$30,000 for work related to the Westminster Urban Reinvestment Project, the South Westminster Transit-Oriented Development and general real estate legal advice; change the date of the second regularly scheduled City Council meeting in December from December 27 to December 20; authorize the City Manager to execute a \$144,789 contract with Urban Farmer, the low bidder, for construction of a new off-leash dog park at Lowell Boulevard and 69th Place to include a parking lot, drip irrigation, trees, dog water stations and two mini shelters, authorize \$35,154 for fencing with Fence Consulting Services and authorize a 10 percent contingency in the amount of \$17,994 for a total project budget of \$197,937; authorize the City Manager to execute total Change Orders to the contract with New Design Construction in the amount of \$46,096; authorize the City Manager to enter into a \$1,817,490 contract with BT Construction, Inc., the low bidder, for construction of new waterlines and appurtenances in the Meadowlark and Transit-Oriented Development areas with a 10% construction contingency for a total construction budget of \$1,999,239, to execute a \$22,985 contract amendment for construction management services with Burns & McDonnell Engineers, and authorize the transfer of \$356,185 from the Southern Pressure Zone One Water Pipeline Capital Improvement Budget into the Transit-Oriented Development Meadowlark Waterline Capital Project account; authorize the submission of a grant application to the Colorado Department of Transportation for the Colorado Safe Routes to School grant program to fund sidewalk construction in the vicinity of Semper Elementary School at 9600 Wadsworth Boulevard; authorize the Community Development Department to submit a \$882,400 grant application to the Special Highway Committee for funding in federal fiscal years 2013-2014 to be applied to the replacement of the drainage structure carrying 72nd Avenue over Little Dry Creek; ratify the Police Department's pursuit of a 2011 Department of Homeland Security Regional Grant in the amount of \$5.5 million in partnership with the City of Arvada for the purpose of replacing, enhancing and modernizing the radio system shared by both cities; approve the 2011 allocation of Community Development Block Grant and HOME funds as set forth in Agenda Item 8K; adopt the Wildlife and Natural Resource Management Plan for Open Space Properties; and final passage on second reading of Councillor's Bill No. 59 amending the Westminster Municipal Code §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 deems reasonable for the processing and review of the latter requests, including any consulting fees that the City incurs.

Mayor Pro Tem Dittman moved, seconded by Councillor Major, to approve all items on the consent agenda except Agenda Item 8D. The motion carried.

2010 PVC WATER PIPE PURCHASE (AGENDA ITEM 8D)

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Major, to authorize the City Manager to purchase water line pipe from Dana Kepner Company, Inc. in the amount of \$94,332. The motion passed by a 6:1 margin with Councillor Kaiser abstaining based on a potential conflict of interest.

Mayor Pro Tem Dittman moved, seconded by Councillor Major, to authorize cumulative purchases from Dana Kepner Company in an amount not to exceed \$285,000 for 2010. The motion passed by a 6:1 margin with Councillor Kaiser abstaining based on a potential conflict of interest.

RESOLUTION NO. 41 APPOINTING ALTERNATES TO FILL BOARDS & COMMISSIONS VACANCIES

Upon a motion by Councillor Major, seconded by Councillor Lindsey, the Council voted unanimously on roll call vote to adopt Resolution No. 41 to appoint alternate members to fill vacancies on the Environmental Advisory Board and the Historic Landmark Board.

RESOLUTION NO. 42 AUTHORIZING JEFFCO JOINT VENTURE GRANT APPLICATION

Councillor Winter moved to adopt Resolution No. 42 authorizing the Parks, Recreation & Libraries Department to pursue two Jefferson County Joint Venture grants during the 2011 cycle not to exceed \$150,000 for the Kings Mill Park Expansion and \$110,000 for the Westbrook Park Renovation. The motion was seconded by Mayor Pro Tem Dittman and passed unanimously at roll call.

COUNCILLOR’S BILL NO. 60 TO APPROPRIATE 2010 3RD QUARTER BUDGET SUPPLEMENTAL

Councillor Major moved, seconded by Councillor Kaiser, to pass on first reading Councillor’s Bill No. 60 providing for supplemental appropriation of funds to the 2010 budget of the General, Utility, and General Capital Improvement Funds. At roll call, the motion passed with all Council members voting affirmatively.

COUNCILLOR’S BILL NO. 61 APPROPRIATING 2010 REFUNDING CERTIFICATES OF PARTICIPATION

It was moved by Councillor Lindsey and seconded by Councillor Kaiser to pass on first reading Councillor’s Bill No. 61 providing for supplementary appropriations from the 2010 Refunding Certificates of Participation to the 2010 budget of the General Fund. The motion passed unanimously on roll call vote.

COUNCILLOR’S BILL NO. 62 AUTHORIZING LGS INNOVATIONS EDA

Councillor Major moved to pass on first reading Councillor’s Bill No. 62 authorizing the City Manager to execute and implement an Economic Development Agreement with LGS Innovations. Councillor Lindsey seconded the motion, which passed unanimously on roll call vote.

COUNCILLOR’S BILL NO. 63 AUTHORIZING THE BEDRIN ORGANIZATION EDA (MURDOCH’S)

Upon a motion by Councillor Briggs, seconded by Councillor Major, the Council voted unanimously at roll call to pass on first reading Councillor’s Bill No. 63 authorizing the City Manager to execute and implement an Economic Development Agreement with The Bedrin Organization for a “Murdoch’s” store.

COUNCILLOR’S BILL NO. 64 CREATING RENTAL PROPERTY FEES & LICENSING PROGRAM

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Kaiser to pass on first reading Councillor’s Bill No. 64 amending Title V of the Westminster Municipal Code concerning licensing and regulations and Title XI of the Westminster Municipal Code concerning the Rental Property Maintenance Code. At roll call, the motion passed unanimously.

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 7:38 p.m.

ATTEST:

Deputy City Clerk

Mayor



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Special Presentation to City Council by Police Chief Lee Birk in Recognition of Westminster's Centennial Year and Celebration

Prepared By: Lee Birk, Chief of Police

Recommended City Council Action

Accept the Special Presentation from Police Chief Lee Birk recognizing the City of Westminster's Centennial Year and Celebration.

Summary Statement

In 2011, the City of Westminster will celebrate its 100th year. In recognition of this Centennial celebration, the Police Department would like to present City Council with a special recognition gift. A similar gift is being presented to all employees of the Westminster Police Department. This recognition was made possible through funding provided by the Westminster Police Citizens Academy Alumni Association and the Fraternal Order of Police.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

No policy issues identified

Alternative

No alternatives identified

Background Information

In 2011, the City of Westminster will celebrate its 100th year. In recognition of this Centennial celebration, the Police Department would like to present City Council with a special recognition gift. A similar gift is being presented to all employees of the Westminster Police Department. This recognition was made possible through funding provided by the Westminster Police Citizens Academy Alumni Association and the Fraternal Order of Police.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Legal Services Agreement with Carlson, Hammond and Paddock

Prepared By: Mary Jay Vestal, Water Resources Engineer
Michael Happe, P.E., Utilities Planning and Engineering Manager

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will best be served by authorizing the City Manager to execute a two-year sole source fee agreement subject to annual appropriation with Carlson, Hammond and Paddock, L.L.C. (CHP) for special water counsel services in an amount not to exceed \$250,000 for 2011 and not to exceed \$250,000 for 2012.

Summary Statement

- Westminster's water supply is an extremely valuable asset that requires constant protection from water quality and water quantity degradation.
- Colorado's water rights system requires judicial action for many water matters; thus the City needs expert legal counsel specializing in water rights and water quality.
- Increasing development pressure requires vigilance in numerous water quality forums in the State in order to protect the water quality of Standley Lake and its tributary basins.
- The attorneys at CHP have effectively and successfully represented the City of Westminster in water matters since 1977 and have developed a very thorough knowledge of Westminster water supply and water quality issues.
- Over this time, CHP has become an integral part of the Public Works and Utilities Department team that is charged with developing and protecting Westminster's water supply.
- CHP's average billing rate to the City of Westminster is lower than the average for water rights attorneys representing large Colorado water users, based on a recent survey of major Colorado water users.
- Adequate funds have been budgeted and are available in the adopted 2011/2012 Utility Fund operating and capital budgets.

Expenditure Required: Not to exceed \$250,000 in 2011 and \$250,000 in 2012

Source of Funds: 2011 and 2012 Utility Fund — Utilities Planning and Engineering Division Operating and Capital Budgets

Policy Issue

Should the City continue to retain Carlson, Hammond and Paddock as special water counsel on behalf of the City in connection with legal water matters for 2011 and 2012?

Alternatives

The City could utilize the City Attorney's office to handle the City's water rights and water quality matters. Staff does not recommend this alternative. Based on CHP's extensive history working with the City, institutional knowledge could be lost by transferring this work.

The City could alternatively seek out new special water counsel. Staff does not recommend this alternative, based on the good work, long-term outstanding professional relationship and reasonable costs of the representation from Carlson, Hammond and Paddock.

Background Information

The City of Westminster has a long history of representation on water matters from the principal members of the Carlson, Hammond and Paddock firm. In 1977, the City retained Holland and Hart to handle water matters for the City. John Carlson, Charlie Elliot and Mary Hammond were the principal attorneys working on Westminster issues for Holland and Hart. In 1985, John Carlson, Charlie Elliot and Mary Hammond left Holland and Hart to start their own firm. The City chose to stay with Carlson, Elliot and Hammond as the City's special water counsel instead of staying with Holland and Hart. Charlie Elliot passed away in 1985 and John Carlson passed away in 1992. Now Mary Hammond and Lee Johnson are the principal attorneys representing the City on water matters. Mary Hammond and Lee Johnson have been working on Westminster water matters for 31 years and 20 years, respectively.

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

1. The Four-Way Agreement between Westminster, Thornton, Northglenn and the Farmers Reservoir and Irrigation Company in 1978 that set forth the partnership in sharing Standley Lake for water storage.
2. A comprehensive settlement with the City of Golden and Coors over several water quality and quantity agreements that assured Standley Lake would be permanently protected from Coors and Golden treated sewage discharges along with the settlement of a number of other water disputes among Coors, Golden, Thornton and Westminster. This 1988 agreement became known as the "Cosmic Agreement" due to its size, scope and importance.
3. The successful completion through water court of the change of use for over \$200,000,000 worth of water rights from agricultural uses to municipal uses within the City of Westminster.
4. The protection of Standley Lake from contamination from the Rocky Flats Nuclear Weapons Plant through the development of the Standley Lake Protection Project, including Woman Creek Reservoir.
5. Successful litigation with the City of Golden that upheld the State Engineer's order for Golden to cease and desist the illegal diversions of Clear Creek water upstream of the Farmers' High Line Canal.
6. Negotiation with upstream water users including Georgetown and Clear Creek County to establish limits on nutrient levels leaving their respective treatment systems.
7. Representation of the City on the recent successful water rights purchasing program including contract and closing negotiations.

CHP has developed a very thorough knowledge of Westminster's water supply and water quality issues, and is a key player in helping develop and protect Westminster's raw water supply. The fees charged by CHP to the City are very favorable when compared with other major water suppliers in Colorado. CHP is proposing to increase the rate charged for its services for all partners and associates from \$195 per hour to \$200 per hour for 2011 (a 2.56% rate increase) and to \$205 per hour for 2012 (a 2.50% rate increase). This increase is relatively small and still compares favorably to a survey completed in September 2010 of the principal water attorney rates charged to major water suppliers in Colorado. CHP's rates are very competitive and still below the average of the 2010 survey.

Water Counsel Fees – 2010 Survey

Entity	Hourly Rate
Arvada	\$210/hr
Aurora	\$275/hr.
Brighton	\$200/hr.
Westminster (Proposed 2011 rate)	\$200/hr.

Based on the factors detailed in this memorandum, Staff believes the City should retain Carlson, Hammond and Paddock as a sole source for water legal counsel for 2011 and 2012. Typically, a new 2-year do-not-exceed contract is negotiated with CHP every two years to coincide with the City's budget process.

Staff has budgeted for CHP expenses in both the Operating and Capital budgets for 2011 and 2012. While historically the work requested has not exceeded \$250,000 per year, the do-not-exceed contract amount allows Staff flexibility should an issue emerge that requires significant legal effort in a strict timeframe.

This contract will assist in meeting the City's goal of Financially Sustainable City Government Providing Exceptional Services because it ensures efficient and cost-effective external services and secures the long term water supply of the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

CARLSON, HAMMOND & PADDOCK, L.L.C.
ATTORNEYS AT LAW

MARY MEAD HAMMOND
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November 29, 2010

Mr. J. Brent McFall
City Manager
City of Westminster
4800 West 92nd Avenue
Westminster, Colorado 80030

Re: Carlson, Hammond & Paddock Representation.

Dear Brent:

As you know, Carlson, Hammond & Paddock, L.L.C. has represented the City as Special Water Counsel since the formation of the firm in 1986. In fact, John Carlson, one of the founding members of this firm, represented the City in water matters from the mid-1970's until his untimely death in 1992. In short, we have had a long term relationship with the City -- a relationship that has been immensely satisfying to us as lawyers. We sincerely value Westminster as a client and hope to continue to represent the City for many years to come.

In the past, we have not operated under any type of formal written agreement. In 2002, however, the City requested that we enter into a more formal written agreement. We were, of course, perfectly willing to comply with this request and operated pursuant to two year letter agreements since that time. We understand that the City wishes to renew the letter agreement approach for the coming two year period. Accordingly, this letter agreement is written to set forth the terms for the firm's representation of the City in 2011 and 2012.

As in the past, in 2011 and 2012, Carlson, Hammond & Paddock, L.L.C., will continue to work closely with City staff and represent the City on water matters, including but not limited to water rights and water quality, and related matters that may arise in the course of the year. As in the past, our work will be carried out at the direction of the relevant City staff, and we will continue to consult with water resources staff and city attorney staff in connection with this representation. Our representation will be consistent with the requirements of the Colorado Rules of Professional Conduct.

Mr. Brent McFall
November 29, 2010
Page 2

For our work during the 2011 calendar year, we will charge a flat rate of \$200.00 per hour for attorney time. During the 2012 calendar year, we will charge a flat rate of \$205.00 per hour. This does represent a slight increase over our prior year's hourly rate. We believe this is a very competitive rate as compared to other firms' billing rates in the metro area. We also occasionally employ law clerks and we currently bill for their time at \$60.00 per hour. We bill for all time spent in pursuit of a client's business, including necessary travel time. In addition, we also bill for expenses such as computerized legal research, copies, messenger services, extraordinary postage and out-of-town mileage, lodging and food, and other like items. We will not charge the City for faxes. We understand that our representation in calendar year 2011 is subject to an upper budget limit of \$250,000.00. We understand that our representation in calendar year 2012 is subject to an upper budget limit of \$250,000.00. Although we do not anticipate that the time and expenses associated with our representation of the City would exceed these amounts in either calendar year, if unforeseen circumstances arise, and our charges begin to approach this total, we will promptly notify the City and work with staff and the City to address the funding issues. To the extent that the City does not authorize additional payments, we will suspend our services. Carlson, Hammond & Paddock, LLC, acknowledges that nothing in this Agreement shall be construed or deemed as creating a multiple-year fiscal obligation of the City. All obligations of the City pursuant to this Agreement are subject to prior annual appropriation by the City Council. The City agrees to exercise utmost good faith and use its best efforts in making any appropriations required by the City to meet its obligations under this Agreement.

From time to time we find it necessary to raise our hourly rates to reflect our increasing costs and the increasing level of experience of our legal staff. Pursuant to this letter agreement, however, we agree that the flat rate for calendar year 2011 will remain \$200.00 per hour and for calendar year 2012 will remain \$205.00 per hour. We do reserve the right to raise rates in future years.

As we have done in the past, we will send monthly itemized statements setting forth our charges and expenses. It is our policy to charge interest at the rate of 1% per month on any balance that remains unpaid after 30 days. And, as you might anticipate, we do reserve the right to suspend work on behalf of a client when payment of statements is delinquent.

To the extent this Agreement constitutes a public contract for services pursuant to C.R.S. § 8-17.5-101 et seq., the following provisions shall apply: Carlson, Hammond & Paddock, LLC shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. In addition, Carlson, Hammond & Paddock, LLC 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 Agreement.

CARLSON, HAMMOND & PADDOCK, L.L.C.

Mr. Brent McFall
November 29, 2010
Page 3

Carlson, Hammond & Paddock, LLC hereby certifies that as of the date of this letter, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement, and that it will participate in the e-verify program or department program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

Carlson, Hammond & Paddock, LLC 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 or department program. Carlson, Hammond & Paddock, LLC shall not use either the e-verify program or the department program procedures to undertake pre employment screening of job applicants while the services contemplated under this Agreement are being performed.

If Carlson, Hammond & Paddock, LLC obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Carlson, Hammond & Paddock, LLC shall notify the subcontractor and the City within three (3) days that it has actual knowledge that the subcontractor is employing or contracting with an illegal alien. Furthermore, Carlson, Hammond & Paddock, LLC 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 Carlson, Hammond & Paddock, LLC 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.

In connection with the provision of legal services contemplated under this agreement, Carlson, Hammond & Paddock, LLC 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).

It is very important to us that our clients be satisfied with our services. We believe that open communication is essential, and therefore urge you to contact us with any questions you may have concerning our services, our policies, or our bills, at any time. Please feel free to call us if you have any questions

We sincerely appreciate the opportunity to continue our work with the City. As in the past, we will strive at all times to provide you with the highest quality of legal service for a fair price. Please do not hesitate to call us if you have any questions or concerns regarding our ongoing work for the City of Westminster. Finally, if the terms outlined in this letter are acceptable to the City, please so indicate by executing this letter in the space provided, and return a copy to us.

CARLSON, HAMMOND & PADDOCK, L.L.C.

Mr. Brent McFall
November 29, 2010
Page 4

Yours very truly,



Mary M. Hammond
Lee H. Johnson

CARLSON, HAMMOND & PADDOCK, L.L.C.

Approved for the Year 2011 and 2012:

CITY OF WESTMINSTER

By: _____

J. Brent McFall
City Manager



Agenda Item 8 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Engineering Services Agreement with Slattery & Hendrix Engineering

Prepared By: Mary Jay Vestal, Water Resources Engineer
Michael Happe, P.E., Utilities Planning and Engineering Manager

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest will best be served by authorizing the City Manager to execute a two-year sole source fee agreement with Slattery & Hendrix Engineering, L.L.C. (SHE) for water resources engineering services in an amount not to exceed \$60,000 for 2011 and not to exceed \$60,000 for 2012.

Summary Statement

- Westminster's water supply is an extremely valuable asset that requires an engineer's expertise to correctly assess and fully utilize.
- Colorado's water rights system requires professional engineering testimony for many water matters; thus the City needs expert engineering consultation specializing in water rights and water planning.
- James Slattery, the founder of SHE, has effectively and successfully performed engineering for the City of Westminster on water matters since 1995 and has developed a very thorough knowledge of Westminster water rights and water supply planning issues.
- Slattery & Hendrix Engineering's billing rate to the City of Westminster is reasonable and is lower than the average for water resources engineers advising large Colorado water users, based on a recent survey of major Colorado water users.
- Sufficient funds have been budgeted for this expense in the 2011 and 2012 Budgets approved by City Council.

Expenditure Required: Not to exceed \$60,000 in 2011 and \$60,000 in 2011

Source of Funds: 2011 and 2012 Utility Fund — Utilities Planning and Engineering Division
Operating and Capital Budgets

Policy Issue

Should the City continue to retain Slattery & Hendrix Engineering as engineering consultant in connection with water matters for 2011 and 2012?

Alternatives

The City could utilize existing Staff or hire additional Staff to handle the City's engineering needs related to water rights and water planning efforts. Staff does not recommend this alternative. SHE has demonstrated an efficient and cost-effective approach to addressing the City's water-related engineering needs. Adding these engineering duties to existing Staff's responsibilities or hiring additional Staff would be expensive, time-consuming and could result in a loss of institutional knowledge.

The City could alternatively seek out new water resources engineering consultants. Staff does not recommend this alternative given the good work, long-term relationship and reasonable costs of the representation from Slattery & Hendrix Engineering.

Background Information

The City of Westminster has a long history of engineering consultation on water matters with James Slattery, who is currently the principal engineer consulting for the City on water matters. In 1995, the City retained Helton & Williamsen, P.C. to handle water matters for the City. James Slattery was one of the principal engineers working on Westminster issues for Helton & Williamsen. In 2007, Mr. Slattery left Helton & Williamsen to start his own firm, Slattery Aqua Engineering. In 2009, Mr. Slattery became partners with Randy Hendrix, also formerly of Helton & Williamsen, to form Slattery & Hendrix Engineering.

James Slattery, in his previous positions at Helton & Williamsen and as the founder of Slattery Aqua Engineering, as well as in his current partnership at Slattery & Hendrix Engineering, has played an integral part in a number of very noteworthy historical events involving the Westminster water supply. Here are a few examples:

1. Developed and subsequently managed the water resource planning model that the City uses in its long range planning efforts.
2. Worked with City staff to protect Westminster's water rights by negotiating adequate terms and conditions in transfers proposed by the City of Aurora, Blackhawk, Central City, Consolidated Mutual Water Company, Public Service Company, Georgetown, City of Golden, and other water users in the basin.
3. Assisted the City in recent long range planning efforts including planning for the expansion of the reclaimed system and evaluation of various water supply options.
4. Continues to work with City staff to update accounting procedures in the format required by previous water transfer decrees.
5. Prepared an expert report that was submitted to water court to quantify the yield associated with the purchase of Farmers High Line and Manhart Ditch shares.
6. Assisted City staff in the evaluation of the transfer of the Thornton lease to the City of Brighton.
7. Continues to work on options to maximize the yield of Wattenberg Lake and the City's excess consumable effluent.

Over the years, Slattery & Hendrix Engineering has developed a very thorough knowledge of Westminster's water supply and water quality issues and is a key player in helping to develop and protect Westminster's raw water supply. By continuing to retain Mr. Slattery's professional services, the City has maintained the institutional knowledge that is valuable when performing the engineering consultation required on water supply and water planning matters.

The fees charged by SHE to the City are reasonable when compared with other major water suppliers in Colorado. Mr. Slattery is proposing to keep the rate charged for his services at \$150 per hour for 2011 and to increase it to \$155 per hour for 2012 (an increase of 3.33%). Mr. Hendrix's rate will increase from \$126 per hour to \$130 per hour for 2011 (an increase of 3.17%) and \$135 per hour for 2012 (an increase of 3.85%). Even with these increases, SHE's rates still compare favorably to a survey completed in October of the water resources engineering rates charged to major water suppliers in Colorado. Slattery & Hendrix Engineering's rates are very competitive and still below the average of the 2010 survey. The overall cost for these services will not exceed \$60,000 in 2011 and 2012.

Water Engineer Fees – 2010 Survey

Entity	Hourly Rate, Associate	Hourly Rate, Principal
Arvada	\$180/hr.	\$240/hr.
Brighton	\$175/hr.	\$235/hr.
Georgetown	\$160/hr.	\$160/hr.
Westminster	\$130/hr. (Proposed 2011 rate)	\$150/hr. (Proposed 2011 rate)

Based on the factors detailed in this memorandum, Staff did not feel it was in the best interest of the City to seek bids on the City's engineering services related to water rights and water resources engineering and believes the City should retain Slattery & Hendrix Engineering as a sole source for water engineering services for 2011 and 2012.

Staff has budgeted adequate funds for SHE expenses in both the Operating and Capital budgets for 2011 and 2012, as engineering services may be needed in conjunction with a capital project. Historically most work is general modeling, accomplished within the operating budget.

This contract will assist in meeting the City's goal of Financially Sustainable City Government Providing Exceptional Services because it ensures efficient and cost-effective external services and secures and develops the long term water supply of the City.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Item 8 C

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Purchase of Strength Equipment for City Park Fitness Center

Prepared By: Gina Barton, Recreation Supervisor

Recommended City Council Action

Based on the recommendation of the City Manager, determine that the public interest would best be served by awarding the bid for the replacement of strength equipment for City Park Fitness Center to Healthstyles Exercise Equipment in the amount of \$63,268.

Summary Statement

- Bids were solicited for the replacement of weight room equipment at the City Park Fitness Center and ten companies submitted proposals. (See attached chart)
- In review of the submitted proposals, Staff determined that there were six viable proposals that either met or exceeded requirements. The other four proposals were eliminated due to either noncompliance of bid requirements and/or substandard quality.
- Although not the lowest bidder for the replacement equipment, Healthstyles Exercise Equipment and the MatrixG7 brand far exceeded the others in value, quality and warranty, making it well worth the marginal difference in price. The public interest would be best served by accepting the bid for the replacement of strength equipment for City Park Fitness Center from Healthstyles Exercise Equipment.
- Adequate funds were previously appropriated in the General Capital Improvement Fund in the Recreation Facilities-JCOS account and are available for the purchases.

Expenditure Required: \$63,268 (\$57,268 + \$6,000 for delivery and installation)

Source of Funds: General Capital Improvement Fund – Recreation Facilities JCOS

Policy Issue

Should Council approve the purchase of replacement exercise equipment for the City Park Fitness Center?

Alternatives

1. City Council could choose to not authorize the purchase of replacement strength equipment and to continue using the existing equipment. Staff does not recommend this as the existing equipment was purchased when the facility opened and is both outdated and worn out.
2. City Council could instruct Staff to rebid the purchase of replacement strength equipment in the hopes of receiving a lower bid. Staff does not recommend this as they believe competitive bids have been received, the quality and cost of the recommended equipment is fair and this purchase will assist the City Park Fitness Center in staying current and a remaining a viable fitness facility.

Background Information

City Park Fitness Center's existing strength equipment is over 12 years old. The typical life span for this type of equipment is 10 years. Since the existing style of equipment is no longer manufactured or sold, it has been difficult to get parts for repairs. This equipment has also become outdated in comparison to other strength equipment lines. Strength equipment technology and design is constantly evolving and today's strength equipment design takes into consideration the ease of use and safety.

City Park Fitness Center Staff has done extensive research to find the best design and value of strength equipment. Staff members have visited all viable vendors and have taken a hands-on approach to trying out equipment with consideration taken for the diverse users at City Park Fitness Center. Issues such as safety, versatility, warranty, design of weight stack system and hydraulic adjustment system were evaluated to ensure the highest quality and the most user friendly equipment was selected. Staff examined all the bids very closely and believes that the Healthstyles Exercise Equipment best meets these criteria and is the most qualified bid.

The purchase of this equipment for City Park Fitness Center meets the City's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

**Replacement Strength Equipment Bids for
City Park Fitness Center**

VENDOR	EQUIPMENT BRAND/ MODEL PROPOSED	COST	MET BID REQUIREMENTS	WARRANTY
PUSH PEDAL PULL	PARAMOUNT XL	\$45,107 Delivery not included	NO	1 YR LABOR
	PARAMOUNT SP	\$55,135 Delivery not included	YES	1-5 YRS PARTS
ADVANCE EXERCISE EQUIP	LIFE FITNESS SIGNATURE	\$65,886 Delivery not included	YES	2 YR LABOR 3 YR PARTS
COLORADO FITNESS EQUIP.	PARAMOUNT XL WITH ADDED WT. SYSTEM	\$57,560 Delivery not included	YES	1 YR LABOR 1-5 YRS PARTS
SCHOOL HEALTH	POWER SYSTEMS STRENGTH	\$23,352 Delivey not included	NO	??????????????
KOS	MAGNUM 5000 SERIES	\$43,927 +\$3730 Delivery	YES	1 YR LABOR
	MAGNUM 6000 SERIES	\$36,822 + \$3730 Delivery	NO	3-5YRS PARTS
COMMERCIAL FITNESS	CYBEX EAGLE/VR3	\$67,356 Delivery not included	YES	2 YR LABOR
	CYBEX VR3	\$60,924 Delivery not included	YES	3 YR PARTS
SCHOOL SPECIALITY	LEGEND FITNESS	\$31,715 + \$8,767 Delivery	NO	? LABOR 1-5 YRS PARTS
HEALTHSTYLES	MATRIX G7	\$57,268 + \$6,000 Delivery	YES	3 YR LABOR
	MATRIX G3	\$47,670 + \$6,000 Delivery	YES	5-10 YRS PARTS
GOPHER SPORTS	NO BID JUST CATALOG	N/A	NO	N/A
PRO MAXIMA	PRO MAXIMA	\$33,085 Delivery not included	NO	LABOR NONE 2-5 YRS PARTS

(Please note that the price comparison does not include freight and installation. Paramount vendor did not include this in their quote.)



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: First Amendment and Renewal of the Concessionaire Agreement with Dadiotis Golf Enterprises, LLC to Operate the City’s Golf Course Restaurants

Prepared By: Ken Watson, Regional Parks, Sports and Golf Manager

Recommended City Council Action

Authorize the City Manager to sign the first amendment to the existing concessionaire agreement with Dadiotis Golf Enterprises, LLC to operate the City’s two golf course restaurants.

Summary Statement

- The City of Westminster entered into a concessionaire agreement with Dadiotis Golf Enterprises, LLC on March 14, 2005, to allow the operation of the Grill at Legacy Ridge and The Heritage Grill for a term of five years with a clause to allow renewal of that agreement for another five years.
- Discussions between both parties began in early 2010, but were delayed due to the budget process, core services review and discussions with the Hyland Hills Park and Recreation District regarding the possibility of the District taking over the operation of the City’s two golf courses, Legacy Ridge and The Heritage Golf Course at Westmoor.
- During the budget preparation/core services review period, and per the requirements in the existing agreement regarding notification of interest to renew from both parties, both parties agreed to continue with business as usual and therefore, the existing agreement was automatically renewed for a second term of five (5) additional years.
- Dadiotis Golf Enterprises, LLC has made monthly payments to the City as specified by the agreement.
- The amendment to the existing agreement makes minimal changes. Most of the changes are to simplify and update how the actual operation is working and coordinated with City Staff.
- At the request of the concessionaire, the most significant change is detailed in Item 1A of the amendment. That change provides for “two additional five (5) year terms” after the renewal term that is now taking place from December 14, 2010, through December 13, 2015. The agreement still contains language that allows either party to terminate the agreement earlier per specifics outlined in Section 23.
- The annual payment schedule from Dadiotis Golf Enterprises, LLC to the City is for the same total amount as the existing agreement, but changes have been made to the monthly payment amounts to assist the concessionaire with their business pattern and cash flow. The concessionaire pays the City \$36,000 per year to operate The Grille at Legacy Ridge and \$30,000 per year to operate The Heritage Grill and these annual amounts will continue.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council wish to amend the existing concessionaire agreement with Dadiotis Golf Enterprises, LLC, which adds language to provide for two (2) additional renewal periods of five (5) years each, and authorize the other changes per contract amendment number one?

Alternative

City Council could decline the approval of the amendment and require the concessionaire to operate under the existing contract for the next five (5) years. This is not recommended since the restaurants have been operating successfully since the existing agreement was authorized with Dadiotis Golf Enterprises, LLC. The concessionaire requested the contract be amended to provide two (2) additional renewal terms of five (5) years each. This request is to assist the City and the concessionaire to continue the good working relationship with some security in knowing the agreement can be renewed if that level of performance continues. However, the City does reserve the right to negotiate different rental fees in future renewal discussions. Also, Staff is not aware of enough qualified concessionaires who would be able to improve operations or payments to the City during the current economic conditions.

Background Information

On March 14, 2005, City Council authorized the City Manager to sign a concessionaire agreement with Dadiotis Golf Enterprises, LLC to operate the City's two golf course restaurants, The Grille at Legacy Ridge and the Heritage Grill. The City received six packets of interest from concession operators, one withdrew and after a review of their qualifications, three companies were selected for interviews. Dadiotis Golf Enterprises, LLC was selected after a thorough review and interview process.

Staff believes Dadiotis Golf Enterprises, LLC has done a good job with the operation of the City's restaurants. All payments are up to date with the Parks, Recreation and Libraries Department and the City's sales tax division. Historically, the operation of a golf course restaurant is a very challenging and difficult undertaking. Dadiotis Golf Enterprises has performed very well considering the challenges such an operation requires.

The amendment includes adding two (2) renewal periods to the existing agreement. The amendment also includes changes to the number of days each party would be required to give notice to the other if they wish to renew for an additional five year term. The old language listed actual dates.

Other items in the amendment are changes to operational sections of the agreement such as approval of donations for specific City golf events, vending machines at the new golf course restrooms, details regarding hours of operation during inclement weather times, changes to the concessionaire fee monthly payment schedule to assist with cash flow of the concessionaire's seasonal business, deletion of a section regarding interference of operations of the premises, which does not apply to how the concessionaire and the City are operating the restaurants, change of address of the concessionaire and updated exhibits that detail the kitchen/dining room equipment and specific operational requirements of the City and/or concessionaire.

Amending the concessionaire agreement with Dadiotis Golf Enterprises, LLC supports the City's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Service." Staff believes continuing and adding renewal terms to the concessionaire agreement will aid in the immediate and long-term financial and guest service goals for the City's golf courses. Consistent food and beverage operations are an important part of a full-service golf course operation.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

**AMENDMENT No. 1 TO THE
CONCESSIONAIRE AGREEMENT WITH DADIOTIS GOLF ENTERPRISES, LLC
TO OPERATE THE CITY'S GOLF COURSE RESTAURANTS AT
THE LEGACY RIDGE GOLF COURSE AND
THE HERITAGE GOLF COURSE AT WESTMOOR
DATED MARCH 14, 2005**

The City of Westminster (hereinafter referred to as "Westminster") and Dadiotis Golf Enterprises, LLC (hereinafter referred to as "Concessionaire") agree to amend the Agreement described above as follows:

1. In Section 3. (a), Term of Agreement: Renewal, amend to read "The term of this Agreement shall be from December 14, 2010, through December 13, 2015, unless renewed for two additional five (5) year terms or unless terminated earlier as provided for in Section 23 hereof."
2. In Section 3. (b), Term of Agreement: Renewal, amend to read "The City shall give written notice to Concessionaire at least 120 days prior to the end of the term of the Agreement, of its intent to renew this Agreement for an additional five (5) years. The Concessionaire shall give written notice to the City at least 120 days prior to the end of the term of the Agreement of its intent to renew this Agreement for an additional five (5) years. Subsequent renewals shall follow the same notification listed above."
3. In Section 11. (b), Other Operations and Activities, amend to read "Notwithstanding Section 4(c), to the extent permissible by law, the Concessionaire will allow the City to utilize refreshment "donations" from tournament sponsors for City-sponsored or co-sponsored tournaments each calendar year, i.e., Colorado Golf Association events, City tournaments, fundraiser events and the City Employee Tournament. All "donations" must be approved by Concessionaire and compensated to the satisfaction of the Concessionaire and the City."
4. Add Section 11. (c), Other Operations and Activities, "The Concessionaire shall provide coin-operated vending machines to be located at the permanent restrooms on the golf courses. The Concessionaire is responsible to stock the machines, collect revenue and pay sales tax on the proceeds."
5. In Section 12. (a), Hours of Operation, amend to read "The restaurant and snack bar will be open for business no less than one (1) hour before the first available tee time on the golf course, and until one (1) hour after sunset during the golf season (April 1 to September 30). Hours of business during the off-season shall be no less than 7 a.m. to 6 p.m. However, during off-season months, October to March, The Heritage Grill will be allowed an inclement weather policy. During the off-season, on Saturdays, Sundays, and holidays, if the golf course is closed to play, The Heritage Grill may choose to be closed for these days. In addition, on weekdays, if the golf course is closed for play and no golfers are on the sheet or using the practice

facilities, The Heritage Grill may choose to close at 2 p.m. It is the responsibility of the restaurant manager to communicate with the Golf Shop staff and gain their approval prior to closing, per the policy outlined in this section. The Grill at Legacy Ridge will operate with normal hours as previously listed. The Concessionaire shall provide adequate staff at all times to serve breakfast, lunch and dinner in the dining room. The Concessionaire shall also offer breakfast and lunch service at the walk-up snack bar window. Each food service area shall serve all items listed on the approved menus. Service shall be provided every day, except for Thanksgiving Day and Christmas Day. The Concessionaire and Manager will communicate and make a joint decision regarding hours of operation for such things as severe weather (snow days), slow business times at the Heritage Grill, etc. If the Concessionaire fails to open on time, a \$25 penalty for each late opening will be assessed, to be billed monthly. Ongoing problems with late openings may result in the termination of this Agreement.

6. In Section 16. (a), Payments, amend to read “Base Concession Fee. The Base Concession Fee is due to the City prior to the first of the month for the upcoming month. The Base Concession Fee will be paid to the City without notice or demand, and without deduction or offset, at the address specified for the City in Section 29 – “Notices”, or such other place as the City shall designate.
 The Grill at Legacy Ridge: The annual base concession fee is \$36,000 (Thirty-six thousand dollars and no cents) and is payable based on the following monthly payment schedule.

**The Grill at Legacy Ridge
 Concession Fee
 Monthly Payment Schedule**

Month	Payment
November	\$1,150
December	\$1,100
January	\$1,100
February	\$500
March	\$750
April	\$3,000
May	\$4,100
June	\$6,100
July	\$6,100
August	\$6,100
September	\$3,750
October	\$2,250
Total	\$36,000

The Heritage Grill: The annual base concession fee is \$30,000 (Thirty thousand dollars and no cents) and is payable based on the following monthly payment schedule.

**The Heritage Grill
Concession Fee
Monthly Payment Schedule**

Month	Payment
November	\$1,000
December	\$1,100
January	\$750
February	\$750
March	\$700
April	\$2,000
May	\$4,500
June	\$4,600
July	\$5,100
August	\$4,500
September	\$3,000
October	\$2,000
Total	\$30,000

7. Delete Section 23. (a) (iii), which reads “Any limitation or prevention of, or any interference with, any use or possession of all or a substantial part of the Premises or Concession Facilities by the City;”
8. In Section 29. (a) (ii), amend to read “If intended for Concessionaire, shall be addressed to:

Dadiotis Golf Enterprises, LLC
Attention: Demetrious James P. Dadiotis, Managing Member
P.O. Box 5191
Englewood, CO 80155-5191
9. Replace Exhibit C, Exhibit E-1, and Exhibit E-2 to read as attached.
10. All other terms and conditions of the Agreement shall remain in effect.

This Amendment is dated the _____ day of _____, 2010.

DADIOTIS GOLF ENTERPRISES, LLC

CITY OF WESTMINSTER
4800 W. 92ND AVENUE
WESTMINSTER, COLORADO 80031

DEMETRIOUS JAMES P. DADIOTIS
MANAGING MEMBER

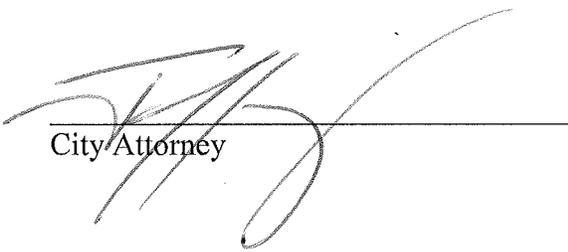
J. BRENT MCFALL
City Manager

Attest:

City Clerk

(Seal)

Approved as to Legal Form:



City Attorney

EXHIBIT C
GUIDELINES & STANDARDS OF OPERATIONS

Cleanliness Standards

1. The Concessionaire will maintain, at all times, the kitchen, food preparation, dining, and banquet areas, and all equipment, fixtures, paraphernalia, materials, utensils and other items therein, in a clean and sanitary manner. Concessionaire shall keep the Concession Facilities clear of broken glass, litter, debris, and garbage. Concessionaire shall dispose of any waste water or other waste fluid in the sanitary sewer. In the event waste fluids may not legally be disposed of in the sanitary sewer, Concessionaire is responsible for disposing of same in an appropriate and lawful manner.
2. The Concessionaire shall comply with all applicable health and sanitation laws and regulations, including:
 - a. The sanitation code of the U.S. Food Service Industry as published by the National Restaurant Association.
 - b. All state of Colorado acts and regulations governing food service operations.
 - c. All applicable City and county public health/sanitation regulations.
 - d. Any specific guidelines established by the Manager.
3. At all times, the Concessionaire shall permit and facilitate inspection of the food/beverage areas by the City and by public health/sanitation/building/fire authorities so authorized.
 - a. The Concessionaire shall provide a copy of all health department inspections to the Manager on the same day the inspection form was issued. All health department violations are to be corrected within the time period allowed by the health inspector unless approval for a delay is granted by the health department or the Manager.
 - b. Failure to pass health inspections, unless all failures are corrected within the time period allowed by the Health Department, is a material breach of this Agreement and may result in termination.
4. Concessionaire shall conduct inspections of the food service facilities once weekly. An inspection checklist shall be prepared and completed by Concessionaire for each inspection and the checklists shall be made available to the Manager upon request. The inspection report shall include corrective measures taken or to be taken by Concessionaire. Concessionaire shall also conduct daily inspections and take immediate corrective measures in all areas of the Premises and Concession Facilities.

5. The City shall conduct a formal inspection of the food service facilities a minimum of four times per year, or as deemed necessary by the City. The Concessionaire may accompany the City's designated representative during the inspection.

6. Failure to comply with this section, after notice from the City, shall be an event of default.

Facility and Equipment Maintenance

1. The Concessionaire shall be responsible for the daily cleanliness, of all equipment and facilities for food and beverage handling, restaurant, banquet facilities and Concession Facilities. Prior to the first day of business under this contract, the Manager, the Building Operations and Maintenance Manager, and the Concessionaire will conduct a walk-through inspection of all equipment and the facilities to note any repair/replacement items responsible to the City.

2. The City shall be responsible for maintenance, repair or replacement of electrical, plumbing, and sewer systems, HVAC, the exterior of the building, parking lots, and City-owned equipment. The City may, as it deems necessary, replace floor coverings that are worn or damaged by ordinary usage. However, floor coverings that are worn or damaged because of actions or omissions of Concessionaire shall be paid for by Concessionaire.

3. City Staff will conduct inspections at various times. If maintenance, cleanliness or equipment repairs are noted, the Concessionaire must make those changes within 10 days notice from the Manager.

4. Failure to comply with this section, after notice from the City, shall be an event of default.

Custodial Maintenance

1. The Concessionaire will be responsible for custodial maintenance of the dining room, bar, banquet room, kitchen, snack bar, patio area, delivery area, cooktop ventilation hood system, grease trap system, basement restaurant storage area, and restaurant office areas. Window cleaning in the restaurant-dining/banquet rooms and the patio areas is the responsibility of the Concessionaire.

2. The City shall be responsible for custodial maintenance of the entry lobby, restrooms, pro shop, golf staff office and storage areas, and the exterior entry way.

3. Custodial maintenance shall include, but not be limited to, routine sweeping, vacuuming, dusting, spill clean-up, debris and litter pick-up, laundry of linens and cloths, as well as carpet cleaning, window cover cleaning, and interior and exterior window washing. All areas will be kept clean and neat at all times.

4. The City shall be responsible for snow removal of the parking lot and entryway except the Concessionaire shall be responsible for the entryway when Concessionaire is conducting an event in the restaurant prior to the golf course operating hours.5. Concessionaire shall be responsible for trash removal service and regular service to the grease trap system. Concessionaire shall not discharge any grease into building drains and must keep all grease in proper containers for disposal. If grease is incorrectly disposed in the drain system, Concessionaire shall be responsible for cleaning or repairing drains.
6. Failure to comply with this section, after notice from the City, shall be an event of default.

Menu and Pricing

1. No less than once at the beginning of each golf season (April 1), but no less than once per year, the Concessionaire shall submit a detailed menu and price schedule of all items it proposes to sell, including size, weight and amount of each item. All prices are subject to City approval. The Concessionaire shall plan and prepare imaginative menu selection with an adequate variety of products, in consultation with the City. Any City contract commitments regarding sole sources, i.e. beverage products, will be utilized by Concessionaire. Depending on usage patterns, the menus may be different between the two golf courses. The Concessionaire and Manager shall review menus and make decisions for the good of the operations.
2. Concessionaire shall adhere strictly to all pure food laws and regulation as adopted by the State of Colorado or the County Health Department. Food shall be prepared in such a way as to be acceptable to most patrons. Hot food shall be hot and cold food shall be cold. The amount of food served shall be sufficient in relation to price and other services offered. Service shall be prompt, giving attention to the patron's needs and promoting a friendly relationship. The food shall complement the facility and shall reflect the eating preferences of most patrons.
3. Failure to comply with this section, after notice from the City, may be grounds for termination.

Banquet Events and Tournament Bookings

1. The restaurant dining room hours, or use, may not be altered for private events scheduled by the Concessionaire without written approval of the Manager. The Concessionaire is not to use the restaurant dining room for private party rental banquets during the business hours designated in this Agreement. The Concessionaire shall have the right to use the restaurant dining room for private party rental banquets after business hours or by approval of the Manager. All private party rental banquets must comply with the operating and liquor and food handling policies set forth in this Agreement.
2. The Concessionaire may request private events any time. However, the Concessionaire will submit a "banquet request form" that includes the name, address, phone number, date/time requested and the size of the group to the Head Golf Professional for his review. Even through the Concessionaire is authorized to book banquets year round, it is understood that dining room customers and golf tournament banquets will receive the highest priority for space, staffing and

service. All banquet requests require the Concessionaire to submit a "Banquet Request Form," which includes specific information of the banquet, i.e., name of renting party, phone number, address, type of party, setup time, party rental time, size of group, what area of the restaurant is being requested for use by the renting party, etc. Those forms must be submitted to the Head Golf Professional for his review and recommendation. Golf tournament banquets shall receive priority booking.

Entertainment

All costs for amenities such as background music, live entertainment, cable/satellite TV, and bar video games are the responsibility of Concessionaire. The cost for cable satellite TV will be shared 50/50 by the Concessionaire and the City, with each entity paying for six months of the annual cost. The Manager shall approve any installation prior to installation.

Employee Conduct and Appearance

1. Concessionaire shall be responsible for employment and compensation of its own employees. All employees shall provide prompt and courteous service to all customers and the general public. Concessionaire shall provide qualified supervision, competent management staff, and numbers of employees necessary to maintain good service. Employees shall be clean and maintain appropriate clothing and appearance. Concessionaire shall at all times enforce strict discipline and good order among employees.
2. Failure to comply with this section, after notice from the City, may be grounds for termination.

Customer Service

1. Complaints from restaurant customers must be forwarded to the Manager, in writing, within one working day. All restaurant complaints, whether received by Concessionaire or the City, are to be reviewed by Concessionaire and the customer contacted by Concessionaire or its designated on-site restaurant manger within 48 hours of the filing of the complaint. A written report of the result of the follow-up will be provided to the Manager within five days.
2. The Concessionaire will supervise/manage the restaurants with a full-time manager on site. Whenever the restaurant manager is not on site, the Concessionaire will provide a person that is designated to be in charge of the restaurant and its operations. The Concessionaire will provide the name(s) of the backup restaurant manager to the golf staff.
3. If the City receives ongoing customer service complaints, the City may require a performance audit, utilizing customer surveys to determine customer satisfaction. A questionnaire will be developed by the City and the Concessionaire. Completed questionnaires will be reviewed by both parties. The City reserves the right to terminate this contract if ongoing issues arise and are not satisfactorily resolved by the Concessionaire.

**City of Westminster
Legacy Ridge Golf Course
Food Service Equipment
Exhibit E-1**

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
1	Storage Shelving	2 sections	ISS	Gold Bond Wire Shelving Assemblies	18" Wide x 74" High w/four tiers
3	Prep Sink	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 9'3" Long
4	Wall Shelf	3	Custom	Stainless Steel	1'2" Wide x 4' Long
6	Walk-in Cooler/Freezer	1	Kolpak	Modular Panel Construction	5'10" Wide x 11'7" Long x 8'6" High w/floor
6A	Cooler Compressor1	1	Kolpak	PR95M-OP	Remote Outdoor Air-Cooled Assembly
6B	Freezer Compressor	1	Kolpak	PR95L-OP	Remote Outdoor Air-Cooled Assembly
7	Refrigerator Shelving	7 sections	ISS	Gold Bond Wire Shelving Assemblies	14" Wide x 74" High W/four Tiers
17	Workboard With Sink	1	Perlick	TS-7055-12/43R/7055-13/12HS/18/18BL W/12U2/24ch8/12	"L"-shaped Assembly
19	Three Compartment Sink	1		Included in Item #17	

Rev. 8/26/2010

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
21	Corner Filler	1		Included in Item #17	
23	Beer Dispenser	1	Perlick	C5064EC	Three-Door with Remote C26P Compressor Unit
25	Chef's Counter	1	Custom	Stainless Steel	3'6" Wide x 2'10" High x 13'6" Long
25A	Refrigerated Base	1	Custom	Stainless Steel	Two-Section Self Contained
25B	Double Overshelf	1	Custom	Stainless Steel	1'8" Wide x 13' Long
25C	Food Warmer	1	Hatco	GRAH-60	Infra-Red
25D	Hot Food Well	1	APW/Wyott	HFV-3	3-Well Drop-In Unit
28	Fryer	2	Tri-Star	TSF-4050	Floor Model
29	Griddle With Oven	1	South Bend	T1361	Thermostatic Controlled Griddle Top with Standard Oven
33	Range with Oven w/Cheese Melter	1	South Bend	1363	Six Open Burners With Standard Oven w/ Cheese Melter
34	Exhaust Hood	1	Moltron	(2) BFC/1-80-54	(2) 6'8" Long x 4'6" Wide Sections
35	Fire Suppression System	1	Ansul	R-102 Ansulex Liquid Fire Suppressant	Automatic and Manual
36	Pot Shelving	1 Sections	ISS	Gold Bond Wire Shelving Assemblies	24" Wide x 87" High W/Four Tiers
37	Wall Shelf	1	Custom	Stainless Steel	1'2" Wide x 10'4" Long
38	Pot Sink	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 10'4" Long

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
41	Clean Dishtable	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 4'0" Long
42	Wall Shelf	1	Custom	Stainless Steel	34 1/2" x 14"
43	Booster Heater	1	Hatco	CC-12	Custom Compact
44	Condensate Hood	1	Custom	Stainless Steel	3'0" Wide x 3'0" Long x 1'6" High
45	Dishmachine	1	Leased by Concessionair		
46	Soiled Dishtable	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 3'6" Long
46A	Disposer	1	In-Sink-Erator	SS-200-6-MRS	#6 Collar Adapter Assembly
48	Snack Bar Counter	1	Custom	Stainless Steel Top on Millwork Base w/Plastic Laminate	2'6" Wide x 3'0" High x 11'0" Long
52	Dining Tables	12	Shafer Commercial Seating		36" x 36", 1 1/4" Maple Edge
53	Table Top	2	Shafer Commercial Seating	CG1	60" dia. w/solid 2" w x 1 1/4" thick maple edge
54	Bar Stool	7	Lowen Stein		42" H, 23 1/2 w, 22" D, English oak finish, foam padded webbing

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
55	Curvature Stacking Chairs	43	Shelby Williams	CG15	18 1/2" W, 24 1/2" D, 33 1/2" H, laquered red, heavy steel joints w/foam padded contour.
56	Lectern	1	Perma Power Electronics	S500	All wood table and base. Adjusts to heights from 26" to 46", weights 76 lbs., no operation off of batteries
57	Leaf Flip Top Tables	11	Shafer Commercial Seating	CG2	36" x 36" opening out to 51" dia, 2" w x 1 1/4" thick
58	Cocktail Table Tops	3	Nicil Herrera JJ. Upholstery	CG6	24" dia, 2" w x 1 1/4" thick maple edge
59	Dining Chair	97	Lowenstein	CG14	Rinaldo Chair 23" x 24" D x 31 1/2" H, fronts are maple with burgundy pattern
60	Paintings	2	Various		
61	Small Round Bar Table	1			2' Dia, maple wood
62	Direct TV Box	7	Marantz Tuner, Marantz Receiver - black		Requires electrical set up
64	Movie Screen	1			Pull down hanging movie screen - 10' x 10'
65	Dance Floor	1			Sectioned dance floor, parquet wood

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
66	Cast Iron Oval Outdoor Table	3			Black cast iron mesh tables
67	Cast Iron Round Outdoor Table	10			Black cast iron mesh tables
68	Cast Iron Square Outdoor Table	4			Black cast iron mesh tables.
69	Cast Iron Outdoor Chair	68			Black cast iron mesh chairs
70	32" LCD TV	1	Samsung LCD	Model: ln37a55kp3fxza	32" screen, electrical outlet
71	Fireplace	1			Built-in fireplace w/ gas logs
72	Food Slicer	1	Berkel		12" Dia. Blade 1/3 HP Motor
74	Ice Machines	1	Scotsman bh801s-a	Scotsman CM3 Serial #07021320016206	1000lb
75	Ice Machine	1	Milton Roy Co.	Scotsman CM3 Serial #	750 lb
76	Grill w/ Convection Oven	1	Wolf	Snorkler	
77	Chanel Mixers	3	Channel Vision	CUT 2UB/UHF - 11	
78	AMP	1	TOA	A-903MKZ	
79	Red Wood Bar Stool	12	Minja		
80	32" TV w/bracket	2	Samsung LCD Model#ln37a55qp3fxza	Serial # alxq3cls201449a	
81	51" Samsung LCD	2	Samsung LCD Model#Int5265fx1xaa	Serial # aj733cfpa15562d	

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
82	VCR	1	JVC	Serial # aj733cipa15563x	
83	DVD Player	1	SONY	Precision 19U	
84	Stainless Steel Table	1	Custom	Stainless	30" x 36" Beverage Area
85	Stainless Steel Wash Sink	1	Custom	Stainless	21" x 19" Sink
86	Stainless Steel Shelf	1	Custom	Stainless	1" x 5" Long
88	Table w/Wheels	1	Custom	Stainless	Dish Area 30" x 60"
89	Dish Rack	1	Custom	Stainless	35" x 54" On wall
90	Refrigerator	1	True Refrigeration	T-49	Stainless 32" x 54" (2 door)
91	Wall Shelf	1	Custom	Stainless	1' x 5' prep area
92	Microwave	1	Amana	Stainless SRFS125	
93	Table w/Can Opener	1	Custom	Stainless	30" x 96"
94	Food Warmer	1	Whittco	Model No. 2-96 Serial No. 613294 COW No. 003347	

**City of Westminster
Heritage Golf Course Clubhouse
Food Service Equipment
Exhibit E-2**

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
1	Range, 60" Restaurant, Gas	1	U.S. Range	PX-10-2626	Range, Performer Series, 60" Restaurant, Gas-Fired, 10 open burners, two standard ovens, w/single deck back shelf
2	Broiler, Salamander, Gas	1	U.S. Range	BS-R-60	Broiler, Salamander, Cuisine, Heavy-duty Range mount, gas
3	Griddle, Counter Unit, Gas	1	U.S. Range	RGM-2436-1	Griddle, Regal Series, 36" wide, counter unit, gas, w/equipment stand and gas connector kit.
4	Shelf, Wall-mounted	1	Universal Stainless	WSD-3616	Shelf, wall-mounted 16 gauge 304 stainless
5	Fryer, Gas	2	US Range	PSM35GMS	Fryer, Gas, Economy
7	Refrigerated Counter, Griddle Stand (cooks line)	1	TRUE	TRCB-72	#1-4870979; 4-drawer cooler unit
8	Char Broiler, Gas, Counter Model	1	U.S. Range	RG-HDSA-36	36" x 31.38" Char Broiler, cast iron radiant, 108,00 BTU output
9	Shelf, Wall Mounted	1	Universal Stainless	WSD-9616	16" Wide x 8' Long
10	Oven/Steamer Combo	1	Rational	CPC	Capacity (10) 18"x 25"x baking pans, (5) 17"x26" steam pans
11	Oven/Steamer Combination, half-size	2	Rational	CPC61	Capacity (6) 13"x18" baking pans.(3) 12"x20" steam pans
12	Exhaust Hood	2	Moltron	BFC134-54	11'2" x 4'8" x 24" high, stainless steel
14	Microwave Oven	1	Amana	RCS10MP	1000 Watts
15	Over-shelf	1	Custom	Over-shelf	14' x 16", stainless steel
16	Freezer, Counter, Work Top	1	Delfield	ST4148	Stainless steel, 1/3 horsepower

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
17	Heat Lamp, Rod Type	1	Hatco	GRH-48	compressor. Glo-Ray Infrared Food-warmer, 48" long
18	Serving Counter, Hot Food, Electric	1	Duke	EP304SW	Serving Counter w/ four 12" x 20" hot food wells
19	Heat Lamp, Rod Type	1	Hatco	GRH-60	Glo-Ray Infrared Food warmer, 60" long
20	Refrigerated Counter, Sandwich Top	1	TRUE	TSSU-60-16	Stainless Steel, ½ HP #1-4795547
21	Plate Shelf	1	Custom		14' x 12" x 36", Stainless Steel
22	Hand Sink	3	Krowne	HS-2	Wall Model, 10" w x 14" front-to-back x 5" deep
23	Refrigerator, Reach-in	1	Delfield	6025-S	¼ HP
24	Counter	1	Custom		11' x 30" x 36" h, Stainless Steel, w/10" x 14" x 8" sink
29	Faucet, Glass Filler	1	Fisher	12726	14" pedestal type
30	Soiled Dishtable	1	Custom		7' 4" x 30", Stainless Steel, w/dispenser switch bracket and under-shelf
31	Rack Shelf	1	Custom		Stainless Steel, 42" x 21"
32	Disposer	1	Emmerson Electric	SS-200-27	2-HP, Stainless steel construction; SK32S050;115/208/230 volts
33	Faucet, Pre-Rinse Assembly	1	Fisher	2210-WB	
34	Condensate Hood	1	Custom	Stainless Steel, 54" x 36" x 30"	
35	Dishwasher Auto-Chlor	1	Auto-Chlor Systems	A4	Stainless Steel, 115 Volt Pilot Circuit, #11456
36	Clean Dish table	1	Custom		"L" Shape, 3'6" x 8' x 30", Stainless Steel
37	Rack Shelf	2	Custom		Slant Rack Shelf, 63" x 21", Stainless Steel
39	Food Slicer	1	Berkel	827A	Heavy duty, angle feed, manual, 12" diameter knife, 1/3 HP motor;

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
					#31990
41	Ice Maker, Cube-Style	1	Scotsman	CME656AE-32A	Air-cooled, self-contained
42	Sink, Three Compartment	1	Universal Stainless; RJ Fabrications	3N1824-2D24	24" front-top back x 18" wide sink compartment
43	Wall Shelf	1	Custom Model	108" x 14"	
44	Shelving, Wire	2	ISS Shelving	2460Z	24" w x 60" l, Plating Plus Finish
46	Prep Table w/Sink	1	Custom		11' x 30" x 26" high, Stainless Steel, w/sinks and faucets
47	Shelf, Wall-mounted	1	Custom		Stainless Steel, 14" wide x 11' long
49	Fire Suppression System	1	Ansul	Fire System	R-102
50	Work Table	1	Universal Stainless	11SLS-30	30" w x 132" l, Stainless Steel
51	Walk-In Cooler/Freezer	1	Emjac Industries		Cooler: 8' x 12' x 7' 6"; Freezer: 8' x 7' x 7' 6"
53	Shelving, Wire	2	ISS Shelving	2448Y	24' x 48", Gold Bond Finish
54	Shelving, Wire	10	ISS Shelving	1842 Y	Freezer Shelving, Wire, 18" x 42", Gold Bond Finish
56	Mixer, Food	1	Hobart	H-600	63qt., 3 HP motor
58	Shelf, Wall-Mounted	1	Custom		16 gauge 304 Stainless Steel, 14" x 8'
59	Work Table	1	Custom		Maple Top Table, 30" x 96"
60	Beer/Beverage Cooler (Bar)	1	TRUE	TBB-2G	One sided 2 door opening, 64" x 42" x 30" # 6635409
63	Bar Glass Sink	1	Universal Stainless		60" x 30" x 20", Stainless Steel, three compartment sink, sinks are each 10" x 14"
65	Shelves, Bar Glasses	1	Perlick	7055A-D	
66	Ice Bin, Liquor shelf	2	Perlick		
67	Bar Glass Drain	2	Perlick		
68	Bar Glass Drain – Hand Sink	1	Perlick		
69	Hand Sink/Mixing Shelf	1	Perlick		
71	Keg Draw	1			
73	Beverage Wand	2	WunderBar		

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
74	Television	2	JVC	AV 27020	AC 120V 60 HZ
75	Television Stand	2			Wall Mounted
76	Fireplace	1	GCDC80 NAT		Gas Fireplace w/ artificial logs
78	Glycol System (Keg Beer)	1	International Carbonic	LF-MS-GLY	Coolant System for Keg Beer, 80' of insulated hose to Keg Draw, Serviced by Federal Beverage Control
79	Bar Stool/Chairs	30	Shafer		Tall Bar Stools with Chair backs and cloth seats
80	Chair	167	Shafer		Wooden Chairs with Cloth Seats
81	Bar Table	3			Tall Bar Table w/ circular top
82	Dining Table (square)	9		(2) 30" Squares / (7) 36" Squares	Wooden Dining Tables, center stand, square top
83	Dining Table (rectangular)	7			Wooden Dining Tables, two center supports, rectangular top
84	Dining Table (round leaf)	15			Wooden Dining Tables, round tables, leaves can fold into square tables, center supports.
85	Podium	1			Wooden.
86	Patio Chair	84			Steel constructed, wire mesh structure
87	Patio Table	7			Steel constructed round tables, wire mesh structure
88	Patio Table (oval)	2			Steel constructed oval tables, wire mesh structure
89	Patio Table (square)	11			Steel constructed square tables, wire mesh structure
90	Beer Keg Cooler	1			Walk-in Cooler for Keg Usage
91	Beer Cooler Compressor	1			
92	Dance Floor (shared between Heritage and Legacy)	1			Portable Dance Floor, 15' x 15'
99	Hostess Stand / With Storage Cabinet	1	Sand Construction		Fixed in corner by main entry doors

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
100	Hardwood Cabinet	1	Sand Construction		44" x 32" x 18"
101	36" TV	1	RCA	36V430T	Black, 36"
102	Satellite Network Box	1	Hughes	H1RD-EZ	Direct TV, 120 Volt, 60 Hz
103	4 Head HQ VCR	1	JVC	HR-A55U	AC 120 Volt, 60 Hz, 19 W
104	Satellite Receiver Box	4	Direct TV	DRD22RD/D12	120 Volt, 60 Hz, 19 W
105	Amplifier	1	TOA	A-503A	500 Series, Output Rated 30 Watt
106	Microphone Stand	1	On Stage Stand	OSSMS7201B	Round Base, Black
107	Microphone	1	Shure		AXS1
108	Media Cart	1	Luxor	18912	27" x 44" x 26", Black, 4 Gray Wheels
109	Amplifier	1	TOA	A-906MK2	900 Series II, Output Rated 60 Watt
110	5 Disc Changer	1	Denon	DCM-270	Automatic disc loading system, 120 volt, 60 Hz, 1.5 W
111	DVD / VHS / CD Player	1	JVC	HR-XVC26U	Hi Fi, Dolby Digital, 3-D Phonic, 2.0 Plus Digital Out
112	Plasma TV (Banquet Room)	1	LG	MU-509Z60M	48" x 29" Screen, Manufactured 2003
115	Laser Jet Printer	1	Hewlett Packard	4050 TN	COW # C4254A
116	Surge Protector	2	APC	PER7	COW
117	Computer Monitor	1	Phillips		COW # MGV19C5808
118	Keyboard	1	Compaq	KB3923	COW
120	Office Desk	1	HON		60" x 30" x 30"
121	Computer	1	Compaq		COW
122	Surveillance Camera	2	Pelco-Dsp		DSP Color CCD Camera
123	Copier	1	Canon	PC420	
124	Movie Screen	1	Da-Lite	Model "C"	Pull down hanging movie screen – 10' x 10'
125	Sony Stereo Receiver	1	SONY 2009	STR-DH100	Purchased 1/25/2010
126	LG 42" LCD TV (Bar Area)	2	LG 2009	42LH20	SN# 908RMVB016279 Purchased 1/25/2010

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
127	TOSHIBA 46" LCD TV (Grill Area)	2	TOSHIBA 2009	46RV525RZ	SN# 949150M06777K1 SN# 949150M06825K1 Purchased 1/25/2010

**CITY OF WESTMINSTER
CONCESSIONAIRE AGREEMENT**

This AGREEMENT made this 14th day of March, 2005, by and between the **CITY OF WESTMINSTER**, a municipal corporation of the State of Colorado (“City”) and Dadiotis Golf Enterprises, LLC, a Colorado Limited Liability Corporation (“Concessionaire”).

WHEREAS, the City desires to make available food and beverage services for the use and convenience of golfers and customers of the City’s The Grill at Legacy Ridge at The Legacy Ridge Golf Course, located at 10801 Legacy Ridge Parkway, and The Heritage Grill at the Heritage Golf Course, located at 10555 Westmoor Drive; and

WHEREAS, the Concessionaire is willing and able to provide such services pursuant to the terms and conditions of this Agreement, including any attachments, appendices, exhibits and addendums that may be incorporated into and make a part thereof.

NOW, THEREFORE, the City and Concessionaire agree as follows:

In consideration of the payments hereinafter provided for, the keeping and performance of the covenants and agreements by the Concessionaire hereinafter set forth, the City hereby grants to said Concessionaire the right to operate a food and beverage concession at the Legacy Ridge Golf Course and the Heritage Golf Course located in the Counties of Adams and Jefferson, City of Westminster, State of Colorado, which is shown in Exhibit “A” and Exhibit “B” of this Agreement. The Concessionaire has reviewed the plans, drawings, and other materials relating to the Premises and Concession Facilities, and has had access to and has negotiated with various City officials, and accepts the terms and conditions of this Agreement.

1. Definitions.

The following terms, as used in this Agreement, are defined as follows:

- (a) “City” – City of Westminster, Colorado
- (b) “Concessionaire” – The entity to which the City has granted the right to operate the Concession on, at or from the Premises and Concession Facilities, subject to the terms and conditions herein. This term also includes the agents, employees, or assignees of said Concessionaire.
- (c) “Manager” – The Regional Parks and Golf Manager of the Department of Parks, Recreation and Libraries of the City of Westminster, Colorado or designee.
- (d) “Concession” – The right granted to the Concessionaire to sell and serve food and beverages to general public and patrons of the Golf Course or Clubhouse on, at or from the Premises or Concession Facilities.

(e) "Concession Facilities" – The facilities located in the area set out in Exhibits "A" and "B" of this Agreement, which include the deck areas, tent sites for catering, mobile service carts, and other on-course service sites for food and beverage service at the Golf Course.

(f) "Director" – Director of the Department of Parks, Recreation and Libraries or Designee.

(g) "Golf Course" – The area set out in Exhibits "A" and "B", which are designated as the Golf Course.

(h) "Premises" – The restaurant, grill, and bar that are located in the Clubhouse area designated in Exhibits "A" and "B."

2. PURPOSE.

(a) It is the intent of this Agreement to provide for a complete concession operation upon the Premises and Concession Facilities covered by this Agreement, with only such exceptions and limitations as may be specifically noted herein.

(b) In interpreting this Agreement, words describing materials or work that have a well-known technical or trade meaning, unless otherwise specifically defined, shall be construed in accordance with such well-known meaning recognized by the trade.

3. TERM OF AGREEMENT: RENEWAL.

(a) The term of this Agreement shall be from March 14, 2005, through February 28, 2010, unless renewed for one additional five (5) year term or unless terminated earlier as provided for in Section 23 hereof.

(b) The City shall give written notice to Concessionaire on or before October 31, 2010, of its intent to renew this Agreement for an additional five (5) years or its intent to terminate. The Concessionaire shall give written notice to the City of its desire to renew or terminate on or before October 31, 2010. Termination will occur on February 28, 2010, or the renewal term shall begin on November 1, 2008, provided that the parties reach agreement as provided below.

(c) The five (5) year renewal shall be subject to the discretion of the City and the City's determination of satisfactory performance by the Concessionaire of the terms and conditions of this Agreement, as well as mutual agreement between the parties regarding the monthly Base Concession Fee to be paid under Paragraph 11 of this Agreement. If the parties are unable to mutually agree upon the monthly Base Concession Fee to be paid under paragraph 11 of this Agreement within thirty (30) days after notices of intent, then the City shall have the right to immediately request bids for a new Concessionaire at the Premises.

4. SCOPE OF WORK.

(a) The scope of work to be performed under this Agreement is the furnishing of a top quality Concession operation for the sale and service of food and beverages to the general public and patrons of the Premises and Concession Facilities at such prices and under such standards of operation as will assure prompt, courteous, and convenient services to the general public and patrons. The Concessionaire shall comply with all guidelines and standards that are contained in Exhibit "C," attached hereto and incorporated herein.

(b) The privilege granted by this Agreement shall be an exclusive right to provide for the sale of all food, beverages, and catering services on the Premises and the Concession Facilities. The City reserves the right to conduct or operate other concessions upon the Premises and Concession Facilities, which do not compete with the Concessionaire. Any rights not specifically granted to the Concessionaire herein are retained by the City.

(c) The Concessionaire will:

(i) Provide all food and beverage services available on the Premises and the Concession Facilities;

(ii) Provide all food and beverage banquet, catering, and meeting services on the Premises and Concession Facilities;

(iii) Provide all mobile cart services for food and beverages;

(iv) Provide all food and food stuff vending machine services;

(v) Provide all temporary food and beverage facilities as agreed to by the Manager and the Concessionaire;

(vi) Employ, train, staff, and manage all personnel required to properly operate and maintain the Concession;

(vii) Provide daily maintenance and make any necessary repairs to non-City owned equipment. Concessionaire is responsible for City-owned equipment repairs only if a private "equipment repair company" finds that repairs needed are due to concessionaire damage or neglect. City-owned equipment is listed in Exhibit "E."

(viii) Obtain all licenses, permits, and certificates required to operate the Concession, including, but not limited to, a Hotel and Restaurant class liquor license with Optional Premises license;

(ix) Operate the Concession in a manner fully supportive, and in compliance with, the quality standards and guidelines set out in Exhibit "C" to this Agreement;

(x) Operate the Concession Facilities as public facilities in a non-discriminatory manner at all times;

(xi) Promote and market the Concession to the general public; and

Concessionaire shall not place or permit any sign, advertisement, display, notice, or other lettering to be exhibited or fixed to any part of the Premises or Concession Facilities without the City's prior written approval. The City is responsible for the stone golf course/restaurant exterior signage located at the entry points to the golf courses.

(xii) Provide any and all equipment in addition to that provided by the City, which is necessary to provide the required level of services.

5. USE OF PREMISES.

(a) Concessionaire shall have the right to possession of the Premises and Concession Facilities for the purpose of the sale and service of food and beverages, including alcoholic beverages, subject to the standards and guidelines set out in Exhibit "C" of this Agreement. Use of the Premises and Concession Facilities by Concessionaire for the sale and service of alcohol beverages shall be in compliance with the Colorado Liquor Code, Section 12-47-101, *et seq.*, C.R.S., and Title VI, Chapter 9 of the Westminster Municipal Code. Concessionaire shall have control of and responsibility for the Premises and Concession Facilities with respect to the sale and service of all alcoholic beverages. Concessionaire shall not use or permit the Premises or Concession Facilities to be used for any purpose that is prohibited by any law or regulation of the State of Colorado or the City of Westminster. In the event the rights granted Concessionaire under this Agreement are insufficient to obtain a liquor license for the sale of alcoholic beverages at the Premises and the Concession Facilities, the City will grant such additional rights to Concessionaire as are required to obtain approval of the liquor license.

(b) Entertainment of any nature shall be subject to approval of the Manager, which approval shall not be unreasonably withheld. If the Manager disapproves any entertainment, the Concessionaire shall terminate said entertainment immediately.

(c) City hereby grants Concessionaire a non-exclusive and limited license to use of the City's logos, copyrights, trademarks, and trade names existing for the Premises, Concession Facilities (Legacy Ridge Golf Course-The Grill at Legacy Ridge or The Heritage at Westmoor Golf Course-The Heritage Grill), on t-shirts and uniforms worn by employees of Concessionaire, and on Concession menus, napkins, matches, beverage cart signage, glassware, and any other reasonable usage in connection with operation of the Concessionaire. The use of such logos, copyrights, trademarks and trade names will be in proper manner including use of any design or symbol as may be required by the City. The City retains the right to review and approve any and all uses of City logos, copyrights, trademarks, and trade names used by Concessionaire in connection with the operation of the Concession. Concessionaire warrants that any use of logos, copyrights and trademarks, and used in connection with operation of the Concession will be done without violation of any rights therein. When possible and appropriate, the City will include the restaurant names in advertising for the Golf Courses.

(d) Concessionaire shall maintain all signs or advertisements approved by the City in good and attractive condition at the Concessionaire's expense.

6. RESTRICTIONS ON USE OF PREMISES.

(a) Concessionaire shall not:

(i) Permit any unlawful practice to be carried on or committed on the Premises or Concession Facilities;

(ii) Make any use or allow the Premises or Concession Facilities to be used in any manner or for any purpose that might invalidate or increase the rate of insurance on any policy maintained by the City; including storage or use or permitting to be kept or used on the Premises or the Concession Facilities any inflammable fluids, toxic materials, or substances of any nature reasonably deemed dangerous by the City or the City's insurance carriers without obtaining prior written consent of the City, except for small quantities of cleaning products incidental to their permitted uses described in this Agreement;

(iii) Use the Premises or Concession Facilities for any purpose that creates a nuisance or injures the reputation of the Premises or the City;

(iv) Permit any odors to emanate from the Premises or Concession Facilities in violation of any local, state, or federal law;

(v) Use any portion of the Premises or Concession Facilities for storage or other purposes except as is necessary and required with its use specified in this Agreement;

(vi) Permit its employees to park anywhere upon the Premises except in employee parking, as designated by the Manager and shown in Exhibits "A" and "B" to this Agreement; provided, however, designated employee parking may be modified from time to time by the Manager upon prior notice to Concessionaire;

(vii) Permit tobacco products to be used by any person in, on, or at the Premises or Concession Facilities, which locations have been designated in whole as "smoke free" by the City; provided, however, that the City will specify a limited area at the Premises that allows smoking by Premises patrons; or

(viii) Conduct, or allow to be conducted, gambling on site.

(ix) Concessionaire shall not place or permit any sign, advertisement, display, notice, or other lettering to be exhibited or fixed to any part of the Premises or Concession Facilities without the City's prior written approval

7. IMPROVEMENTS.

The City retains the right to modify or alter the improvements of the Premises and Concession Facilities at any time and in any manner; provided, however, such modifications or alterations shall only occur during "off season" (November 1 through March 31) periods with the exception of any emergency work deemed necessary by the City. Concessionaire shall make no improvements or alterations to the Premises or Concession Facilities without prior written approval by the City; provided however, that concessionaire may make corrections necessary to prevent imminent injury to persons or property.

8. MAINTENANCE.

All maintenance and repairs to the Premises and Concession Facilities including plumbing, water lines, sewer lines and City-owned equipment shall be the responsibility of the City; provided, however, that any maintenance and repairs, regardless of cost, necessitated by the negligence or intentional acts of the Concessionaire shall be the sole responsibility of the Concessionaire. As part of the City's preventative maintenance program, the City may require an annual "closure for repairs" in order to rejuvenate the Premises and Concession Facilities; provided, however, such shall occur during "off-season" periods with the exception of emergency work deemed necessary by the City. Therefore, during the term of this Agreement, and all renewal options thereto, the Concessionaire agrees that, if requested in writing by the City 45 days in advance of the scheduled closing, the Premises and Concession Facilities shall be closed for a reasonable period of time during "off-season" periods for the City to conduct all necessary work. The City will adjust Concessionaire's fees due hereunder for lost revenue arising from closures necessitated by such work

9. EQUIPMENT.

(a) The Concessionaire shall furnish a smallwares package, the minimum requirement of which is detailed in Exhibit "D" attached hereto and incorporated herein by this reference. Concessionaire shall be responsible for replacing and keeping in service all items in the smallwares package. All such items shall remain the property of Concessionaire at the termination of this Agreement.

(b) The City will furnish equipment, furniture, fixtures, and personal property, as set out in Exhibit "E" attached hereto and incorporated herein by this reference, which items shall remain the property of the City. Concessionaire shall be responsible for daily cleaning of all City-owned equipment, furniture, fixtures, and personal property set out in Exhibit "E" during the term of this Agreement, which items shall be kept in proper repair and working order, and be in good and serviceable condition at the termination of this Agreement, except for normal wear and tear. The City shall be responsible for maintenance and replacement of its equipment, furniture, fixtures, and personal property when the City deems such replacement is necessary; provided however, if replacement is necessary due to negligence of Concessionaire, Concessionaire shall bear the cost of replacement. Any and all requests for repairs or contract maintenance of City-owned equipment requires approval of the Manager prior to any service contractors being notified.

10. UTILITIES.

(a) The City shall provide for the delivery of water, sewer, telephone, electricity, and gas to the Premises and Concession Facilities for the operation of the Concession. Concessionaire is responsible for payment of all such services as set forth below.

(b) The City shall pay for natural gas, electricity, water, sewer and basic telephone line costs for the facility. The Concessionaire is responsible to contract a separate long-distance company and pay all long-distance or their internet costs.

11. OTHER OPERATIONS AND ACTIVITIES.

(a) The Concessionaire shall conduct the Concession granted to it without infringement upon the rights of others, or any interference in the operation of the Golf Course or Clubhouse in general, or any facilities adjacent thereto. It shall not engage in any business to sell any commodity upon, in, or around the Premises or Concession Facilities other than as expressly set out in this Agreement. The Concessionaire shall cooperate so as not to interfere with the holding or carrying on of any event upon the Premises or Concession Facilities, and shall not create unreasonable noise or annoyance to those participating in or attending such events.

(b) Notwithstanding Paragraph 4(c), to the extent permissible by law, the Concessionaire will allow the City to utilize refreshment "donations" from tournament sponsors for six (6) City-sponsored or co-sponsored tournaments each calendar year, i.e., Colorado Senior Open, City Championship, Westminster Rotary, and City Employee Tournament. All "donations" must be approved by Concessionaire and compensated equally for each.

12. HOURS OF OPERATION.

(a) The restaurant and snack bar will be open for business no less than one (1) hour before the first available tee time on the golf course, and until one (1) hour after sunset during the golf season (April 1 to September 30). Hours of business during the off-season shall be no less than 7 a.m. to 6 p.m. The Concessionaire shall provide adequate staff at all times to serve breakfast, lunch and dinner in the dining room. The Concessionaire shall also offer breakfast and lunch service at the walk-up snack bar window. Each food service area shall serve all items listed on the approved menus. Service shall be provided every day, except for Thanksgiving Day and Christmas Day. The Concessionaire and Manager will communicate and make a joint decision regarding hours of operation for such things as severe weather (snow days), slow business times at the Heritage Grill, etc. If Concessionaire fails to open on time, a \$25.00 penalty for each late opening will be assessed, to be billed monthly. Ongoing problems with late openings may result in the termination of this agreement.

(b) Concessionaire's hours of operation and level of service may be adjusted by the mutual agreement of the Concessionaire and the City.

(c) The Concessionaire will operate mobile beverage carts at the City's Golf courses. The City provides one cart at each course and the Concessionaire will be required to provide one cart at each course.

The Concessionaire will be required to operate two carts at the course on Fridays, Saturdays, Sundays, holidays and all tournaments with 72+ players during the peak golf season, April 1 to October 31.

The Concessionaire and the Manager or his designee (Head Golf Professional, First or Second Assistant Golf Professional) will communicate with each other on slow business days to determine if a beverage cart is feasible for use for those situations.

The City will maintain and pay for fuel for the beverage carts. However, if repairs are necessary due to neglect or abuse, the Concessionaire is responsible to pay those costs. Repairs will be made at the discretion of the City. Concessionaire is responsible for the daily maintenance of both beverage carts to ensure a quality appearance and full service capability.

13. PERMITS AND LICENSES.

(a) The Concessionaire shall procure, supply, and post, at its own expense, in places to be designated by the City, all permits and licenses necessary for the operation of the Concession and shall pay, at its own expense, all taxes assessed or levied against its business and merchandise.

(b) The Concessionaire shall apply for a Hotel and Restaurant Liquor License, with Optional Premises within fifteen (15) business days after the date this Agreement is fully executed and shall maintain such license during the term of this Agreement. The Director will fully cooperate with Concessionaire in Concessionaire's application for such liquor license. The Concessionaire shall pay all expenses necessary to obtain the liquor license. Nothing contained in this Agreement shall be construed to guarantee that the City will approve the issuance of any license. In the event such license is denied, or in the event that such license is issued but later revoked or suspended BY THE LOCAL OR STATE LIQUOR LICENSING AUTHORITIES, such denial, suspension, or revocation may be deemed a material breach, and the City may immediately terminate this Agreement. No transfer of the license shall be made without the approval of the City and only as part of an assignment of this Agreement. Upon termination, the City may designate a transferee of the liquor license. The Concessionaire agrees to take all actions necessary to promptly transfer the existing license to the transferee.

14. AUTHORITY OF MANAGER

(a) The Manager shall develop and interpret the application of all standards and guidelines provided for in this Agreement and exhibits attached hereto. The Manager shall decide all questions that may arise as to the Concessionaire's fulfillment of such standards and guidelines. The Manager may revise such standards and guidelines from time to time with thirty (30) days written notice to the Concessionaire. In the event the Concessionaire disagrees with a

decision of the Manager, Concessionaire shall have the right to appeal the decision to the Director, provided such appeal is in writing and filed with the Director within ten (10) days after the Concessionaire's receipt of the Manager's written decision. The Director shall make a determination within twenty (20) days after his receipt of the appeal. The decision of the Director shall be in writing and shall be sent to each party at the addresses set out in Section 30(a) of this Agreement. The decision of the Director shall be final.

(b) The Concession prices and standards of operation must be approved by the Manager in accordance with Exhibit "C."

(c) If the service being performed by the Concessionaire does not meet the standards and guidelines set out in this Agreement, the Manager shall immediately notify the Concessionaire, and the failure shall be deemed a default.

15. ACCESS AND INSPECTION.

The Director or his designee may enter the Premises and Concession Facilities at any reasonable time for the purpose of inspecting the same. Any entry onto or inspection of the Premises and Concession Facilities by the City pursuant to this section shall not constitute interference with the operations of the Concessionaire and no abatement of any payments due under this Agreement shall be allowed; provided, however, the scope and length of the inspection is reasonable.

16. PAYMENTS.

(a) Base Concession Fee. The Base Concession Fee is due to the City prior to the first of the month for the upcoming month. The Base Concession Fee will be paid to the City without notice or demand, and without deduction or offset, at the address specified for the City in Section 29 – "Notices", or such other place as the City shall designate.

The Grill at Legacy Ridge: The annual base concession fee is \$36,000 (Thirty six thousand dollars and no cents) and is payable based on the following monthly payment schedule.

**The Grill at Legacy Ridge
Concession Fee
Monthly Payment Schedule**

Month	Payment
November	\$1,150
December	\$1,100
January	\$1,100
February	\$1,100
March	\$2,750
April	\$3,000
May	\$4,100
June	\$5,100
July	\$5,100
August	\$5,100
September	\$3,650
October	\$2,750
Total	\$36,000

The Heritage Grill: The annual base concession fee is \$30,000 (Thirty thousand dollars and no cents) and is payable based on the following monthly payment schedule.

**The Heritage Grill
Concession Fee
Monthly Payment Schedule**

Month	Payment
November	\$1,000
December	\$750
January	\$750
February	\$750
March	\$1,700
April	\$3,000
May	\$4,100
June	\$4,100
July	\$4,900
August	\$4,000
September	\$3,000
October	\$2,000
Total	\$30,000

(b) Contingent Fee. The Concessionaire is to provide a report to the Regional Parks and Golf Manager that details monthly gross sales for both The Grill at Legacy Ridge and The Heritage Grill. This report is due no later than the 20th day after the previous month's last day of business.

The Grill at Legacy Grill. In addition to the Annual Base Concession Fee, an Annual Contingent Fee based on The Grill at Legacy Grill's cumulative gross sales minus any applicable state/city sales taxes, payable on the net exceeding amount will be paid to the City. On reported Gross Sales exceeding \$750,000, the Concessionaire will pay 5 percent (5%) on the net amount back to the City.

The Heritage Grill. In addition to the Annual Base Concession Fee, an Annual Contingent Fee based on The Heritage Grill's cumulative gross sales minus any applicable state/city sales taxes, payable on the net exceeding amount will be paid to the City. On reported Gross Sales exceeding \$600,000, the Concessionaire will pay five percent (5%) on the net amount back to the City.

(c) Books and Records. Concessionaire and each licensee or concessionaire of Concessionaire shall keep a permanent, accurate set of records of all gross sales derived from the conduct of the Concession, including all point-of-sale records, tapes, and printouts; sales reports and ledgers; files; computer records and disks; cash register tapes, sales slips, order records, and invoices; copies of all tax returns filed with any governmental authority that reflect in any manner sales, income, or revenue generated in connection with the Concession, as may be reasonably required in order to ascertain, document, or substantiate gross sales. All such records shall be retained for at least three (3) years after the end of the calendar year to which they relate.

(d) Late Payment. If Concessionaire fails to pay any Base Concession Fee after a five (5) day grace period, the unpaid amount will be subject to a late payment charge equal to five percent (5%) of the unpaid amount. This late payment charge will constitute liquidated damages and will be payable to the City together with such unpaid amount. The payment of this late payment charge will not constitute a waiver by the City of any default by Concessionaire under this Agreement.

(e) Additional Concession Fees. All other amounts, liabilities, and obligations that Concessionaire assumes or agrees to pay pursuant to this Agreement, together with any payment of utilities, late payment charges, or contingent fee, shall constitute additional concession fees (hereinafter referred to as "Additional Concession Fees"). If Concessionaire fails to pay any Additional Concession Fees, the City shall have the rights, powers, and remedies provided herein or by law for nonpayment of Basic Concession Fees. Concessionaire shall pay the Additional Concession Fees upon the City's demand, unless otherwise expressly provided herein, without offset or deduction of any nature.

(e) Accounting Controls and Procedures. The City shall have the right at any time, and from time to time, to review and approve the internal accounting controls and procedures utilized in connection with, or that are designed for, the operation of the Concession.

17. SECURITY DEPOSIT.

Prior to the opening for business, the Concessionaire shall furnish a security deposit, as security for Concession Fees, security for the return of all City-owned buildings and equipment in good condition at the termination of the Agreement, and as security for its performance of all covenants contained herein, in the form of a performance bond of \$5,000 per concession facility, or \$10,000. The City will accept the security deposit in the form of a performance bond for the first year. The Concessionaire will furnish a cash deposit of \$5,000 per concession facility or \$10,000 cash for the second year, through the end of this contract.

18. OTHER PAYMENT OBLIGATIONS.

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

(b) The City shall promptly pay all bills, debts, obligations, and fees of whatever nature applicable to its operation of the Golf Course, in general, including but not limited to, payment of its portion of the utility service provided to Concessionaire hereunder and shall not permit the same to become delinquent and suffer any lien, mortgage, judgment, execution, or adjudication in bankruptcy which will in any way impair the rights of the Concessionaire under this Agreement. The City shall maintain all municipal, state, or federal licenses required for the conduct of the City business.

19. INDEMNIFICATION.

The Concessionaire agrees to indemnify and hold harmless the City of Westminster, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of Concessionaire's operation of the Concession and liquor license, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of the Concessionaire, any subcontractor of the Concessionaire, any subcontractor of the Concessionaire for whom Concessionaire is liable, or any officer, director, shareholder,

member, employee, representative, or agent of the Concessionaire, or which arise out of any workers' compensation claim of any employee of the Concessionaire or of any employee of any subcontractor of the Concessionaire. The Concessionaire agrees to investigate, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of the Concessionaire, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

20. ATTORNEYS FEES.

If any action is brought to recover any Basic Concession Fees or Additional Concession Fees, or on account of any Event of Default or other breach of this Agreement, or for the recovery of the possession of the Premises and Concession Facilities, or otherwise, the prevailing party shall be entitled to recover from the other party, as part of prevailing party's costs, reasonable attorneys' fees, the amount of which shall be fixed by the court and shall be made a part of any judgment.

21. INSURANCE.

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

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

(ii) Owned, hired, and non-owned automobile liability coverage with \$600,000 limit;

(iii) Statutory workers' compensation on all employees;

(iv) All risk insurance for full insurable replacement value of City-owned equipment and personal property.

(b) The required insurance policies shall be endorsed to include the City of Westminster as an additional insured as its interests may appear under this Agreement. Every policy required above shall be primary insurance, and any insurance carried by the City, its elected officials, officers, employees, or others working on behalf of the City, or carried by or provided through any self-insurance pool of the City, shall be excess and not contributory insurance to that provided by Concessionaire. Each party to this Agreement agrees to waive subrogation on respective property insurance.

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

Regional Parks and Golf Manager
City of Westminster
4800 W. 92nd Avenue
Westminster, Colorado 80031

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

(d) The parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitation (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, *et. seq.*, C.R.S., as from time to time amended, or otherwise available to the City of Westminster, its elected officials, officers, or employees.

22. NON-DISCRIMINATION.

(a) The Concessionaire will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, or national origin. Such action 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. The Concessionaire agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government setting forth the provisions of the Equal Opportunity Laws.

(b) Concessionaire shall not discriminate against any customer, guest, golf patron, employee or visitor because of race, color, religion, age, sex, disability, or national origin and shall treat all persons with dignity and respect. Failure to comply with this paragraph shall be an event of default.

23. TERMINATION.

(a) This Agreement may be terminated, the Concessionaire may be entitled to an abatement or reduction of Basic Concession Fee or Additional Concession Fee hereunder, and the Concessionaire may be entitled to quit all or any part of the Premises or Concession Facilities

or be released from any obligations hereunder upon thirty (30) days prior written notice for the following reasons:

(i) Damage to all or a substantial part of the Premises or Concession Facilities not caused by Concessionaire;

(ii) Condemnation or other taking of all or a substantial part of the Premises or Concession Facilities;

(iii) Any limitation or prevention of, or any interference with, any use or possession of all or a substantial part of the Premises or Concession Facilities by the City;

(iv) Force majeure causing an inability to perform, due to factors beyond Concessionaire's control such as acts of God, flood, war, riot, fire, explosion, strikes, or acts of government which last for a period greater than one hundred eighty (180) days;

(v) Any final order or judgment by any court, administrative agency or other governmental authority requiring such, or

(vi) Any material breach by the City as provided herein.

(b) This Agreement may be terminated by the City upon thirty days notice if any of the following occurs:

(i) Concessionaire fails to make any payment when due of Basic Concession Fee or Additional Concession Fee; provided, however, Concessionaire shall have a grace period of five (5) business days within to make such payment to the City; or

(ii) ANY MATERIAL BREACH OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

(iii) Concessionaire, while in possession of the Premises, files a petition for bankruptcy or insolvency or for reorganization under the Bankruptcy Act, or voluntarily takes advantage of such Act by answer or otherwise, or makes an assignment for the benefit of creditors;

(iv) If proceedings are instituted against Concessionaire under any bankruptcy or insolvency law or if a receiver or trustee is appointed for all or substantially all of Concessionaire's property, and such proceedings or receivership or trusteeship are not vacated or dismissed within thirty days after such institution or appointment.

(v) The City may, as the non-breaching party, enter the Premises and Concession Facilities, remove any personal property, and store such property in a public warehouse or elsewhere at the cost of Concessionaire.

24. DELIVERY AFTER TERMINATION.

Concessionaire will deliver the Premises and all City-owned equipment thereon to the City at the termination of this Agreement in as good condition and state of repair as when received, except for ordinary wear and tear, or loss and damage not otherwise caused by Concessionaire.

25. CUMULATIVE RIGHTS. No right or remedy is intended to be exclusive of any other right or remedy and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at law or in equity. The failure of either party to insist at any time upon the strict performance of any covenant or to exercise any right contained in this Agreement shall not be construed as a future waiver. The City's receipt of any Basic Concession Fees or Additional Concession Fees with knowledge of the breach of any covenant contained in this Agreement shall not be deemed a waiver of such breach. Neither party shall be deemed to have made any waiver of this or any provision of this Agreement unless expressed in writing and signed by such party.

26. VENUE AND GOVERNING LAW.

Venue for any and all legal action regarding this Agreement shall lie in the District Court of Adams County or Jefferson County, Colorado, and this Agreement shall be governed by the laws of the State of Colorado, and the Charter and Municipal Code of the City of Westminster. Concessionaire agrees that if personal service on Concessionaire cannot be reasonably accomplished, any and all notices, pleadings, and process may be made by serving two (2) copies of the same upon the Colorado Secretary of State, State Capitol, Denver, Colorado, and by mailing by return mail an additional copy of the same to Concessionaire at the address shown in Section 30 herein; that said service shall be considered as valid personal service and judgment may be taken if, within the time prescribed by Colorado law or Rules of Civil Procedure, appearance, pleading, or answer is not made.

27. INDEPENDENT CONTRACTOR.

For the purposes of defining Concessionaire's relationship with City, it is understood and agreed that Concessionaire is an independent contractor and nothing herein contained shall constitute or designate the Concessionaire or any of its employees or agents as agents or employees of the City, nor shall Concessionaire be deemed to be engaged in a partnership or joint venture with the City. The Concessionaire understands and agrees that Concessionaire is not entitled to nor shall receive any City benefits, including vacation, worker's compensation, sick pay or any other benefits from City.

28. ASSIGNMENT.

Neither Concessionaire, nor Concessionaire's successors or assigns, shall assign this Agreement, in whole or in part, nor shall this Agreement be assigned or transferred by operation of law, or otherwise, without the prior consent in writing of the City in each instance. The sale or transfer of a controlling interest, or any interest in excess of fifty percent (50%) of the capital

shares of Concessionaire or its assigns, or any merger which effects a similar transfer of a controlling interest in Concessionaire or its assigns, shall be deemed to be an assignment of this Agreement. If this Agreement is assigned or transferred, or the Premises or Concession Facilities are occupied by anyone other than the Concessionaire, the City may, after default by Concessionaire, collect Concession Fees from the assignee, transferee, or occupant, and apply the net amount collected to the Concession Fees reserved herein, but no such assignment, transfer, occupancy or collection shall be deemed a waiver of any agreement, term, covenant or condition of this Agreement, or the acceptance of the assignee, transferee, or occupant, or a release of Concessionaire from the performance or further performance by Concessionaire of the agreements, terms, covenants and conditions hereof, and the party originally constituting the Concessionaire under this Agreement shall continue liable under this Agreement in accordance with all the agreements, terms, covenants, and conditions of this Agreement. The consent by the City to an assignment or transfer shall not in any way be construed to relieve Concessionaire from obtaining the express consent in writing of the City to any further assignment or transfer.

29. NOTICES.

(a) All notices, demands and communications hereunder shall be personally served or given by certified or registered mail or via trackable overnight courier, and

(i) If intended for City, shall be addressed to City at:

City of Westminster
Attn: Director of Parks, Recreation and Libraries
4800 W. 92nd Avenue
Westminster, Colorado 80031

With a copy to:

City Attorney
City of Westminster
4800 W. 92nd Avenue
Westminster, Colorado 80031

(ii) If intended for Concessionaire, shall be addressed to:

Dadiotis Golf Enterprises, LLC
Attention: Demetrious James P. Dadiotis, Managing Member
201 Denargo Market
Denver, CO 80216

(b) Any notice given by mail shall be deemed delivered when sent by certified mail or via trackable overnight courier, addressed as above, with postage prepaid, or when served personally at the applicable address.

30. ENTIRE AGREEMENT.

This is the entire agreement between the parties and there are no other terms, obligations, covenants, representations, statements, or conditions, oral or written, of any kind whatsoever. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this writing.

31. SEVERABILITY.

If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby. It is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

DADIOTIS GOLF ENTERPRISES, LLC


DEMETRIOUS JAMES P. DADIOTIS
MANAGING MEMBER

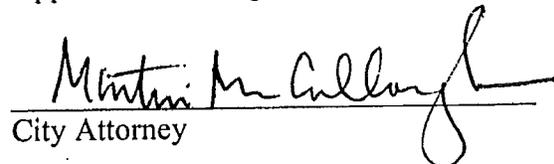
CITY OF WESTMINSTER
4800 W. 92ND AVENUE
WESTMINSTER, COLORADO 80031


J. BRENT MCFALL
City Manager

Attest:


Linda George
City Clerk

Approved as to Legal Form:


Minton McCall
City Attorney

**Legacy Ridge Golf Course
The Grill at Legacy Ridge
10801 Legacy Ridge Parkway**

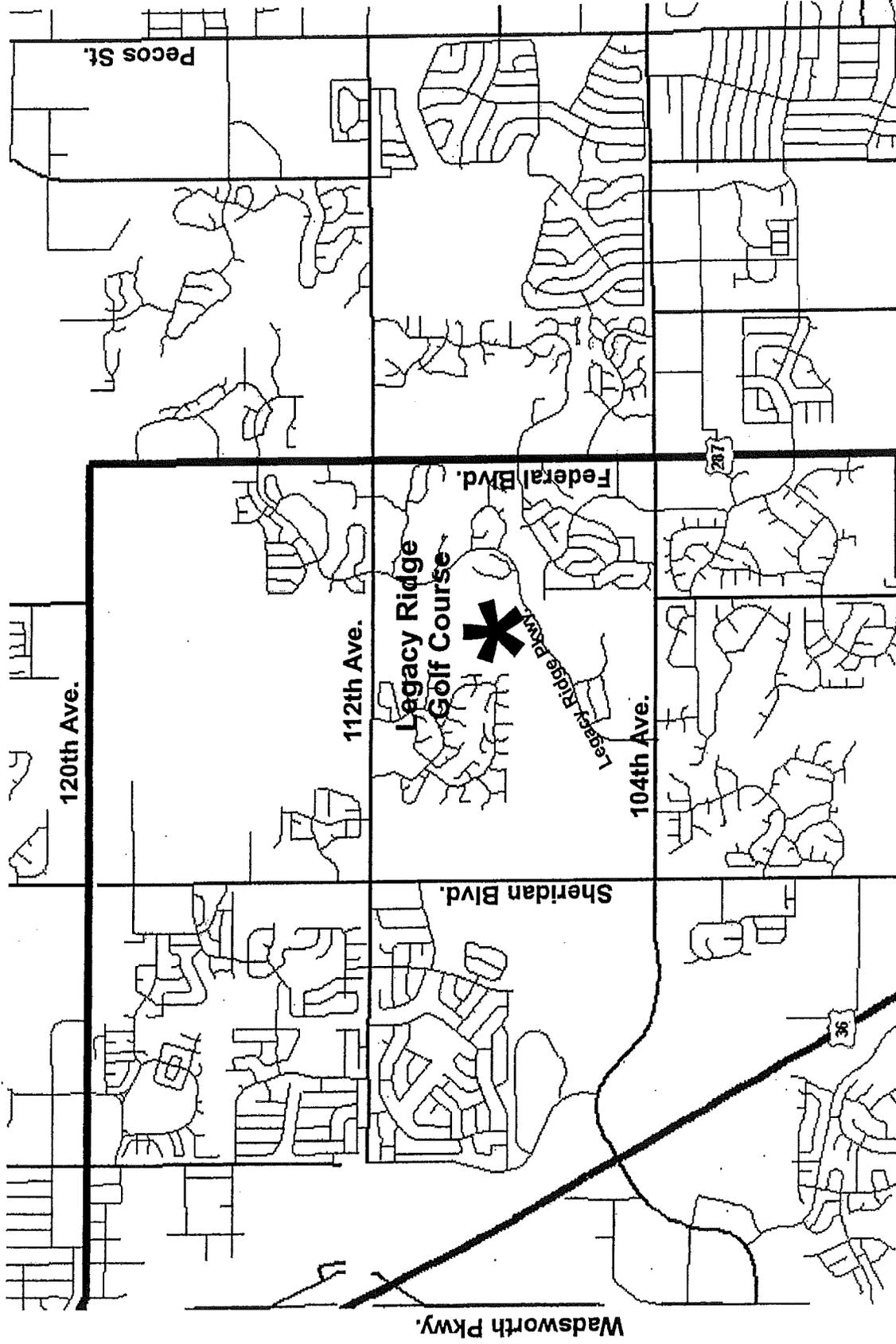
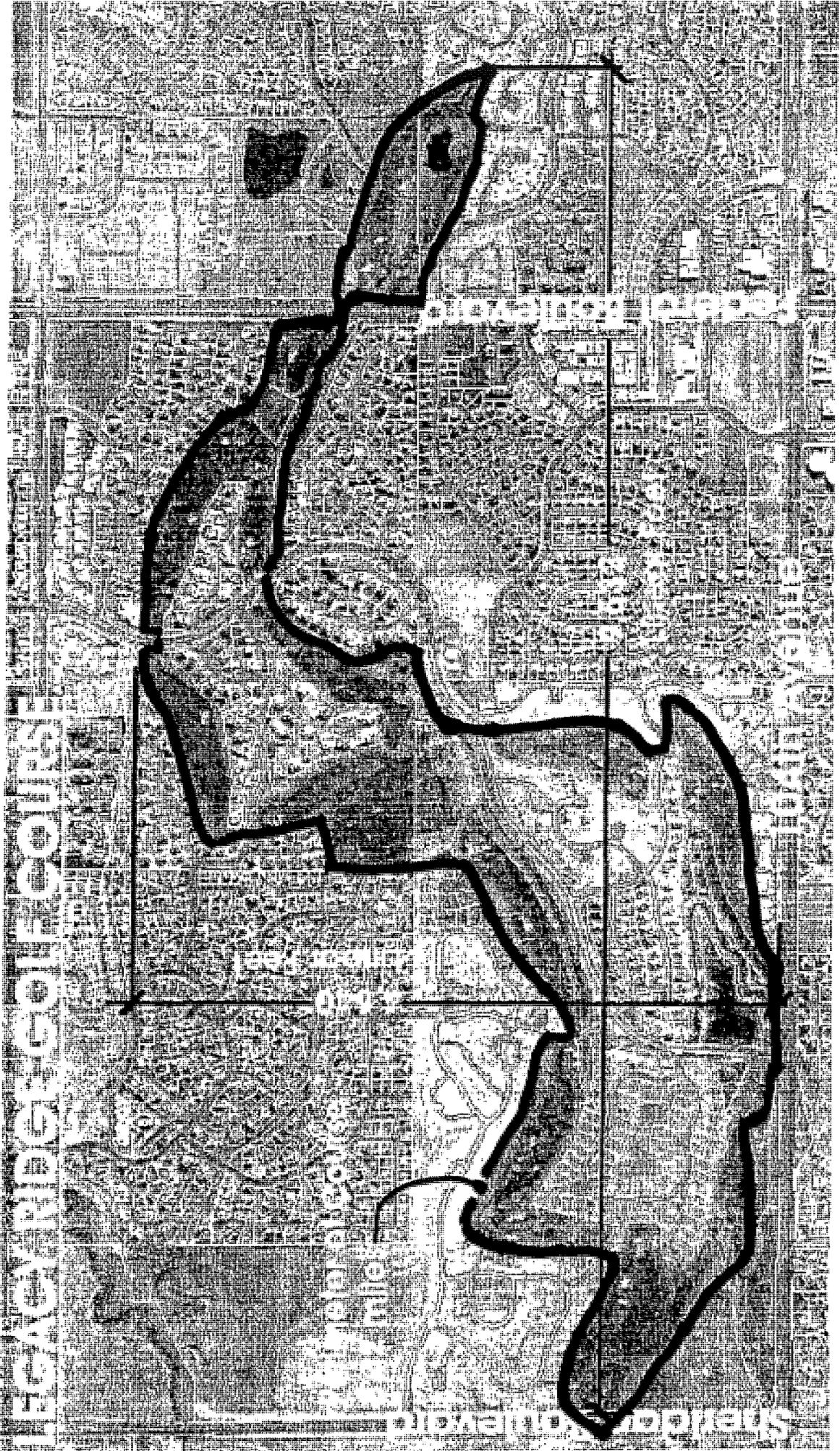
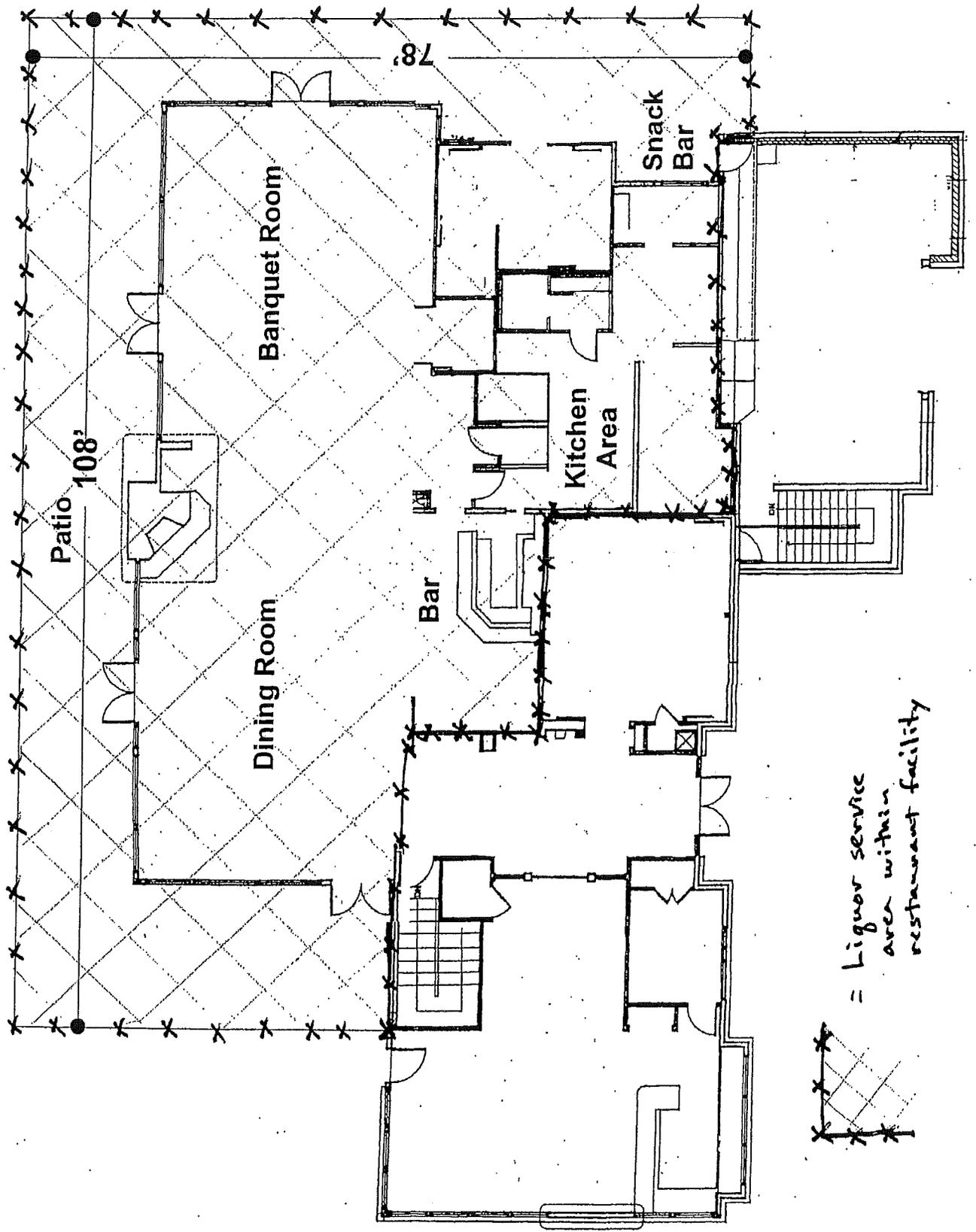
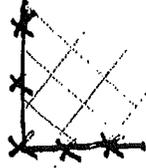
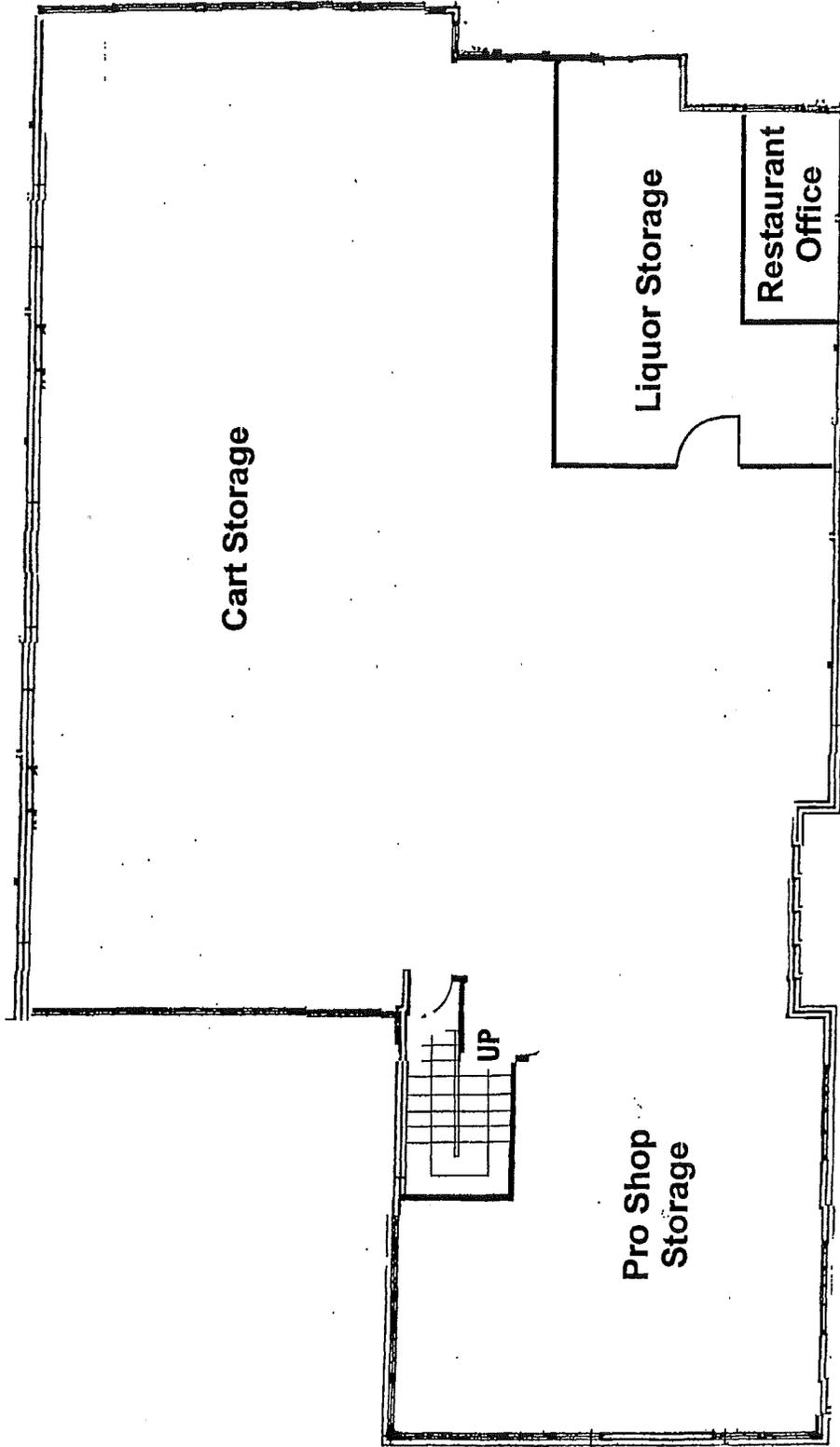


Exhibit A
Page 2 of 4



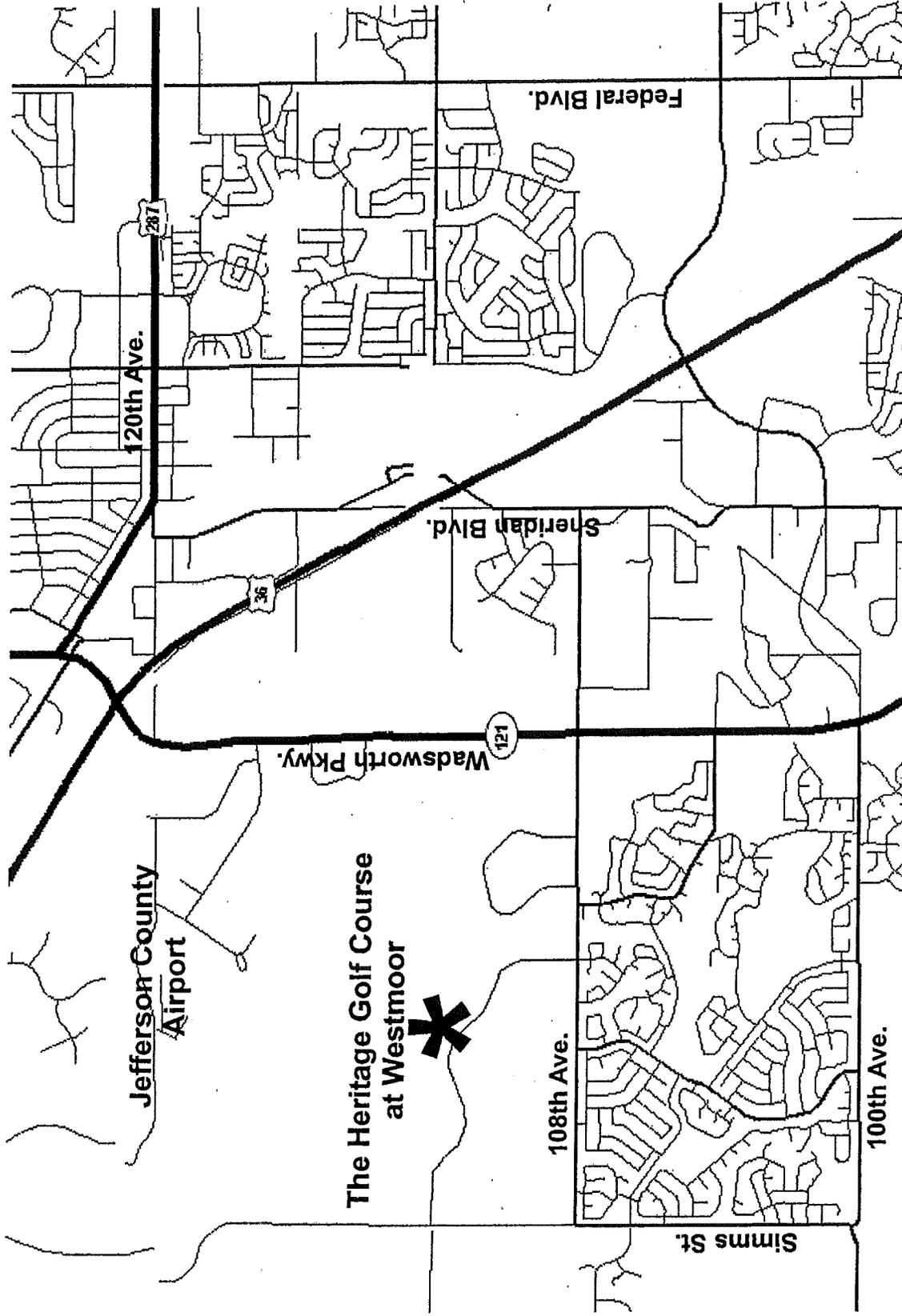


 = Liquor service area within restaurant facility



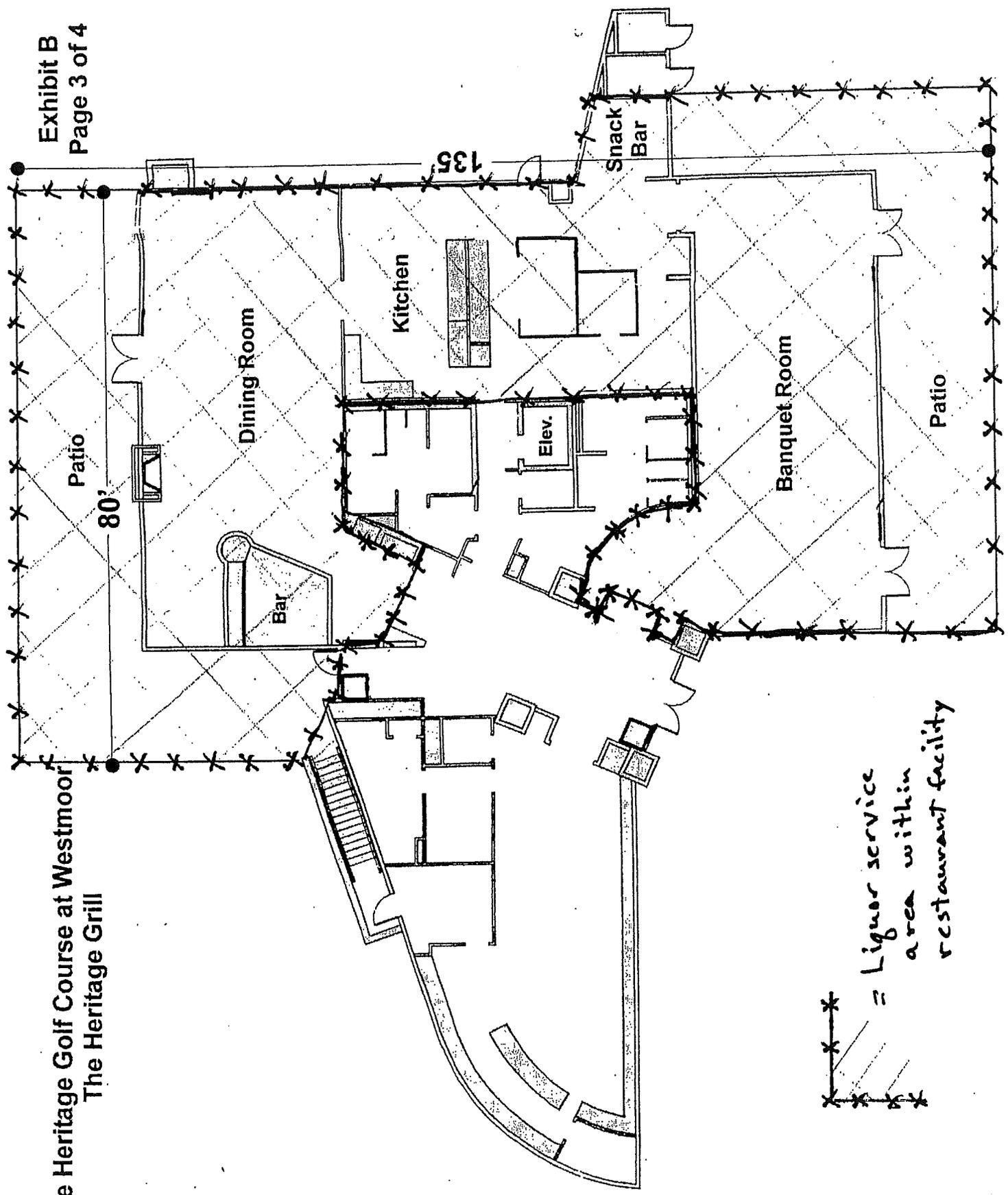
The Heritage Golf Course at Westmoor
The Heritage Grill
10555 Westmoor Dr.

Exhibit B
Page 1 of 4



Proximity Map

The Heritage Golf Course at Westmoor
The Heritage Grill



 = Liquor service area within restaurant facility

The Heritage Golf Course at Westmoor
The Heritage Grill

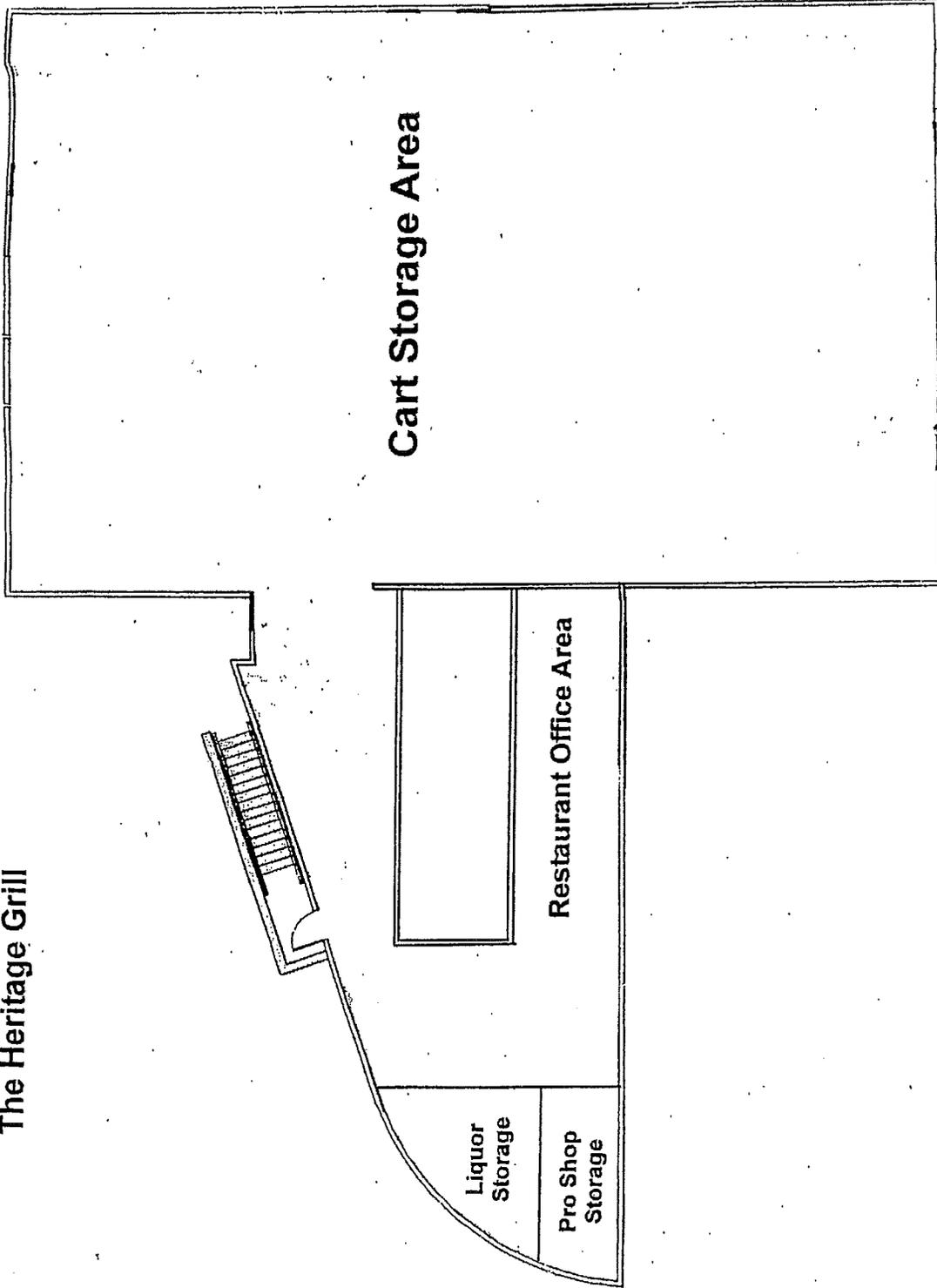


EXHIBIT C

GUIDELINES & STANDARDS OF OPERATIONS

Cleanliness Standards

1. The Concessionaire will maintain, at all times, the kitchen, food preparation, dining, and banquet areas, and all equipment, fixtures, paraphernalia, materials, utensils and other items therein, in a clean and sanitary manner. Concessionaire shall keep the Concession Facilities clear of broken glass, litter, debris, and garbage. Concessionaire shall dispose of any waste water or other waste fluid in the sanitary sewer. In the event waste fluids may not legally be disposed of in the sanitary sewer, Concessionaire is responsible for disposing of same in an appropriate and lawful manner.
2. The Concessionaire shall comply with all applicable health and sanitation laws and regulations, including:
 - a. The sanitation code of the U.S. Food Service Industry as published by the National Restaurant Association.
 - b. All state of Colorado acts and regulations governing food service operations.
 - c. All applicable City and county public health/sanitation regulations.
 - d. Any specific guidelines established by the Manager.
3. At all times, the Concessionaire shall permit and facilitate inspection of the food/beverage areas by the City and by public health/sanitation/building/fire authorities so authorized.
 - a. The Concessionaire shall provide a copy of all health department inspections to the Manager on the same day the inspection form was issued. All health department violations are to be corrected within the time period allowed by the health inspector unless approval for a delay is granted by the health department or the Manager.
 - b. Failure to pass health inspections, unless all failures are corrected within the time period allowed by the Health Department, is a material breach of this Agreement and may result in termination.
4. Concessionaire shall conduct inspections of the food service facilities once weekly. An inspection checklist shall be prepared and completed by Concessionaire for each inspection and the checklists shall be made available to the Manager upon request. The inspection report shall include corrective measures taken or to be taken by Concessionaire. Concessionaire shall also conduct daily inspections and take immediate corrective measures in all areas of the Premises and Concession Facilities.

5. The City shall conduct a formal inspection of the food service facilities a minimum of four times per year, or as deemed necessary by the City. The Concessionaire may accompany the City's designated representative during the inspection.

6. Failure to comply with this section, after notice from the City, shall be an event of default.

Facility and Equipment Maintenance

1. The Concessionaire shall be responsible for the daily cleanliness, of all equipment and facilities for food and beverage handling, restaurant, banquet facilities and Concession Facilities. Prior to the first day of business under this contract, the Manager, the Building Operations and Maintenance Manager, and the Concessionaire will conduct a walk-through inspection of all equipment and the facilities to note any repair/replacement items responsible to the City.

2. The City shall be responsible for maintenance, repair or replacement of electrical, plumbing, and sewer systems, HVAC, the exterior of the building, parking lots, and City-owned equipment. The City may, as it deems necessary, replace floor coverings that are worn or damaged by ordinary usage. However, floor coverings that are worn or damaged because of actions or omissions of Concessionaire shall be paid for by Concessionaire.

3. City Staff will conduct inspections at various times. If maintenance, cleanliness or equipment repairs are noted, the Concessionaire must make those changes within 10 days notice from the Manager.

4. Failure to comply with this section, after notice from the City, shall be an event of default.

Custodial Maintenance

1. The Concessionaire will be responsible for custodial maintenance of the dining room, bar, banquet room, kitchen, snack bar, patio area, delivery area, cooktop ventilation hood system, grease trap system, basement restaurant storage area, and restaurant office areas. Window cleaning in the restaurant-dining/banquet rooms and the patio areas is the responsibility of the Concessionaire.

2. The City shall be responsible for custodial maintenance of the entry lobby, restrooms, pro shop, golf staff office and storage areas, and the exterior entry way.

3. Custodial maintenance shall include, but not be limited to, routine sweeping, vacuuming, dusting, spill clean-up, debris and litter pick-up, laundry of linens and cloths, as well as carpet cleaning, window cover cleaning, and interior and exterior window washing. All areas will be kept clean and neat at all times.

4. The City shall be responsible for snow removal of the parking lot and entryway except the Concessionaire shall be responsible for the entryway when Concessionaire is conducting an event in the restaurant prior to the golf course operating hours.5. Concessionaire shall be responsible for trash removal service and regular service to the grease trap system. Concessionaire shall not discharge any grease into building drains and must keep all grease in proper containers for disposal. If grease is incorrectly disposed in the drain system, Concessionaire shall be responsible for cleaning or repairing drains.

5. Failure to comply with this section, after notice from the City, shall be an event of default.

Menu and Pricing

1. No less than once at the beginning of each golf season (April 1), but no less than once per year, the Concessionaire shall submit a detailed menu and price schedule of all items it proposes to sell, including size, weight and amount of each item. All prices are subject to City approval. The Concessionaire shall plan and prepare imaginative menu selection with an adequate variety of products, in consultation with the City. Any City contract commitments regarding sole sources, i.e. beverage products, will be utilized by Concessionaire. Depending on usage patterns, the menus may be different between the two golf courses. The Concessionaire and Manager shall review menus and make decisions for the good of the operations.
2. Concessionaire shall adhere strictly to all pure food laws and regulation as adopted by the State of Colorado or the County Health Department. Food shall be prepared in such a way as to be acceptable to most patrons. Hot food shall be hot and cold food shall be cold. The amount of food served shall be sufficient in relation to price and other services offered. Service shall be prompt, giving attention to the patron's needs and promoting a friendly relationship. The food shall complement the facility and shall reflect the eating preferences of most patrons.
3. Failure to comply with this section, after notice from the City, may be grounds for termination.

Banquet Events and Tournament Bookings

1. The restaurant dining room hours, or use, may not be altered for private events scheduled by the Concessionaire without written approval of the Manager. The Concessionaire is not to use the restaurant dining room for private party rental banquets during the business hours designated in this Agreement. The Concessionaire shall have the right to use the restaurant dining room for private party rental banquets after business hours or by approval of the Manager. All private party rental banquets must comply with the operating and liquor and food handling policies set forth in this Agreement.
2. The Concessionaire may request private events any time. However, the Concessionaire will submit a "banquet request form" that includes the name, address, phone number, date/time requested and the size of the group to the Head Golf Professional for his review. Even though the Concessionaire is authorized to book banquets year round, it is understood that dining room customers and golf tournament banquets will receive the highest priority for space, staffing and service. All banquet requests require the Concessionaire to submit a "Banquet Request Form," which includes specific information of the banquet, i.e., name of renting party, phone number, address, type of party, setup time, party rental time, size of group, what area of the restaurant is being requested for use by the renting party, etc. Those forms must be submitted to the Head Golf Professional for his review and recommendation. Golf tournament banquets shall receive priority booking.

Entertainment

All costs for amenities such as background music, live entertainment, cable/satellite TV, and bar video games are the responsibility of Concessionaire. The cost for cable satellite TV will be shared 50/50 by the Concessionaire and the City, with each entity paying for six months of the annual cost. The Manager shall approve any installation prior to installation.

Employee Conduct and Appearance

1. Concessionaire shall be responsible for employment and compensation of its own employees. All employees shall provide prompt and courteous service to all customers and the general public.

Concessionaire shall provide qualified supervision, competent management staff, and numbers of employees necessary to maintain good service. Employees shall be clean and maintain appropriate clothing and appearance. Concessionaire shall at all times enforce strict discipline and good order among employees.

2. Failure to comply with this section, after notice from the City, may be grounds for termination.

Customer Service

1. Complaints from restaurant customers must be forwarded to the Manager, in writing, within one working day. All restaurant complaints, whether received by Concessionaire or the City, are to be reviewed by Concessionaire and the customer contacted by Concessionaire or its designated on-site restaurant manger within 48 hours of the filing of the complaint. A written report of the result of the follow-up will be provided to the Manager within five days.

2. The Concessionaire will supervise/manage the restaurants with a full-time manager on site. Whenever the restaurant manager is not on site, the Concessionaire will provide a person that is designated to be in charge of the restaurant and its operations. The Concessionaire will provide the name(s) of the backup restaurant manager to the golf staff.

3. If the City receives ongoing customer service complaints, the City may require a performance audit, utilizing customer surveys to determine customer satisfaction. A questionnaire will be developed by the City and the Concessionaire. Completed questionnaires will be reviewed by both parties. The City reserves the right to terminate this contract if ongoing issues arise and are not satisfactorily resolved by the Concessionaire.

Exhibit D

Smallwares Package

The smallwares package recommended by the City of Westminster is as follows:

China	
Dinner Plate	18 Doz.
Sandwich Plate	18 Doz.
Dessert Plate	24 Doz.
Coffee Cup	24 Doz.
Bouillon Cup	12 Doz.
Bowl	9 Doz.
Pasta Bowl	6 Doz.
Sizzler Platter	6 Doz.
Flatware	
Teaspoon	33 Doz.
Bouillon Spoon	12 Doz.
Iced Teaspoon	3 Doz.
Salad/Dessert Fork	18 Doz.
Dinner Fork	24 Doz.
Dinner Knife	18 Doz.
Glassware	
Water Glass	21 Doz.
Iced Tea Glass	6 Doz.
Wine Glass	12 Doz.
Rocks Glass	6 Doz.
Hi-Ball Glass	12 Doz.
Shot Glass	1 Doz.
Specialty Glass	3 Doz.
Kitchen Cookware/Utensils	
Assorted	
Banquet Serviceware	
Chaffing Dishes	4 Ea.
Trays (oval/round)	12 Ea.
Banquet Tables	6 Ea.

**City of Westminster
Legacy Ridge Golf Course
Food Service Equipment
Exhibit E-1**

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
1	Storage Shelving	2 sections	ISS	Gold Bond Wire Shelving Assemblies	18" Wide x 74" High w/four tiers
3	Prep Sink	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 9'3" Long
4	Wall Shelf	3	Custom	Stainless Steel	1'2" Wide x 4' Long
6	Walk-in Cooler/Freezer	1	Kolpak	Modular Panel Construction	5'10" Wide x 11'7" Long x 8'6" High w/floor
6A	Cooler Compressor	1	Kolpak	PR95M-OP	Remote Outdoor Air-Cooled Assembly
6B	Freezer Compressor	1	Kolpak	PR95L-OP	Remote Outdoor Air-Cooled Assembly
7	Refrigerator Shelving	7 sections	ISS	Gold Bond Wire Shelving Assemblies	14" Wide x 74" High W/four Tiers
17	Workboard With Sink	1	Perlick	TS-7055-12/43R/7055-13/12HS/18/18BLW/12U2/24ch8/12	"L"-shaped Assembly
19	Three Compartment Sink	1		Included in Item #17	

Rev. 8/26/2010

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
21	Corner Filler	1		Included in Item #17	
23	Beer Dispenser	1	Perlick	C5064EC	Three-Door with Remote C26P Compressor Unit
25	Chef's Counter	1	Custom	Stainless Steel	3'6" Wide x 2'10" High x 13'6" Long
25A	Refrigerated Base	1	Custom	Stainless Steel	Two-Section Self Contained
25B	Double Overshelf	1	Custom	Stainless Steel	1'8" Wide x 13' Long
25C	Food Warmer	1	Hatco	GRAH-60	Infra-Red
25D	Hot Food Well	1	APW/Wyott	HFV-3	3-Well Drop-In Unit
28	Fryer	2	Tri-Star	TSF-4050	Floor Model
29	Griddle With Oven	1	South Bend	T1361	Thermostatic Controlled Griddle Top with Standard Oven
33	Range with Oven w/Cheese Melter	1	South Bend	1363	Six Open Burners With Standard Oven w/ Cheese Melter
34	Exhaust Hood	1	Moltron	(2) BFC/1-80-54	(2) 6'8" Long x 4'6" Wide Sections
35	Fire Suppression System	1	Ansul	R-102 Ansulex Liquid Fire Suppressant	Automatic and Manual
36	Pot Shelving	1 Sections	ISS	Gold Bond Wire Shelving Assemblies	24" Wide x 87" High W/Four Tiers
37	Wall Shelf	1	Custom	Stainless Steel	1'2" Wide x 10'4" Long
38	Pot Sink	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 10'4" Long

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
41	Clean Dishtable	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 4'0" Long
42	Wall Shelf	1	Custom	Stainless Steel	34 1/2" x 14"
43	Booster Heater	1	Hatco	CC-12	Custom Compact
44	Condensate Hood	1	Custom	Stainless Steel	3'0" Wide x 3'0" Long x 1'6" High
45	Dishmachine	1	Leased by Concessionair		
46	Soiled Dishtable	1	Custom	Stainless Steel	2'6" Wide x 2'10" High x 3'6" Long
46A	Disposer	1	In-Sink-Erator	SS-200-6-MRS	#6 Collar Adapter Assembly
48	Snack Bar Counter	1	Custom	Stainless Steel Top on Millwork Base w/Plastic Laminate	2'6" Wide x 3'0" High x 11'0" Long
52	Dining Tables	12	Shafer Commercial Seating		36" x 36", 1 1/4" Maple Edge
53	Table Top	2	Shafer Commercial Seating	CG1	60" dia. w/solid 2" w x 1 1/4" thick maple edge
54	Bar Stool	7	Lowen Stein		42" H, 23 1/2" w, 22" D, English oak finish, foam padded webbing

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
55	Curvature Stacking Chairs	43	Shelby Williams	CG15	18 1/2" W, 24 1/2" D, 33 1/2" H, laquered red, heavy steel joints w/foam padded contour.
56	Lectern	1	Perma Power Electronics	S500	All wood table and base. Adjusts to heights from 26" to 46", weights 76 lbs., no operation off of batteries
57	Leaf Flip Top Tables	11	Shafer Commercial Seating	CG2	36" x 36" opening out to 51" dia, 2" w x 1 1/4" thick
58	Cocktail Table Tops	3	Nicil Herrer A JJ. Upholstery	CG6	24" dia, 2" w x 1 1/4" thick maple edge
59	Dining Chair	97	Lowenstein	CG14	Rinaldo Chair 23" x 24" D x 31 1/2" H, fronts are maple with burgundy pattern
60	Paintings	2	Various		
61	Small Round Bar Table	1			2' Dia, maple wood
62	Direct TV Box	7	Marantz Tuner, Marantz Receiver - black		Requires electrical set up
64	Movie Screen	1			Pull down hanging movie screen - 10' x 10'
65	Dance Floor	1			Sectioned dance floor, parquet wood

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
66	Cast Iron Oval Outdoor Table	3			Black cast iron mesh tables
67	Cast Iron Round Outdoor Table	10			Black cast iron mesh tables
68	Cast Iron Square Outdoor Table	4			Black cast iron mesh tables.
69	Cast Iron Outdoor Chair	68			Black cast iron mesh chairs
70	32" LCD TV	1	Samsung LCD	Model: ln37a55kp3fxza	32" screen, electrical outlet
71	Fireplace	1			Built-in fireplace w/ gas logs
72	Food Slicer	1	Berkel		12" Dia. Blade 1/3 HP Motor
74	Ice Machines	1	Scotsman bh801s-a	Scotsman CM3 Serial #07021320016206	1000lb
75	Ice Machine	1	Milton Roy Co.	Scotsman CM3 Serial #	750 lb
76	Grill w/ Convection Oven	1	Wolf	Snorkler	
77	Chanel Mixers	3	Channel Vision	CUT 2UB/UHF - 11	
78	AMP	1	TOA	A-903MKZ	
79	Red Wood Bar Stool	12	Minja		
80	32" TV w/bracket	2	Samsung LCD Model#ln37a55qp3fxza	Serial # alxq3cls201449a	
81	51" Samsung LCD	2	Samsung LCD Model#Int5265fx1xaa	Serial # aj733cfpa15562d	

Item No.	Description	Quantity	Manufacturer	Model No.	Pertinent Data
82	VCR	1	JVC	Serial # aj733cipa15563x	
83	DVD Player	1	SONY	Precision 19U	
84	Stainless Steel Table	1	Custom	Stainless	30" x 36" Beverage Area
85	Stainless Steel Wash Sink	1	Custom	Stainless	21" x 19" Sink
86	Stainless Steel Shelf	1	Custom	Stainless	1" x 5" Long
88	Table w/Wheels	1	Custom	Stainless	Dish Area 30" x 60"
89	Dish Rack	1	Custom	Stainless	35" x 54" On wall
90	Refrigerator	1	True Refrigeration	T-49	Stainless 32" x 54" (2 door)
91	Wall Shelf	1	Custom	Stainless	1' x 5' prep area
92	Microwave	1	Amana	Stainless SRFS125	
93	Table w/Can Opener	1	Custom	Stainless	30" x 96"
94	Food Warmer	1	Whittco	Model No. 2-96 Serial No. 613294 COW No. 003347	

**City of Westminster
Heritage Golf Course Clubhouse
Food Service Equipment
Exhibit E-2**

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
1	Range, 60" Restaurant, Gas	1	U.S. Range	PX-10-2626	Range, Performer Series, 60" Restaurant, Gas-Fired, 10 open burners, two standard ovens, w/single deck back shelf
2	Broiler, Salamander, Gas	1	U.S. Range	BS-R-60	Broiler, Salamander, Cuisine, Heavy-duty Range mount, gas
3	Griddle, Counter Unit, Gas	1	U.S. Range	RGM-2436-1	Griddle, Regal Series, 36" wide, counter unit, gas, w/equipment stand and gas connector kit.
4	Shelf, Wall-mounted	1	Universal Stainless	WSD-3616	Shelf, wall-mounted 16 gauge 304 stainless
5	Fryer, Gas	2	US Range	PSM35GMS	Fryer, Gas, Economy
7	Refrigerated Counter, Griddle Stand (cooks line)	1	TRUE	TRCB-72	#1-4870979; 4-drawer cooler unit
8	Char Broiler, Gas, Counter Model	1	U.S. Range	RG-HDSA-36	36" x 31.38" Char Broiler, cast iron radiant, 108,00 BTU output
9	Shelf, Wall Mounted	1	Universal Stainless	WSD-9616	16" Wide x 8' Long
10	Oven/Steamer Combo	1	Rational	CPC	Capacity (10) 18"x 25"x baking pans, (5) 17"x26" steam pans
11	Oven/Steamer Combination, half-size	2	Rational	CPC61	Capacity (6) 13"x18" baking pans.(3) 12"x20" steam pans
12	Exhaust Hood	2	Moltron	BFC134-54	11'2" x 4'8" x 24" high, stainless steel
14	Microwave Oven	1	Amana	RCS10MP	1000 Watts
15	Over-shelf	1	Custom	Over-shelf	14' x 16", stainless steel
16	Freezer, Counter, Work Top	1	Delfield	ST4148	Stainless steel, 1/3 horsepower

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
17	Heat Lamp, Rod Type	1	Hatco	GRH-48	compressor. Glo-Ray Infrared Food-warmer, 48" long
18	Serving Counter, Hot Food, Electric	1	Duke	EP304SW	Serving Counter w/ four 12" x 20" hot food wells
19	Heat Lamp, Rod Type	1	Hatco	GRH-60	Glo-Ray Infrared Food warmer, 60" long
20	Refrigerated Counter, Sandwich Top	1	TRUE	TSSU-60-16	Stainless Steel, 1/2 HP #1-4795547
21	Plate Shelf	1	Custom		14' x 12" x 36", Stainless Steel
22	Hand Sink	3	Krowne	HS-2	Wall Model, 10" w x 14" front-to-back x 5" deep
23	Refrigerator, Reach-in	1	Delfield	6025-S	1/4 HP
24	Counter	1	Custom		11' x 30" x 36" h, Stainless Steel, w/10" x 14" x 8" sink
29	Faucet, Glass Filler	1	Fisher	12726	14" pedestal type
30	Soiled Dishtable	1	Custom		7' 4" x 30", Stainless Steel, w/dispenser switch bracket and under-shelf
31	Rack Shelf	1	Custom		Stainless Steel, 42" x 21"
32	Disposer	1	Emmerson Electric	SS-200-27	2-HP, Stainless steel construction; SK32S050; 115/208/230 volts
33	Faucet, Pre-Rinse Assembly	1	Fisher	2210-WB	
34	Condensate Hood	1	Custom	Stainless Steel, 54" x 36" x 30"	
35	Dishwasher Auto-Chlor	1	Auto-Chlor Systems	A4	Stainless Steel, 115 Volt Pilot Circuit, #11456
36	Clean Dish table	1	Custom		"L" Shape, 3'6" x 8' x 30", Stainless Steel
37	Rack Shelf	2	Custom		Slant Rack Shelf, 63" x 21", Stainless Steel
39	Food Slicer	1	Berkel	827A	Heavy duty, angle feed, manual, 12" diameter knife, 1/3 HP motor;

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
41	Ice Maker, Cube-Style	1	Scotsman	CME656AE-32A	#31990 Air-cooled, self-contained
42	Sink, Three Compartment	1	Universal Stainless; RJ Fabrications	3N1824-2D24	24" front-top back x 18" wide sink compartment
43	Wall Shelf	1	Custom Model	108" x 14"	
44	Shelving, Wire	2	ISS Shelving	2460Z	24" w x 60" l, Plating Plus Finish
46	Prep Table w/Sink	1	Custom		11' x 30" x 26" high, Stainless Steel, w/sinks and faucets
47	Shelf, Wall-mounted	1	Custom		Stainless Steel, 14" wide x 11' long
49	Fire Suppression System	1	Ansul	Fire System	R-102
50	Work Table	1	Universal Stainless	11SLS-30	30" w x 132" l, Stainless Steel
51	Walk-In Cooler/Freezer	1	Emjac Industries		Cooler: 8' x 12' x 7' 6", Freezer: 8' x 7' x 7' 6"
53	Shelving, Wire	2	ISS Shelving	2448Y	24' x 48", Gold Bond Finish
54	Shelving, Wire	10	ISS Shelving	1842 Y	Freezer Shelving, Wire, 18" x 42", Gold Bond Finish
56	Mixer, Food	1	Hobart	H-600	63qt., 3 HP motor
58	Shelf, Wall-Mounted	1	Custom		16 gauge 304 Stainless Steel, 14" x 8'
59	Work Table	1	Custom		Maple Top Table, 30" x 96"
60	Beer/Beverage Cooler (Bar)	1	TRUE	TBB-2G	One sided 2 door opening, 64" x 42" x 30" # 6635409
63	Bar Glass Sink	1	Universal Stainless		60" x 30" x 20", Stainless Steel, three compartment sink, sinks are each 10" x 14"
65	Shelves, Bar Glasses	1	Perlick	7055A-D	
66	Ice Bin, Liquor shelf	2	Perlick		
67	Bar Glass Drain	2	Perlick		
68	Bar Glass Drain – Hand Sink	1	Perlick		
69	Hand Sink/Mixing Shelf	1	Perlick		
71	Keg Draw	1			
73	Beverage Wand	2	WunderBar		

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
74	Television	2	JVC	AV 27020	AC 120V 60 HZ
75	Television Stand	2			Wall Mounted
76	Fireplace	1	GCDC80 NAT		Gas Fireplace w/ artificial logs
78	Glycol System (Keg Beer)	1	International Carbonic	LF-MS-GLY	Coolant System for Keg Beer, 80' of insulated hose to Keg Draw, Serviced by Federal Beverage Control
79	Bar Stool/Chairs	30	Shafer		Tall Bar Stools with Chair backs and cloth seats
80	Chair	167	Shafer		Wooden Chairs with Cloth Seats
81	Bar Table	3			Tall Bar Table w/ circular top
82	Dining Table (square)	9		(2) 30" Squares / (7) 36" Squares	Wooden Dining Tables, center stand, square top
83	Dining Table (rectangular)	7			Wooden Dining Tables, two center supports, rectangular top
84	Dining Table (round leaf)	15			Wooden Dining Tables, round tables, leaves can fold into square tables, center supports.
85	Podium	1			Wooden.
86	Patio Chair	84			Steel constructed, wire mesh structure
87	Patio Table	7			Steel constructed round tables, wire mesh structure
88	Patio Table (oval)	2			Steel constructed oval tables, wire mesh structure
89	Patio Table (square)	11			Steel constructed square tables, wire mesh structure
90	Beer Keg Cooler	1			Walk-in Cooler for Keg Usage
91	Beer Cooler Compressor	1			
92	Dance Floor (shared between Heritage and Legacy)	1			Portable Dance Floor, 15' x 15'
99	Hostess Stand / With Storage Cabinet	1	Sand Construction		Fixed in corner by main entry doors

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
100	Hardwood Cabinet	1	Sand Construction		44" x 32" x 18"
101	36" TV	1	RCA	36V430T	Black, 36"
102	Satellite Network Box	1	Hughes	H1RD-EZ	Direct TV, 120 Volt, 60 Hz
103	4 Head HQ VCR	1	JVC	HR-A55U	AC 120 Volt, 60 Hz, 19 W
104	Satellite Receiver Box	4	Direct TV	DRD22RD/D12	120 Volt, 60 Hz, 19 W
105	Amplifier	1	TOA	A-503A	500 Series, Output Rated 30 Watt
106	Microphone Stand	1	On Stage Stand	OSSMS7201B	Round Base, Black
107	Microphone	1	Shure		AXS1
108	Media Cart	1	Luxor	18912	27" x 44" x 26", Black, 4 Gray Wheels
109	Amplifier	1	TOA	A-906MK2	900 Series II, Output Rated 60 Watt
110	5 Disc Changer	1	Denon	DCM-270	Automatic disc loading system, 120 volt, 60 Hz, 15 W
111	DVD / VHS / CD Player	1	JVC	HR-XVC26U	Hi Fi, Dolby Digital, 3-D Phonic, 2.0 Plus Digital Out
112	Plasma TV (Banquet Room)	1	LG	MU-509Z60M	48" x 29" Screen, Manufactured 2003
115	Laser Jet Printer	1	Hewlett Packard	4050 TN	COW # C4254A
116	Surge Protector	2	APC	PER7	COW
117	Computer Monitor	1	Phillips		COW # MG19C5808
118	Keyboard	1	Compaq	KB3923	COW
120	Office Desk	1	HON		60" x 30" x 30"
121	Computer	1	Compaq		COW
122	Surveillance Camera	2	Pelco-Dsp		DSP Color CCD Camera
123	Copier	1	Canon	PC420	
124	Movie Screen	1	Da-Lite	Model "C"	Pull down hanging movie screen – 10' x 10'
125	Sony Stereo Receiver	1	SONY 2009	STR-DH100	Purchased 1/25/2010
126	LG 42" LCD TV (Bar Area)	2	LG 2009	42LH20	SN# 908RMVB016279 Purchased 1/25/2010

Item No.	Description	Quantity	Manufacturer	Model Number	Pertinent Data
127	TOSHIBA 46" LCD TV (Grill Area)	2	TOSHIBA 2009	46RV525RZ	SN# 949150M06777K1 SN# 949150M06825K1 Purchased 1/25/2010



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: 2009 Annual Audit Services Ratification of Additional Expense

Prepared By: Sherri Rickard, Accountant

Recommended City Council Action

Ratify the expenditure of \$6,100 to the previously approved contract with Swanhorst & Company, LLC for year end 2009 annual audit services, bringing the contract approval amount to \$62,100.

Summary Statement

- On November 14, 2005, City Council authorized a contract for the City's auditing services for fiscal years 2005 through 2009 with Swanhorst & Company, LLC (Swanhorst).
- The total contract price approved for fiscal year 2009 auditing services was \$56,000.
- During fiscal year 2009, the City had five separate grant programs that were funded with American Recovery and Reinvestment Act (ARRA) grants which imposed new transparency and accountability requirements under the Single Audit Act of 1984 and OMB Circular A-133 (Single Audit). These new requirements imposed additional compliance testing by Swanhorst.
- The final billing for audit services performed in 2010 for fiscal year 2009 included additional fees of \$6,100 related to the ARRA grants.

Expenditure Required: \$ 6,100

Source of Funds: General Fund – Finance Accounting Professional Services

Policy Issue

Should City Council ratify the additional expenditures related to the 2009 audit services contract with Swanhorst & Company, LLC?

Alternative

Council could decide not to ratify this expense. Staff does not recommend this alternative as Swanhorst has already incurred the expense and completed the required testing in order to complete the 2009 audit.

Background Information

The Single Audit Act of 1984 and OMB Circular A-133 (“Audits of State, Local Governments, and Non-Profit Organizations”) require that all non-Federal entities with \$500,000 or more of expenditures related to Federal awards obtain an annual audit.

During fiscal year 2009, the City had five separate grant programs that were ARRA funded which imposed new transparency and accountability requirements under the Single Audit. These new requirements in part required Swanhorst to consider all Federal programs with expenditures of ARRA awards to be programs of higher risk, which in turn led to an increase in compliance testing. The additional fees charged by Swanhorst were directly attributed to the Single Audit of ARRA grants. Had the additional testing not been completed, the City would not have been in compliance with single audit requirements which could have resulted in the repayment of Federal grant dollars and/or loss of access to future Federal Funding.

The testing of ARRA funds supports the City’s goal of “Financially Sustainable City Government Providing Exceptional Services.”

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Alpine Waste and Recycling Cumulative Purchases over \$50,000 in 2010

Prepared By: Jerry Cinkosky, Facilities Manager

Recommended City Council Action

Based on the report and recommendation of the City Manager, determine that the public interest will be best served by ratifying the purchase of services from Alpine Waste and Recycling, and to pay any past invoices not previously authorized with Alpine Waste and Recycling up to a maximum of \$61,000.

Summary Statement

- The Westminster Municipal Code requires that all purchases over \$50,000 be brought to City Council. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$50,000.
- During routine review of Citywide payments to Alpine Waste and Recycling Staff has identified cumulative expenditures exceeding \$50,000 which requires City Council Authorization.
- Funds were previously appropriated and are available in the 2010 General Fund and Utilities operating budgets for the purchase of solid waste removal and community recycling services.

Expenditure Required: \$61,000
Amount estimated above original contract amount for the remainder of 2010.

Source of Funds: General Fund and Utility Fund operating budgets

Policy Issue

Should Council ratify and approve the cumulative purchases of solid waste removal and recycling services for various departments which total over \$50,000 in 2010?

Alternative

Do not approve the purchases as recommended. While it could be argued that each department's transactions represent a separate purchase, City Staff believes that a more conservative and prudent approach is to treat the smaller departmental transactions as a cumulative large purchase for services with Alpine Waste and Recycling, which is subject to City Council approval.

Background Information

Through a competitive bid process in May 2008, Alpine Waste and Recycling was awarded a contract in the amount of \$44,412 to provide solid waste removal services at all City facilities, along with collection services at four community recycling locations. Community recycling bins are provided at West View Recreation Center, Fire Station # 1, Municipal Court and the Municipal Service Center.

Through the RFP process, Staff requested pricing based on the size of the collection containers ranging from 96 gallon to 8 cubic yards, number of City facilities serviced, and frequency of disposal service. In addition Staff requested individual pricing for large 30 yard roll off containers to be picked up and disposed off on an on-call basis. Thirty yard roll off containers are used for a variety of trash or solid waste removal services beyond typical daily facility services. For example, the large roll off containers are used for the City's Adopt A Street program, collection of non-recyclable items placed at community recycling locations, grit and solid waste containment at Big Dry Creek Wastewater Treatment Plant, and for special events such as the Westminster Faire.

Although the costs for solid waste removal and recycling services by Alpine Waste and Recycling have exceeded the original contract amount by approximately \$16,600, it is important to note that the individual facility and container costs for trash removal services have remained the same since 2008. City Staff's emphasis on increasing recycling efforts has actually decreased the frequency and costs associated with solid waste removal at City Hall and the Public Safety Center.

The departmental expenditures that exceed the original contract amount can be attributed to an increase in participation by citizens in the City's recycling program, resulting in a need to increase the frequency of collection days at the community recycling locations. In addition, roll off container pickup and disposal for the Adopt a Street program and non-recyclable items dropped off at the citizen recycling locations has increased the number of pickups at the Municipal Service Center over the previous year.

Alpine Waste and Disposal's contract will expire at the end of 2011, at which time Staff will sending out requests for proposals for solid waste and recycling services at all City facility locations. In addition, Staff now has available two years of cost data for 2009 and 2010 solid waste removal and recycling services. Using this data Staff will be able to draft a "not to exceed" contract to avoid year end ratification of expenditures.

Staff's recommendation to ratify cumulative purchases exceeding \$50,000 and authorizing the additional funding for the remaining solid waste removal and recycling services in 2010 supports City Council's goal of "Beautiful and Environmentally Sensitive City" with the objective to provide a convenient recycling program for residents and to achieve a high level of participation in the recycling program.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Intergovernmental Agreement with Urban Drainage and Flood Control District for the Tanglewood Creek Channel and Pond Improvements

Prepared by: John Burke, P.E., CFM, Senior Engineer

Recommended City Council Action

Authorize the City Manager to sign the intergovernmental agreement with the Urban Drainage and Flood Control District for the Tanglewood Creek Channel and Pond Improvements.

Summary Statement

- The Tanglewood Creek and pond improvements project is located just north of the intersection of 121st Avenue and Delaware Street. The spillway on the downstream face of the regional detention pond is failing, and the channel leading in and out of the pond is in need of repair. Additionally, there is currently inadequate maintenance access to the pond, so an eight-foot wide trail will be constructed around one side of the pond.
- The City requested Urban Drainage and Flood Control District (UDFCD) maintenance funding in 2010 for the repair of the spillway and restoration of the channel leading into the pond. UDFCD committed \$260,000 toward the design and construction efforts. The current engineering estimate for the project is \$357,000, so UDFCD has requested City financial participation for the project.
- This intergovernmental agreement (IGA) is necessary to encumber maintenance funds the Urban Drainage and Flood Control District (UDFCD) has budgeted in 2010 for this project. These funds will remain in an interest bearing account managed by UDFCD and will be used to pay for the project in 2011.
- The City's \$100,000 share of the funding for this project is available in the Miscellaneous Stormwater Utility Fund.

Expenditure Required: \$100,000 (City's share)

Source of Funds: Miscellaneous Stormwater Utility Fund

Policy Issue

Should the City enter into an Intergovernmental Agreement with the Urban Drainage and Flood Control District for the design and construction of drainage improvements for Tanglewood Creek and Pond?

Alternative

Council could choose not to authorize this intergovernmental agreement at this time. Staff does not recommend this alternative because the matching funds from the UDFCD will greatly help to complete this project in a timely and cost effective manner.

Background Information

This section of Tanglewood Creek and the associated regional detention pond (a/k/a Front Range Village Pond or Timberlake Pond) is owned by the City through a previous agreement with the adjacent properties - Cottonwood Villa Condominiums and Timberlake Townhomes. Under this earlier agreement, the two homeowners associations (HOA) perform routine maintenance around the perimeter of the pond. The Timberlake Townhome HOA contacted City staff in 2008 to request the necessary repair work to the spillway and channel, which would not logically be classified as “routine” maintenance. Staff subsequently requested UDFCD maintenance funds for this project and was successful in obtaining those funds in late 2009.

UDFCD contracted with one of their on-call engineering firms and started preliminary design efforts in 2009. Over the course of this design effort, various alternatives for cost savings and environmental permitting issues were evaluated. The current design balances cost, safety, flood control, and environmental related components of this project.

UDFCD currently has \$260,000 available for this project; however, the estimated construction costs are \$357,000. UDFCD has requested City participation to complete this project. This proposed intergovernmental agreement will encumber the UDFCD funding specifically for this project and fill the \$100,000 shortfall with City Stormwater Utility funds.

This project supports the Council’s Strategic Plan Goal of creating a Safe and Secure Community by protecting people, homes and buildings from flooding through an effective stormwater management program.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments – map & IGA

Tanglewood Creek & Pond



200 0 200 Feet

1 inch = 200 feet

AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
TANGLEWOOD CREEK CHANNEL AND POND IMPROVEMENTS

Agreement No. 10-10.14

THIS AGREEMENT, made this _____ day of _____, 2010, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and CITY OF WESTMINSTER (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, PARTIES now desire to proceed with the design, right-of-way acquisition and construction of drainage and flood control improvements for Tanglewood Creek Channel and Pond Improvements (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT has heretofore adopted a Special Revenue Fund Budget for calendar year 2010 subsequent to public hearing (Resolution No. 66, Series of 2009) which includes funds for Maintenance of drainage and flood control facilities within DISTRICT; and

WHEREAS, the Colorado General Assembly in 1979 and 1983 amended 32-11-217(1)(C), Colorado Revised Statutes 1973 to authorize DISTRICT to levy up to four-tenth (.4) mill for the maintenance and preservation of floodways and floodplains within DISTRICT; and

WHEREAS, 32-11-203, Colorado Revised Statutes 1973, as amended in 1979 and 1983, further authorizes DISTRICT's Board of Directors to institute a systematic and uniform program of preventive maintenance for such floodways and floodplains within DISTRICT; and

WHEREAS, DISTRICT's Board of Directors, pursuant to such authorization, adopted a budget for 2010 (Resolution No. 72, Series of 2009) which includes funds for preventive maintenance of drainage and flood control facilities within DISTRICT; and

WHEREAS, DISTRICT's Board of Directors set forth policy regarding the maintenance of drainage and flood control facilities within DISTRICT and reviewed and authorized expenditures for the 2010 Maintenance Work Program (Resolution No. 73, Series of 2009); and

WHEREAS, DISTRICT's Board of Directors authorized the Executive Director to contract for those services necessary to implement the 2010 Maintenance Work Program (Resolution No. 73, Series of 2009); and

WHEREAS, DISTRICT's Board of Directors adopted a policy that sets forth DISTRICT policy regarding the maintenance of drainage and flood control facilities within DISTRICT (Resolution No. 41, Series of 1978); and

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

1. SCOPE OF THIS AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. SCOPE OF PROJECT

- A. Final Design. PROJECT shall include the final design of improvements in accordance with the recommendations defined in PLAN. Specifically, the final design of facilities shall extend from approximately 121st Avenue to 122nd Avenue, as shown on Exhibit A.
- B. Right-of-Way Delineation and Acquisition. Right-of-way for the improvements as set forth in the final design and an estimate of costs for acquisition shall be determined. Maps, parcel descriptions and parcel plats shall also be prepared.
- C. Construction. PROJECT shall include construction by DISTRICT of the drainage and flood control improvements as set forth in the final design and vegetation establishment.

3. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of DISTRICT and the property therein.

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:
 - 1. Final design services;
 - 2. Delineation, description and acquisition of required rights-of-way/easements;
 - 3. Construction of improvements;
 - 4. Contingencies mutually agreeable to PARTIES.
- B. It is understood that PROJECT costs as defined above are not to exceed \$360,000 without amendment to this Agreement.

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

<u>ITEM</u>	<u>AMOUNT</u>
1. Final Design	\$ 10,000
2. Right-of-way	-0-
3. Construction	340,000
4. Contingency	10,000
Grand Total	\$360,000

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

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

	<u>Percentage Share</u>	<u>Maximum Contribution</u>
DISTRICT	72.22%	\$260,000
CITY	27.78%	100,000
TOTAL	100.00%	\$360,000

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior Board approval.

Payment of each party's full share (CITY - \$100,000; DISTRICT - \$260,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special interest bearing account to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13). Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

6. FINAL DESIGN

The contracting officers for PARTIES, as defined under Paragraph 13 of this Agreement, shall select an engineer mutually agreeable to both PARTIES. DISTRICT shall contract with selected engineer and shall supervise and coordinate the final design including right-of-way delineation subject to approval of the contracting officer for CITY. Payment for final design services shall be made by DISTRICT as the work progresses from the PROJECT fund established as set forth above.

Final design services shall consist of, but not be limited to, the following:

- A. Preparation of a work plan schedule identifying the timing of major elements in the design;
- B. Delineation of required right-of-way/easements;
- C. Preparation of detailed construction plans and specifications;
- D. Preparation of an estimate of probable construction costs of the work covered by the plans and specifications;
- E. Preparation of an appropriate construction schedule.

DISTRICT shall provide any written work product by the engineer to CITY.

7. RIGHT-OF-WAY

CITY, with DISTRICT assistance, shall be responsible for acquiring, subject to approval of DISTRICT, such land or interests in land needed to implement construction of the drainage and flood control improvements as defined herein. The cost to be shared by PARTIES for right-of-way acquisition may include relocation costs of existing occupants. Appraisal costs and costs associated with condemnation (including outside legal costs) will also be considered a PROJECT cost. Right-of-way acquisition shall be in accordance with DISTRICT policy attached hereto as Exhibit B. Within Exhibit B, references to purchasing agency will be references to CITY. In reference to Paragraph 1.D and 2.D of Exhibit B, the Purchasing Agency shall pay the reasonable costs of the property owners appraisal only when the Purchasing Agency's appraisal of the Owner's property is \$5,000 or greater. DISTRICT shall serve as the paying agency.

- A. Coordination of Right-of-Way Acquisition. Cost sharing by PARTIES will be based on supporting documentation such as formal appraisals, reasonable relocation cost settlements, legal description of the property, and other information deemed appropriate to the acquisition. Furthermore, cost sharing will be only for the properties, or portions thereof, approved by PARTIES to be needed for the drainage and flood control portions of PROJECT. Request for such approval shall include appraisals of property, legal description of the property, and other information deemed appropriate to the acquisition by PARTIES to this Agreement. CITY shall purchase the right-of-way only after receiving prior approval of DISTRICT.
- B. Payment for Right-of-Way Acquisition. Following purchase or receipt of executed memorandum of agreement between CITY and property owner for the needed right-of-way that commits the property owner to sell property to CITY at a price certain and on a date certain, CITY shall so advise DISTRICT and request payment as provided above. DISTRICT shall make payment within 30 days of receipt of request accompanied by the information set forth above.
- C. Ownership of Property and Limitation of Use. CITY shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that will diminish or preclude its use for drainage and flood control purposes. CITY may not dispose of or change the use of the properties without approval of DISTRICT. If, in the future, CITY disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement; changes the use of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement; or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed pursuant to this Agreement; and CITY has not obtained the written approval of DISTRICT prior to such action, CITY shall take any and all action necessary to reverse said unauthorized activity and return the properties and improvements thereon, acquired and

constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at CITY's sole expense. In the event CITY breaches the terms and provisions of this Paragraph 7.C and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against CITY for specific performance of this portion of the Agreement.

DISTRICT may, subsequent to the recording by CITY of any document transferring title or another interest to property acquired pursuant to this Agreement to CITY, record a memorandum of this Agreement (Exhibit C), specifically a verbatim transcript of Paragraph 7.C. Ownership of Property and Limitation of Use except for this sub-paragraph which shall not be contained in the memorandum. The memorandum shall reference by legal description the property being acquired by CITY and shall be recorded in the records of the Clerk and Recorder of Adams County immediately following the recording of the document transferring title or another interest to CITY. CITY authorizes the recording of that memorandum and acknowledges that the same is meant to encumber the property with its restrictions.

8. MANAGEMENT OF CONSTRUCTION

A. Costs. Construction costs shall consist of those costs as incurred by the lowest acceptable bidder(s) including detour costs, licenses and permits, utility relocations, and construction related engineering services as defined in Paragraph 4 of this Agreement.

B. Construction Management and Payment

1. DISTRICT, with the assistance of CITY, shall administer and coordinate the construction-related work as provided herein.
2. DISTRICT, with assistance and approval of CITY, shall advertise for construction bids; conduct a bid opening; prepare construction contract documents; and award construction contract(s).
3. DISTRICT shall require the contractor to provide adequate liability insurance that includes CITY. The contractor shall be required to indemnify CITY. Copies of the insurance coverage shall be provided to CITY.
4. DISTRICT, with assistance of CITY, shall coordinate field surveying; staking; inspection; testing; acquisition of right-of-way; and engineering as required to construct PROJECT. DISTRICT, with assistance of CITY, shall assure that construction is performed in accordance with the construction contract documents including approved plans and specifications and shall accurately record the quantities and costs relative thereto. Copies of all inspection reports shall be furnished to CITY on a weekly basis. DISTRICT shall retain an engineer to perform all or a part of these duties.
5. DISTRICT, with approval of CITY, shall contract with and provide the services of the design engineer for basic engineering construction services to include addendum

preparation; survey control points; explanatory sketches; revisions of contract plans; shop drawing review; as-built plans; weekly inspection of work; and final inspection.

6. PARTIES shall have access to the site during construction at all times to observe the progress of work and conformance to construction contract documents including plans and specifications.
7. DISTRICT shall review and approve contractor billings and send them to CITY for approval. DISTRICT shall remit payment to contractor based on billings approved by PARTIES.
8. DISTRICT, with assistance and written concurrence by CITY, shall prepare and issue all written change or work orders to the contract documents.
9. PARTIES shall jointly conduct a final inspection and accept or reject the completed PROJECT in accordance with the contract documents.
10. DISTRICT shall provide CITY a set of reproducible "as-built" plans.

C. Construction Change Orders. In the event that it becomes necessary and advisable to change the scope or detail of the work to be performed under the contract(s), such changes shall be rejected or approved in writing by the contracting officers. No change orders shall be approved that increase the costs beyond the funds available in the PROJECT fund, including interest earned on those funds, unless and until the additional funds needed to pay for the added costs are committed by all PARTIES.

9. MAINTENANCE

PARTIES agree that CITY shall own and be responsible for maintenance of the completed and accepted PROJECT. PARTIES further agree that DISTRICT, at CITY's request, shall assist CITY with the maintenance of all facilities constructed or modified by virtue of this Agreement to the extent possible depending on availability of DISTRICT funds. Such maintenance assistance shall be limited to drainage and flood control features of PROJECT. Maintenance assistance may include activities such as keeping flow areas free and clear of debris and silt, keeping culverts free of debris and sediment, repairing drainage and flood control structures such as drop structures and energy dissipaters, and clean-up measures after periods of heavy runoff. The specific nature of the maintenance assistance shall be set forth in a memorandum of understanding from DISTRICT to CITY, upon acceptance of DISTRICT's annual Maintenance Work Program.

DISTRICT shall have right-of-access to right-of-way and storm drainage improvements at all times for observation of flood control facility conditions and for maintenance when funds are available.

10. FLOODPLAIN REGULATION

CITY agrees to regulate and control the floodplain of Tanglewood Creek within CITY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that CITY cannot obligate itself by contract to exercise its police powers. If CITY fails to regulate the floodplain of Tanglewood Creek within CITY in

the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and CITY shall cooperate fully.

11. TERM OF AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate three (3) years after the final payment is made to the construction contractor and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 5 herein, except for Paragraph 10. FLOODPLAIN REGULATION, Paragraph 7.C. Ownership of Property and Limitation of Use, and Paragraph 9. MAINTENANCE, which shall run in perpetuity.

12. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

13. CONTRACTING OFFICERS AND NOTICES

- A. The contracting officer for CITY shall be the City Manager, 4800 West 92nd Avenue, Westminster, Colorado 80031.
- B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- C. Any notices, demands or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to PARTIES at the addresses set forth above or at such other address as either party may hereafter or from time to time designate by written notice to the other party given when personally delivered or mailed, and shall be considered received in the earlier of either the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is mailed.
- D. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or CITY. Said representatives shall have the authority for all approvals, authorizations, notices or concurrences required under this Agreement or any amendments or addenda to this Agreement.

14. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments or modifications to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

15. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

16. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions regarding the transaction covered herein shall lie in District Court in and for the CITY of Denver, State of Colorado.

17. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

18. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

19. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

20. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) day's written notice by any of PARTIES, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon mutual agreement of all PARTIES and only upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions and subject to the maximum amount of each party's contribution as set forth herein.

21. EMPLOYMENT STATUS

This Agreement shall not change the employment status of any employees of PARTIES. No party shall have the right to control or direct the activities of any employees of another related to this Agreement.

22. PUBLIC RELATIONS

It shall be at CITY's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical and final design recommendations shall be presented to the public by the selected engineer. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist CITY as needed and appropriate.

23. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

24. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of CITY and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of CITY and/or DISTRICT.

25. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than any one of PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

26. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. et seq. The following language shall be included in any contract for public services: "The Consultant or Contractor shall not and by signing this Agreement certifies that it does not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant or Contractor shall not enter into a subcontract with a subcontractor that fails to certify to the Consultant or Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services. Consultant or Contractor affirms that they have verified through participation in the Colorado Employment Verification program established pursuant to 8-17.5-102 (5)(c) C.R.S. or the Electronic Employment Verification Program administered jointly by the United States Department of Homeland Security and the Social Security Administration that Consultant or Contractor does not employ illegal aliens. Consultant or Contractor is prohibited from using these procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed. In the event that the Consultant or Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant or Contractor shall be required to:

- A. Notify the subcontractor and PARTIES within three days that the Consultant or Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

- B. Terminate the subcontract with the subcontractor if within three days of receiving the notice required the Subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant or Contractor shall not terminate the contract with the Subcontractor if during such three days the Subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant or Contractor is required under this Agreement to comply with any reasonable request by the Colorado Department of Labor and Employment (DEPARTMENT) made in the course of an investigation the DEPARTMENT is undertaking pursuant to its legal authority.

Violation of this section of this Agreement shall constitute a breach of this Agreement and may result in termination by PARTIES. Consultant or Contractor shall be liable to PARTIES for actual and consequential damages to PARTIES resulting from such breach pursuant to §8-17.5-101(3) C.R.S. PARTIES shall also report any such breach to the Office of the Secretary of State.

Consultant or Contractor acknowledges that the DEPARTMENT may investigate whether Consultant or Contractor is complying with the provision of the Agreement. This may include on-site inspections and the review of documentation that proves the citizenship of any person performing work under this Agreement and any other reasonable steps necessary to determine compliance with the provisions of this section."

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

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

CITY OF WESTMINSTER

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED AS TO FORM:


City Attorney

AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
TANGLEWOOD CREEK CHANNEL AND POND IMPROVEMENTS

Agreement No. 10-10.14

Exhibit A



SAMPLE

**AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
TANGLEWOOD CREEK CHANNEL AND POND IMPROVEMENTS**

Agreement No. 10-10.14

Exhibit B

**REAL PROPERTY ACQUISITION POLICY
April 1982
(Amended March 1985)**

WHEREAS, DISTRICT participates in construction and maintenance projects and in floodplain preservation efforts wherein it is necessary to acquire by purchase or condemnation, title to, easements over, or right of entry to real property for flood control purposes; and

WHEREAS, in some cases local governments are the purchasing agency with DISTRICT participating in the cost of the acquisition, and in other cases DISTRICT is the purchasing agency; and

WHEREAS, when local governments are the purchasing agency it is desirable for DISTRICT to have guidelines that will serve as a basis for DISTRICT sharing in the cost of the acquisition; and

WHEREAS, when DISTRICT is the purchasing agency it is also desirable to have guidelines for the purchase or condemnation of real property by DISTRICT.

NOW THEREFORE, the following policy shall be used in the acquisition of real property when DISTRICT funds are involved:

1. LOCAL GOVERNMENT IS PURCHASING AGENCY

- A. DISTRICT shall participate to the extent set forth in an interagency agreement in the cost to acquire by purchase or condemnation, title to, easements over, or right of entry to real property needed for PROJECT. Such property shall be described by the use of boundary survey data and shall include only the parcels needed for the flood control project or flood control portions of PROJECT.
- B. The purchasing agency shall cause an appraisal to be made by an appraiser approved by DISTRICT of the real property subject to acquisition. The appraiser shall possess an MAI designation for acquisitions estimated to cost more than \$10,000.
- C. The property owner should be advised informally and as early as possible of the interest of the agency in acquisition of the property. Further informal discussions and negotiations as appropriate should be held prior to completion of the appraisal.
- D. Negotiations shall be continued with the owner(s) on the basis of the appraisal once it is completed. If the appraised price is unacceptable to the owner(s) the purchasing agency, in accordance with all applicable Colorado State laws, shall provide a formal notice of intent to acquire the property together with a description of the property to be acquired to anyone

having an interest of record in the property involved. Such owner(s) may employ one appraiser of their choosing to appraise the property to be acquired. Such appraisal shall be made using sound, fair, and recognized appraisal practices which are consistent with law. If a copy of the appraisal obtained by the property owner(s) is submitted to the purchasing agency within 90 days of the date formal notice was provided, the purchasing agency shall pay the reasonable costs of the appraisal.

- E. Assuming the second appraisal is based upon sound appraisal principles and data and is reasonable and valid, the purchasing agency shall negotiate a purchase, with the price of the land or property actually taken being the fair market value thereof. In no event shall the negotiated purchase price exceed the higher of the two appraisals. Factors such as the effect of time between the dates of the two appraisals, the basis for each appraisal, and ameliorating factors that can be handled during construction work (if any is to take place) shall be considered.
- F. In those cases where the property owner and the purchasing agency cannot agree on a price as set forth in Paragraph E above, DISTRICT will not share in any costs exceeding the higher appraisal assuming it is based on sound appraisal principles and data and is reasonable and valid. The purchasing agency may:
 - 1. Decide not to pursue the purchase, or
 - 2. Negotiate a price in excess of the higher appraisal and be responsible for all costs exceeding the higher appraisal, or
 - 3. Initiate and conduct eminent domain proceedings in any court having jurisdiction, under such statutes and in such manner as the purchasing agency deems necessary and proper to protect the interests of the purchasing agency and DISTRICT. All costs associated with the condemnation shall be shared by the purchasing agency and DISTRICT on the basis set forth in the interagency agreement.

If eminent domain proceedings are initiated and a settlement is negotiated prior to a court determination, the maximum settlement in which DISTRICT will participate is the higher appraisal, as long as it was based on sound appraisal principles and data and was considered reasonable and valid, plus costs incurred to date that would normally be the responsibility of a condemning agency. Such costs may include filing fees, expert witness fees, and non-expert witness fees.

2. DISTRICT IS PURCHASING AGENCY

The same policy and procedure as set forth above shall be the case except that DISTRICT is the purchasing agency. Specifically,

- A. When approved by the Board of Directors DISTRICT may acquire by purchase or condemnation, title to, easements over, or right of entry to real property needed for the approved flood control purpose. Such property shall be described by the use of a boundary survey.

- B. DISTRICT shall cause an appraisal to be made by an appraiser of the property subject to acquisition. The appraiser shall possess an MAI designation for acquisitions estimated to cost more than \$10,000. An appraisal is not necessarily required for acquisitions less than \$1,000 or for right of entry permits being sought for maintenance purposes. In most of these cases the right of entry permit is temporary in nature and involves little or no funds.
- C. The property owner should be advised informally and as early as possible of the interest of DISTRICT in acquisition of the property. Preliminary negotiations as appropriate should be held with the owner(s) before the appraisal is completed.
- D. Negotiations shall be continued with the owner(s) on the basis of the appraisal (except for right of entry and acquisitions less than \$1,000). If the appraisal price is unacceptable to owner, DISTRICT, in accordance with § 38-1-121, CRS 1973, shall provide a formal notice of intent to acquire the property together with a description of the property to be acquired to anyone having an interest of record in the property involved. Such owner(s) may employ an appraiser of their choosing to appraise the property to be acquired. Such appraisal shall be made using sound, fair, and recognized appraisal practices which are consistent with law. If a copy of the appraisal obtained by the property owner(s) is submitted to DISTRICT within 90 days of the date the formal notice was provided, DISTRICT shall pay the reasonable costs of the appraisal.
- E. Assuming the second appraisal is based on sound appraisal principles and data and is reasonable and valid, DISTRICT shall negotiate a purchase price between the two appraisals, with the price of the land or property actually taken being the fair market value thereof. Factors such as the effect of time between the dates of the two appraisals, the basis for each appraisal, and ameliorating factors that can be handled during construction work (if any is to take place) shall be considered.
- F. In those cases where the property owner and DISTRICT cannot agree on a price representing the fair market value somewhere between the two appraisals DISTRICT may:
1. Decide not to pursue the purchase, or
 2. Initiate and conduct eminent domain proceedings in any court having jurisdiction, under such statutes and in such manner as DISTRICT deems necessary and proper to protect the interests of DISTRICT.
- If eminent domain proceedings are initiated and a settlement is negotiated prior to a court determination, the settlement shall not exceed the total of the highest appraisal, assuming it is based on sound appraisal principles and data and is reasonable and valid, plus costs incurred to date that would normally be the responsibility of a condemning agency. Such costs might include filing fees, expert witness fees, and non-expert witness fees.

SAMPLE
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
TANGLEWOOD CREEK CHANNEL AND POND IMPROVEMENTS

Agreement No. 10-10.14

Exhibit C

MEMORANDUM

This MEMORANDUM is entered into this _____ day of _____, 20__ by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, a quasi-governmental entity, whose address is 2480 West 26th Avenue, Suite 156-B, Denver, Colorado 80211 (hereinafter called "DISTRICT") and _____, a governmental entity, whose address is _____ (hereinafter called "CITY") and collectively known as "PARTIES";

WHEREAS, PARTIES entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for _____," Agreement No. _____ on or about _____, 20__, (hereinafter called "AGREEMENT"); and

WHEREAS, AGREEMENT is unrecorded, however PARTIES have agreed in AGREEMENT to record this MEMORANDUM in the records of the Clerk and Recorder of _____, State of Colorado, in order to put all who inquire on notice of AGREEMENT and in particular Paragraph 7.C of AGREEMENT; and

WHEREAS, in AGREEMENT, PARTIES agreed to participate equally (up to a maximum of \$ _____ each) in the cost of the construction of drainage and flood control improvements for _____ within CITY boundaries which include _____ (hereinafter called "PROJECT"); and

WHEREAS, construction of PROJECT may require the acquisition by CITY of real property; and

WHEREAS, AGREEMENT further provides that CITY will own all real property required to construct the improvements and that CITY ownership of that real property shall be subject to the terms and conditions of AGREEMENT and in particular Paragraph 7.C of AGREEMENT; and

WHEREAS, Paragraph 7.C of AGREEMENT provides in appropriate part as follows:

"7.C. Ownership of Property and Limitation of Use. CITY shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that will diminish or preclude its use for drainage and flood control purposes. CITY may not dispose of or

change the use of the properties without approval of DISTRICT. If, in the future, CITY disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement, changes the use of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement, or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed pursuant to this Agreement, and CITY has not obtained the written approval of DISTRICT, prior to such action, CITY shall take any and all action necessary to reverse said unauthorized activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at CITY's sole expense. In the event CITY breaches the terms and provisions of this Paragraph 7.C and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against CITY for specific performance of this portion of the Agreement."; and

WHEREAS, CITY has just acquired the real property described in Exhibit Z attached hereto and incorporated herein by reference, as if set forth verbatim herein, pursuant to the terms and conditions of AGREEMENT for the construction of PROJECT; and

WHEREAS, PARTIES intend that the terms and provisions of AGREEMENT, including but not limited to Paragraph 7.C of AGREEMENT set forth verbatim above, shall apply to and control the real property described in Exhibit Z.

IT HAS BEEN AGREED previously in AGREEMENT by and between PARTIES that the terms and provisions of AGREEMENT, including but not limited to Paragraph 7.C of AGREEMENT set forth verbatim above shall apply to and control the real property described in Exhibit Z, now owned by CITY and that this MEMORANDUM be placed of record for the purposes of encumbering the real property described in Exhibit Z with the limitations and restrictions set forth in this MEMORANDUM.

This MEMORANDUM is not a complete summary of AGREEMENT. Provisions in this MEMORANDUM shall not be used in interpreting AGREEMENT's provision. In the event of conflict between this MEMORANDUM and the unrecorded AGREEMENT, the unrecorded AGREEMENT shall control.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

STATE OF COLORADO)

) ss.

CITY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20__, by

_____.

WITNESS my hand and official seal.

(SEAL)

Notary Public

My Commission Expires _____.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: 2010 Illuminated Street Name Sign Project

Prepared By: Greg Olson, Transportation Systems Coordinator

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder, Interface Communications Company, in the amount of \$81,055 for the installation of illuminated street name signs at various traffic signal locations on 120th Avenue, Federal Boulevard and Huron Street.

Summary Statement

- The proposed contract to be awarded includes the installation of illuminated street name signs on traffic signal mast arms using energy efficient LED lamps.
- Formal bids for the sign installation contract were opened on November 11. Bid prices include all the materials and labor to complete the project.
- Interface Communications Company offered the low bid in the amount of \$81,055.

Expenditure Required: \$81,055

Source of Funds: General Capital Improvement Fund - Community Enhancement Project

Policy Issue

Should the City Council approve the installation of certain illuminated street name signs at a cost of \$81,055?

Alternative

Do not approve the proposed project. This alternative is not recommended as illuminated street name signs are a highly desirable method of assisting motorists in their travels through the City. This project was specifically identified in the Community Enhancement Master Plan adopted by City Council in 2006.

Background Information

The purpose of the illuminated street name sign program is to enhance the appearance of the City’s signalized intersections and to provide easy-to-read signs at night to assist the public. The City first began installing illuminated street name signs in 1998 when 35 traffic signal intersections received the fixtures. Since then, new traffic signal installations periodically approved by Council and installed under the New Traffic Signals Capital Improvement Project typically include the illuminated signs as part of the scope of each of those projects. A total of 70 intersections now feature the illuminated signs. This currently proposed project would add illuminated signs at the intersections of: 120th Avenue/Sheridan Boulevard, 120th Avenue/Federal Boulevard, 112th Avenue/Federal Boulevard, 121st Avenue/Huron Street and 125th Avenue/Huron Street. For the first time these sign fixtures will be illuminated with LED lamps that will reduce energy consumption and maintenance costs. City Staff has tested the new LED lamps in existing sign fixtures and found them to meet our criteria for brightness.

City Staff has solicited bids for the installation of the illuminated street name signs. The scope of work includes the labor and material costs for installing the signs on traffic signal mast arms. Four bidders were solicited, and the following three bids were received:

Contractor	Amount of Bid
Interface Communications Company	\$81,055
W. L. Contractors, Inc.	\$84,695
Sturgeon Electric, Inc.	\$97,480

Interface Communications Company, the low bidder, has constructed traffic signal installations throughout the region for the past ten years and is well qualified to perform this work.

The following table indicates Staff’s anticipated schedule for completing the installation of the illuminated street name signs:

Date	Item
December 13 th	City Council awards the construction contract
December 30 th	Issue Notice to Proceed to the contractor
April 30 th , 2011	Completion of the project

This authorization for illuminated street name signs meets Council's Strategic Plan goals of Financially Sustainable City Government and an Environmentally Sensitive City by providing a well-maintained City infrastructure and ensuring utilization of energy efficient devices whenever possible.

Respectfully submitted,

J. Brent McFall
City Manager



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Landscape Maintenance Services Contract Award

Prepared By: Richard Dahl, Park Services Manager
Marty Chase, Parks Contract Maintenance Specialist

Recommended City Council Action

Authorize the City Manager to execute a one-year contract with the option to renew for up to two additional years for the City’s Landscape Maintenance Services contract to the low bidder, CoCal Landscape Services, Inc, in the amount of \$283,598 for the first year and authorize up to \$127,619 for the first year for irrigation repairs and related repairs as required in the specifications of the contract.

Summary Statement

- The landscape maintenance services contract was bid through the City’s purchasing agent using the established competitive bid process. Under the terms of this contract, repairs to irrigation, vandalism, and other associated items and/or added maintenance areas are on a time and materials cost basis above and beyond the base bid. These costs will be limited to a maximum of 45% of the base bid and will not exceed the funds budgeted for these services. The length of this contract is for three years (2011-2013).
- Funds are available in the 2011 General Fund Parks, Recreation and Libraries Department operating budget, the Storm Drainage Fund, Amherst GID Fund, Sheridan Crossing GID Fund and the Capital Improvement Projects Community Enhancement Fund for the maintenance of City-owned drainageways, streetscapes, and roadways.
- With increasing maintenance responsibilities and reduced full-time employees, Staff has found it more cost effective to use contractors to maintain non-park areas rather than City personnel.
- For the past nineteen years, the Parks, Recreation and Libraries Department has contracted maintenance on an average of 320 sites per year.
- The low bidder, CoCal Landscape Services, Inc, has successfully completed similar contracts in Westminster and the Denver Metro Area.
- Staff believes this is a competitive bid from a qualified contractor and adequate funds were budgeted and are available for this expense.

Expenditure Required: \$411,217

Source of Funds: General Fund - Parks, Recreation and Libraries Operating Budget
Storm Drainage Fund – Parks, Recreation and Libraries Operating Budget
General Capital Improvement Fund - Community Enhancement Project
Amherst GID Fund, Sheridan Crossing GID Fund

Policy Issue

Does the City wish to continue the use of outside contractors to perform specific landscape maintenance operations instead of using in-house Staff, supplies and equipment?

Alternatives

1. Do not approve the Landscape Maintenance Services Contract and rely on City Staff to take over the maintenance of the properties. Staff does not recommend this alternative because the cost of purchasing the specialized maintenance equipment along with the needed manpower would exceed the cost of the current low bidders.
2. Take no action. Due to the limited time frame involved for starting 2011 maintenance, Staff does not recommend this option if service levels are to be maintained.
3. Require Staff to re-bid the Landscape Maintenance Services to ensure the lowest possible price is achieved. Staff does not recommend this alternative because all the companies capable of handling the size of Westminster’s contracts have already been given an opportunity to bid on these projects.

Background Information

Beginning in 1985, the City was divided into four Park Services maintenance districts, with 92nd Avenue and Sheridan Boulevard being the dividing lines. In the beginning, this system worked well and allowed Staff to devote enough time to maintain the City’s parks and public facilities within each district. However, with the addition of new park sites, public facilities and streetscapes over the years, it became evident that new methods of utilizing available resources were needed. In light of this, Park Services employees proposed, researched, and collected information for the use of contract maintenance as a viable alternative to maintain drainage ways and streetscapes throughout the City.

Using contractors to mow, irrigate, and clean areas such as drainageways, streetscapes, and roadsides allows Staff time to properly maintain new and existing parks to standards expected by Westminster residents as expressed in the City of Westminster’s Citizen Survey. For the past fifteen years, with some exceptions, the use of private contractors to maintain these areas has been an effective use of resources and City Council has been supportive in providing funding for contract maintenance. This private contractual approach has worked very well by allowing City crews to concentrate on services they can perform more efficiently and at a greater level of detail. A multi-year contract (three years) allows the contractor to amortize equipment required to maintain the areas, to build a working relationship with Staff, and results in more favorable bidding options. This contract has the option, in the renewal years, to be renegotiated, but no higher than the current year CPI-U Denver Boulder increase.

In compliance with City Charter bidding requirements and with the assistance of the City’s Purchasing Agent and the City Attorney’s Office the following bids were received:

Company	Bid
* CoCal Landscape Services	\$283,598.00
Valley Crest Landscaping	\$474,406.00
Greenland Landscape services	\$518,819.00
Schultz Industries	\$564,325.00
Vargas Property Services	\$605,887.67
Custom Landscape of Colorado	\$ No Bid
Environmental Designs	\$ No Bid
Brickman	\$ No Bid
Coloco	\$ No Bid
T2 Construction	\$ No Bid

* The contract with CoCal Landscape Services was negotiated to \$283,598 to include year-round maintenance services not reflected in their bid.

CoCal Landscape Services has performed similar maintenance duties for the City of Superior (16 years), the City of Fort Collins (2 years), and the City of Longmont (4 years). All references indicated that CoCal's performance was satisfactory. CoCal's original bid submission was for \$197,000. This bid was low because CoCal bid for summer services only. Parks, Recreation and Libraries Staff along with the City's Purchasing Agent and the City Attorney's Office decided to let CoCal submit a bid that included winter maintenance. Winter maintenance includes weeding, litter and debris removal, pruning, plant replacement, mulching, soil moisture monitoring, shrub and tree watering, and any additional services. The negotiated total is \$283,598 and this bid amount meets the maintenance requirements of the contract. Repairs and additional services are limited to a maximum of \$127,619.

This project meets City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services," "Vibrant Neighborhoods and Commercial Areas" and of "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 J

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: 2011 Asphalt Pavement Crackseal Project Contract

Prepared By: Rob Dinnel, Street Project Specialist
Dave Cantu, Street Operations Manager

Recommended City Council Action

Authorize the City Manager to execute a contract for the 2011 Asphalt Pavement Crackseal Project with the low bidder, A-1 Chipseal Company, in the amount of \$114,625 and authorize a contingency of \$10,375 for a total project budget of \$125,000.

Summary Statement

- City Council approved adequate funds for this expense in the 2011 Department of Public Works and Utilities, Street Operations Division operating budget.
- Formal bids were solicited in accordance with City bidding requirements for the 2011 Asphalt Pavement Crackseal Project. Requests for bids were sent to the seven contractors in the metropolitan area who do this type of pavement preventative maintenance treatment with four responding.
- The low bidder, A-1 Chipseal Company meets all of the City bid requirements and has successfully performed this process in the City of Westminster, as well as the Denver Metro area the past nine years.
- Twenty-four streets, totaling 79 lane miles, will receive the crackseal preventative maintenance treatment. These streets are identified for roadway surface improvements in 2011 and 2012 (see attached list and map).
- Contracting this work early in the year allows the material to fully cure before resurfacing, and will reduce asphalt preparation work for the Street Division crews.

Expenditure Required: \$125,000

Source of Funds: General Fund – Public Works and Utilities 2011 Street Operations Operating Budget

Policy Issue

Should this bid for 2011 Asphalt Pavement Cracksealing be awarded to the low bidder, A-1 Chipseal Company?

Alternatives

One alternative is to discontinue the practice of cracksealing these streets prior to resurfacing. Water would be allowed to penetrate the pavement’s subgrade and reduce the life expectancy of the resurfacing projects by 50%. Staff does not recommend elimination of cracksealing prior to resurfacing applications.

A second alternative is to crackseal these streets with in-house crews. Staff does not recommend this alternative. City crews would fall behind with scheduled pavement preservation; and the combined use of contract/in-house labor for this service has proven to optimize the division’s annual maintenance expenditures.

Background Information

The low bidder, A-1 Chipseal Company, meets all of the City bid requirements and has successfully completed this process for the City of Westminster, as well as cities in the Denver Metro area for the past nine years.

The 2011 Asphalt Pavement Crackseal Project represents a total of 79 lane miles of asphalt pavement preventative maintenance at 24 street locations (see location list). This contractual cracksealing on streets earmarked for 2011 and 2012 improvements, allows Street Division crews to concentrate their pavement preservation maintenance efforts on roadways where major improvements or reconstruction will not be scheduled for several years.

The following sealed bids were received:

A-1 Chipseal Company	\$114,625
Coatings, Inc.	\$120,500
Precise Striping, LLC	\$124,375
Foothills Paving & Maintenance, Inc	\$212,500
Staff Estimate	\$125,000

The 2011 low bid crackseal application price of \$0.917 per pound is a decrease of 1% below the 2010 price for cracksealing performed in early 2011. This decrease is attributed to a favorable bidding climate.

This contract helps 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, safe citizen travel throughout the city, and maintain and improve neighborhood infrastructure and housing.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments: Project Map
Street Crackseal List

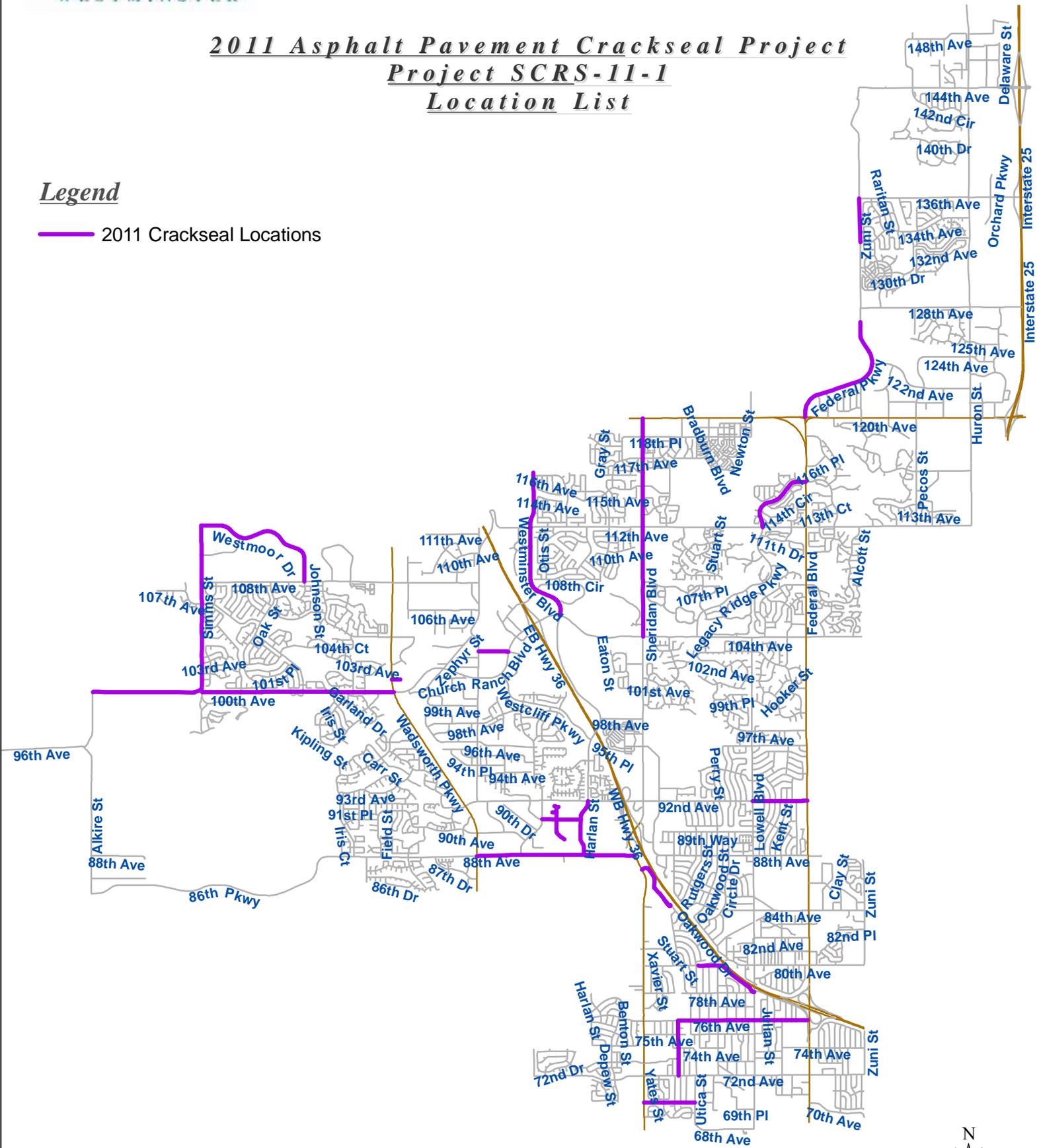


WESTMINSTER

2011 Asphalt Pavement Crackseal Project Project SCRS-11-1 Location List

Legend

 2011 Crackseal Locations



**City of Westminster
 Department of Public Works & Utilities
 Street Operations Division
 Street Crackseal List
 2011 ASPHALT PAVEMENT CRACKSEAL PROJECT #SCRS-11-1**

Location	From:	To:
1. Turnpike Dr.	80 th Ave	Lowell Blvd.
2. Harlan St	88 th Ave	92 nd Ave
3. 91 st Ave	Harlan St	Pierce St
4. Marshall Ct	91 st Ave	South End
5. Marshall Pl	91 st Ave	North End
6. Marshall Pl	9164 Marshall Pl	9148 Marshall Pl (cul-de-sac)
7. Marshall Pl	9180 Marshall Pl	9168 Marshall Pl (cul-de-sac)
8. 88 th Ave	Sheridan Blvd	Wadsworth Parkway
9. Westminster Blvd	104 th Ave	116 th Ave
10. 100 th Ave	Wadsworth Parkway	Simms St
11. 70 th Ave	Sheridan Blvd	Utica St
12. Winona Ct	72 nd Ave	76 th Ave
13. 76 th Ave	Turnpike Dr.	Railroad Crossing
14. 92 nd Ave	Federal Blvd	Lowell Blvd
15. Turnpike Dr.	Sheridan Blvd	South End
16. 103 rd Ave	Church Ranch Way	Wadsworth Blvd
17. 101 st Ave	Wadsworth Parkway	East End
18. Simms St	100 th Ave	North City Limits
19. 100 th Ave	Simms St	Alkire St
20. Westmoor Dr.	108 th Ave	Simms St
21. Sheridan Blvd	104 th Ave	120 th Ave
22. Stratford Lakes Dr.	112 th Ave	Federal Blvd
23. Federal Parkway	120 th Ave	Willow Run Parkway
24. Zuni St	East half of roadway from 526' south of 132 nd Ave	1,235' south of 136 th Ave



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Critical Sewer and Waterline Repairs Project

Prepared By: Stephanie Bleiker, Senior Engineer, Utilities Planning and Engineering
Steve Grooters, Senior Projects Engineer, Utilities Planning and Engineering

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder Northern Colorado Constructors, Inc. in the amount of \$493,449 for construction of improvements to the City wastewater collection and potable water distribution systems with a fifteen percent (15%) construction contingency in the amount of \$74,017, for a total construction budget of \$567,466.

Summary Statement

- This project includes construction of both sewer and waterline repairs that have been identified as critical to the operation of the City’s collection and distribution systems.
- The project involves construction at four independent sites and involves repair to damaged or degraded pipes and valves. The project also includes relocating a submerged sewer segment away from a golf course irrigation pond.
- Because these projects are similar in nature, Staff combined them into one construction bid to reduce contract administration costs and to take advantage of the contractor’s skill set for this type of work.
- The City solicited bids for the project from seven qualified contractors and received six qualified bids on November 17, 2010. Northern Colorado Constructors, Inc. presented the lowest qualified bid in the amount of \$493,449.
- Normally a ten percent contingency is requested for water and sewer pipeline work; however, Staff recommends a fifteen percent contingency for this project due to the complexity of the construction, depth of sewer repairs, high-traffic construction areas, winter weather complications and numerous existing utilities and structures in close proximity to the required construction work.

Expenditure Required: \$567,466

Source of Funds: Utility Fund Capital Improvement - Critical Sewer Repairs
- Federal Boulevard and Wandering View Project

Policy Issue

Should the City execute a contract with the low bidder Northern Colorado Constructors, Inc. for the repair of sewer and water infrastructure?

Alternatives

City Council could choose to construct the Critical Sewer and Waterline Repairs Project at a later date; however, this would extend the City's risks associated with these critical areas of the Utility water and sewer systems. Repairs are needed now to prevent a system failure.

City Council could also choose to award the contract to another bidder; however, this would increase the project cost since the low bidder is responsible and qualified to perform this work.

Staff does not recommend either of these alternatives.

Background Information

Utility operations and engineering staff routinely monitor the condition of City water and sewer systems. Such monitoring is necessary to identify improvements needed to maintain high-quality service and minimize the risk of system failures. As part of these ongoing evaluations, staff identified the following four critical areas of the utility system that are in need of repair:

1) West 105th Avenue & Moore Street near Witt Elementary School – Sewer work at this site is necessary to repair severely damaged pipe and a manhole. This project and its timing are scheduled to limit impact to the adjacent school with construction scheduled during Spring Break, the week of March 28, 2011. Open space trails that are immediately adjacent to bypass pumping lines will be temporarily closed to protect the public.

2) Ranch Golf Course – Sewer work in this area is necessary to replace degraded sewer piping and reduce the risk of infiltration and/or environmental spills by relocating a currently submerged sewer segment away from the golf course irrigation pond. In coordination with the golf course superintendent, construction is scheduled to be substantially complete by the end of March 2011.

3) West 104th Avenue & Sheridan Boulevard – Water piping work is necessary at this site to replace a critical valve currently broken and frozen in a partially closed position. Because the broken valve is located near the middle of the roadway intersection, construction will impact traffic in all directions and timely completion of the repair is essential. To limit impacts to the City, the project incorporates around the clock work once construction in the intersection commences. Construction will begin after the new year and is estimated to require two to three days. The work is scheduled for this winter, outside of the high water demand season. Due to winter conditions, a temporary pavement patch will be placed in the intersection with permanent pavement placed in spring or early summer, as weather permits.

4) Wandering View Tank Site - Water piping work is necessary at this site, near West 104th Avenue and Hooker Street, to replace various segments of a 38-year old large-diameter pipe segment in poor condition. The work is scheduled this winter, outside of the high water demand season.

Staff combined these four projects into one construction bid to apply a single contractor's skill set to a group of similar projects, as well as to reduce contract administration and mobilization costs. Combining these projects will ultimately result in cost-saving efficiencies for the City.

Staff solicited bids from seven contractors and received six qualified bids on November 17, 2010. Northern Colorado Constructors, Inc. was the successful low bidder, with a bid approximately 9 percent below the engineering estimate. They have successfully performed similar work for the City in the past, and their bid was responsive and reasonable. For these reasons, Staff recommends executing a construction contract with Northern Colorado Constructors. Construction will commence following award of the contract with completion by May 31, 2011.

The following is a summary of the bids received:

<u>Contractor</u>	<u>Base Bid Amount</u>
Northern Colorado Constructors	\$493,449
BT Construction, Inc.	\$547,895
T. Lowell	\$582,000
American West	\$627,021
Brannon Construction	\$628,000
J-2 Contracting Company	\$724,227
Velocity Constructors	No Bid Received
Engineering Estimate	\$538,670

Normally a ten percent contingency is requested for water and sewer pipeline work; however, Staff recommends a fifteen percent contingency for this project because the project involves: 1) Relatively complex construction with sewers more than 20 feet deep, 2) Construction along high-traffic streets and directly within the intersection of West 104th Avenue & Sheridan Boulevard , 3) Construction that is complicated by winter weather and potential weather delays, and 4) Construction at multiple sites throughout the City with numerous existing buried utilities and structures in close proximity to the required construction work.

The requested expenditure for these projects is the low bid amount of \$493,449 combined with a fifteen percent contingency of \$74,017 for a total request of \$567,466. Sufficient monies are available in the Critical Sewer Repairs and Federal Boulevard and Wandering View Project capital accounts to fund these projects.

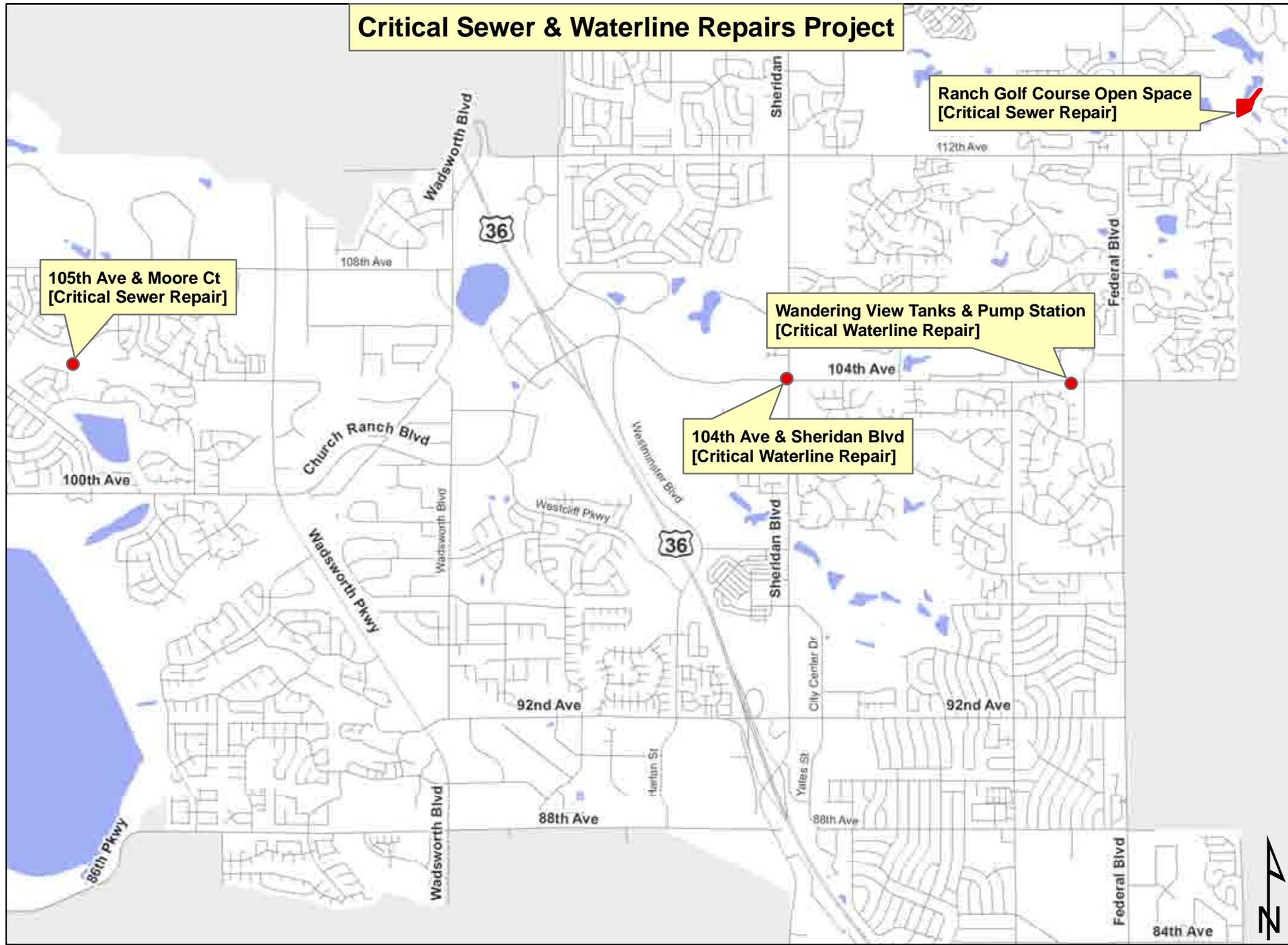
The completion of the Critical Sewer and Waterline Repairs Project will assist the City in meeting City Council's Strategic Plan goals of providing a "Safe and Secure Community" and "Vibrant Neighborhoods and Commercial Areas." With the repairs made to the sewer collection and potable water distribution systems, residents will receive more reliable water and sewer services with reduced risk of system failures.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Project Site Map

Critical Sewer & Waterline Repairs Project



105th Ave & Moore Ct
[Critical Sewer Repair]

Ranch Golf Course Open Space
[Critical Sewer Repair]

Wandering View Tanks & Pump Station
[Critical Waterline Repair]

104th Ave & Sheridan Blvd
[Critical Waterline Repair]





SUBJECT: Oracle Annual Service Contract for the JD Edwards system

Prepared By: Cherie Sanchez, Accounting Manager

Recommended City Council Action

Based on a recommendation of the City Manager, City Council finds the public interest will best be served by authorizing the City Manager to waive the City’s bidding requirements and execute a sole source agreement with Oracle for annual maintenance on the JD Edwards (JDE) system for a period of one year (2011) with an option to renew for four additional years subject to annual appropriation and ratify all previous maintenance contracts with Oracle and/or their predecessor companies.

Summary Statement

On February 28, 2000, City Council authorized a contract with JDE for the purchase of software, installation services and a discounted 2 year maintenance agreement for the JD Edwards integrated financial management system.

Staff had negotiated a fixed price maintenance agreement with JD Edwards that states that maintenance fees shall be charged based on seventeen percent (17%) of net software license fees, per a contract addendum dated April 14, 2000. Staff had been using the approval of the original contract with JDE as the authorization to enter into the annual maintenance contract. After further research, staff believes that the initial motion only approved the maintenance contract for two years. Therefore staff is requesting ratification of prior years’ contracts.

The cost of the annual service contract totals \$91,630 per year, based on original software license fees totaling \$539,000. Since 2000, the City has contracted for service and upgrades with the then owner of the JDE software which included JD Edwards, PeopleSoft and now Oracle. Through these corporate transitions, the City’s service contract provisions have been preserved.

While other vendors provide on-going maintenance, Oracle is the only vendor that provides technological updates and upgrades for JDE. Oracle also has the level of expertise needed to support the City’s financial management system.

Sufficient funds have been budgeted through 2012 to pay for the annual service contract. Funding of additional fiscal year contracts would be contingent upon annual appropriation.

Expenditure Required: \$91, 630 per year

Source of Funds: General Fund Operating Budget – Finance - \$45,815
General Fund Operating Budget – General Services - \$45,815

Policy Issue

Should City Council enter into a sole source contract with Oracle for the annual maintenance of the JD Edwards software and ratify past service contract expenditures?

Alternative

- 1) Require a formal bid process for the maintenance of the JD Edwards system. This is not recommended. While it may be possible that the City could contract with a lower cost vendor for the maintenance of the system, the City would not receive the updates and upgrades for the system that are provided solely through Oracle. The system would become a static system.
- 2) Do not have an annual maintenance contract on the JD Edwards system. This is not recommended as operating without a service contract is risky and would eliminate the City's access to technological upgrades provided solely through Oracle. Consequently, JDE would become a static system. A dynamic system is needed to keep up with the ever changing government reporting environment, and is essential to the optimal operation of the financial management system and integrity of the City's critical financial data.

Background Information

For the past 10 years, JDE has been the integrated Human Resource, Payroll and Financial Management system of the City. JDE was selected in 2000 based on its functional capabilities, lower cost of ownership and stronger technical and business partner fit, as compared to other systems that were evaluated by an internal steering committee.

The original agenda memorandum approved by City Council on February 28, 2000, provided for the purchase of the software, installation services and a two-year discounted maintenance contract on the system. The annual service contract provides for the continuity of system support and upgrades. At the time, Staff was able to negotiate a fixed price maintenance agreement that includes all updates and upgrades.

The software license services and maintenance agreement states that maintenance fees shall be charged based on seventeen percent (17%) of net software license fees, per a contract addendum dated April 14, 2000. The annual service contract costs \$91,630 per year, based on original software license fees totaling \$539,000. This is a very good deal for the City as the maintenance fees, (which can increase at double digit rates) have remained the same for the past 10 years and will continue to remain the same.

Since 2000, the City has contracted for service and upgrades with the then owner of the JDE software which included JD Edwards, PeopleSoft and now Oracle. The contract renewals were based on the original approval of the contract. Through these corporate transitions, the City's service contract provisions have been preserved. Oracle is the sole source vendor for providing technological updates and upgrades for JDE. They also have the level of expertise needed to support the City's financial management system.

Staff recommends City Council waive the bidding requirement for the JD Edwards annual service contract based on Oracle being the sole source provider of technological upgrades for the JD Edwards Financial Management System and authorize annual service contracts for support and maintenance at a fixed cost of \$91,360 for a period of one year (2011) with the option to renew for four additional years subject to annual appropriation. Finally, Staff recommends that City Council ratify all prior service contract expenditures incurred since the initial authorization of the two year contract in 2000 to bring purchasing authorizations up to date.

These recommendations support the City's goal of Financially Sustainable City Government Providing Exceptional Services.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Second Reading of Councillor’s Bill No. 60 re 2010 3rd Quarter Budget Supplemental Appropriation

Prepared By: Gary Newcomb, Accountant

Recommended City Council Action

Pass Councillor’s Bill No. 60 on second reading providing for supplemental appropriation of funds to the 2010 budget of the General, Utility, and General Capital Improvement Funds.

Summary Statement

- City Council action is requested to adopt the attached Councillor’s Bill on Second reading authorizing a supplemental appropriation to the 2010 budget of the General, Utility, and General Capital Improvement Funds.
 - General Fund amendments total: \$145,049
 - Utility Fund amendments total: 38,130
 - General Capital Improvement Fund amendments total: 147,971
- This Councillor’s Bill was passed on first reading November 22, 2010.

Expenditure Required: \$331,150

Source of Funds: The funding sources for these budgetary adjustments include scholarships, program revenues, grants, reimbursements, cash-in-lieu, and interest earnings.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Councillor’s Bill No. 60

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **60**

SERIES OF 2010

INTRODUCED BY COUNCILLORS
MAJOR - KAISER

A BILL

**FOR AN ORDINANCE AMENDING THE 2010 BUDGETS OF THE GENERAL, UTILITY AND
GENERAL CAPITAL IMPROVEMENT FUNDS 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, Utility, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3432 are hereby increased in aggregate by \$331,150. This appropriation is due to the receipt of funds from scholarships, program revenues, grants, reimbursements, cash-in-lieu, and interest earnings.

Section 2. The \$331,150 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 B dated November 22, 2010 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$145,049
Utility Fund	38,130
General Capital Improvement Fund	<u>147,971</u>
Total	<u>\$331,150</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

ATTEST:

Mayor

City Clerk



Agenda Item 8 N

WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Second Reading of Councillor's Bill No. 61 re 2010 Refunding Certificates of Participation Budget Appropriation

Prepared By: Rachel Price, Financial Analyst

Recommended City Council Action

Adopt Councillor's Bill No. 61 on second reading providing for supplementary appropriations from the 2010 Refunding Certificates of Participation to the 2010 budget of the General Fund.

Summary Statement

- On October 11, 2010, Council authorized full refunding of the Certificates of Participation (COPs), Series 1998 (Ice Centre Project). The Refunding COPs, Series 2010, were issued on November 2, 2010.
- These funding sources need to be appropriated to properly reflect the refunding transaction on the City's books.
- The proposed ordinance was passed on first reading on November 22, 2010.

Expenditure Required: \$9,041,444 – Refunding Certificates of Participation, Series 2010

Source of Funds: Certificates of Participation proceeds

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Councillor's Bill No. 61

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **61**

SERIES OF 2010

INTRODUCED BY COUNCILLORS
LINDSEY - KAISER

A BILL

**FOR AN ORDINANCE AMENDING THE 2010 BUDGETS OF THE GENERAL FUND AND
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2010 ESTIMATED
REVENUES IN THE FUND**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2010 appropriation for the General Fund, initially appropriated by Ordinance No. 3432 is hereby increased in aggregate by \$9,041,444. This appropriation is due to the receipt of lease proceeds.

Section 2. The \$9,041,444 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 C dated November 22, 2010 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	<u>\$9,041,444</u>
Total	<u>\$9,041,444</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

ATTEST:

Mayor

City Clerk



Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Councillor's Bill No. 62 re Proposed Economic Development Agreement with LGS Innovations

Prepared By: Becky Nelson, Economic Development Specialist

Recommended City Council Action

Pass Councillor's Bill No. 62 on second reading authorizing the City Manager to execute and implement an Economic Development Agreement with LGS Innovations.

Summary Statement

- This Councillor's Bill was passed on first reading on November 22, 2010.
- LGS Innovations is an independent and wholly-owned subsidiary of Alcatel-Lucent and supports the U.S. Federal Government IT and telecommunications community.
- LGS is headquartered in Herndon, VA with offices in Colorado, Illinois, Maryland, New Jersey, and North Carolina.
- LGS needs to relocate from its current Westminster location and has viewed sites in Longmont, Thornton, Westminster, and Aurora.
- After much negotiating, the company plans to lease approximately 120,000 square feet of office space in Building 9 located at 11300 Westmoor Circle in Westmoor Technology Park.
- The company currently employs 230 R&D and engineering employees at the Westminster location, and expects to grow employment to 285 by 2014.
- The average annual wage is \$90,000.
- Assistance is based on the City's desire to retain one of the City's major employers in Westminster's key industry sector. The Economic Development Agreement (EDA) totals \$116,600, which includes \$34,100 in permit fee rebates, \$75,000 in construction use tax rebates, and \$7,500 in sales/use tax on equipment & furnishings. All of the assistance will be paid for from revenues generated by this business.
- Should LGS innovations decide to move out of Westminster within 5 years of the approval of this EDA, the assistance would have to be reimbursed to the City by the company.

Expenditure Required: Not to exceed \$116,600 (Rebates)

Source of Funds: The EDA with LGS Innovations will be funded through revenue received from permit fees, construction use tax, and sales/use tax on furniture, fixtures, and equipment.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments
Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **62**

SERIES OF 2010

INTRODUCED BY COUNCILLORS
MAJOR - LINDSEY

**A BILL
FOR AN ORDINANCE AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT
WITH LGS INNOVATIONS**

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

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for high quality development to locate in the City; and

WHEREAS, LGS Innovations plans to occupy 120,000 square feet in Westmoor Technology Park in Westminster; and

WHEREAS, a proposed Economic Development Agreement between the City and LGS Innovations is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with LGS Innovations in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Exhibit "A"

ECONOMIC DEVELOPMENT AGREEMENT

**FOR
LGS INNOVATIONS**

THIS ECONOMIC DEVELOPMENT AGREEMENT is made and entered into this _____ day of _____, 2010, between the CITY OF WESTMINSTER (the "City"), and LGS INNOVATIONS, a Virginia corporation ("LGS").

WHEREAS, the City wishes to provide assistance to LGS to aid in the relocation and expansion of this company in the City; and

WHEREAS, LGS plans to furnish and occupy 120,000 square feet of office space in Westmoor Technology Park, thus continuing to provide primary job growth within the City; and

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

In consideration of the mutual promises set forth below, the City and LGS agree to the following:

1. Building Permit Fee Rebates. The City shall rebate to LGS Innovations 50% of the building permit fees, that are otherwise required under W.M.C. Section 11-10-3 (E) for the remodeling and tenant finish in Building 9 of Westmoor Technology Park. This rebate excludes water and sewer tap fees. The permit fee rebate will be approximately \$34,100.

2. Use Tax Rebate- Construction. The City shall rebate to LGS Innovations 50% of the Building Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) on construction materials, collected from LGS, from the remodel and tenant finish in Building 9 of Westmoor Technology Park that are otherwise required under W.M.C. Sections 4-2-9 and 4-2-3. The rebate will be approximately \$75,000.

3. Sales and Use Tax Rebate- Furniture and Fixtures. For the period of 8 months prior and 60 months after LGS obtains its Certificate of Occupancy for its facility in Building 9 of Westmoor Technology Park the City will rebate 50% of the Westminster General Sales and Use Tax (excludes the City's .25% Open Space Tax and .6% Public Safety Tax) collected from LGS on the purchased equipment and furnishings. Rebates will be based on the documentation proscribed by the City and provided by LGS which illustrates purchases or delivery of any such furnishings, fixtures, or equipment that occurred within the City of Westminster and that taxes were paid to and collected by the City. The rebate will be approximately \$7,500.

4. Payments of Rebates. The total rebate is not to exceed \$116,600. The rebates to LGS Innovations by the City shall be paid in quarterly installments from revenue actually collected and received by the City in connection with the move by LGS into the new facility. Payments of each quarterly installment shall be paid to LGS by the City within thirty (30) days following the end of each calendar quarter. All payments by the City shall be made electronically to LGS Innovation's designated financial institution or other account.

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

6. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if LGS has not moved into the Westmoor offices by December 31, 2011 or should LGS not comply with the City regulations or code.

7. Business Termination. In the event LGS ceases business operations within the City at any time prior to December 31, 2016, then LGS shall pay to the City the total amount of fees and taxes that were paid by or for LGS to the City and were subsequently rebated by the City to LGS pursuant to this Agreement.

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

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

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

LGS INNOVATIONS

CITY OF WESTMINSTER

By: _____
Print Name: _____
Its: _____

By: _____
J. Brent McFall
City Manager

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No.



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Second Reading of Councillor’s Bill No. 63 re Proposed Economic Development Agreement with The Bedrin Organization for a “Murdoch’s” Store.

Prepared By: Susan F. Grafton, Economic Development Manager

Recommended City Council Action

Pass Councillor’s Bill No. 63 on second reading authorizing the City Manager to execute and implement the Economic Development Agreement with The Bedrin Organization for a “Murdoch’s” store.

Summary Statement

- This Councillor’s Bill was passed on first reading on November 22, 2010.
- In October of 2007, the City entered into agreement with The Bedrin Organization to facilitate a Steve and Barry’s store and revitalization of Brookhill V located at the southeast corner of 92nd Avenue and Wadsworth Parkway. A year later Steve and Barry’s was closed.
- During the fall of 2010, The Bedrin Organization asked for aid from the city in attracting a Murdoch’s Ranch and Home Supply store to fill the vacant Steve and Barry’s space.
- Murdoch’s will be refinishing and moving into the former Steve and Barry’s location that has been vacant since late 2008.
- The length and amount of sales tax rebate proposed for Murdoch’s represents the unused balance of the assistance the City agreed to provide to The Bedrin Organization to fill the space formerly occupied by Steve and Barry’s.
- The proposed assistance is based upon the City’s goal to fill vacant space in existing retail centers. The Economic Development Agreement (EDA) consists of a 50% rebate of sales tax from sales at the Murdoch’s store through December 31, 2012 or \$813,000, whichever occurs first.
- All of the assistance proposed will be generated by the Murdoch’s store.
- Should Murdoch’s cease operations within two years The Bedrin Organization shall reimburse the City of any amounts rebated.
- Murdoch’s also considered sites in Brighton, Evergreen, Thornton, Lafayette, and Glenwood Springs.

Expenditure Required: Approximately \$813,000 (Rebates)

Source of Funds: The EDA with The Bedrin Organization will be funded through sales tax generated by Murdoch’s.

Respectfully submitted,

J. Brent McFall
City Manager
Attachment – Councillor’s Bill No. 63

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **63**

SERIES OF 2010

INTRODUCED BY COUNCILLORS
BRIGGS - MAJOR

**A BILL
FOR AN ORDINANCE AUTHORIZING THE ECONOMIC DEVELOPMENT AGREEMENT
WITH THE BEDRIN ORGANIZATION FOR A "MURDOCH'S" STORE**

WHEREAS, the successful attraction of new businesses that fill vacant space in existing retail centers in the City of Westminster provides increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Westminster to remain competitive with other local governments in creating assistance for new businesses to locate in the City; and

WHEREAS, The Bedrin Organization plans to lease the former Steve and Barry's space in Brookhill V in Westminster to Murdoch's Farm and Ranch Supply; and

WHEREAS, a proposed Economic Development Agreement between the City and The Bedrin Organization is attached hereto as Exhibit "A" and incorporated herein by this reference.

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Manager of the City of Westminster is hereby authorized to enter into an Economic Development Agreement with The Bedrin Organization in substantially the same form as the one attached as Exhibit "A," and upon execution of the Agreement to fund and implement said Agreement.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of December, 2010.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

**ECONOMIC DEVELOPMENT AGREEMENT
WITH
THE BEDRIN ORGANIZATION
FOR
A "MURDOCH'S" FARM AND RANCH SUPPLY STORE**

THIS AGREEMENT is made and entered into this _____ day of _____, 2010, between the CITY OF WESTMINSTER (the "City"), and THE BEDRIN ORGANIZATION; a New Jersey LLC.

WHEREAS, the City wishes to provide certain assistance to The Bedrin Organization to encourage the location of a Murdoch's Farm and Ranch Supply store in the Brookhill V Shopping Center ("Murdoch's"); and

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

In consideration of the mutual promises set forth below the City and The Bedrin Organization agree as follows:

1. Sales Tax Rebate. The City shall rebate to The Bedrin Organization 50% of the sales tax collected from Murdoch's for the period of time commencing on the date of issuance of a Certificate of Occupancy for the Murdoch's store, and ending on December 31, 2012 ("Termination Date"). Such rebate shall be payable exclusively from sales tax revenue collected by the City from Murdoch's and attributable to the imposition of the City's 3.0% general sales tax (excluding the City's .25% open space tax and .6% public safety tax). The sales tax rebate shall not continue past the Termination Date and shall be administered as follows:

- (a) Sales Tax Rebate Amount. Any rebates provided by the City to The Bedrin Organization pursuant to this agreement will be from the sales tax generated by Murdoch's. The City shall rebate to The Bedrin Organization 50% of the sales tax generated.
- (b) Payment. The sales tax rebate amount will be paid to The Bedrin Organization in quarterly payments, made within 30 days after the end of each quarter. The sales tax rebate payment will be submitted electronically to The Bedrin Organization designated financial institution.
- (c) End of Sales Tax Rebate. The sales tax rebate shall end on the Termination Date, or at such time as the sales tax rebate reaches \$813,000, whichever occurs first.

2. Entire Agreement. This instrument shall constitute the entire agreement between the City and The Bedrin Organization concerning the Murdoch's retail store and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this agreement with respect to its subject matter.

3. Termination. This Economic Development Agreement shall terminate and become void and of no force or effect upon the City if Murdoch's has not moved into their new space in Brookhill V on or before November 2011; or, should The Bedrin Organization or Murdoch's fail to comply with any City code and/or approval process.

4. Business Termination. In the event that Murdoch's ceases business operations in the City within two years after the new operations commence, The Bedrin Organization shall reimburse the City for any amounts rebated to or otherwise provided to The Bedrin Organization pursuant to this Agreement, unless the City approves a successor to the initial approved user within 12 months of the closing of Murdoch's, which is substantially similar in quality and sales tax production as the approved user.

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

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

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

THE BEDRIN ORGANIZATION,
A NEW JERSEY LLC

CITY OF WESTMINSTER

Gerald Bedrin
Managing Member

J. Brent McFall
City Manager

ATTEST:

ATTEST:

Linda Yeager
City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

Adopted by Ordinance No.



Agenda Item 10 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Resolution No. 43 re Revised Ambulance Fee Schedule

Prepared By: Richard Spahn, Emergency Medical Services Coordinator

Recommended City Council Action

Adopt Resolution No. 43 establishing a revised ambulance fee schedule to include a new fee for intravenous (IV) therapy within the ambulance fee structure.

Summary Statement

- Staff has completed the annual multi-agency ambulance fee survey, which is attached for City Council's review. Twelve agencies responded with updated information on their current fee structure. These agencies have not indicated nor do they expect an increase to their fee structure for the coming year.
- The survey indicated that several agencies charge for IV therapy, a fee that does not exist in the City's current ambulance fee structure and one that is an allowable charge according to the governing laws of Medicare.
- Staff is recommending a new billing item, IV therapy at \$50, which will help absorb the costs of the equipment utilized for this service.
- From January through October of 2010, Westminster EMS personnel provided IV therapy approximately 3,228 times. The Fire Department estimates that charging the survey average of \$50 for IV therapy would produce around \$70,000 in cost recovery during 2011.
- The current Denver Metropolitan Area average charge for IV therapy is \$66.
- The new fee would be implemented in January 2011.
- Fees were last increased in 2009. Staff does not recommend increasing the current fees beyond the recommendation of the inclusion of IV therapy. Westminster's fees will remain equal to or below the Denver-metro average in most of the categories.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues

1. Should the City affirm the policy of a user fee-based ambulance operation and the maintenance of an ambulance fee structure roughly equal to the Denver-metro area average?
2. Should the City include an additional \$50 fee for IV therapy to the current ambulance billing structure?

Alternatives

1. Direct Staff to delay an IV therapy charge and continue with the current ambulance billing structure. This is not recommended because this treatment is an allowable charge under the governing laws of Medicare. IV therapy is a service frequently performed by EMS providers.
2. Direct Staff to reduce the recommended fee of \$50.00 for IV therapy. This is not recommended because Staff has conducted a survey with local public agencies, finding that the \$50.00 fee falls in the median when compared to these agencies.

Background Information

The Westminster Fire Department has provided ambulance services to the community since 1990. When the ambulance program was originally set up, City Council provided direction to staff to establish and maintain a fee structure that fell within the averages of other ambulance service providers within the Denver Metro area. The Fire Department attempts to complete an annual survey of fees charged by publicly owned ambulance operations.

The ambulance fee structure is itemized into several categories. One such category is “Disposable Medical Supplies.” These supplies take into account items such as medical gloves, masks, bandaging, and EKG supplies. IV therapy is not included in this category and the Fire Department does not currently charge for these supplies. Importantly, IV therapy is an allowable charge according to the governing laws of Medicare.

Staff is not recommending any fee changes for the Westminster Med program in 2011. Council increased fees for this program in 2005, and with so few agencies in the Denver-metro area offering this program, Staff is comfortable with the current fees and does not see the need to increase them at this time. While Staff does not recommend an increase in the current fee structure, the inclusion of the new billing item, IV therapy, requires formal adoption by City Council prior to implementation.

This recommendation supports in general the Strategic Plan goal of a “Safe and Secure Community.” More specifically this action supports the objective “Revenues to support defined City services and service levels as a mature City” under the goal of a “Financially Sustainable City Government.”

Respectfully submitted,

J. Brent McFall
City Manager

Attachment: Resolution
Multi-Agency Ambulance Fee Structure Survey

RESOLUTION

RESOLUTION NO. **43**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

A RESOLUTION ESTABLISHING A NEW AMBULANCE FEE SCHEDULE

WHEREAS, the Westminster Fire Department staffs and operates an advanced life support ambulance transport service; and

WHEREAS, the City last adopted a fee schedule in 2009 after review of the metro area ambulance fee structures was completed;

WHEREAS, City Council has directed staff to develop and maintain an ambulance membership program as a means to provide City residents preferential treatment with regard to ambulance billing; and

WHEREAS, the City's needs and philosophies in establishing an ambulance fee structure have been identified; and

WHEREAS, City Staff has completed another review of the metro area ambulance fee structures in 2010.

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

1. Residents and non-residents shall be billed according to an itemized rate structure for all emergency medical calls where a Westminster Fire Department ambulance is used to transport a patient to a hospital as follows:
 - \$700 for Basic Life Support (BLS) level care;
 - \$750 for Advanced Life Support (ALS) Care Level 1;
 - \$800 for Advanced Life Support (ALS) Care Level 2;
 - \$13 per mile transportation charge if received;
 - \$55 for Oxygen therapy if received;
 - \$50 for Intravenous (IV) therapy if received;
 - \$70 for Ortho/Spinal Immobilization if received;
 - \$150 for Care Rendered/No Transport;
 - \$100 for Disposable Medical Supplies.
2. If active ALS resuscitative efforts are undertaken that are ceased by a base station physician order and the patient is not transported, the patient shall be assessed the IV therapy (if received), Care Rendered/No transport and the Disposable Medical Supplies charge.
3. On emergency calls where three standard or one invasive medical procedure is performed and the patient, patient's family or guardian then refuses ambulance transport to an area hospital the IV therapy (if received), Care Rendered/No transport and the Disposable Medical Supplies charge will be applied.
4. If more than one patient is transported to a hospital by the Westminster Fire Department ambulance, all patients shall be assessed individually according to the fee structure listed above.

5. The Finance Director and the Fire Chief in mutual agreement may allow exceptions to this fee structure and forgive portions of an ambulance bill based solely on the documented ability to pay of the person responsible for paying the ambulance bill.
6. Uncollected portions of ambulance bills that are more than 60 days past due shall be subject to the following collection measure: Consignment to an outside collection agency.
7. The City may enter into contractual agreements with health care insurance provider organizations that set different rates than those listed above. Such agreements shall conform to all insurance laws and regulations recognized by the State of Colorado.
8. A City ambulance membership program (Westminster MED) shall be continued. The annual membership fee shall be \$25 for an individual and \$40 for a family. The annual fee shall represent the pre-payment of the uninsured portion of any City ambulance transport bill for an emergency medical condition. The City shall retain the right to bill and expect payment of benefits covered by the individual's insurance companies.
9. The City Manager shall have the authority to adjust ambulance fees up to 10% annually to address market conditions and/or operating costs.
10. This Resolution shall be effective January 1, 2011.

PASSED AND ADOPTED this 13th day of December, 2010.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney

Attachment -
Ambulance Fee Schedule

Multi-Agency Transport Fee Schedule As of October 2010															
	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/1/2010	10/14/2009	10/1/2010	10/1/2010	10/1/2010	10/1/2010
	Cunningham	Englewood	Evergreen	Federal Heights	Lafayette Fire	Littleton	Mountain View	North Metro	North Wahsington	South Metro	SWAC	Thornton	West Metro	Westminster	Average
	Current	Current	Current	Current	Current	Current	Current	Current	Current	Current	No Update	Current	Current	Current	Current
Basic Life Support (BLS)	\$685	\$725	\$700	\$650	\$600	\$650	\$700	\$675	\$750	\$675		\$810	\$821	\$700	\$703
BLS Non-emergency										\$675					\$675
Advanced Life Support (ALS)	\$685	\$725	\$865	\$750	\$900	\$750	\$800	\$750	\$750	\$675		\$810	\$975	\$750	\$783
ALS 2			\$965	\$800	\$1,000		\$800	\$790	\$750	\$675		\$810		\$800	\$821
IV Therapy	\$80	\$60	\$50	\$40	\$75	\$50	\$150	\$50	\$50	\$50			\$75		\$66
EZ-IO		\$100		\$100	\$150	\$175			\$150	\$100			\$156		\$133
3 Lead EKG	\$40	\$55		\$65	\$65	\$50		\$45		\$20			\$65		\$51
12 Lead EKG	\$60	\$55		\$90	\$100	\$60		\$55	\$100	\$50			\$65		\$71
Oxygen	\$60	\$45		\$40	\$75	\$50	\$70	\$50	\$50	\$50		\$50	\$75	\$55	\$56
Advanced Airway	\$60	\$95		\$100		\$50		\$55	\$100	\$25					\$69
CPAP	\$100	\$65		\$100		\$125			\$100	\$100			\$135		\$104
King Airway									\$100	\$60					\$80
Spinal Immobilization	\$100	\$75		\$30	\$75	\$60	\$100	\$50	\$50	\$60		\$65	\$45	\$70	\$65
Per Mile	\$10	\$12	\$16	\$14	\$22	\$12	\$14	\$13	\$15	\$12		\$15	\$16	\$13	\$14
Disposable Medical Supplies	\$25		\$25	\$60	\$20		\$50	\$50	\$50			\$60		\$110	\$50
MISCELLANEOUS															
Blood Draw	\$20			\$40	\$10	\$25	\$50		\$0	\$0			\$35		\$23
Care rendered / no transport	\$100	\$125		\$50	\$250		\$150	\$75	\$200					\$150	\$138
Pulse Ox	\$25	\$15		\$25		\$20			\$0	\$25					\$18
Pacer/Defib	\$65			\$100	\$200	\$50			\$100	\$60			\$0		\$82
Ortho Splinting	\$40	\$15		\$30		\$25			\$50	\$20			\$25		\$29
Capnography	\$30			\$45	\$20	\$30			\$0	\$25					\$25
OB Deliver	\$60			\$100	\$150	\$30			\$100	\$25			\$48		\$73
Glucometer	\$15			\$25	\$20	\$15			\$25	\$15					\$19
Nebulized drugs	\$25				\$45	\$30				\$25					\$31
Lactate Meter				n/a						\$15					\$15
Itemized Medication Charges	Yes	Yes	No	Yes	Yes	Yes		No	Yes	Yes				No	



Agenda Item 10 B

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Councillor's Bill No. 65 re Amendments to Title V and Related Sections of the Westminster Municipal Code re Licensing and Regulations, Trespassing, Solicitation on or Near a Street or Highway, and Temporary Uses on Private Property

Prepared By: Marty McCullough, City Attorney
Leslie Annand, Assistant City Attorney
Jane Greenfield, Assistant City Attorney
Hilary Graham, Assistant City Attorney

Recommended City Council Action

Pass Councillor's Bill No. 65 on first reading amending Title V and Sections 6-3-5, 9-4-1 and 11-4-17 of the Westminster Municipal Code concerning licensing and regulations, trespassing, solicitation on or near a street or highway, and temporary uses on private property.

Summary Statement

- Title V of the Westminster Municipal Code sets forth the process and criteria for issuing and administering business licenses, sales and use tax licenses, and other licenses involving businesses that have been deemed appropriate for regulation to protect the health, safety and welfare of the City and its citizens, such as home occupations, contractors, pawn brokers, security guards, and dance halls and cabarets.
- Staff considers the proposed amendments to be primarily housekeeping in nature. A summary of the proposed changes to each Chapter is included below.
- Staff believes that these amendments will improve the overall administration of the Code.

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

Policy Issue

Should City Council adopt an ordinance amending Title V and related sections of the Westminster Municipal Code concerning licensing and regulations, trespassing, solicitation on or near a street or highway, and temporary uses on private property?

Alternatives

1. Council could direct Staff to leave the current Code provisions in place and not make the recommended changes. Staff does not recommend this alternative. The proposed amendments result in better organization of Title V, a clarified appeal process and numerous clarifications and improvements to the various Chapters.
2. Council could direct Staff to make only certain changes to the Code while excluding others. Although this approach would help address some of the issues, it may not address all of the concerns with the current version of Title V. Staff does not recommend this alternative.

Background Information

The amendments identified indirectly support two components of the City of Westminster Strategic Plan: Safe and Secure Community and Strong, Balanced Local Economy. The City's licensing and regulation provisions are intended to protect the public health, safety and welfare interests of the City and its citizens and provide specific licensing and regulation for activities and businesses that may pose a significant risk of harm to such interests if unlicensed and unregulated. These proposed amendments will improve the administration of the City's Licensing and Regulations, and in turn, will promote a balanced local economy. A summary of the proposed amendments by chapter is as follows:

Chapter 1- Procedures: Chapter 1 includes a provision expressing City Council's intent in enacting the licensing requirements contained in Title V of the City Code. Amendments to Chapter 1 include the consolidation of the procedural provisions into this chapter. The other chapters of Title V now refer to this chapter for the procedures to be followed for denying, canceling, suspending and revoking business licenses. The procedures themselves have not substantially changed from those that currently exist in the City Code. These include the giving of notice by the City of a proposed adverse decision to the applicant or licensee, the right to request a hearing before the Special Permits and License Board, a stay of the adverse action until the requested hearing is completed, and the grounds upon which any license may be denied, canceled, suspended or revoked. In addition, the penalty for violating any chapter of Title V has been moved to Chapter 1. The other chapters of Title V now refer to Chapter 1 for this provision, but may include any additional or unique penalties, if applicable.

Chapter 2- Business Licenses: Chapter 2 addresses general business licenses issued within the City. Amendments to Chapter 2 clarify that businesses with a home occupation license do not have to obtain a separate business license. January 1 has been established as the deadline each year to submit an application for renewal of a business license. A provision has been added providing that the City Clerk may request the City Manager to investigate an application for renewal in order to determine whether grounds exist for denial. Currently, this authority only applies to applications for new licenses and Staff believes this authority should apply also to applications for renewals since a business may not be discovered to be in violation of the City Code until after they have commenced their business operations.

Chapter 3- Home Occupation Licenses: Chapter 3 addresses licensing requirements for home occupations. Amendments to Chapter 3 clarify that “home occupation” does not include any hobby or leisure activity that is not engaged in for profit. The existing requirement that home occupations obtain licenses on an annual basis is deleted. The amendments incorporate by reference the various zoning regulations applicable to home occupations under title 11 of the City Code (e.g., no outside employees; no more than 20% of the floor area; no separate entrances; only one sign not to exceed 1 square foot).

Chapter 4 – Sales and Use Tax License: Chapter 4 requires a sales and use tax license for anyone engaged in business within the City. The amendments recommended for Chapter 4 add a definition for “Engaged in Business in the City,” clarifying the obligation to collect and pay tax pursuant to Title IV of the Code, and clarifying the obligation to exhibit the license upon request of any City official.

Chapter 5- Contractor’s License: Chapter 5 regulates construction contractors who do business within the City. Proposed changes to Chapter 5 include a change in the terminology to require a “Contractor’s License” rather than “Contractor’s Registration” to provide conformity with other Chapters of Title V that require licenses. Additional amendments include the elimination of the exemption for occupants of a single-family or duplex residential property and thereby limit the exemption to owners of single-family or duplex residential property. In addition, a twelve-month expiration on the license is added, thus requiring annual renewal. This last change will allow the City to confirm that a contractor is current on use tax obligations before renewing the license.

Chapter 6 – Peddlers and Solicitors: Chapter 6 was originally enacted primarily to enhance the privacy of persons in their homes by preventing solicitors from soliciting in residential areas where a “No soliciting” or “No trespassing” sign has been posted. Staff is recommending that Chapter 6 be repealed and moved, in parts, to other sections of the Code as follows: 1) the prohibition against contacting, or attempting to contact, an owner or occupant of a private residence that has been posted with a “No Solicitations” or “No Trespassing” sign has been added to Title 6, Chapter 3, concerning trespassing; 2) the regulations on sound trucks have been moved to Title 9, Chapter 4, which regulates “Solicitation on or Near Street or Highway;” and 3) the section on temporary use permits has been moved to Title XI, Chapter 4, Section 4. The new Title XI regulations on temporary use permits are now more detailed to address previously omitted issues, such as allowed signage, waste disposal, and restroom facilities. Further, the proposed changes to this section clarify that temporary uses are intended to be limited to those that are special events, or seasonal in nature. The regulations further define a temporary use as a use that involves being in one place on private property for two hours or longer. Community Development and the City Attorney’s Office have attempted to ensure that the proposed clarifications reflect the City’s intentions and past practices relative to the approval of temporary uses.

Chapter 8 – Pawnbrokers: Chapter 8 requires a license for anyone who acts as a pawnbroker within the City. Proposed amendments to Chapter 8 include updating the application fee and annual renewal provisions to be consistent with the stepped increases previously provided for in the Chapter. The term “contract for purchase” is changed to “contract for pawn” in order to distinguish between items held for pawn and items purchased outright by a pawnbroker. In addition, changes are proposed to make the Chapter’s requirements conform to the state statutes regulating pawn shops.

Chapter 9 – Amusement Centers: Chapter 9 regulates the operation of any place of amusement or recreation offering to the public, for a fee, the use of any pool or billiard table or any other amusement game. Proposed amendments to Chapter 9 conform the Code to the current practice of

not requiring an amusement center license for businesses such as grocery stores that may contain a few amusement games or devices as an ancillary service (the Code retains the annual excise tax on those games or devices, however). The bases for denial or revocation of a license are clarified and, finally, grammatical errors are corrected.

Chapter 13-Security Guards: Chapter 13 of the Code regulates Security Guard businesses. The title of Chapter 13 is changed from “Security Guards” to “Security Guard Businesses” to clarify that it is the business that requires a license and not an individual security guard. The section on “Prohibited Acts” is amended to remove the prohibition against drawing a firearm in the performance of duties. (Firing the firearm is still prohibited.) In addition, “Prohibited Acts” is expanded to prohibit interference with the performance of any police officer or City official in the performance of their official duties.

Chapter 16- Dance Halls and Cabarets: Chapter 16 regulates the operation of dance halls and cabarets. Amendments include a change to the definition of dance halls and cabarets by changing the focus from whether the establishment is open for public dancing on a regular basis “for gain,” to establishments that are designed for public dancing and which contain a designated dance floor. Whether an establishment was allowing public dancing “for gain” was considered ambiguous, and had the effect of businesses applying for cabaret licenses “just in case” someone stood up and danced. Examples include “Joe’s Crab Shack” and the recently licensed “Quaker Steak and Lube.” An additional amendment continues the exception for dance studios.

Chapters 11 and 22 on Mobile Home Parks and Mini-Warehouses, respectively, are being repealed as they are misplaced and no longer needed in the licensing chapter. Neither use required a license initially and, now, both uses are adequately covered in the land use sections of Title XI and the City’s adopted building codes and regulations.

Several Chapters of Title V are omitted from these amendments because they have recently undergone revision or adoption. Chapters omitted on this basis include Chapter 10 Medical Marijuana and Chapter 12 Rental Property. Minor amendments are being proposed to Chapter 15 Massage Parlors.

Several Chapters of Title V have been omitted from these amendments and will be reviewed by Staff at a later date. The Chapters for which no amendments are currently recommended include: Chapter 7 Solid Waste Collection; Chapter 17 Adult Businesses and Chapter 19 Escort Services.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Proposed Councillor’s Bill No. 65

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **65**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE V AND SECTIONS 6-3-5, 9-4-1 AND 11-4-17 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING LICENSING AND REGULATIONS, TRESPASSING, SOLICITATION ON OR NEAR STREET OR HIGHWAY, AND TEMPORARY USES ON PRIVATE PROPERTY

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 5-1-2, Section 5-1-3, subsection (B), section 5-1-4, subsections (A) and (C), section 5-1-5, subsection (B), section 5-1-6, section 5-1-7, section 5-1-8, and section 5-1-9, of Chapter 1, Title V, "Procedures," W.M.C., is hereby AMENDED to read as follows:

5-1-2: DEFINITIONS: (1956) The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(A) "Adverse action" means the ~~denial, cancellation,~~ suspension, or revocation of an existing license or permit authorized by this Title or the initial denial of an application for a license authorized by this Title.

(B) "Cancellation" means the City's administrative action of invalidating an issued license for the limited reasons set forth in this Section, which action is not considered to be an adverse action.

~~(C)~~-"Interested person" means any person having a legally protected interest under law that is subject to potential injury in fact due to proposed final action pursuant to this Title, or any person defined as "interested" by law, or any person having a right of appeal pursuant to law or this Title. "Interested person" ~~also~~ includes any employee or official charged with the responsibility to issue and enforce the provisions of this Title.

(D) "Revocation" means the City's action to recall, withdraw or rescind an existing license according to the process afforded by this Title, and it excludes the administrative act of cancellation.

5-1-3: ADVERSE ACTIONS:

(B) An adverse action shall be initiated by filing with the City Manager or the City Manager's designee a written request that the adverse action be taken, which shall include the facts and grounds of the proposed adverse action.

5-1-4: NOTICE OF ADVERSE ACTION: (1956)

(A) An applicant shall be notified of a denial and a licensee shall be notified of a ~~cancellation,~~ suspension or revocation of a license ~~or permit~~ and of the grounds for the proposed adverse action in writing.

(C) The notice of proposed adverse action may be served on the applicant or licensee, as applicable by:

(1) Personal service by hand delivery, in which case service shall be deemed complete on the date such service occurs, or

(2) By mailing a copy of the notice of proposed adverse action by first class mail to the last known address of the applicant or licensee, as applicable, or to the street address of the licensed premises, in which case service shall be deemed complete on the date of mailing. The holder of any license issued pursuant to this Title shall notify the City Clerk of any change of the holder's address for purposes of notification and service pursuant to this Chapter.

5-1-5: APPEALS:

(B) For any applicant or licensee who fails to appeal a proposed adverse action by failing to timely file a request for a hearing in the manner provided for in this Section, the proposed adverse action shall immediately take effect, and the applicant or licensee shall thereafter be barred from appealing the adverse decision-action before the Special Permit and License Board. Further, the failure to file a timely appeal of a proposed adverse action pursuant to this Section shall be deemed a failure to exhaust administrative remedies and a bar to judicial review.

5-1-6: LICENSE DENIAL: (1959)

Unless otherwise limited by state law, a license application may be denied by the City Manager or the City Manager's designee based on the following grounds:

(1) All applicable provisions of the City Code and state law have not been met;

(2) The required fees have not been paid;

(3) The application is incomplete or contains false, misleading or fraudulent statements;

(4) Character of the applicant, based on his/her criminal history, to the extent such character and criminal history is within five (5) years of the date of application and is relevant to the license ~~or permit~~ requested by the applicant;

(5) Nonconformance of the business, premises, building or land use with this Code;

(6) Demand of the business for excessive City services;

(7) Discharge, intent or proposal to discharge wastes to the sanitary sewerage system which will exceed any of the limits set forth in Title VIII, Chapter 10 of this Code;

(8) Prior or ongoing violations of law in connection with the business;

(9) Previous revocation or suspension of a similar license held by the applicant;

(10) Any reason that would justify cancellation, suspension or revocation of a license; or

(11) Any ground provided by ordinance or state statute.

5-1-7: LICENSE CANCELLATION: (1959)

(A) Unless otherwise limited by state law, a license may be administratively cancelled by the City Manager or the City Manager's designee on the following limited grounds:

(1) The license was issued in error;

~~— (2) The license was mistakenly issued to the wrong person or premises or the wrong license was issued;~~

~~(3) Any fee or penalty is unpaid; or Upon written request of the licensee;~~

~~— (3) Upon a determination by the City, confirmed by a site visit to the business address, that the licensee has permanently ceased operating;~~

(4) Upon grounds provided by ordinance or statute.

(B) Any administratively cancelled license may be administratively reinstated when the facts or circumstances demonstrate that the cancellation was done in error.

5-1-8: LICENSE SUSPENSION: (1959)

Unless otherwise limited by state law, a license may be suspended ~~by the City Manager~~ on the following grounds:

(1) Upon any grounds which would authorize revocation of a license except grounds which make revocation mandatory;

(2) When any activity conducted pursuant to such license violates an ordinance or statute;

(3) Upon grounds of repeated violations of this Code by the licensee; or

(4) Upon grounds provided by ordinance or statute.

5-1-9: LICENSE REVOCATION: (1959)

Unless otherwise limited by state law, a license may be revoked ~~by the City Manager~~ on the following grounds:

(1) Fraud or misrepresentation or false statements in the application for the license;

~~— (2) Failure to make timely payment of any fees, charges or penalties imposed pursuant to this Title;~~

~~— (3) Fraud or misrepresentation in the course of conducting the business;~~

(4) Conducting the business contrary to the conditions of the license;

(5) Conducting the business in such a manner as to create a public nuisance as defined by ordinance or by statute or in a manner as to constitute a danger to the public health, safety or welfare;

(6) Conviction of any violation of federal, state or municipal law related to the operation of the licensed business;

(7) Repeated violations of one or more City ordinances at the licensee's place of business, by the licensee or patrons of the business;

(8) Commission of an act or grounds that would have justified denial of the original application for a license;

(9) The conduct of the licensee's business consistently creates excessive need for City services and causes the City to expend public funds beyond normal requirements to protect the public health, welfare and safety;

(10) The business is of such a nature, or is operated in such a manner, that it is frequented by individuals (a) who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or (b) who by intimidation, threat, harassment or other hostile conduct seriously disrupt any other business in the immediate neighborhood of the licensee, thereby causing such business unreasonable economic loss;

(11) The licensee fails to keep and maintain permanent records which, in accordance with accepted accounting practices as determined by the City Finance Director, are necessary for establishing the licensee's tax liability;

(12) Any violation of Title IV concerning taxes;

~~(12) Failure to make timely payment of any fees or charges required by this Title;~~

~~(13) Upon any grounds provided by ordinance or state statute.~~

Section 2. Chapter 2, Title V, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 2 BUSINESS LICENSES

5-2-1: DEFINITIONS

5-2-2: LICENSE REQUIRED

5-2-3: LICENSE APPLICATION AND ADMINISTRATION

5-2-4: TRANSFER

5-2-5: LICENSE DENIAL, CANCELLATION, ~~NON-RENEWAL~~, SUSPENSION, REVOCATION

~~5-2-6: PENALTY~~

~~5-2-1: DEFINITIONS: "Business" includes all kinds of trades, vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters, for profit or nonprofit, together with all devices, machines, vehicles and appurtenances on any premises in this City or anywhere else within its jurisdiction. (1959)~~

5-2-1: DEFINITIONS: The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: "Business" means any trade, vocation, occupation, profession, enterprise, service, or commercial activity conducted within the City for profit or not-for-profit, except a home occupation licensed as such pursuant to Chapter 3 of this Title. The term "business" shall not include any hobby or leisure activity not engaged in for profit.

5-2-2: LICENSE REQUIRED: (1959)

(A) It shall be unlawful for any person to establish any ~~place of~~ business in the City without first obtaining a license ~~to conduct such business~~ pursuant to this Chapter, ~~unless otherwise provided by this Code~~. A separate ~~general~~ business ~~licenses~~ license shall be required for each location of a business operating within the City limits. ~~Specialty licenses shall be required in addition to general business licenses when applicable.~~ A business shall obtain such additional licenses, including a sales tax license, as may be required by federal or state law or this Code and the failure to do so shall be considered a violation of this Chapter.

(B) In the event that any business is being conducted in an unincorporated area at the time of the annexation of such area to the City ~~and the person carrying on or engaging in the business is doing so lawfully and in conformance with all laws applicable to the territory, the conduct of such business may be continued upon and subsequent to the annexation of the area to the City, providing any applicable license fee is paid within ten (10) days of annexation.~~ In subsequent calendar years, the business must conform to all licensing requirements contained in this Chapter and all other applicable licensing requirements contained in this Code.

5-2-3: LICENSE APPLICATION AND ADMINISTRATION: (1959)

(A) ~~The~~ An applicant for a business license shall submit an application to the City Clerk on forms provided by the City Clerk. ~~All original applications~~ The application shall be investigated by the City Manager in order to determine whether grounds exist for denial. If approval of the application is recommended as a result of the investigation, the City Clerk shall issue the license for a period of one (1) year. The City Manager may approve the application with ~~reasonable~~ conditions reasonably deemed by the City Manager as necessary to protect the public health, welfare and safety.

(B) An application for renewal of the business license shall be filed with the City Clerk. The City Clerk, in his or her reasonable discretion, may request the City Manager to investigate the application in order to determine whether grounds exist for denial. In the event a cancellation, suspension, or revocation proceeding is pending when a license renewal is filed, the application for a license renewal shall not be acted upon until the suspension or revocation proceeding has been completed.

(C) All licenses shall specify the name of the licensee, the business address, the nature of the business, and the term of the license, and the date upon which it expires. Every license granted under the provisions of this Chapter shall be posted in a conspicuous place at the place of business for the full term of the license. Licenses shall be removed upon expiration, cancellation, suspension, or revocation. It shall be the duty of each licensee to show the license at any reasonable time when requested to do so by any City official.

5-2-4: TRANSFER: Any transfer of a business to a new owner, whether by sale, gift or operation of law, shall cause a cancellation of the prior business license. The new owner shall not conduct business until a new business license has been obtained pursuant to this Chapter. (1959)

5-2-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION: (1959 2574)

~~(A)~~ A business license may be denied, cancelled, ~~denied renewal,~~ suspended, or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title.

~~(B) A license shall be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall be given by personal delivery to the licensee or mailed to the address contained on the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) Any of the following circumstances may be considered cause for denial of a license:~~

~~—(1) The required fees have not been paid.~~

~~—(2) The application is incomplete or contains false, misleading or fraudulent statements.~~

~~—(3) Nonconformance of the business, premises, building or land use with this Code.~~

~~—(4) Any reason stated in Section 5-1-5 of this Code.~~

~~(D) An application for a new license may be denied by the City Manager for the reasons listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~**5-2-6: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 3. Chapter 3, Title V, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 3 HOME OCCUPATION LICENSE

~~5-3-1: —~~ **DEFINITIONS**

~~5-3-2: —~~ **LICENSE REQUIRED**

~~5-3-3: —~~ **LICENSE APPLICATION AND ADMINISTRATION**

~~5-3-4: —~~ **TRANSFER**

~~5-3-5: —~~ **LICENSE DENIAL, CANCELLATION, SUSPENSION ~~OR,~~ REVOCATION**

~~5-3-6: —~~ **PENALTY**

~~5-3-1: DEFINITIONS: For purposes of this Chapter, "home occupation" shall be as defined in section 11-4-10 of this Code and shall also include any business located or based within the City that does not have a general business license, and is operated from a residential address or post office box address. (1959)~~

5-3-1: DEFINITIONS: The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: "Home occupation" means any trade, vocation, occupation, profession, enterprise, service, or any commercial activity, for profit or not-for-profit, which is conducted in connection with the occupation of a dwelling unit meeting all of the zoning regulations set forth in Section 11-4-10, W.M.C, and which does not have a business license pursuant to Chapter 2 of this Title. The term "home occupation" shall not include any hobby or leisure activity not engaged in for profit.

5-3-2: LICENSE REQUIRED: It shall be unlawful for any person to operate a home occupation without first obtaining a home occupation license. (1959)

5-3-3: LICENSE APPLICATION AND ADMINISTRATION: (1959 2574 3443)

(A) ~~—~~ The applicant for a home occupation license shall submit an application to the City Clerk on forms provided by the City Clerk. The application shall be investigated by the City Manager in order to determine whether grounds exist for denial. If approval of the application is recommended as a result of the investigation, the City Clerk shall issue the license. The City Manager may approve the application with reasonable conditions reasonably deemed by the City Manager as necessary to protect the public health, welfare and safety.

~~(B) All licenses shall specify the name of the licensee, the business address, and the nature of the business. Every license granted under the provisions of this Chapter shall be posted in a conspicuous place at the place of business. It shall be the duty of each licensee to show the license at any reasonable time when requested to do so by any City official.~~

5-3-4: TRANSFER: Home occupation licenses are not transferrable. Any transfer of a home occupation dwelling unit to a new owner, whether by sale, gift or operation of law, shall cause a cancellation of ~~the prior~~any underlying home occupation license. The new owner shall not conduct ~~business~~a home occupation until a new license has been obtained pursuant to this Chapter. (1959)

5-3-5: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION: (1959 2574 3443)

~~(A) —~~ A home occupation license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title. ~~Grounds for such action may also include:~~

- ~~(1) — Nonconformance of the premises to the requirements of this Code;~~
- ~~(2) — Nonconformance of the occupation or of the applicant or licensee with the limitations specified in Section 11-4-10 of this Code.~~

~~(B) — Any of the following circumstances may be considered cause for denial of a license:~~

- ~~(1) — The application is incomplete or contains false, misleading or fraudulent statements.~~
- ~~(2) — Nonconformance of the business, premises, building or land use with this Code.~~

~~The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(C) A license may be denied, cancelled, suspended or revoked for any violation of the provisions of this Chapter for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) A license may be cancelled, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~**5-3-6: PENALTY:** (3443) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

Section 4. Chapter 4, Title V, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 4 SALES AND USE TAX LICENSE

~~**5-4-1: DEFINITIONS:**~~

~~**5-4-2: LICENSE REQUIRED**~~

~~**5-4-3: EXEMPTIONS**~~

~~**5-4-4: LICENSE APPLICATION, TERM OF LICENSE AND ADMINISTRATION/RENEWAL**~~

~~**5-4-5: LICENSE DENIAL, CANCELLATION OR REVOCATION**~~

~~**5-4-6: PENALTY**~~

~~**5-4-1: DEFINITIONS:** The following words, terms and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~(A) "License" shall mean means a Westminster sales and use tax license. (1959)~~

~~(B) "Engaged in Business in the City" means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to, any one of the following activities by a person:~~

- 1. Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- 2. Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- 3. Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- 4. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or
- 5. Makes more than one delivery into the taxing jurisdiction within a twelve-month period.

5-4-2: LICENSE REQUIRED: (1959)

(A) It shall be unlawful for any person to ~~engage~~be Engaged in ~~business~~Business in the City without first obtaining a license pursuant to this Chapter.

(B) Any person reporting use tax on an actual cost basis for one or more construction projects inside the City shall obtain a separate license for each project; except that persons who sell tangible personal property, together with the installation of such property, which installation requires a building permit, including but not limited to satellite dishes, hot tubs, decks, patios, and signs, may report tax on an actual cost basis for all projects inside the City under one license.

(C) A temporary license may be issued for temporary locations and/or special events for periods of seven (7) consecutive days or less, not to exceed a total of twenty-one (21) days per calendar year. ~~The reporting period for temporary licenses shall end on the day the temporary location closes or special event concludes.~~

(D) Nothing in this Chapter shall be deemed or construed to relieve any person who is engaged in business in the City from the obligation to collect and pay tax under Title IV of this Code.

5-4-3: EXEMPTIONS: No license shall be required for any governmental agency or exempt organization which is exempt from the taxes imposed by Title IV of this Code. (1959)

5-4-4: LICENSE APPLICATION AND ADMINISTRATION: (1959 2574 3371)

(A) An applicant for a license shall submit an application to the City Clerk on forms provided by the City, stating the ~~business name and address, mailing address, type of business, and such other~~ information as may be required by the Finance Director. ~~A separate application need not be filed if the applicant has applied for a business or home occupation license.~~

(B) Each license shall be ~~numbered and shall show the name, location, mailing address and character of business of the licensee and shall be~~ posted in a conspicuous place at the business location for which it is issued. It shall be the duty of every person to whom a license has been issued, or any agent, servant, or employee utilized in the conduct of the business of the person licensed, to exhibit the license upon the request of a City official.

(C) No license shall be transferable. ~~After any sale of a business, the new owner shall apply for a new license.~~

5-4-5: LICENSE DENIAL, CANCELLATION OR REVOCATION: (1959 2574)

~~(A) — A license may be denied, cancelled, suspended, or revoked for any reason stated in Chapter 1 of this Title, or for any violation of the provisions of this Chapter, or as listed below. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~1. The required fees have not been paid~~

~~2. The application is incomplete or contains false, misleading or fraudulent statements.~~

~~3. Nonconformance of the business, premises, building or land use with this Code.~~

~~(B) — The Finance Director may cancel any, . In addition, [A1]a license:~~

~~1. Upon receipt of a written notice that the taxpayer is no longer engaged in business in the City;~~

~~2. Upon the taxpayer's may be administratively cancelled upon the licensee's failure to respond to three consecutive notices of delinquency. The Finance Director shall give notice to the taxpayer that the license has been cancelled.~~

~~(C) — A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(D) — A license may be denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(E) — An application for a new license may be denied by the Finance Director, upon the grounds listed in Chapter 1 of this Title or as stated above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this Code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(F) — A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(G) — The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(H) — No taxpayer shall continue engaging in business in the City after their license has been cancelled or revoked.~~

~~**5-4-6: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 5. Chapter 5, Title V, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 5
CONTRACTOR'S REGISTRATION LICENSE

5-5-1: DEFINITIONS

~~**5-5-2: REGISTRATION**~~

~~**5-5-2: LICENSE REQUIRED**~~

~~**5-5-3: EXEMPTIONS**~~

~~**5-5-4: LICENSE APPLICATION FOR REGISTRATION; RENEWAL**~~

~~**5-5-5: CLASSIFICATION AND FEES**~~

~~**5-5-6: RENEWAL LICENSE DENIAL, NON-RENEWAL, CANCELLATION, SUSPENSION AND OR REVOCATION**~~

~~**5-5-7: REGISTRATION**~~

~~**5-5-8: 7: BONDS AND INSURANCE REQUIRED**~~

~~**5-5-9: PENALTY**~~

5-5-1: DEFINITIONS:

(A) The following words, terms and phrases, when used in this Chapter; shall have the following meanings, unless the content clearly indicates otherwise: (1959)

(1) "Contractor" means any person who:

~~(A) (a) Undertakes work with or for another person within the City to build, construct, alter, remodel, repair, equip, move or wreck any building or structure, or any portion thereof, or any public utility system, or public street, for which a permit from the City of Westminster is required and which work is to be accomplished for a fixed sum price, fee percentage or other compensation;~~

~~(B) (b) Builds, constructs, alters or adds to any building or structure either upon his own or another's property;~~

~~(C) (c) Holds himself out to perform house moving or the moving of buildings or structures from one location to another;~~

~~(D) (d) Holds himself out to perform the service of wrecking a building or other structure;~~

~~(E) (e) Holds himself out to perform the service of plumber (which also requires a State Master's License);~~

~~(F) (f) Holds himself out to perform the service of electrician (which also requires a State Master's License);~~

5-5-2: REGISTRATION LICENSE REQUIRED: It shall be unlawful for any person to perform any work as a contractor within the City without first obtaining a registration license pursuant to this Chapter. No permits shall be issued for work to be done by an unregistered unlicensed contractor. (1959)

5-5-3: EXEMPTIONS: (1959)

(A) The registration license requirement shall not apply to:

(1) An owner of a single family or ~~occupant making ordinary duplex residential property who alters, repairs to, remodels, equips, moves, or wrecks~~ the building he owns ~~or occupies, which repairs do not involve the structure of the building,~~ when the owner ~~or occupant~~ furnishes all the material and labor.

(2) ~~A home~~An owner who builds or constructs his own residence, or a building or structure accessory thereto which is intended for his own personal use. This exemption shall be permitted only once within a period of one (1) year; otherwise, a registration license as a contractor shall be required.

(3) A property owner who is doing work which would normally require a Class D public way contractor's registration license, but for whom the City engineer or his designee has waived the registration license requirement when:

 (a-) The proposed work affects an area of two hundred (200) square feet or less, or one (1) single-family dwelling; and

 (b-) The owner is performing the work in the public way immediately adjacent to his own property, and

 (c-) The owner provides a copy of his homeowner's insurance policy, which is sufficient in the opinion of the City engineer or his designee to provide liability coverage of claims by third parties resulting from the owner's work in the public right of way. This exemption shall be permitted only once within a period of one (1) year, otherwise registration license as a contractor shall be required.

(-B) The exemption from registration license requirements does not waive permit requirements.

5-5-4: APPLICATION FOR REGISTRATION LICENSE: (1959)

(A) Application for registration license shall be made at the City Building Division. The application for every registration license required by this Chapter shall contain:

(1) The name of the person desiring the registration license, and the names of the individual members of such firm or of each of the directing officers of such corporation.

(2) The residential address of each applicant or each of the individual members of such firm or of each of the directing officers of such corporation,

(3) The address of the principal place of business,

(4) The street address, if any, where such business is to be carried on, if different from the other addresses previously stated,

(5) The class of registration license desired,

(6) Any other relevant information required by the terms of the provisions pertaining to the class of registration license sought,

(7) State Master's License number for electricians and plumbers (no single master plumber or electrician may request a license for more than one company), and

(8) The fee required by this Chapter.

(B) All licenses shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied pursuant to the provisions below. (1959 2574)

5-5-5: CLASSIFICATION AND FEES: (1959 2305)

(A) The following classes of registrationlicense and fees are hereby established:

(1) Class A Contractor. This registrationlicense shall entitle the holder to contract for the construction, alteration, or repair of any type or size of structure permitted by this Code. The annual fee shall be one hundred ten dollars (\$110).

(2) Class B Plumber. The annual fee for plumbers holding a State of Colorado Master's License shall be one hundred ten dollars (\$110)

(3) Class C Electrician. No fee shall be charged for a registrationlicense of a person holding a state license.

(4) Class D Public Way Contractor. This class registrationlicense shall entitle the holder to contract for work affecting public property or grounds, utility systems (either City-owned or contracting with the City for service of any type) or work within any street right-of-way, utility easement, or other public property. The annual fee for this class registrationlicense shall be one hundred ten dollars (\$110)

(B) It shall be the duty of every contractor to exhibit its registrationlicense upon request of the chief building official, his authorized representative or any law enforcement officer of the City.

~~**5-5-6: RENEWAL:** All registrations shall expire twelve (12) months from date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied pursuant to the provisions below. (1959 2574)~~

~~**5-5-7: REGISTRATION; 5-5-6: LICENSE DENIAL, CANCELLATION, DENIAL OF RENEWAL, SUSPENSION, AND REVOCATION:** (1959 2574)~~

~~(A) The City Manager may suspend or revoke any registration for unskillfulness, carelessness or willful violation of the City Manager's directions by a registered contractor, after notice and hearing as provided below.~~

~~(B) A registrationlicense may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the registered contractor, or as listed below.~~

~~(C) A registration may be cancelled, denied renewal, suspended or revoked after the contractor has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the contractor or mailed to the address contained in the registration, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(1) The City Manager may suspend or revoke any license for unskillfulness, carelessness, or willful violation of any order for corrective action issued by the Chief Building Official.~~

~~(D) An application for a new registration may be denied by~~

~~(2) Any violation of the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(E) A registration may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(F) The Special Permit and License Board shall conduct an appeal of the denial of a new registration or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(G) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

5-5-7: BONDS AND INSURANCE REQUIRED: (1959)

(A) It shall be unlawful for any Class D contractor to engage in any work without first obtaining a right of way excavation/construction permit from the City.

(B) Before the issuance of a right of way excavation/construction permit to a Class D contractor, the contractor shall provide a surety bond ~~bond~~ payable to the City in the amount of five thousand dollars (\$5,000), which bond shall be conditioned upon faithful compliance with all applicable laws and all terms and conditions of the right of way excavation/construction permit and shall also indemnify and hold the City harmless from any liability resulting from the Class D contractor's work. If the Class D contractor's work is done on behalf of the City as principal, and a performance bond is required by the contractor's agreement with the City, then no additional bond shall be required pursuant to this section. Franchised entities are exempt from this requirement unless otherwise required by the individual franchise or by state or federal law. Independent contractors of franchised entities are not exempt unless so provided by the applicable franchise.

(C) Before the issuance of a right of way excavation/construction permit, the contractor shall submit satisfactory certificates of either the insurance coverage required under his contract or insurance in accordance with the following schedule, whichever is greater:

TYPE OF INSURANCE	AMOUNT
(1) Workmen's Compensation	Statutory - In conformance with the Workmen's Compensation Act of Colorado
(2) Employer's Liability	\$100,000 (each person) \$500,000 (Aggregate)

This insurance shall protect the contractor against all claims under the workman's compensation laws and employer's liability laws of the State of Colorado.

(2) Comprehensive Automobile Liability:	
(a) Bodily Injury	\$150 500,000 (each person) \$400,000 (each occurrence)
(b) Property Damage	\$150,000 (each person) \$400 500,000 (each occurrence)

This insurance shall be written in comprehensive form and shall include all motor vehicles licensed for highway use whether they are owned, non-owned, or hired.

~~(3-4)~~ Comprehensive General Liability:

(a) Bodily Injury	\$ 150 500,000 (each person)
\$400 (b) Property Damage	\$500,000 (each occurrence)
(b) Property Damage	\$150,000 (each person)
	\$400,000 (each occurrence)

This insurance shall be written in comprehensive general liability form and shall include coverage for subcontractors. If work undertaken may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall include coverage of blasting, explosion, collapse of buildings, or damage to underground property. The insurance required in this section shall be continued throughout the period of the contract work and maintenance period.

~~5-5-9: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

Section 6. Chapter 6, Title V, W.M.C., “Peddlers and Solicitors,” is hereby REPEALED IN ITS ENTIRETY.

Section 7. Chapter 8, Title V, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 8
PAWNBROKERS**

~~5-8-1:-~~ LEGISLATIVE INTENT

~~5-8-2:~~ DEFINITIONS

~~5-8-2: 3:~~ LICENSE REQUIRED

~~5-8-3: 4:~~ LICENSE APPLICATION

~~5-8-4:~~ FEES

~~5-8-5:-~~ RENEWAL APPLICATION REVIEW

~~5-8-6:-~~ LICENSE DENIAL, NON-RENEWAL, SUSPENSION, CANCELLATION, OR
REVOCATION

~~5-8-7:-~~ BOND REQUIRED

~~5-8-8:-~~ TRANSFER OF OWNERSHIP

~~5-8-8:~~ LICENSE ADMINISTRATION

~~5-8-9:-~~ CONDITIONS OF OPERATION

~~5-8-10:-~~ PROHIBITED ACTS

~~5-8-11:~~ PENALTY

~~5-8-1:~~ LEGISLATIVE INTENT: In addition to the findings expressed in Section 5-1-1, the City Council finds that the local regulation of the pawn shop industry is necessary to protect the citizens of Westminster from potentially fraudulent criminal conduct in connection with the receipt, purchase, and sale of pawned property.

~~5-8-2:~~ DEFINITIONS: (1965)

(A) The following words, terms and phrases, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

(1) "Applicant" shall mean:

~~1.(a)~~ An individual, or

~~2.(b)~~ All general or limited partners of a partnership, or

~~3.(c)~~ All members of the board of directors or shareholders of a corporation,

that applies for a license pursuant to this Chapter.

~~(B2)~~ "Contract for purchasepawn" means a contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed ninety days, has the option to cancel said contract.

~~(C3)~~ "Fixed price" means the amount agreed upon to cancel a contract for purchasepawn during the option period. Said fixed price shall not exceed:

~~— 1. One-tenth of the original purchase price for each month, plus the original purchase price, on amounts of fifty dollars or over; or~~

~~— 2. One one-fifth of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars.~~

~~(D4)~~ "Fixed time" means that period of time, ~~not to exceed ninety~~be no less than thirty (30) days, as set forth in a contract for purchasepawn, for an option to cancel said contract.

~~(E5)~~ "Option" means the fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchasepawn may be but does not have to be rescinded by the customer.

~~(F6)~~ "Pawnbroker" means a person regularly engaged in the business of making contracts for purchase pawn and/ or purchase transactions in the course of his business.

~~(G7)~~ "Purchase transaction" means the purchase by a pawnbroker in the course of his business of tangible personal property for resale, other than newly manufactured tangible personal property ~~which that~~ has not previously been sold at retail, when such purchase does not constitute a contract for purchasepawn.

~~(H8)~~ "Tangible personal property" means all personal property other than choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a contract for purchasepawn or purchase transaction.

~~5-8-2:~~ 5-8-3: LICENSE REQUIRED: (1965)

(A) It shall be unlawful for any person to act as a pawnbroker within the City of Westminster without first obtaining a license to conduct such business pursuant to this Chapter.

(B) All requirements specified in Article 56 of Title 12, Colorado Revised Statutes, ~~shall control and~~ are hereby incorporated by reference in this Chapter. In the event ~~that inconsistent of a conflict between those~~ requirements are and the requirements set forth ~~in this chapter~~herein, the more restrictive requirement shall apply.

5-8-34: LICENSE APPLICATION: (1965)

(A) The applicant for a license shall submit a verified application to the City Clerk on forms provided by the City Clerk, which shall include the following information:

~~(1-)~~ Name, address, telephone number, and description of the applicant, including date of birth;

~~—2-~~ In the case of a corporation, the name, ~~address,~~ addresses and telephone ~~number~~numbers of the ~~corporation and the~~ agent for service of process;

~~(2)~~ The names and addresses of any other pawn shops owned or operated by the applicant in the state of Colorado;

~~(3-)~~ A statement of whether the applicant has been convicted of any crime, misdemeanor or violation of any federal, state or municipal law, the nature of the offense and the punishment or penalty assessed therefor;

~~(4-)~~ A brief statement or drawing of the nature and character of the signage or advertising to be used;

~~(5-)~~ The location of the proposed business;

~~(6-)~~ A copy of the applicant's lease or other evidence of the applicant's right to possession of the premises;

~~(7-)~~ Information regarding the zoning of the location of the premises; and

~~(8-)~~ Such other reasonable information as to the identity or character of the applicant as may be determined by the Chief of Police to be necessary for the protection of the public welfare.

~~(B) Upon receipt of an application, the City Clerk shall forward it to those persons designated by the City Manager, including the Chief of Police, who shall cause such investigation of the applicant to be made as he deems necessary for the protection of the public and return his recommendation to the City Clerk. If the investigation discloses that the applicant has been convicted of misdemeanors or felonies that were not disclosed on the application, the Chief of Police shall recommend denial of the application. If the applicant has disclosed convictions on the application, the Chief of Police shall make his recommendation based on the nature of the offenses, the length of time since the convictions and any other information relevant to the protection of the public. The Chief of Police may also base his recommendation upon other identifiable threats to public safety.~~ (B) The applicant for a license renewal shall submit a verified application to the City Clerk on forms provided by the City Clerk, which shall include any information listed in subsection (A) above that has changed since the original application or the last renewal application.

(C) If the application is approved by the City Manager, upon posting the bond required by this Chapter and payment of the prescribed annual license fee by the applicant, the license shall be issued.

~~5-8-4: FEES: (1965)~~

~~(A)~~

~~(D)~~ All original applications shall be accompanied by a ~~four hundred and fiftyone thousand~~ dollar (\$~~4501,000~~) non-refundable application fee to defray the cost of reviewing and evaluating the application.

~~(B)~~ For pawn shops existing prior to 1991, the annual license fee shall be three hundred dollars (\$300) for 1991, seven hundred dollars (\$700) for 1992, and one thousand dollars (\$1,000) for 1993. The annual license fee for pawn shops commencing business in 1991 and thereafter shall be one thousand dollars (\$1,000).

~~(C)~~ No application fee is refundable in the event of revocation or suspension of a license. The application fee may be refunded at the discretion of the City Manager if an application for a license is denied.

~~(D)~~ The Police Department shall issue a quarterly invoice to each licensee listing the charges for all forms used by the Police Department pursuant to the state statute regulating pawn shops. Invoices shall be payable within thirty days.

5-8-5: RENEWAL APPLICATION REVIEW: (1965)

(A) Upon receipt of an application, the City Clerk shall forward it to the City Manager and the Chief of Police. The Chief of Police shall cause such investigation of the applicant to be made as the Chief may deem necessary for the protection of the public and return his recommendations to the City Manager. The City Manager shall consider the following factors prior to approving or denying an application:

(1) Whether the investigation discloses that the applicant has been convicted of misdemeanors or felonies that were not disclosed on the application;

(2) If the applicant has disclosed convictions on the application, whether the nature of the offenses are relevant to the operation of a pawn shop. If such convictions exist, the Manager may also consider that number of convictions and the length of time since the last conviction;

(3) Whether investigation of other pawn shops operated by the applicant indicate a failure to comply with the requirements of state law;

(4) Whether the investigation discloses other identifiable threats to public safety.

(B) If the application or license renewal is approved by the City Manager, upon posting the bond required by this Chapter and payment of the annual license fee by the applicant, the license will be issued.

(C) The initial application and annual license fee for pawn shops shall be one thousand dollars (\$1,000).

~~(D)~~ All licenses issued pursuant to this Chapter shall expire annually on December ~~thirty first~~³¹, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the annual license fee.

~~(B)~~ The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

5-8-6: LICENSE DENIAL, NON-RENEWAL, SUSPENSION, CANCELLATION OR REVOCATION: (1965 2574)

~~(A)~~ A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title ~~or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) An application for a new license may be denied by the City Manager, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(E) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

5-8-7: BOND REQUIRED: Before any license shall be issued to an applicant pursuant to this Chapter, each applicant shall file with the City Clerk a cash bond, certified funds payable to the City, or a surety bond running to the City in the sum of Ten Thousand Dollars (\$10,000). If a surety bond is provided it shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the State of Colorado. The bond shall be conditioned that the applicant shall comply fully with all the provisions of the laws of the City and the statutes of the State of Colorado regulating and concerning the applicant's business, and will pay all judgments rendered against the applicant for any violation of said laws or statutes together with all judgments and costs that may be recovered against him by any person for damage growing out of any such business with the applicant. Action on the bond may be brought in the name of the City to the use of the aggrieved person. Such bond must be approved by the City Attorney, both as to form and as to the responsibility of the surety. (1965)

5-8-8: ~~TRANSFER OF OWNERSHIP:~~LICENSE ADMINISTRATION: (1965)

~~(A) Every pawnbroker shall provide the Westminster Police Department, on a weekly basis, with two records, on a form to be provided or approved by the Police Department, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to Section 5-8-9 (A) and (B) of this Chapter. The Police Department shall designate the day of the week on which the records and declarations shall be submitted.~~

~~(B) The Police Department will issue a quarterly invoice to each licensee listing the charges for all forms used by the Police Department pursuant to the state statute regulating pawn shops. The pawnbroker shall pay the invoices within thirty days~~

~~(C) In the event of a transfer of a pawn shop ownership:~~

(1) Prior to or within thirty (30) days after the transfer of ownership of a ~~pawn~~pawn shop, or of the transfer of ownership of any of the capital stock of the corporation, the new owner of the stock or business shall file with the City Clerk a written report of the transfer on forms provided by the City Clerk. The report shall be accompanied by an investigation fee of two hundred and fifty dollars (\$250).

~~(B)~~ (2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, ~~after.~~ After sufficient investigation by the Police Department, ~~and~~ the City Manager may approve or deny the transfer. Criteria for approval shall be the same as for an original application. The City Manager shall consider ~~only~~ the character of the proposed new owner or owners and whether the new owner or owners comply with all requirements of the Code and rules and regulations adopted pursuant to the Code. If the new owner or owners are not approved, the license may be revoked.

5-8-9: CONDITIONS OF OPERATION: (1965)

(A) A pawnbroker shall keep a numerical register in which he shall record the following information:

(1) The name, address, and date of birth of the customer, and ~~his~~the driver's license number or other identification number from any other form of identification ~~which~~that is allowed for the sale of valuable articles pursuant to ~~section~~Section 18-16-103, CRS., or for the sale of secondhand property pursuant to ~~section~~Section 18-13-114, CRS;

(2) The date, time, and place of the contract for ~~purchase~~pawn or purchase transaction; and

(3) An accurate and detailed account and description of each item of tangible personal property, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying marks on such property.

(B) The pawnbroker shall also obtain a written declaration of the customer's ownership which shall state that the tangible personal property is totally owned by the customer, or shall have attached to such declaration a power of sale from the partial owner to the customer, how long the customer has owned the property, whether the customer or someone else found the property, and, if the property was found, the details of the finding.

(C) The ~~pawnbroker shall require the~~ customer ~~shall to~~ sign his name in the numerical register or other tangible or electronic record and on the declaration of ownership and the pawnbroker shall give the customer a copy of the contract for ~~purchase~~pawn or a receipt of the purchase transaction.

(D) The ~~pawnbroker shall require the customer to place an indelible print of the customer's index finger on the~~ numerical register or other tangible record of the transaction.

~~(E)~~ The pawnbroker shall be made make the numerical register or other tangible or electronic record available to the Westminster Police Department for inspection at any reasonable time.

~~(F)~~ The pawnbroker shall keep each register or other tangible or electronic record for at least three years after the date of the last transaction entered in the register.

~~(G)~~ A pawnbroker shall hold all contracted goods within his jurisdiction for a period of ten days following the maturity date of the contract for ~~purchase~~pawn, during which time such goods shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

(GH) A pawnbroker shall hold all property purchased by him through a purchase transaction for thirty days following the date of purchase, during which time such property shall be held separate and apart from any other tangible personal property and shall not be changed in form or altered in any way.

~~(H) Every pawnbroker shall provide the Westminster Police Department, on a weekly basis, with two records, on a form to be provided or approved by the Police Department, of all tangible personal property accepted during the preceding week and one copy of the customer's declaration of ownership. The form shall contain the same information required to be recorded in the pawnbroker's register pursuant to subsection (B) of this section. The Police Department shall designate the day of the week on which the records and declarations shall be submitted.~~

5-8-10: PROHIBITED ACTS: (1965)

(A) It shall be unlawful for any ~~person~~pawnbroker:

~~(1. To operate a pawnshop without holding a validly issued license;~~

~~—2.) To enter into a contract for purchasepawn or purchase transaction with any individual under the age of eighteen years;~~

~~3.(2) To permit any customer to become obligated on the same day in any way under more than one contract for purchasepawn agreement with the pawnbroker whichthat would result in the pawnbroker obtaining a greater amount of money than would be permitted if the pawnbroker and customer had entered into only one contract for purchasepawn covering the same tangible personal property;~~

~~4.(3) To violate the terms of the contract for purchase;pawn.~~

~~—5. For (B) It shall be unlawful for a customer to knowingly give false information with respect to the information required by ~~section~~Section 5-8-9.~~

~~**5-8-11: PENALTY:** It shall be unlawful for any person to violate a provision(A), (B), or (C) of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1965)~~

Section 8. Chapter 9, Title V, W.M.C., is hereby AMENDED to read as follows:

**CHAPTER 9
AMUSEMENT CENTERS**

5-9-1: LICENSE REQUIRED

5-9-2: EXEMPTIONS

5-9-3: LICENSE APPLICATION FEES AND TAXES REVIEW

~~5-9-3:~~

5-9-4: RENEWAL FEES AND TAXES

5-9-5: RENEWAL

5-9-6: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION

~~5-9-6-7:~~ **7: HOURS OF OPERATION, AGE LIMITATION**

~~5-9-7-8:~~ **8: SECURITY GUARDS**

~~5-9-8-9:~~ **9: PROHIBITED ACTS**

5-9-9: PENALTY

5-9-1: LICENSE REQUIRED: It shall be unlawful for any person to operate or conduct any place of amusement or recreation offering to the public for a fee the use of any pool or billiard table or any other amusement game or device, without first obtaining a license therefor pursuant to this Chapter. Licenses shall not be transferable, and upon a change of owner or change of location, a new license must be obtained. (1959 3016)

5-9-2: EXEMPTIONS: When operating a total of twelve (12) or fewer amusement tables, games or devices referred to in this Chapter, any premise used principally for the conduct of another business, including, but not limited to a grocery store, convenience store, drugstore, bowling alley or tavern, shall not be required to obtain an amusement center license in addition to a business license, but shall continue to be subject to the remaining provisions of this Chapter, unless otherwise noted herein.

5-9-3: LICENSE APPLICATION AND REVIEW: (1959 2229 2707 3016) Conditions for applications for an original license or a renewal: are:

(A) The applicant shall submit a verified application to the City Clerk, on forms provided by the City Clerk, and accompanied by the ~~fee and~~ tax required by this Chapter.

(B) The application shall be reviewed by the City Manager who shall have the power to grant or deny such license, to request an investigation by the Police Department, and to impose reasonable limitations and restrictions on any license so granted. The City Manager shall evaluate the application under the criteria set forth below and based upon the results of an investigation by the Police Department, if any.

~~(1-)~~ The character of the applicant;

~~(2-)~~ The applicant's prior experience and qualifications to operate such a business;

~~(3- The needs of the community for such a facility and the desires of its citizens regarding such a facility, including any petitions or remonstrances evidencing such desires;~~

~~4- Pedestrian safety;~~

~~5-)~~ Traffic volume and adequacy of parking and access;

~~6- Essential character of the neighborhood and the applicant's effect on the peace of the neighborhood;~~

~~7-)~~ (4) Compliance of the facility with all applicable zoning and building regulations;

~~8-)~~ (5) Police activity in comparable businesses; ~~;~~

~~9- Architectural compatibility with the character of the neighborhood.~~

5-9-34: FEES AND TAXES: (1959 2707 3016)

(A) There shall be no application fee for a new or renewal license.

(B) The licensee shall annually remit ~~a tax or an~~ excise tax of ~~Forty Dollars~~ forty dollars (\$40) per pool or billiard table or coin-operated amusement game or device, payable at the time of filing an application for an original or renewal license or when a new table or game or device is added to the premises. If a license is obtained or a pool or billiard table or coin-operated amusement game or device is added by the licensee after June 30 of a particular year, the tax or excise shall be ~~Twenty Dollars~~ twenty dollars (\$20) each.

5-9-45: RENEWAL: (1959 2707 3016)

(A) All licenses issued pursuant to this Chapter shall expire December thirty first of the year for which issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required taxes.

(B) The renewal application shall be reviewed by the City Manager who shall have the power to grant or deny such license renewal and to impose reasonable limitations and restrictions on any license renewed. The City Manager shall evaluate the application under the criteria set forth for original applications.

(C) Failure to pay required ~~fees or~~ taxes shall be grounds to deny renewal, and no renewal license shall be issued until such ~~fees and~~ taxes are paid.

5-9-56: LICENSE DENIAL, CANCELLATION, NON-RENEWAL, SUSPENSION OR REVOCATION: (1959 2229 2574 3016)

(A) Upon his own motion, or upon complaint by the Police Chief, the City Manager may cancel, suspend or revoke any license at any time ~~on the grounds that it is:~~

- ~~1. Detrimental to the public health, safety or welfare due to the location of the amusement center,~~
- ~~2. Because of the proximity of said location to schools, churches, or other places where the public may congregate,~~
- ~~3. Based on the criteria set forth in section 5-9-2(A)(8), or~~
- ~~4. Based on for any violation of the provisions of this Code or any other law.~~
- ~~5. Based on the provisions of Chapter, or for any reason set forth in Chapter 1 of this Title.~~

(B) A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided in Chapter 1 of this Title and shall inform the licensee that he may request, in writing to the City Clerk, a hearing before the Special Permit and license Board pursuant to subsection (E) below. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.

(C) An application for a new license may be denied by the City Manager, upon the grounds listed in Section 5-9-3(B), above, or Section 5-1-6, W.M.C. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with the zoning or building code, or failure to pay any required fees or taxes. The reason for the denial of the application shall be provided to the applicant in writing.

(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

(E) The Special Permit and License Board shall conduct a hearing on an appeal of the denial of a new license, the cancellation, denial of renewal, suspension or revocation of a license pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.

(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.

(G) Any premises licensed pursuant to this Chapter, including the parking lots and streets and sidewalks adjacent to the premises, which become the location of frequent or repeated violations of the City's

ordinances, including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct, is hereby declared to be a nuisance, which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII ~~of this code and the license of said premises shall be revoked.~~

5-9-6: 5-9-7: HOURS OF OPERATION; AGE LIMITATION: (1959 3016)

(A) The licensee shall observe the following hours of operation:

~~(1-)~~ Except for premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises, premises licensed pursuant to this Chapter shall be open to the public not earlier than ten o'clock (10:00) A.M. and not later than eleven o'clock (11:00) P.M. on Sundays through Thursdays and on Fridays and Saturdays shall be open to the public no earlier than ten o'clock (10:00) AM. and not later than midnight (12:00 AM). An adult twenty one (21) years of age or older shall be present on and responsible for management of the premises during all hours of operation.

~~(2-)~~ Private events: licensed amusement centers may conduct private events outside the hours of operation stated ~~in 5-9-6~~ herein subject to the following requirements:

(a) ~~in compliance with the following:~~

~~a-~~ The center may not be licensed for the sale of ferment malt beverages, malt, vinous or spirituous liquor, nor may any of the same be sold, served, or consumed on the premises.

~~(b-)~~ If minors are in attendance, there must be one (1) adult supervisor for every eight (8) minors.

~~(c-)~~ Minors must remain in the building and must not be allowed to leave and re-enter during the event.

~~(d-)~~ Participants must not be allowed to congregate or loiter in the parking lot or nearby areas and must comply with the regulation of nighttime juvenile loitering, contained in Section 6-3-11.

~~(e-)~~ The center must not allow any form of entertainment other than those amusement devices for which it is licensed.

~~(f-)~~ The center must report the event to the city clerk in writing, with a copy to the police department, at least seventy-two (72) hours in advance.

“Private Event” means an event for which the center has closed the premises to the general public.

(B) Unless the licensee of the premises maintains a full-time security guard, or has twelve or ~~less~~ fewer amusement tables, games or devices, it shall be unlawful for a licensee or any other person in charge of the licensed premises to permit any pool or billiard table or coin-operated amusement games or devices to be used by any person under the age of sixteen (16) years or to allow any such persons to congregate or remain upon the licensed premises unless accompanied by a parent or legal guardian. Such security guard shall be in addition to the adult manager of the premises. This ~~subsection~~ shall not apply to premises licensed for the sale of fermented malt beverages, malt, vinous or spirituous liquor for consumption on the premises.

(C) When operating a total of twelve (12) or ~~less of the fewer~~ amusement tables, games, or devices referred to in this Chapter, premises used principally for the conduct of another business, including, but not limited to grocery store, convenience store, drugstore, bowling alley or tavern shall not be subject to the provisions of this ~~section~~ Section.

5-9-78: SECURITY GUARDS: (1959 3016)

(A) The owner of any premises licensed pursuant to this Chapter shall maintain security guards. The number of security guards required shall be calculated as follows:

~~(1-)~~ Premises licensed for the sale of fermented malt beverages, or malt, vinous or spirituous liquor for consumption on the premises: For thirteen (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the City Manager may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

~~(2-)~~ All other premises: For thirteen (13) to fifty (50) tables or machines, one (1) guard on duty during all hours of operation; for more than fifty (50) tables or machines, one (1) or more additional guards may be required for such hours as the City Manager may decide based on, but not limited to, the number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels.

(B) For premises licensed for more than fifty (50) machines or tables, any requirements for security guards in excess of one (1) security guard, imposed pursuant to subsection (A) of this ~~section~~Section, shall be stated on the license. These conditions shall be reviewed annually by the City Manager upon application for renewal of the license or at any time at the request of the City Council, or the Chief of Police based on a finding that security measures are insufficient to protect the public health, safety and welfare. The City Manager may adjust these conditions based on, but not limited to, the following factors: The number of machines, the location and design of the premises, the number of occupants, peak hours of operation, and staffing levels. The City Manager's decision regarding additional security shall be mailed to the licensee. Unless the licensee requests a hearing on the matter before the Special Permit and License Board within ten (10) days after the letter is mailed to the licensee. Failure to timely request a hearing shall be deemed a waiver of a hearing.

5-9-89: PROHIBITED ACTS: (1959 2001 3016)

(A) It shall be unlawful for any licensee or his agent knowingly to do, to encourage, to participate or to permit any of the following acts on the premises of any place licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises:

~~(1-)~~ Gamble or to permit gambling upon any pool or billiard table or coin-operated amusement game or device. The licensee is hereby specifically charged with knowledge of and made liable for the use of all tables, games and devices on the premises in any manner constituting a violation of this ~~section~~Section.

~~(2- To permit any person to use)~~ Use, sell, or distribute any illegal or dangerous drug, chemical substance, or narcotic. Any premise licensed under the Colorado Beer Code or Colorado Liquor Code shall conform to said code and shall not allow the use, sale or distribution of beer or alcohol to any minor.

~~(3- Any-)~~ Create any disturbance, unlawful or disorderly act, or activity offensive to the senses of the average citizen, or to the residents of the neighborhood to be committed by any person or group of persons upon the premises.

(B) It shall be unlawful for any licensee to fail to comply with the following requirements:

(1-) Any licensee and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with the requirements of this Section may be considered by the City Manager in any action relating to revocation, suspension or nonrenewal of a license. Repeated failure to comply with the requirements of this ~~section~~Section shall constitute prima facie grounds for the suspension, revocation or nonrenewal of a license.

(2-) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's Office which shall be in the following form:

"WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT."

(C) It shall not be a defense to a prosecution under this Section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct or disturbance was permitted, encouraged or participated in; provided, however, that an agent, servant or employee of the licensee shall not be personally responsible hereunder when absent from the premises and not on duty.

~~5-9-9: PENALTY: (1959 3016) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title VIII of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.~~

Section 9. Chapter 13, Title V, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 13 SECURITY ~~GUARDS~~GUARD BUSINESSES

~~5-13-1:~~ DEFINITIONS

~~5-13-2:~~ LICENSE REQUIRED

~~5-13-3:~~ EXEMPTIONS

~~5-13-4:~~ LICENSE APPLICATION ~~INVESTIGATION, TERM OF LICENSE AND ISSUANCE~~RENEWAL

~~5-13-5:~~ ~~5-13-5:~~ APPLICATION REVIEW

~~5-13-6:~~ FEES

~~5-13-7:~~ RENEWAL

~~5-13-8:~~ LICENSE DENIAL, SUSPENSION, CANCELLATION OR REVOCATION

~~5-13-9:~~ ~~7:~~ INSURANCE REQUIRED

~~5-13-10:~~ ~~8:~~ BADGES UNIFORMS AND EQUIPMENT

~~5-13-11:~~ ~~9:~~ CHANGE OF LOCATION OR PERSONNEL

~~5-13-12:~~ ~~10:~~ RULES AND REGULATIONS

~~5-13-13:~~ ~~11:~~ PROHIBITED ACTS

~~5-13-14:~~ PENALTY

~~5-13-1:~~ DEFINITIONS: ~~As~~

(A) The following words, terms, and phrases, when used in this Chapter, shall have the following shall mean meanings unless the content clearly indicates otherwise: (1959)

~~(A)1~~ "Security Guard" means any person employed by a security guard business, as defined in this Section, who is directly engaged in providing protection for the clients of such business, or any person employed by another type of business for the purpose of providing protection to persons or property or to preserve the peace in the conduct of such business, which protection or preservation of the peace is incidental to the primary purpose of such business.

~~(B)2~~ "Security Guard Business" means any business whose primary purpose is to provide protection to persons or property or to preserve the peace in the conduct of a business. The term "security guard business" shall not include a business or operation where security is merely incidental to the primary purpose of the business.

5-13-2: LICENSE REQUIRED: It shall be unlawful for any person to engage in or conduct a security guard business without first obtaining a license ~~therefor~~ pursuant to this Chapter. (1959 2041)

5-13-3: EXEMPTIONS: (1959 2041)

(A) Security guards employed by any common carrier engaged in interstate commerce, maintenance workers, custodians, janitors, and repair persons are exempted from the provisions of this Chapter.

(B) A business may hire a security guard without being licensed as a security guard business if:

- (1) The need for a security guard is incidental to the primary purpose of the business,
- (2) The security guard wears a uniform that plainly identifies the business as the employer of the security guard, and
- (3) The security guard complies with all provisions of this Chapter except the requirement of obtaining a license as a security guard business.

5-13-4: LICENSE APPLICATION: (1959 2041)

(A) Applicants for a security guard business license shall file a verified application with the City Clerk on forms to be provided by the City Clerk for that purpose which shall contain at least the information specified in this Section.

(B) An applicant for a security guard business license shall provide:

- (1) The name of the licensee,
- (2) The business address,
- (3) A description of the nature and type of business to be conducted, and the services to be offered, by the ~~Security Guard~~security guard business,
- (4) A color photograph depicting the uniform and badge to be worn by ~~Security Guards~~security guards employed by the ~~Security Guard~~security guard business,
- (5) Any other pertinent information requested by the City Clerk.

(C) If the applicant for a security guard business license is other than a sole proprietor, the information required under ~~subsections~~subSection (B) of ~~subSection 5-13-6(B) of this section~~Section must be supplied by each owner, officer or director of the ~~organization-business~~ applying for the license.

(D) A license for a security guard business is not transferable. ~~Upon a change in ownership, the new owner shall apply for a new license pursuant to this Chapter.~~

~~**5-13-5: INVESTIGATION AND ISSUANCE-13-5: APPLICATION REVIEW:**~~ (1959 2041 2574)

(A) Upon receipt of an application filed pursuant to this Chapter, the City Manager or his designee shall review the application, refer the application to the Chief of Police for review, and within thirty (30) days shall either issue or deny the license. The thirty (30) day period shall not begin to run until all information required under this Chapter has been submitted.

(B) Any of the following circumstances may be considered cause for denial of a license:

- (1) The applicant is under twenty one (21) years of age;
- (2) The applicant was convicted of a felony within ten (10) years immediately preceding the date of application;
- (3) The applicant was convicted of a misdemeanor or ordinance violation involving moral turpitude or violence within five (5) years immediately preceding the date of application;
- (4) The applicant has failed to comply with any of the provisions of this Chapter;
- (5) The applicant's character and reputation is not satisfactory to the City Manager.
- (6) The applicant does not have the basic skills to speak and to comprehend the spoken English language as determined by the City Manager or his designee.
- (7) The required fees have not been paid.
- (8) The application is incomplete or contains false, misleading or fraudulent statements.
- (9) Nonconformance of the business, premises, building or land use with this Code.
- (10) Any reason stated in Chapter 1 of this Title.

(C) Upon review and approval by the City Manager or his designee, and payment of the required fee, the Security Guard business license shall be issued. The application fee paid for any license shall be nonrefundable.

(D) The grounds specified for denial in this Section shall apply to individual applicants, as well as directors, officers or general partners of any applicant.

~~5-13-6: FEES: (1959-2041)~~

~~(A)(E)~~ An application for a security guard business license shall be accompanied by an investigation fee of thirty dollars (\$30).

~~(B)(F)~~ The annual fee for a ~~Security Guard~~security guard business license shall be sixty dollars (\$60).

~~5-13-7: RENEWAL:(G)~~ All security guard business licenses issued pursuant to this chapter, shall expire on December 31st of the year in which the license was issued, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees. Renewal may be denied as provided below. (1959 2574)

~~5-13-8~~ **5-13-6: LICENSE DENIAL, SUSPENSION, CANCELLATION, NON-RENEWAL OR REVOCATION:** (1959 2041 2574)

~~(A)~~ A license may be denied, cancelled, denied renewal, suspended or revoked for any violation of the provisions of this Chapter, or for any reason set forth in Chapter 1 of this Title ~~or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the licensee.~~

~~(B)~~ ~~A license may be cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing. The notice shall be given by personal delivery to the licensee or mailed to the address contained in the license,~~

~~postage prepaid, or as provided in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit and License Board.~~

~~(C) An application for a new license may be denied by the City Manager or designee, upon the grounds listed above. The applicant may appeal a denial to the Special Permit and License Board, unless the reason for the denial is an incomplete application, nonconformance with provisions of this code such as zoning or the building code, or failure to pay required fees. The reason for the denial of the application shall be provided to the applicant in writing.~~

~~(D) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(E) The Special Permit and License Board shall conduct an appeal of the denial of a new license or a hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(F) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

5-13-97: INSURANCE REQUIRED: (1959 2041)

(A) Before any license shall be issued an applicant for a license for a security guard business, the applicant shall file with the City Clerk a certificate of ~~Insurance~~insurance indicating current insurance coverage as follows:

~~+~~

Comprehensive General Liability:

(A1) Bodily Injury	\$ 500,000 (Each Person) \$1,000,000 (Each Occurrence)
(B2) Property Damage	\$ 500,000 (Each Person) \$1,000,000 (Each Occurrence)

(B) Such ~~Certificate~~certificate of ~~Insurance~~insurance must name the City of Westminster as an additional insured for activities conducted by the Licensee within the City, and must be approved by the Risk Manager, both as to form and as to the responsibility of the surety.

The ~~Certificate~~certificate of ~~Insurance~~insurance shall also provide that coverage shall not be cancelled without at least thirty days notice to the City. Cancellation shall result in automatic suspension of the ~~Security Guard~~security guard business license.

5-13-108: BADGES, UNIFORMS AND EQUIPMENT: (1959 2041)

(A) The City Manager or his designee may, in his discretion, require that any licensee or employee of a security guard business wear an identification badge or uniform, but no badge or uniform shall be worn by any licensee or employee which is a colorable imitation of badges or uniforms or could be confused with those worn by officers of the Westminster Police Department, Adams County Sheriff's ~~office~~Office, Jefferson County Sheriff's ~~office~~Office or the Colorado State Patrol.

(B) No vehicle used in a security guard business or by a security guard while on duty shall be used or identified in any way which may be confused with those used by the Westminster Police Department, Adams County Sheriff's ~~office~~Office, Jefferson County Sheriff's ~~office~~Office or the Colorado State Patrol, nor shall any vehicle be equipped with a siren or emergency lights in violation of local or state law.

(C) The words "police" or "officer" or other similar words which might be confused with or represent a municipal, county, state or federal law enforcement agency shall not be used in any advertisement upon any premises within the limits of the City, nor on any clothing, vehicles or equipment used by the licensee.

(D) The City Manager or his designee may issue an order denying use of any item which is in violation of the provisions of this ~~section~~[Section](#).

5-13-~~119~~: CHANGE OF LOCATION OR PERSONNEL: (1959 2041)

(A) Any licensee changing its place of business shall immediately notify the City Clerk of such fact, together with the new place of business, but a change of location shall not be deemed a transfer of a license or require payment of a new fee.

(B) Each [security guard](#) business required to be licensed pursuant to this Chapter shall maintain a current record of all employees and of their assignments. These records shall be open to the City Manager or his designee for inspection at any time during regular business hours.

5-13-~~120~~: RULES AND REGULATIONS: The City Manager or his designee may issue and promulgate from time to time rules and regulations to provide for the health, safety and welfare of the City in relation to security guard businesses. Such rules may include duties of the licensees, manner of conduct, reports to be furnished and any other regulations deemed necessary by the Police Chief. (1959 2041)

5-13-~~131~~: PROHIBITED ACTS: (1959 2041)

(A) It shall be unlawful for any licensee or an employee of a licensee:

(1) To arrest any person except when that person commits a criminal offense in the presence of the person making the arrest;

(2) To fail to release an arrestee immediately to the Westminster Police Department;

(3) To ~~draw or~~ fire a firearm in the performance of his duties except when necessary to protect himself or another from great bodily harm;

(4) To hinder or interfere with any [action or](#) investigation under the jurisdiction of the Westminster Police Department;

(5) To fail to report to the Westminster Police Department any violations of city, state or federal laws of which he has knowledge;

(6) To represent himself to be an officer of the Westminster Police Department or any municipal, county, state or federal law enforcement agency;

(7) To fail to identify himself or take any action which would obscure his presence from a police officer inspecting an area where the licensee is assigned;

(8) To wear a badge or uniform or use any vehicle or equipment not authorized for use under ~~section~~[Section](#) 5-13-10;

(9) To [interfere with the performance of any police officer or City official in the performance of their official duties](#);

(10) To advertise, represent or identify himself as a police officer or use any acronym or initials that could cause him to be mistaken to be a member of a federal, state or municipal law enforcement agency.

(B) No licensee or an employee of a licensee shall have any greater authority to arrest than would another private citizen. Nothing in this Chapter shall be construed to mean that a licensee may conduct criminal

investigations, make arrests or reports of criminal activity, use deadly force, or take any other action on behalf of, under color of laws of, or under the authority of the City of Westminster.

~~5-13-14: PENALTY: It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 10. Section 5-15-2 of Chapter 15 of Title V, "Massage Parlors," W.M.C., is hereby AMENDED to read as follows:

5-15-2: DEFINITIONS: As The following words, terms, and phrases, when used in this Chapter, shall have the following shall mean meanings, unless the content clearly indicates otherwise: (1938 1959 2189)

(A) "License" means a grant of a licensee to operate a massage parlor.

(B) "Licensed premises" means the premises specified in an approved application for a license under this article which are owned or in the possession of the licensee and within which such licensee is authorized to carry on the practice of massage.

(C) "Location" means a particular specific parcel of land that may be identified by an address or by other descriptive means.

(D) "Massage Therapy" means a method of treating the body for remedial or hygienic purposes by a massage therapist licensed pursuant to this Chapter, including but not limited to rubbing, stroking, kneading, or tapping with the hand or an instrument or both.

~~(1) "Other Massage Services" shall include any services which are~~
~~a) Offered or performed for compensation, and which are b) advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, by a person who is not licensed pursuant to this chapter as a massage therapist.~~

(E) "Massage parlor" means a parlor providing massage, but it does not include training rooms of public and private schools accredited by the state board of education or approved by the division charged with the responsibility of approving private occupational schools, training rooms of recognized professional or amateur athletic teams, and licensed health care facilities. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor.

(F) "Massage therapist" means an individual registered by the State of Colorado to engage in the practice of massage therapy pursuant to Title 12, Article 35.5, Colorado Revised Statutes.

(G) "Other Massage Services" means any services which are offered or performed for compensation, and which are advertised or represented as massage or which involve the touching of the body with the purpose of inducing any type of pleasurable or erotic experience, by a person who is not licensed pursuant to this chapter as a massage therapist.

(H) "Party in interest" means the applicant, a resident of the neighborhood under consideration, or the owner or manager of a business located in the neighborhood under consideration.

(HI) "Person" means a natural person, partnership, association, company, corporation, organization, or managing agent, servant, officer, or employee of any of them.

(E) "Premises" means a distinct and definite location which may include a building, a part of a building, a room, or any other definite area contiguous to the building, part of a building or room.

Section 11. Chapter 16, Title V, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 16 DANCE HALLS AND CABARETS

5-16-1: ~~LEGISLATIVE DECLARATION~~

~~5-16-2: DEFINITIONS~~

~~5-16-3: LICENSE REQUIRED~~

~~5-16-4: LICENSE APPLICATION~~

~~5-16-4: FEES~~

~~5-16-5: FEES RENEWAL~~

~~5-16-6: RENEWAL~~

~~5-16-7: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION~~

~~5-16-8: TRANSFER; CHANGE IN NATURE OF BUSINESS~~

~~5-16-9: PROHIBITED ACTS~~

~~5-16-10: REPORTS, SIGNS~~

~~5-16-11: MANAGEMENT AND SUPERVISION~~

~~5-16-12: OCCUPANCY LIMITS~~

~~5-16-13: SECURITY GUARDS~~

~~5-16-14: HOURS OF OPERATION~~

~~5-16-15: PENALTY~~

~~**5-16-1: LEGISLATIVE DECLARATION:** The City Council hereby declares that the operation of dance halls and cabarets in this City affects the public health, safety and welfare and the City regulation of such operations is in the public interest. (1959)~~

~~**5-16-2: DEFINITIONS:** As used in this Chapter, the following shall mean: (1959)~~

~~**5-16-1: DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise: (1959)~~

~~(A) "CabaretDance hall" means any commercial premises open to designed for public dancing on a regular or continuing basis for gain or to and which the public is admitted upon payment of an admission fee or charge of any kind, not to include includes one or more designated dance floors, but excluding commercial dance studios where designed and used primarily for dance instruction is given on a regular and continuing basis, and.~~

~~(B) "Cabaret" means a dance hall, as defined by this Section, which is licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquors.~~

~~(B) "Dance Hall" means any premises satisfying the definition of a "cabaret," as defined by this section, which is not licensed for the sale of fermented malt beverages or malt, vinous or spirituous liquor. (C) "Dance Hall" and "Cabaret" do not include any adult businesses as defined by Section 5-17-2, W.M.C., and the issuance of any license to any dance hall or cabaret pursuant to this Chapter shall not be deemed or construed as authorizing any such adult business.~~

5-16-32: LICENSE REQUIRED: It shall be unlawful for any person to operate any dance hall or cabaret without first obtaining a license therefor pursuant to this Chapter. (1959)

5-16-43: LICENSE APPLICATION: (1959 2229)

(A) The applicant for a license shall submit a verified application to the City Clerk on forms provided by the City Clerk. The application shall include ~~complete plans and specifications~~ a floor plan for the interior of the premises to be licensed, which shall include a drawing that shows the dimensions and location of the stage and dance floor, a copy of the lease or other evidence of the applicant's right to possession of the premises, information regarding the zoning of the location of the premises, and the fee required by this Chapter.

(B) The application shall be reviewed by the City Manager, who, within ~~ten (10)~~ twenty (20) days after receipt of the application and after such additional investigation as he may deem necessary, shall schedule a public hearing before the Special Permit and License Board. If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, the public hearings shall be consolidated.

(C) Notice of such hearing shall be mailed by the City Clerk to the applicant not less than ten (10) days before the hearing date. Notice of such hearing shall also be given by publication in a newspaper of general circulation in the ~~community~~ City once, not less than ten (10) days prior to the hearing date and by posting a notice of the hearing upon the premises for at least ten (10) days prior to the hearing. Publication and posting shall be done by the City Clerk.

~~(D) The City Clerk shall propose the boundaries of the neighborhood in writing to the Special Permit and License Board with a copy to the applicant. If a majority of the Board or the applicant disputes the proposed neighborhood boundaries, the issue shall be considered by the Board at a public meeting. A dispute of the boundaries by the applicant must be filed within ten (10) days of the letter notifying the applicant of the boundaries established.~~

~~(E) Prior to the hearing, the City or its designee shall circulate appropriate petitions to determine the desires of the inhabitants within the neighborhood surrounding the applicant. The petition form shall be approved by the City.~~

~~(F) At least five (5) days prior to the public hearing, the City Clerk shall send the results of the petitioning and investigation of the application to the applicant and make them available to other interested parties.~~

~~(G) After such public hearing, the Special Permit and License Board shall grant or deny the license and may place reasonable conditions upon the license.~~

(HE) In determining whether to grant or deny the license, the Board shall take into consideration:

- (1) The character of the applicant; _____
- (2) The applicant's prior experience and qualifications to operate such a business;
- (3) ~~The desires of the inhabitants of the neighborhood regarding such a facility including any petitions or remonstrances evidencing such desires;~~
- (4) ~~Pedestrian safety;~~
- (5) ~~Traffic volume and adequacy of parking and access;~~
- (6) ~~Essential character of the neighborhood and the applicant's~~ _____ (4) The potential effect of the business on the peace of the neighborhood, including off-site noise

~~(7) and light;~~

~~(5) Compliance of the structure with all applicable zoning and building regulations;~~

~~(8) Police activity in comparable businesses;~~

~~(9) Architectural compatibility with the character of the neighborhood.~~

~~(7) The proposed size and character of the business in relation to surrounding land uses; and~~

~~(8) The reasonable requirements of the neighborhood and the desires of its inhabitants.~~

If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, the Board may rely on information from any hearing on that application in considering the criteria above.

5-16-54: FEES: (1959)

(A) All original applications shall be accompanied by a four hundred and fifty dollar (\$450) non-refundable application fee to defray the cost of reviewing and evaluating the application. If the applicant is simultaneously applying for a license to sell fermented malt beverages or alcoholic beverages for consumption on the premises, and the public hearings are consolidated, the application fee ~~for an original application~~ shall be one hundred dollars (\$100).

(B) The annual renewal license fee thereafter shall be one hundred dollars (\$100), payable at the time of filing the application for renewal.

5-16-6: 5-16-5: RENEWAL: (1959 2229 2574)

(A) All dance hall licenses issued pursuant to this Chapter shall expire one (1) year from the date of issuance, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

(B) Cabaret licenses issued pursuant to this Chapter shall expire concurrently with the expiration of the fermented malt beverages or alcoholic beverages license issued to the establishment, unless cancelled, suspended or revoked, and shall be renewed annually upon application for renewal and payment of the required fees.

~~(C) A license may be denied renewal for any violation of the provisions of this Chapter, for any reason set forth in Chapter 1 of this Title, for any of the reasons set forth below, or on the grounds that the health, safety or welfare of the community may be endangered by the continued operation of the license. License renewals shall be considered by the Special Permit and License Board concurrently with the licensee's liquor license renewal.~~

5-16-76: LICENSE DENIAL, CANCELLATION, SUSPENSION OR REVOCATION (1959 2229 2574)

~~(A) The Special Permit and License Board may deny, deny renewal, suspend or revoke any license at any time on the grounds that it is:~~

~~(1) Detrimental to the public health, safety or welfare due to the location of the dance hall or cabaret;~~

~~(2) Because of the proximity of the location to schools or churches or other places where the public may congregate; or~~

~~—(3) Based on the criteria set forth in section 5-16-4(H).~~

~~(B) A license may be denied, cancelled, denied renewal, suspended or revoked after the licensee has been given notice and hearing. The notice shall set forth the reasons for the proposed action, in writing, and shall be given by personal delivery to the applicant or mailed to the address contained in the license, postage prepaid, or as provided any reason stated in Chapter 1 of this Title. Said notice shall be given no less than ten (10) days prior to a hearing to be scheduled before the Special Permit, and License Board.~~

~~(C) A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection any violation of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.~~

~~(D) The Special Permit and License Board shall conduct the hearing pursuant to the procedures established for hearings in Chapter 1 of this Title. The Special Permit and License Board shall deliver its decision in writing within thirty (30) days.~~

~~(E) Decisions of the Special Permit and License Board are final, subject only to appeal to a court of competent jurisdiction.~~

~~(F) Any place licensed hereunder, including the parking lots and streets and sidewalks adjacent thereto which become the location of frequent or repeated violations of the City's ordinances including but not limited to disturbances, assaults, thefts, malicious mischief and disorderly conduct is hereby declared to be a nuisance which shall be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code and the license of the premises shall be revoked. Chapter.~~

~~**5-16-8: TRANSFER; CHANGE IN NATURE OF BUSINESS**~~ **5-16-7: TRANSFERS:** (1959 2229)

~~(A) Transfer of Business or Stock:~~

~~—(1) Within thirty (30) days after the (A) An application for a transfer of ownership or location of a dance hall or cabaret, or of the transfer of ownership of ten percent (10%) or more of the capital stock of the corporation, the new owner of the stock or business license shall file with the City Clerk a written report of the transfer be submitted on forms provided by the City Clerk. The report shall be accompanied by an investigation, together with a non-refundable application fee of two hundred and fifty dollars (\$250).~~

~~—(2) Upon receipt of the report of transfer, the City Clerk shall report the transfer to the City Manager, after sufficient investigation by the Police Department, and the City Manager may approve the transfer or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the transfer, at which parties in interest may be heard (B) No transfer of ownership or location of a cabaret license shall be approved except in conjunction with the transfer of the associated fermented malt beverage or alcoholic beverage license.~~

~~—(3) The (C) An application for transfer of ownership or location of a dance hall or cabaret license shall be referred by the City Clerk to the Police Department for investigation. Following said investigation, the City Clerk may approve the transfer, or refer the matter to the Special Permit and License Board, in which case the Special Permit and License Board shall conduct consider the matter at a public meeting, and may approve the transfer or may schedule a public hearing.~~

~~(D) Should a public hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing scheduled on an original application. Criteria for approval shall be as for an original application.~~

~~— (4) At the hearing, all interested parties may appear and be heard, provided, however, that the Board shall consider only the character of the new owner or owners and whether the new owner or owners comply with all requirements of the Code and rules and regulations adopted pursuant to the Code. If the new owner or owners are not approved, the license may be revoked.~~

~~(B) Change in Nature of Business:~~

~~— (1) At least thirty (30) days prior to the commencement for transfer of expansion, remodeling, or other change in the nature of the licensed business, the owner shall submit an application for a change in the nature of the business to the City Clerk on forms provided by the City Clerk. The application shall be reviewed by the City Manager, who, within ten (10) days shall determine whether the proposed change in the nature of the business is significant. For purposes of this subsection, "significant change" shall include, but shall not be limited to: (a) an increase or decrease in the total size ownership or capacity of the licensed premises; (b) the sealing off, creation of or relocation of a common entryway, doorway, or passage or other means of public ingress or egress; (c) dance hall or cabaret license, any substantial or material enlargement of a bar, relocation of a bar or addition of a bar; and (d) any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application. The term does not include painting and redecorating of premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes interested party may appear and be heard. For a proposed transfer of ownership, the Special Permit and License Board shall consider only the character of the transferee, and, in the case of an application for the transfer of a cabaret license, whether the requirements of this Code and state statute for the transfer of the ownership of the associated fermented malt or alcoholic beverage license have been met.~~

~~— (2) After investigation by the City Manager, he may approve the proposed change or, in his sole discretion, recommend to the Special Permit and License Board that a public hearing be held regarding the proposed change, at which parties in interest may be heard. The Special Permit and License Board shall conduct a public hearing after proper notice is given. Posting, publication, and notice requirements shall be the same as are required for a hearing on an original application. Criteria for approval shall be as for an original application. Petitioning shall be at the discretion of the Special Permit and License Board or City Council. (E) For a proposed transfer of location, the criteria for approval shall be the same as for an original application as set forth in Section 5-16-3(H).~~

5-16-98: PROHIBITED ACTS: (1959 2614)

(A) It shall be unlawful for any licensee or his agent knowingly to do or to permit any of the following acts on the premises of any premises licensed pursuant to this Chapter or on any parking lot, street or sidewalk adjacent to the premises.

(1) It shall be unlawful for ~~any person or group of persons to congregate or linger needlessly at any location at or near the premises licensed pursuant to this Chapter other than in the building.~~

~~—(2) No a~~ dance hall or cabaret licensee ~~shall to~~ install, maintain or operate, or permit the installation, maintenance or operation of, within or upon the licensed premises, any gambling table, device, machine, apparatus or other thing contrary to this Code or to the laws of this State or which is kept or used for the purpose of gambling, either directly or indirectly. The licensee is hereby specifically charged with knowledge of and made responsible for the use of all tables, games and devices in any manner constituting a violation of this ~~section~~Section.

(32) It shall be unlawful for any licensee knowingly to permit any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.

(3) It shall be unlawful for any licensee to fail to report immediately to the Westminster Police Department any unlawful or disorderly act, conduct or disturbance to be committed by any person or group of persons upon any premises licensed hereunder.

(4) It shall be unlawful for any licensee to conduct any activities requiring an adult business license without having first secured an adult business license.

(5) It shall be unlawful for a licensee to operate or permit the operation of any amplified sound devices anywhere outside of the licensee's enclosed premises in a manner that disturbs the peace and quiet of the surrounding neighborhood.

(B) Minors Restricted: (2398)

(1) It shall be unlawful for any minor to enter or remain on the premises of any business holding both a tavern liquor license and a cabaret license, or for any parent or guardian to allow the minor to do so. It shall be unlawful for a minor to use false identification to seek entry or to remain on the premises. For purposes of this ~~subsection~~Section, a "minor" is any person under the age of twenty-one (21).

(2) It shall be unlawful for any licensee or its managers, agents, and employees to admit any minor or to allow any minor to remain on the premises of any business holding both a tavern liquor license and a cabaret license. For purposes of this subsection, a "minor" is any person under the age of twenty-one (21).

(3) Subsections (1) and (2) above shall not apply to bona fide employees of ~~the a~~ duly licensed ~~business~~dance hall, nor ~~shall subsections~~ to bona fide employees of a duly licensed tavern with a cabaret license that regularly serves meals as defined in Section 12-47-103(20), C.R.S.

(4) Subsections (1) and (2) above shall not apply to members of entertainment groups who have contracted with the licensed business, while such groups are on the premises to provide entertainment.

~~—(4) A violation of Subsection (2) above shall be grounds for the suspension or revocation of a cabaret license. If a violation is proven, the Licensing Authority may place reasonable conditions upon the operation of the business to commence after the termination of the suspension, or the Licensing Authority may place reasonable conditions upon the operation of the business in lieu of suspension.~~

~~—(5) It shall be an affirmative defense to a violation of this Section that the minor or minors were, at the time of the alleged violation, (1) bona fide employees of the licensed business or (2) members of an entertainment group on the premises to provide entertainment pursuant to a contract with the licensed business.~~

~~5-16-10: REPORTS; SIGNS: (1959 2229)~~

~~(A) Any licensee hereunder and its employees shall immediately report to the Police Department any unlawful or disorderly act, conduct or disturbance committed on the premises. Failure to comply with this section may be considered by the Special Permit and License Board in any action relating to revocation, suspension or non renewal of a license. Repeated failure to comply with the requirements of this section shall constitute prima facie grounds for the suspension, revocation or non renewal of a license.~~

~~(B) Each licensee shall post and keep at all times visible to the public in a conspicuous place on the premises a sign to be provided by the City Clerk's office which shall be in the following form:~~

~~WARNING: CITY OF WESTMINSTER POLICE MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT AND ON THE GROUNDS AND PARKING LOT WHICH ARE A PART OF THIS ESTABLISHMENT.~~

~~5-16-119: MANAGEMENT AND SUPERVISION:~~ Each licensee shall manage such premises himself or employ a separate and distinct manager on the premises of at least twenty-one (21) years of age and such licensee or manager shall be present and responsible for the premises during all hours of operation. The licensee shall report the name of the manager to the City Clerk and shall report any change in managers within thirty (30) days after the change. (1959)

~~5-16-1210: OCCUPANCY LIMITS:~~ The occupancy capacity of the premises shall be determined according to the requirements of ~~the City this~~ Code. There shall be posted on the premises in a place open to the view of the occupants thereof a sign stating the maximum number of occupants permitted therein at any one time. (1959)

~~5-16-1311: SECURITY GUARDS:~~ Whenever the Police Department has repeatedly been required to investigate complaints of any disorderly conduct or disturbances at any premises licensed hereunder, the City Manager or his designee may, in his discretion, schedule a public hearing before the Special Permit and License Board, in the manner provided for an original application for a license, for the purpose of determining whether maintenance of licensed security guards should be required as a condition for the continuation of the license. (1959)

~~5-16-1412: HOURS OF OPERATION:~~ Premises licensed hereunder shall open to the public no earlier than seven o'clock (7:00) a.m. and close no later than two o'clock (2:00) a.m. daily. The Special Permit and License Board may require different hours as a condition of granting the license, but in no event shall premises licensed hereunder remain open to the public later than two o'clock (2:00) a.m. (1959)

~~**5-16-15: PENALTY:** It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided by Section 1-8-1 of this Code and may also be subject to civil remedies provided by Chapter 4 of Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter. (1959)~~

Section 12. Section 6-3-5, subsection (C), W.M.C., is hereby AMENDED to read as follows:

6-3-5: TRESPASSING: (1224 1593 2001 2056 2706 2782)

(C) PRIMA FACIE EVIDENCE: It shall be prima facie evidence that consent is absent, denied, or withdrawn, when one or more of the following events occur:

1. ~~Any person fails or refuses to remove himself from said premises when requested to leave by the owner, occupant, any agent of the owner or occupant, or any other person having lawful control of private property requests a person to leave the premises and the person fails or refuses to do so~~hereof; or
2. Private property, which is not then open to the public, is posted with signs giving notice that entrance is forbidden or restricted to certain hours or persons; or
3. A private residence has been posted with a sign stating “NO SOLICITATIONS,” “NO TRESPASS,” or a sign with similar meaning, and a person knocks on the door or otherwise attempts to contact or speak to the residence’s occupant for the purpose of: (a) selling, distributing or offering to sell or distribute, services, food, beverages, goods or merchandise, or (b) distributing information about services, food, beverages, goods, or merchandise, or (c) inviting or attempting to discuss verbally or in written form, ideas and issues, or (d) distributing written information, or (e) seeking funds or other forms of assistance.
- ~~3.4.~~ Such premises are fenced or otherwise enclosed in a manner designed to exclude intruders.

The enumeration in this Subsection of the events constituting prima facie evidence shall not be construed to require any summons and complaint to specify one or more provisions of this Subsection.

Section 13. Chapter 4, Title IX, W.M.C., is hereby AMENDED to read as follows:

CHAPTER 4

SOLICITATION ON OR NEAR STREET OR HIGHWAY

- 9-4-1: SOLICITATION ON OR NEAR STREET OR HIGHWAY
- 9-4-2: SOUND TRUCKS
- 9-4-3: VIOLATIONS

9-4-1: SOLICITATION ON OR NEAR STREET OR HIGHWAY: (2362 2387)

(A) The purpose of this Chapter is to prevent dangers to persons and property, to prevent delays, and to avoid interference with the traffic flow. Roadways that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

(B) It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, or collect monies for the same, from the occupant of any vehicle traveling upon any street or highway when such solicitation or collection either:

- (1) Causes the person performing the activity to enter onto the traveled portion of a street or highway.
- (2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions.
- (3) The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

(C) It shall be unlawful for any person to solicit or attempt to solicit employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any vehicle on any highway included in the interstate system including any entrance to or exit from such highway.

(D) For purposes of this Chapter, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

9-4-2: SOUND TRUCKS: (1224 2001 3017)

(A) The use of sound trucks with sound amplifying equipment in operation shall be subject to the following regulations:

- (1) The only sounds permitted to be amplified are music or human speech.
- (2) Operations are permitted for nine (9) hours each day. The permitted nine (9) hours of operation shall be between the hours of ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M.
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of less than twelve (12) miles per hour. When stopped to make sales, said sound amplifying equipment shall not be operated.
- (4) Sound shall not be issued within one hundred (100) yards of hospitals, or within 100 hundred (100) yards of churches during the hours services are being held, or within five hundred feet (500') of a school during the school year.
- (5) The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
- (6) The volume of sound shall be controlled so that it will not be audible for a distance in excess of one hundred (100) yards from the sound truck and so that said volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
- (7) It shall be unlawful for any sound truck to amplify sound along any particular route more than one time during a twenty four (24) hour period.
- (8) It shall be unlawful for any sound truck to stop within twenty five feet (25') of an intersection when making a sale, or attempting to make a sale.
- (9) It shall be unlawful for any sound truck to double park, or park in a manner contrary to any ordinance relating to parking, when attempting a sale or making a sale.
- (10) It shall be unlawful for any sound truck to make a U turn in any block.
- (11) It shall be unlawful for any driver of a sound truck to drive his vehicle backward to make or attempt to make a sale.
- (12) It shall be unlawful for any driver of a sound truck to sell to any person who is standing in the street.
- (13) It shall be unlawful for any driver of a sound truck to permit any person to hang on the vehicle, or permit any person to ride in or on the vehicle, except a bona fide assistant or assistants.
- (14) All sound trucks must be equipped with four (4) way flashing lights, both parking and taillights. Trucks must have lights flashing while seeking or making a sale.

(B) It shall be unlawful for any person to use or cause to be used, a sound truck with its sound amplifying equipment in operation in the City without having paid an annual registration fee of \$5 per vehicle and filed a registration statement with the City Clerk in writing and having it approved by the City Manager and City Clerk. This statement shall be filed in duplicate and include the following information: (2001)

- ____ (1) Name and address of the registrant,
- ____ (2) Name and address of person having direct charge of the sound truck,
- ____ (3) Name and address of all persons who will use or operate the sound truck,
- ____ (4) The purpose for which the sound truck will be used,
- ____ (5) A general statement as to the areas of the City in which the sound truck will be used,
- ____ (6) The proposed hours of operation of the sound truck,

(7) The number of days of proposed operation of the sound truck.

(C) DEFINITIONS:

(1) "Sound truck" shall mean any vehicle, or horse-drawn vehicle, having mounted, thereon, or attached thereto, any sound amplifying equipment.

(2) "Sound amplifying equipment" shall mean any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by the occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

9-4-3: VIOLATIONS:~~(E)~~ A violation of this Chapter is a criminal offense, punishable by a fine or imprisonment, or both, as provided in Section 1-8-1 of this Code.

Section 14. Chapter 4, Title XI, W.M.C., is hereby amended BY THE ADDITION OF A NEW SECTION to read as follows:

11-4-17: TEMPORARY USES ON PRIVATE PROPERTY: (1959 3017)

(A) SCOPE: A temporary use permit allows for the displaying, selling, offering for sale, offering to give away or giving away of anything of value including any good, service or amusement that is not permanent in nature and does not involve any permanent structure, but which occupies any single location within the City for more than two (2) hours at a time. Examples include a Christmas tree lot, pumpkin patch, parking lot sale, carnival and other promotional use involving a temporary outdoor display, wagon, handcart, pushcart or motor vehicle. The selling or giving away of used merchandise is not permitted as a temporary use.

(B) ZONING COMPLIANCE: All temporary uses conducted pursuant to this Chapter shall conform to the zoning provisions of this Code, including the Sign Code, unless otherwise provided herein.

(C) TIME PERIOD: The temporary use permit shall designate the specific location for the use and the time period for which the permit is to be issued. Permits may not be issued for any temporary use for more than sixty (60) days per calendar year. The 60 days may run consecutively or be broken into increments, such as weekends; however, because of the intended temporary nature of the use, incremental periods shall not extend beyond thirty (30) cumulative weeks or weekends per calendar year.

(D) PERMIT REQUIRED: It shall be unlawful for any person to engage in a temporary use within the city limits of Westminster without first obtaining a permit as provided herein.

(E) EXEMPTIONS:

(1) This section does not apply to persons who knock on the door or otherwise attempt to contact or speak to the occupant of a private residence for the purpose of: (a) selling, distributing or offering to sell or distribute, services, food, beverages, goods or merchandise, or (b) distributing information about services, food, beverages, goods or merchandise, or (c) inviting or attempting to discuss verbally or in written form, ideas and issues, or (d) distributing written information, or (e) seeking funds or other forms of assistance.

(2) This section shall not be construed to require a temporary use permit for the temporary outdoor extension of regular indoor commercial activity such as a sidewalk sale, so long as the outdoor use is allowed pursuant to the zoning for the property.

(3) This section shall not apply to yard sales, garage sales or estate sales in a residential area unless such a sale is subject to the sales and use tax provisions of this Code. Children selling drinks, such as lemonade, at their own homes shall be exempted from the application of this Chapter.

(4) This section shall not apply to the temporary use of parks, community buildings and recreational facilities which are addressed in Chapter 2 of Title XIII.

(F) APPLICATION: An applicant for a Temporary use permit shall submit to the Community Development Department a completed, signed application on a form to be furnished by the Planning Division, as well as the following information:

- (1) Written authorization from the real property owner of the applicant's right to use such property is required.
- (2) A written description of the nature of the activity.
- (3) An illustration or picture of any proposed stand, including measurements.
- (4) An illustration or picture of any proposed signage, including measurements.
- (5) When requested, a list of the individuals or employees who will be operating on behalf of the business within the City.
- (6) Documentation of nonprofit tax status, if applicable.
- (7) Site Plan to include:
 - (a) The location where the activity will be conducted;
 - (b) All buildings and structures, including entrance and exit locations;
 - (c) All parking spaces, drive aisles, and emergency access aisles, including any area proposed to be blocked off or barricaded for the activity and method of barricade;
 - (d) All trash enclosures or receptacles;
 - (e) Location of on-site restrooms to be available to employees and/or the public, if any;
 - (f) All landscaped areas;
 - (g) All freestanding light fixtures; and
 - (h) All freestanding signs.
- (8) Additional information, as needed, to assess the proposed temporary use.

(G) CONDITIONS OF APPROVAL: All temporary uses must meet the following criteria:

- (1) The temporary outdoor use is of a seasonal or special event nature;
- (2) All structures subject to any building, construction or fire codes shall comply with such codes
- (3) Permitted signage may include:
 - (a) One (1) wall sign. The wall sign shall be no larger than twenty (20) square feet, inclusive of frame. The wall sign shall be securely attached to a structure used in conjunction with the temporary use or a primary building structure. In no event shall a wall sign be attached to any

structure in the public right-of-way. If the wall sign is to be attached to the primary building, written permission from the owner of such building is required.

(b) Up to three (3) incidental signs, such as menu boards or hours of operation, securely affixed to a structure used in conjunction with the temporary use. Each sign shall not exceed two (2) square feet.

(4) The location of the use shall not obstruct any sight visibility triangle.

(5) If customers are required to park in order to gain access to the temporary use location, sufficient parking, as determined by the Planning Manager or his/her designee, is available without interfering with the public rights of way on sidewalks or streets and without requiring customers to park at another location on private property without the consent of the property owner. A parking study or traffic study may be required.

(6) Safe access is available by vehicular and pedestrian traffic to the temporary use location without requiring illegal or unsafe turning movements by vehicles or trespass across private property without the consent of the property owner.

(7) The use shall not:

(a) Impedes access to the entrance of any adjacent building or driveway,

(b) Be located in such a manner as to interfere with a fire hydrant, fire escape, bus stop, loading zone, or driveway of a fire station, police station, hospital or handicapped parking space or access ramp.

(8) Adequate trash receptacles shall be provided, as determined by the Planning Manager or his/her designee.

(9) Adequate restroom facilities, if needed, as determined by the City, shall be provided either within an existing building or as port-o-lets.

(10) If needed, as determined by the City, adequate barriers and directional signs shall be installed.

(11) All other permits and licenses as required by the City for the use have been applied for or obtained.

(H) REVIEW AND ISSUANCE OF PERMIT: Upon receipt of an application for a temporary use permit, the application shall be reviewed by the Department of Community Development and referred to other departments as needed for review.

(1) If the review determines that one or more of the conditions in (H) above have not been met, the Planning Division will notify the applicant in writing describing the condition or conditions that have not been satisfied.

(2) An application for a Temporary use permit may be denied if any of the conditions in (H) above have not been met, as determined by the Planning Manager or his/her designee. The applicant may appeal a denial to the City Manager, who shall have the final decision.

(3) No approval for any business license or building permit shall be issued until the Temporary Use has been reviewed and approved by the City to insure that the conditions established in this Section have been met.

(4) The permit shall be issued in the individual's name, except as otherwise provided herein. Any permit issued to a firm, association or corporation shall include the name of the authorized representative of the firm, association or corporation which representative's name shall appear on the application, badge, and permit. No other representative of the same firm, association or corporation shall use the same permit, except as provided in this section.

(a) If a firm, association or corporation applies for and is granted a permit at the fee set forth in this Chapter, it shall be obtain badges which identify such entity for purposes of identification and enforcement for its employees under its permit.

(b) Each business applying for a permit and wishing to permit employees pursuant to such temporary permit shall provide such proof as may be required by the City Manager to demonstrate that it is a bona fide business entity separate from its alleged employees.

(I) Issuance of a permit under this Chapter does not in any way relieve an applicant from responsibility for obtaining permission from respective property owners to set up displays and sell goods on private property.

(J) CONDITIONS OF OPERATION:

(1) If permitted, each permittee shall carry his or her permit at all times while engaged in the temporary use and shall display it upon request.

(2) A permit shall be not be transferable to any other location or used by any other person or other legal entity, except as provided in this section.

(3) Temporary uses may operate at times other than the permanent on-site user, subject to City review and approval.

(4) All trash or debris accumulation caused by a permittee's activities shall be collected and deposited in a proper trash container daily. Any accumulation of trash or debris that causes the City to incur expense in removing the accumulation shall be cause for the City to revoke the Temporary use permit.

(5) A sales and use tax license shall be obtained and sales and use taxes shall be paid upon the schedule set by this Code.

(6) Any permittee issued a permit under this Chapter shall comply with all Municipal Code requirements, conditions of such permit, and all applicable laws of the City of Westminster and the State of Colorado.

(7) The permittee shall return the property to its original condition upon conclusion of doing business on the site.

(K) FEES: The fee to be charged upon application of a Temporary use permit shall be as outlined in the Land Use and Development Review Fee Schedule of the City, as amended.

(L) INSPECTION: Upon request from a City official who presents his or her City identification, the permittee or permittee's employee shall produce his or her permit and property for inspection.

(M) REVOCATION AND TERMINATION: If, upon inspection by a City official, a permittee is found to be operating in an unsafe or unlawful manner, or violating any provisions of the Municipal Code or the subject permit conditions, a permit may be immediately revoked and denied renewal. In such event, the temporary use shall immediately cease and the permittee shall return the property to its original condition.

(N) VIOLATION AND PENALTY:

(1) It shall be unlawful for any person to violate a provision of this Chapter. Violators shall be subject to the penalties provided under Title I of this Code and may also be subject to civil remedies provided by Title IX of this Code. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

(2) Nothing in this Chapter shall be construed to alter or amend §6-3-5, Trespassing, W.M.C.

Section 15. This ordinance shall take effect upon its passage after second reading.

Section 16. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13th day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of January, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



Agenda Item 10 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Councillor's Bill No. 66 Clarifying Applicable Penalties for Various Violations of the Westminster Municipal Code

Prepared By: Marty McCullough, City Attorney
Tami Cannon, Legal Administrator

Recommended City Council Action

Pass Councillor's Bill No. 66 on first reading amending sections of the Westminster Municipal Code to clarify the applicable penalties for various violations.

Summary Statement

- Violations of the Westminster Municipal Code ("City Code" or "Code") are punishable by either a fine or imprisonment, depending on whether the violation has been designated as a criminal offense.
- City Code section 1-8-1 provides that all Code violations are presumptively noncriminal offenses, and are civil matters, punishable by fine only, unless the violation has been expressly designated as a criminal offense.
- The City Attorney's Office was asked to review the fine schedule list maintained by the Municipal Court that is used as a reference for quickly determining whether any given charge is a noncriminal or criminal offense under the City Code.
- The City Attorney's Office determined a relatively small number of provisions of the Code that could be clarified in regard to whether a violation was subject to criminal or noncriminal penalties.
- The attached ordinance has been prepared to clarify that the following are subject to criminal penalties: maintaining a public nuisance, and violating the City's storm water quality ordinance (federally required).
- The ordinance would also decriminalize violations of Title 13 of the City Code concerning parks, open space, and community building regulations. However, conduct that is clearly criminal in other sections of the City Code that may occur in a park, open space, or community building will remain criminal. For example, Title 13 currently prohibits lighting a fire in any park. A citation issued under Title 13 would be a noncriminal violation, however, an act of arson in a City park, open space, or community building would be a criminal violation under other provisions of the City Code or state statute.

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

Policy Issue

Should City Council adopt an ordinance to clarify the applicable penalties for various violations of the Westminster Municipal Code, and to decriminalize a number of regulations related to the use of parks, open spaces, trails and recreation facilities?

Alternative

Do not adopt the ordinance. This is not recommended, since it would result in unnecessary ambiguity relative to a very significant aspect of the City Code.

Background Information

Municipal Court staff previously requested review by the City Attorney's Office of their proposed fine schedule for various Code violations. This review resulted in the need to amend certain sections of the Code to clarify penalty provisions for criminal versus noncriminal violations.

The proposed ordinance amendment implements the results of this housekeeping effort.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Proposed Councillor's Bill No. 66

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **66**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING SECTIONS 1-8-1, 8-4-2, 8-4-6, 8-11-5, 8-11-7, 8-11-8, 8-11-9, 8-11-11, 11-11-9 AND 13-1-4 OF THE WESTMINSTER MUNICIPAL CODE CONCERNING PENALTIES AND CRIMINAL VERSUS NON-CRIMINAL VIOLATIONS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 1-8-1, W.M.C., is hereby AMENDED to read as follows:

1-8-1: PENALTIES:

(A) All violations of any provision of this Code are hereinafter deemed noncriminal offenses and are civil matters, except those violations that are expressly designated as criminal offenses or which are punishable by imprisonment under this Code or under any counterpart state statute. Trial of noncriminal offenses shall be to the Court. No defendant found civilly liable for a noncriminal offense shall be punished by imprisonment for said offense. Any person convicted of a non criminal violation of any Section of this Code shall be fined an amount not to exceed one thousand dollars (\$1,000) Any person convicted of a criminal violation of any section of this Code shall be imprisoned for a period not to exceed three hundred sixty-five (365) days or fined an amount not to exceed one thousand dollars (\$1,000) or both; provided, however, that a person under the age of eighteen (18) years as of the date of the offense for which he is convicted shall not be subject to the imposition of a jail sentence of more than ten (10) days, except in the case of a conviction of a criminal traffic offense.

(B) The penalties provided in subsection (A) of this Section shall be applicable to every section of this Code the same as though it were a part of each and every separate section. ~~Any person convicted of a violation of any section of this Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature is forbidden or declared to be unlawful, shall be deemed guilty of a misdemeanor.~~

(C) A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Code.

(D) Any person found to have committed a violation of a noncriminal traffic infraction, as designated in Section 10-1-3 of this Code, shall be punished by a fine of not more than five hundred dollars (\$500)

Section 2. Section 8-4-2, subsection (B), W.M.C., is hereby AMENDED to read as follows:

8-4-2: NUISANCE DEFINED; VIOLATION SUBJECT TO CONTEMPT:

(A) The following are deemed to be a public nuisance:

1. Any building, land, substance or personal property, the use or condition of which presents a substantial danger or hazard to the physical health or safety of the public, or used for any purpose which is in violation of the provisions of the Official Code of the City of Westminster. (1634 1646 1999)

2. The conducting or maintaining of any business, occupation, operation, or activity in violation of the provisions of the Official Code of the City of Westminster. (1634 1999)

3. Any business, occupation, operation, activity, or any building, land, substance, or personal property the use or condition of which has been identified as a public nuisance in the Official Code of the City of Westminster, the Colorado Revised Statutes, or the common law. (1634 1999)

(B) ~~Any person found guilty of violating~~~~It shall be unlawful for any person to violate~~ any of the provisions of this Chapter. ~~Any person found guilty of violating any of the provisions of this Chapter~~ shall, upon conviction thereof, be punished by a fine or imprisonment or both, pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation. (2523)

(C) Whenever, in a criminal or non-criminal prosecution under this Code, the Municipal Court finds the existence of a nuisance, the Court is authorized to abate the nuisance and assess costs in the same fashion as if a civil abatement proceeding had been commenced under Title 8, Chapter 4 of this Code. (2523)

(D) Any violation of any injunction or order issued by the Municipal Court in an action to abate a public nuisance may be punished as a contempt of court or by a fine as specified in section 1-8-1 of this Code. Unless the violation by its nature cannot be corrected, each day's failure to comply with an injunction or order to abate shall constitute a separate violation, for which an additional penalty may be imposed. (1634 1646 1999 2523)

Section 3. Section 8-4-6, W.M.C., is hereby AMENDED to read as follows:

8-4-6: SPECIFIC NUISANCES DECLARED: It shall be unlawful for any person to cause, maintain or permit a public nuisance. Public nuisance shall include, but shall not be limited to, the following acts or conditions: (1634 1999 3338) [The remainder of this section is unchanged.]

Section 4. Section 8-11-5, W.M.C., is hereby AMENDED to read as follows:

8-11-5: LAND DISTURBANCE PERMIT REQUIREMENTS: A Land Disturbance Permit shall be required prior to conducting any land disturbance activity equal to or greater than one (1) acre, earthwork involving more than two hundred (200) cubic yards, or grading on any property that has a slope in excess of eight percent (8%). The Land Disturbance Permit is available from the Engineering Division in the Department of Community Development. See Section 11-7-7 of the Westminster Municipal Code for specific regulations. Surety must also be provided before a Land Disturbance Permit will be issued.

Section 5. Section 8-11-7, subsection (E), W.M.C., is hereby AMENDED to read as follows:

8-11-7: MAINTENANCE REQUIREMENTS: (3391) Developers, builders, business owners, homeowners associations and landowners shall be responsible for ensuring that all BMPs identified on the approved construction drawings, Official Development Plan and the Land Disturbance Permit application are properly installed, maintained and are in good working order as hereafter provided.

(E) Should any developer, builder, business owner, homeowners association or landowner fail to adequately maintain the permanent stormwater runoff quality control measures or fail to remove the

temporary measures, the City Manager or his representative may **summarily** cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code.

Section 6. Section 8-11-8, subsection (C), W.M.C., is hereby AMENDED to read as follows:

8-11-8: ILLICIT DISCHARGES:

(C) **Enforcement:** **In addition to any other remedies provided in this Chapter,** should any person discharge or cause to be discharged or spilled or maintain a condition upon any property that may result in the discharge of any substance other than naturally occurring stormwater runoff into the City's storm drainage system, except for the exceptions listed in section 8-11-8 (A) above, the City Manager or his representative may **summarily** cause the necessary work to be performed at the expense of such responsible party, and the cost of such abatement shall be a first and prior lien on the property as provided by Title I, Chapter 31 of this Code, and may be assessed and collected pursuant to Section 8-4-5 of this Code. Alternatively, the City may make a demand on the surety to pay for these expenses.

Section 7. Section 8-11-9, W.M.C., is hereby AMENDED to read as follows:

8-11-9: LAND DISTURBANCE PERMIT REMEDIATION PROCEDURES: (3391)

(A) **City Inspector:** If a City inspector, or any other authorized City representative determines that eroded soils are leaving a disturbed area, the City inspector or authorized representative may, in writing, direct the business owner, landowner or such owner's agents or representatives on the site to repair, replace and/or install any sediment and/or erosion controls that were proposed for the site, or require additional sediment and/or erosion controls be installed if deemed necessary by the City inspector or authorized representative to minimize said sediment from migrating off-site, including the issuance of stop work orders and/or suspension or revocation of any permit. It shall be unlawful for any business or landowner or such owner's agents or representatives to fail to take all necessary measures to comply with such written directive and take all measures necessary to prevent soil erosion from migrating off site.

(B) **Right of Entry:**

1. The City inspector, or any other authorized City representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any land disturbance permit or order issued hereunder. Users shall allow the City inspector or authorized representative ready access to all parts of the premises for the purposes of inspection, whether announced or unannounced, sampling, records examination and copying, and the performance of any additional duties.

2. If the City inspector or authorized representative has been refused access to the property and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City inspector or authorized representative may seek issuance of a search warrant from the Municipal Court.

(C) **Compliance Orders.** Whenever the City determines that any activity is occurring that is not in compliance with a Land Disturbance Permit and/or the requirements of this Chapter, the City may issue a written compliance order to the construction site operator. The schedule shall contain specific actions the

construction site operator must complete, including dates for the completion of the actions. It shall be unlawful for any construction site operator to fail to comply with any compliance order requirement.

(D) **Suspension and Revocation of Permit.** The City may suspend or revoke a construction site Land Disturbance Permit for violation of any provision of this Chapter, violation of the permit, and/or misrepresentations by the permittee or the permittee's agents, employees, or independent contractors.

(E) **Stop Work Orders.** Whenever the City determines that any activity is occurring which is not in compliance with an approved permit and/or the requirements of this ordinance, the City can order such activity stopped upon service of written notice upon the person responsible for or conducting such activity. Such person shall immediately stop all activity until authorized in writing by the City to proceed. If the appropriate person cannot be located, the notice to stop work shall be posted in a conspicuous place upon the area where the activity is occurring. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been cured or authorization to remove the notice has been issued by the City. It shall be unlawful for any person to fail to comply with a stop work order.

~~(F) **Violations and Penalties.** It shall be unlawful for any person to violate any provision of a construction site Land Disturbance Permit and/or the requirements of this Chapter, as adopted and modified by the City. Any person violating any provision of the construction site Land Disturbance Permit and/or the requirements of this Chapter, as adopted and modified by the City, shall be deemed guilty of a misdemeanor, and subject to the penalties as set forth in Chapter 8 of Title I of this Code.~~

~~(G)~~(F) **Remedies Not Exclusive.** The remedies provided by this Section are in addition to any other remedies set out in this Chapter. Exercise of any such this remedy shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

Section 8. Section 8-11-11, subsections (C) and (D), W.M.C., are hereby AMENDED to read as follows:

8-11-11: JUDICIAL ENFORCEMENT REMEDIES: (3391)

(C) Criminal Prosecution:

~~1.— A user who willfully or negligently violates any provision of this ordinance, a land disturbance permit, or order issued hereunder, or any other stormwater quality standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.~~

~~2.— A user who willfully or negligently introduces any substance into the MS4 which causes personal injury or property damage shall be subject to the penalty provisions of State law. This penalty shall be in addition to any other civil cause of action for personal injury or property damage available under State law.~~

~~3.— A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, land disturbance permit, or order issued hereunder shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.~~

(1) It shall be unlawful for any person to violate any provision of this Chapter, a Land Disturbance Permit, or order issued hereunder.

(2) It shall be unlawful for any person to introduce any substance into the MSA that causes personal injury or damage.

(3) It shall be unlawful to make any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, land disturbance permit, or order issued hereunder.

(4) Any violation of any provision of this Chapter is hereby declared to be a criminal violation, which shall be punishable by fine, imprisonment, or both, pursuant to the provisions of W.M.C. section 1-8-1, as the same may from time to time be amended.

(D) **Remedies Nonexclusive:** The remedies provided for in this ~~ordinance~~ Chapter are not exclusive. The City Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of stormwater quality violations will generally be in accordance with the City's enforcement response plan. However, the City Manager may take other action against any user when the circumstances warrant. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant user.

Section 9. Section 11-11-9, W.M.C., is hereby AMENDED to read as follows:

11-11-9: ENFORCEMENT:

(A) Public nuisance: any violation of the provisions of this Chapter is hereby declared to be a public nuisance.

~~1.(1)~~ Abatement of public nuisances shall be according to the provisions of Title 8, Chapter 4 of this Code.

~~2.(2)~~ Summary abatement procedures (section 8-4-4(a)) may be followed for the following reasons:

(a) Any sign whose condition or placement is found by the code enforcement officer to constitute an imminent danger of serious injury to persons or property, including but not limited to danger of collapse or blocking views of streets, alleys, driveways, or other entrances and exits from public ways.

(b) Any sign placed unlawfully in the public right-of-way. Such signs may be immediately removed and destroyed without notice or liability.

(B) ~~Criminal violations:~~ ~~It~~ shall be unlawful for any person to violate any of the provisions of this Chapter. Any person found guilty of violating any of the provisions of this Chapter shall, upon conviction thereof, be punished by a fine or imprisonment, or both, pursuant to Section 1-8-1 of this Code. Each day that a violation of any of the provisions of this Chapter continues to exist shall be deemed to be a separate and distinct violation. ~~The provisions of this Subsection shall not be applicable for violations of Section 11-11-6(C).~~

Section 10. Section 13-1-4, subsection (C), W.M.C., is hereby DELETED:

13-1-4: ENFORCEMENT OF RULES: (3455)

~~(C) Any violation of this Chapter is a criminal offense, punishable by a fine of no less than one hundred dollars (\$100) or imprisonment, or both, as provided in Section 1-8-1 of this Code. Violation of any provision shall be a separate violation and each day of a continuing violation shall be a separate offense.~~

Section 11. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 13th day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of January, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office



Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Councillor's Bill No. 43 re Cost Recovery for the 144th Avenue, Zuni Street to Jason Drive Project

Prepared By: David W. Loseman, Senior Projects Engineer

Recommended City Council Action:

Pass Councillor's Bill No. 43 on first reading establishing recovery payments owed to the City for costs incurred in constructing improvements to the 144th Avenue, Zuni Street to Jason Drive Project.

Summary Statement

- The improvements to the 144th Avenue, Zuni Street to Jason Drive Project were completed in 2009 at an overall cost of approximately \$4,543,303. Westminster Municipal Code allows the City's recovery of portions of those costs from the future developers of adjoining benefited properties.
- Costs of the project were categorized and evaluated according to guidelines in the Municipal Code to determine the level of assessment of those costs to properties that benefit from them. Generally, improvements that would normally be installed by the adjacent developer as a condition of development were included. The total cost was then apportioned between the City and the properties on either side of 144th Avenue. The recovery specifically impacts undeveloped properties along the project limits, including properties within currently unincorporated areas on the north side of 144th Avenue. The City would not collect recoveries from these unincorporated properties on the north unless they annex and develop the property within the City.
- The attached Councillor's Bill lists the qualifying costs and establishes the cost recovery mechanism for assessing those costs totaling \$4,543,303 to the owners of property abutting 144th Avenue within the project limits. This equates to a per linear foot cost of \$331.75 for each property.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City Council establish a cost recovery for the 144th Avenue, Zuni Street to Jason Drive project and assess the owners of undeveloped properties abutting the project?

Alternative

City Council could elect to waive the collection of the assessment. This alternative is not recommended since this assessment is equivalent to the costs that a developer would normally bear in developing a property along an arterial street.

Background Information

The 144th Avenue, Zuni Street to Jason Drive project was completed in November 2009. The aggregate cost of the project is \$4,543,303 and includes costs of engineering, right-of-way acquisition, utility relocation, street lighting, landscaping and construction. The Municipal Code provides authority for the City to recover portions of the project costs from developers of properties that adjoin the project. The City is responsible for the remaining costs. The apportionment and assessment of these costs to developers of adjacent properties has its basis in the code requirements for such developers to provide the infrastructure reasonably necessary to support their development. Project costs were completed and apportioned among the City and the adjoining undeveloped properties based on a per linear foot cost abutting each individual ownership.

The attached Councillor's Bill will formally establish the recoverable costs that will be owed to the City by developers of undeveloped properties that abut the project. Recoveries will be collected at the time these properties gain approval of a final plat and only for those properties that develop within the City limits.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Councillor's Bill

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **67**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE ESTABLISHING COST RECOVERIES FOR CITY-CONSTRUCTED PROJECT: 144TH AVENUE, ZUNI STREET TO JASON DRIVE PROJECT

WHEREAS, Westminster Municipal Code § 11-6-7(B)(1) provides that the City shall have the authority to allocate and recover the costs of construction of public improvements or facilities from property owners based on the benefit of such improvement, facility, or service to said owners; and

WHEREAS, Westminster Municipal Code § 11-6-7(B)(3) provides that the City Council shall provide by ordinance for the recovery of appropriate costs for public improvements, facilities, or services constructed by the City, and that said ordinance shall establish the nature and extent of the recoveries due to the City, and that such ordinance may include provisions for simple interest payable to the City; and

WHEREAS, Westminster Municipal Code § 11-6-7(E)(2)(a) provides that any ordinance establishing cost recovery obligations for City-constructed improvements shall include a list of properties to be charged with cost recovery for said improvements, that said ordinance shall be recorded in the real estate records of the counties in which the properties to be charged with cost recoveries are located and, if available, shall include a final statement of construction costs for the improvements subject to recovery or, otherwise, an estimate of construction costs for the improvements to be constructed until a final statement of construction costs for the improvements may be determined and recorded following the completion of the improvements; and

WHEREAS, the City completed the installation of roadway, utility and landscape improvements along the general alignment of 144th Avenue between Zuni Street and Jason Drive; and

WHEREAS, the City, through this ordinance, now wishes to establish a cost assessment recoverable from benefiting properties.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The nature and extent of the recoverable costs owed to the City pursuant to this ordinance include costs associated with the planning, design, right-of-way acquisition and construction of improvements to 144th Avenue between Zuni Street and Jason Drive and listed and summarized in Exhibit A, attached hereto and incorporated herein by this reference, and those costs (the "Recoverable Costs") will be assessed at \$331.75 per linear foot of all developing ownerships within the City abutting 144th Avenue, plus interest as established by City Council each year.

Section 2. The properties (the "Assessed Properties") described in Exhibit B, attached hereto and incorporated herein by this reference, are hereby assessed the Recoverable Cost noted in Exhibit A. The Recoverable Costs shall be due and payable in accordance with the provisions of W.M.C. § 11-6-7, as the same may be amended.

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.

Section 5. The City Clerk shall cause a copy of this ordinance to be recorded in the real estate records of Adams County immediately following its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED
PUBLISHED this 13th day of December, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED
PUBLISHED this 10th day of January, 2011.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

EXHIBIT "A"

Recoverable Costs for 144th Avenue, Zuni Street to Jason Drive Project		
Dec-10		
Project Expense	Cost	Remarks
Final Design Engineering	\$ 422,552.82	Contract and amendments with FHU
Right-of-Way costs	\$ 183,026.03	
Road Construction Costs	\$ 3,154,807.04	See roadway construction attached
Encana Gas relocation cost	\$ 264,000.00	
Utility	\$ 28,472.00	
Street lighting	\$ 221,969.37	Both sides 144th Ave.
Construction Engineering	\$ 268,475.76	Contract and amendments with PBS&J
Total Cost	\$ 4,543,303.02	
Total cost divided by 3	\$ 1,514,434.34	
Total project length	4,565.00	Station 102+15.33 to station 147+80.55
RECOVERABLE COST (PRINCIPAL) (TOTAL COST DIVIDED BY 3 DIVIDED BY PROJECT LENGTH), PLUS INTEREST AS ESTABLISHED BY CITY COUNCIL EACH YEAR.	\$ 331.75	Total cost divided by the project length

PREMIER PAVING INC.
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Pay Estimate # 12 (FINAL)

29003
 12/1/09 - 12/31/09
 12/31/2009
 # 12

Name: City of Westminster
 Address: 4800 W 92nd Ave
 Westminster, CO 80031
 Project: 144th Ave, Zuni Street to Jason Drive
 Job #: S06-01A

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
5	201	CLEARING AND GRUBBING	1	LS	\$ 4,750.00	\$ 4,750.00	1	\$ 4,750.00
10	202	REMOVAL OF CONCRETE PAVEMENT	81	SY	\$ 11.00	\$ 891.00	54	\$ 594.00
15	202	REMOVAL OF PIPE	123	LF	\$ 6.00	\$ 738.00	123	\$ 738.00
20	202	REMOVAL OF FENCE	1,731	LF	\$ 1.00	\$ 1,731.00	490	\$ 490.00
25	202	REMOVAL OF ASPHALT MAT	3,817	SY	\$ 0.50	\$ 1,908.50	5462	\$ 2,731.00
30	202	REMOVAL OF PAVEMENT MARKING	1,250	SF	\$ 2.00	\$ 2,500.00	111	\$ 222.00
35	202	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	1	LS	\$ 1,250.00	\$ 1,250.00	1	\$ 1,250.00
40	202	CLEAN CULVERT	2	EA	\$ 310.00	\$ 620.00	0	\$ -
45	203	BLADING	4	HOUR	\$ 115.00	\$ 460.00	0	\$ -
50	203	DOZING	4	HOUR	\$ 140.00	\$ 560.00	0	\$ -
55	203	COMBINATION LOADER	4	HOUR	\$ 120.00	\$ 480.00	6	\$ 720.00
60	203	BACKHOE	4	HOUR	\$ 105.00	\$ 420.00	8	\$ 840.00
65	203	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	5,093	CY	\$ 7.00	\$ 35,651.00	5635	\$ 39,445.00
70	203	POTHOLING	50	HOUR	\$ 175.00	\$ 8,750.00	31	\$ 5,425.00
75	206	STRUCTURE EXCAVATION	220	CY	\$ 22.00	\$ 4,840.00	220	\$ 4,840.00
80	206	STRUCTURE BACKFILL (CLASS I)	324	CY	\$ 29.00	\$ 9,396.00	342	\$ 9,918.00
85	208	TEMPORARY BERMS	125	LF	\$ 5.00	\$ 625.00	0	\$ -
90	208	EROSION LOG (12 INCH)	20	LF	\$ 5.00	\$ 100.00	40	\$ 200.00
95	208	SILT FENCE	1,127	LF	\$ 1.00	\$ 1,127.00	1123	\$ 1,123.00
100	208	CHECK DAM	1	EA	\$ 2,000.00	\$ 2,000.00	2	\$ 4,000.00
105	208	CONCRETE WASHOUT STRUCTURE	1	EA	\$ 1,150.00	\$ 1,150.00	1	\$ 1,150.00
110	208	STORM DRAIN INLET PROTECTION	6	EA	\$ 185.00	\$ 1,110.00	5	\$ 925.00
115	208	STABILIZED CONSTRUCTION ENTRANCE	1	EA	\$ 1,200.00	\$ 1,200.00	1	\$ 1,200.00
120	208	SEDIMENT REMOVAL AND DISPOSAL	1	LS	\$ 218.75	\$ 218.75	1	\$ 218.75
125	208	EROSION CONTROL SUPERVISOR	20	HOUR	\$ 57.00	\$ 1,140.00	11	\$ 627.00
130	210	RESET MAILBOX	1	EA	\$ 185.00	\$ 185.00	1	\$ 185.00
135	210	RESET VINYL FENCE AND BRICK COLUMNS	500	LF	\$ 31.00	\$ 15,500.00	500	\$ 15,500.00

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PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
140	210	RESET WOOD FENCE	259	LF	\$ 12.00	\$ 3,108.00	304	\$ 3,648.00
145	210	RESET/ADJUST WATER METER	1	EA	\$ 775.00	\$ 775.00	0	\$ -
150	210	ADJUST VALVE BOX	1	EA	\$ 365.00	\$ 365.00	0	\$ -
155	210	RESET TRAFFIC SIGNAL HEAD	2	EA	\$ 195.00	\$ 390.00	2	\$ 390.00
160	212	SEEDING (NATIVE)	2	ACRE	\$ 410.00	\$ 820.00	2	\$ 820.00
165	212	SOIL CONDITIONING	2	ACRE	\$ 1,170.00	\$ 2,340.00	2	\$ 2,340.00
170	213	MULCHING (WEED FREE)	2	ACRE	\$ 635.00	\$ 1,270.00	2	\$ 1,270.00
175	216	SOIL RETENTION BLANKET (CLASS I)	978	SY	\$ 1.15	\$ 1,124.70	695	\$ 799.25
180	216	SOIL RETENTION BLANKET (CLASS III)	66	SY	\$ 6.50	\$ 429.00	47	\$ 305.50
185	217	HERBICIDE TREATMENT	12	HOUR	\$ 67.00	\$ 804.00	0	\$ -
190	304	AGGREGATE BASE COURSE (CLASS 6)	163	TON	\$ 17.00	\$ 2,771.00	163	\$ 2,771.00
195	307	HYDRATED LIME	9,150	SY	\$ 7.30	\$ 66,795.00	9969.3	\$ 72,775.89
200	403	HOT MIX ASPHALT (GRADING SX) (100) (PG 64-22)	1,006	TON	\$ 46.25	\$ 46,527.50	1484.78	\$ 68,671.08
205	403	HOT MIX ASPHALT (GRADING S) (100) (PG 64-22)	3,163	TON	\$ 44.00	\$ 139,172.00	3227	\$ 141,988.00
210	403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	100	TON	\$ 65.00	\$ 6,500.00	112	\$ 7,280.00
215	411	EMULSIFIED ASPHALT (SLOW-SETTING)	1,830	GAL	\$ 2.00	\$ 3,660.00	1224	\$ 2,448.00
220	420	GEOTEXTILE (EROSION CONTROL) (CLASS A)	12	SY	\$ 3.00	\$ 36.00	0	\$ -
225	506	RIPRAP (12 INCH)	4	CY	\$ 56.00	\$ 224.00	4	\$ 224.00
226	506	SOIL RIPRAP (18 INCH)	278	CY	\$ 19.00	\$ 5,282.00	248	\$ 4,712.00
230	514	PIPE RAILING	127	LF	\$ 115.00	\$ 14,605.00	124.5	\$ 14,317.50
235	601	CONCRETE CLASS D (BOX CULVERT)	256	CY	\$ 335.00	\$ 85,760.00	256	\$ 85,760.00
240	602	REINFORCING STEEL	41,500	LB	\$ 1.05	\$ 43,575.00	40423	\$ 42,444.15
250	603	18 INCH REINFORCED CONCRETE PIPE	372	LF	\$ 34.50	\$ 12,834.00	403	\$ 13,903.50
255	603	24 INCH REINFORCED CONCRETE PIPE	578	LF	\$ 44.85	\$ 25,923.30	578	\$ 25,923.30
260	603	18 INCH REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 565.00	\$ 565.00	2	\$ 1,130.00
265	603	24 INCH REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 655.00	\$ 655.00	1	\$ 655.00
270	604	INLET TYPE C (5 FOOT)	1	EA	\$ 2,580.00	\$ 2,580.00	1	\$ 2,580.00
275	604	INLET TYPE D (5 FOOT)	1	EA	\$ 3,520.00	\$ 3,520.00	1	\$ 3,520.00

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280	604	INLET TYPE 16 (DOUBLE) (5 FOOT)	1	EA	\$ 3,745.00	\$ 3,745.00	1	\$ 3,745.00
285	604	INLET TYPE R L 10 (5 FOOT)	3	EA	\$ 3,720.00	\$ 11,160.00	3	\$ 11,160.00
290	604	MANHOLE SLAB BASE (5 FOOT)	4	EA	\$ 2,125.00	\$ 8,500.00	4	\$ 8,500.00
295	607	FENCE (TEMPORARY)	1,319	LF	\$ 1.65	\$ 2,176.35	1409	\$ 2,324.85
300	608	CONCRETE CURB RAMP	33	SY	\$ 65.00	\$ 2,145.00	39.9	\$ 2,593.50
305	608	CONCRETE DRIVEWAY	37	SY	\$ 46.00	\$ 1,702.00	92.44	\$ 4,252.24
310	608	CONCRETE SIDEWALK (6 INCH)	1,302	SY	\$ 27.25	\$ 35,479.50	1338.11	\$ 36,463.50
315	609	CURB AND GUTTER TYPE 2 (SECTION I-B)	438	LF	\$ 10.85	\$ 4,752.30	174	\$ 1,887.90
320	609	CURB AND GUTTER TYPE 2 (SECTION II-B)	2,491	LF	\$ 12.00	\$ 29,892.00	2669	\$ 32,028.00
325	614	SIGN PANEL (CLASS I)	61	SF	\$ 15.55	\$ 948.55	45.25	\$ 703.64
326	614	STEEL SIGN POST (2X2 INCH TUBING)	91	LF	\$ 10.40	\$ 946.40	91	\$ 946.40
330	614	PEDESTRIAN SIGNAL FACE (16) (COUNTDOWN)	4	EA	\$ 565.00	\$ 2,260.00	4	\$ 2,260.00
335	614	PEDESTRIAN PUSH BUTTON	4	EA	\$ 150.00	\$ 600.00	4	\$ 600.00
340	617	DETOUR CULVERT PIPE	102	LF	\$ 33.00	\$ 3,366.00	28	\$ 924.00
345	619	BEND - WATER (DIP) (45 DEG - 6 INCH)	4	EA	\$ 220.00	\$ 880.00	6	\$ 1,320.00
350	619	PIPE - WATER (6 INCH) (PVC - C900)	70	LF	\$ 23.00	\$ 1,610.00	60	\$ 1,380.00
355	620	SANITARY FACILITY	1	EA	\$ 1,400.00	\$ 1,400.00	1	\$ 1,400.00
360	625	CONSTRUCTION SURVEYING	1	LS	\$ 7,500.00	\$ 7,500.00	1	\$ 7,500.00
365	626	MOBILIZATION	1	LS	\$ 29,500.00	\$ 29,500.00	1	\$ 29,500.00
370	627	PAVEMENT MARKING PAINT	11	GAL	\$ 98.60	\$ 1,084.60	11	\$ 1,084.60
375	627	PERFORMED THERMO-PLASTIC PAVEMENT MARKIN	649	SF	\$ 11.40	\$ 7,398.60	639	\$ 7,284.60
380	630	TRAFFIC CONTROL INSPECTION	21	DAY	\$ 80.00	\$ 1,680.00	52	\$ 4,160.00
385	630	TRAFFIC CONTROL MANAGEMENT	53	DAY	\$ 130.00	\$ 6,890.00	16	\$ 2,080.00
390	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE A)	3	EA	\$ 11.00	\$ 33.00	13	\$ 143.00
395	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE B)	1	EA	\$ 13.00	\$ 13.00	1	\$ 13.00
400	630	DRUM CHANNELIZING DEVICE	33	EA	\$ 1.50	\$ 49.50	33	\$ 49.50
405	630	TRAFFIC CONE	12	EA	\$ 1.00	\$ 12.00	12	\$ 12.00
410	630	FLASHING BEACON (TEMPORARY)	2	EA	\$ 95.00	\$ 190.00	3	\$ 285.00

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PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
415	630	UNIFORMED TRAFFIC CONTROL	16	HOUR	\$ 48.00	\$ 768.00	0	\$ -
420	630	BARRICADE (TYPE 3 M-B)(TEMPORARY)	2	EACH	\$ 21.00	\$ 42.00	0	\$ -
425	630	FLAGGING	857	HOUR	\$ 19.00	\$ 16,283.00	381	\$ 7,239.00
430	700	UTILITY ADJUSTMENTS	1	FA	\$ 12,500.00	\$ 12,500.00	0	\$ -
435	700	LANDSCAPE AND IRRIGATION ADJUSTMENTS	1	FA	\$ 6,250.00	\$ 6,250.00	0	\$ -
440	201	CLEARING AND GRUBBING	1	LS	\$ 14,250.00	\$ 14,250.00	1	\$ 14,250.00
445	202	REMOVAL OF CONCRETE PAVEMENT	120	SY	\$ 11.00	\$ 1,320.00	459	\$ 5,049.00
450	202	REMOVAL OF PIPE	672	LF	\$ 6.00	\$ 4,032.00	507	\$ 3,042.00
455	202	REMOVAL OF FENCE	2,905	LF	\$ 1.00	\$ 2,905.00	500	\$ 500.00
460	202	REMOVAL OF ASPHALT MAT	13,073	SY	\$ 0.50	\$ 6,536.50	13813	\$ 6,906.50
465	202	REMOVAL OF GROUND SIGN	7	EA	\$ 38.00	\$ 266.00	8	\$ 304.00
470	202	REMOVAL OF PAVEMENT MARKING	3,750	SF	\$ 2.00	\$ 7,500.00	910.6	\$ 1,821.20
475	202	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	1	LS	\$ 3,750.00	\$ 3,750.00	1	\$ 3,750.00
480	202	PLUG CULVERT	1	EA	\$ 700.00	\$ 700.00	1	\$ 700.00
485	202	CLEAN CULVERT	4	EA	\$ 310.00	\$ 1,240.00	0	\$ -
490	203	BLADING	12	HOUR	\$ 115.00	\$ 1,380.00	0	\$ -
495	203	DOZING	12	HOUR	\$ 140.00	\$ 1,680.00	0	\$ -
500	203	COMBINATION LOADER	12	HOUR	\$ 1,440.00	\$ 1,440.00	0	\$ -
505	203	BACKHOE	12	HOUR	\$ 105.00	\$ 1,260.00	0	\$ -
510	203	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	15,280	CY	\$ 7.00	\$ 106,960.00	15675	\$ 109,725.00
515	203	POTHOLING	150	HOUR	\$ 175.00	\$ 26,250.00	61	\$ 10,675.00
520	207	TOPSOIL (IMPORT)	2,177	CY	\$ 25.00	\$ 54,425.00	2177	\$ 54,425.00
525	208	TEMPORARY BERMS	375	LF	\$ 5.00	\$ 1,875.00	0	\$ -
530	208	EROSION LOG (12 INCH)	60	LF	\$ 5.00	\$ 300.00	466	\$ 2,330.00
535	208	SILT FENCE	3,379	LF	\$ 1.00	\$ 3,379.00	1648	\$ 1,648.00
540	208	CHECK DAM	1	EA	\$ 2,000.00	\$ 2,000.00	1	\$ 2,000.00
545	208	CONCRETE WASHOUT STRUCTURE	1	EA	\$ 1,150.00	\$ 1,150.00	1	\$ 1,150.00
550	208	STORM DRAIN INLET PROTECTION	19	EA	\$ 185.00	\$ 3,515.00	19	\$ 3,515.00

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PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
555	208	STABILIZED CONSTRUCTION ENTRANCE	2	EA	\$ 1,200.00	\$ 2,400.00	3	\$ 3,600.00
560	208	SEDIMENT REMOVAL AND DISPOSAL	1.00	LS	\$ 656.25	\$ 656.25	1	\$ 656.25
565	208	EROSION CONTROL SUPERVISOR	60	HOURL	\$ 57.00	\$ 3,420.00	28	\$ 1,596.00
570	210	RESET MAILBOX	4	EA	\$ 185.00	\$ 740.00	4	\$ 740.00
575	210	RESET WOOD FENCE	434	LF	\$ 12.00	\$ 5,208.00	427	\$ 5,124.00
580	210	RESET GROUND SIGN	5	EA	\$ 185.00	\$ 925.00	7	\$ 1,295.00
585	210	RESET SIGN (SPECIAL)	1	EA	\$ 13,000.00	\$ 13,000.00	1	\$ 13,000.00
590	210	RESET/ADJUST WATER METER	3	EA	\$ 775.00	\$ 2,325.00	1	\$ 775.00
595	210	RESET FIRE HYDRANT	1	EA	\$ 985.00	\$ 985.00	1	\$ 985.00
600	210	ADJUST VALVE BOX	11	EA	\$ 365.00	\$ 4,015.00	10	\$ 3,650.00
605	210	ADJUST MANHOLE	3	EA	\$ 695.00	\$ 2,085.00	3	\$ 2,085.00
610	210	ADJUST FIRE HYDRANT	1	EA	\$ 1,100.00	\$ 1,100.00	0	\$ -
615	210	MODIFY MANHOLE (SPECIAL)	1	EA	\$ 1,645.00	\$ 1,645.00	0	\$ -
620	212	SOIL PREPARATION	6.78	ACRE	\$ 815.00	\$ 5,525.70	6.507	\$ 5,303.21
625	212	SEEDING (NATIVE)	5	ACRE	\$ 410.00	\$ 2,050.00	5	\$ 2,050.00
630	212	SOD	38,100	SF	\$ 0.30	\$ 11,430.00	42971	\$ 12,891.30
635	212	SOIL CONDITIONING	5	ACRE	\$ 1,170.00	\$ 5,850.00	6.507	\$ 7,613.19
640	213	MULCHING (WEED FREE)	5	ACRE	\$ 635.00	\$ 3,175.00	5	\$ 3,175.00
645	213	MULCHING (COBBLE EDGING)	4,500	SF	\$ 0.80	\$ 3,600.00	12500	\$ 10,000.00
650	213	MULCHING (WOOD CHIP)	31,750	SF	\$ 0.55	\$ 17,462.50	34073.4	\$ 18,740.37
655	213	LANDSCAPE WEED BARRIER FABRIC	3,295	SY	\$ 1.15	\$ 3,789.25	4606.7	\$ 5,297.71
660	213	METAL LANDSCAPE BORDER	900	LF	\$ 3.00	\$ 2,700.00	966	\$ 2,898.00
665	214	GROUND COVERS, PERENNIALS NO. 1 CONT	1,688	EA	\$ 9.00	\$ 15,192.00	1659	\$ 14,931.00
670	214	DECIDUOUS TREE (2.5 - 3 INCH CAL)	73	EA	\$ 345.00	\$ 25,185.00	75	\$ 25,875.00
675	214	DECIDUOUS TREE (8-10 FT HT.)	67	EA	\$ 220.00	\$ 14,740.00	76	\$ 16,720.00
680	214	EVERGREEN TREE (8 FT HT.)	1	EA	\$ 245.00	\$ 245.00	5	\$ 1,225.00
685	214	SHRUBS (NO. 5 CONTAINER)	1,470	EA	\$ 27.00	\$ 39,690.00	1534	\$ 41,418.00
690	214	LANDSCAPE ESTABLISHMENT / MAINTENANCE	1	LS	\$ 12,000.00	\$ 12,000.00	1	\$ 12,000.00

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Pay Estimate # 12 (FINAL)

29003
 12/1/09 - 12/31/09
 12/31/2009
 # 12

Name: City of Westminster
 Address: 4800 W 92nd Ave
 Westminster, CO 80031
 Project: 144th Ave, Zuni Street to Jason Drive
 Job #: S06-01A

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
695	217	HERBICIDE TREATMENT	12	HOUR	\$ 67.00	\$ 804.00	0	\$ -
700	304	AGGREGATE BASE COURSE (CLASS 6)	167	TON	\$ 17.00	\$ 2,839.00	167	\$ 2,839.00
705	307	HYDRATED LIME	21,370	SY	\$ 7.30	\$ 156,001.00	24018.7	\$ 175,336.51
710	403	HOT MIX ASPHALT (GRADING SX) (100) PG 64-22)	2,351	TON	\$ 46.25	\$ 108,733.75	2779.21	\$ 128,538.46
715	403	HOT MIX ASPHALT (GRADING S) (100) PG 64-22)	7,566	TON	\$ 44.00	\$ 332,904.00	6659.52	\$ 293,018.88
720	403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	100	TON	\$ 65.00	\$ 6,500.00	109.29	\$ 7,103.85
725	411	EMULSIFIED ASPHALT (SLOW-SETTING)	4,274	GAL	\$ 2.00	\$ 8,548.00	3213	\$ 6,426.00
730	420	GEOTEXTILE (EROSION CONTROL) (CLASS A)	581	SY	\$ 3.00	\$ 1,743.00	76	\$ 228.00
735	506	RIPRAP (12 INCH)	76	CY	\$ 56.00	\$ 4,256.00	118	\$ 6,608.00
745	601	CONCRETE CLASS D	22	CY	\$ 315.00	\$ 6,930.00	22	\$ 6,930.00
749	603	12 INCH REINFORCED CONCRETE PIPE	44	LF	\$ 31.00	\$ 1,364.00	44	\$ 1,364.00
750	603	18 INCH REINFORCED CONCRETE PIPE	901	LF	\$ 34.50	\$ 31,084.50	904	\$ 31,188.00
755	603	24 INCH REINFORCED CONCRETE PIPE	944	LF	\$ 44.85	\$ 42,338.40	919	\$ 41,217.15
760	603	30 INCH REINFORCED CONCRETE PIPE	767	LF	\$ 56.00	\$ 42,952.00	775	\$ 43,400.00
765	603	54 INCH REINFORCED CONCRETE PIPE	279	LF	\$ 131.00	\$ 36,549.00	277	\$ 36,287.00
770	603	60 INCH REINFORCED CONCRETE PIPE	363	LF	\$ 161.00	\$ 58,443.00	0	\$ -
775	603	23" x 14" REINFORCED CONCRETE PIPE	134	LF	\$ 71.00	\$ 9,514.00	134	\$ 9,514.00
780	603	45" x 29" REINFORCED CONCRETE PIPE	98	LF	\$ 118.00	\$ 11,564.00	112	\$ 13,216.00
785	603	18 INCH REINFORCED CONCRETE PIPE END SECTION	2	EA	\$ 565.00	\$ 1,130.00	2	\$ 1,130.00
790	603	24 INCH REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 655.00	\$ 655.00	1	\$ 655.00
795	603	30 INCH REINFORCED CONCRETE PIPE END SECTION	2	EA	\$ 765.00	\$ 1,530.00	2	\$ 1,530.00
800	603	23" x 14" REINFORCED CONCRETE PIPE END SECTION	1	EA	\$ 825.00	\$ 825.00	1	\$ 825.00
805	603	12 INCH CORRUGATED STEEL PIPE	43	LF	\$ 35.50	\$ 1,526.50	135	\$ 4,792.50
810	603	18 INCH CORRUGATED STEEL PIPE	78	LF	\$ 37.50	\$ 2,925.00	0	\$ -
815	603	12 INCH STEEL END SECTION	4	EA	\$ 165.00	\$ 660.00	10	\$ 1,650.00
820	603	18 INCH STEEL END SECTION	6	EA	\$ 225.00	\$ 1,350.00	0	\$ -
825	603	6 INCH DUCTILE IRON PIPE	220	LF	\$ 35.70	\$ 7,854.00	220	\$ 7,854.00
830	604	INLET (SPECIAL)	1	EA	\$ 4,300.00	\$ 4,300.00	1	\$ 4,300.00

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 12/1/09 - 12/31/09
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 # 12

Name: City of Westminster
 Address: 4800 W 92nd Ave
 Westminster, CO 80031
 Project: 144th Ave, Zuni Street to Jason Drive
 Job #: S06-01A

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
835	604	INLET TYPE C (5 FOOT)	1	EA	\$ 2,580.00	\$ 2,580.00	1	\$ 2,580.00
840	604	INLET TYPE C (SPECIAL)	2	EA	\$ 7,035.00	\$ 14,070.00	2	\$ 14,070.00
845	604	INLET TYPE D (10 FOOT)	1	EA	\$ 3,835.00	\$ 3,835.00	1	\$ 3,835.00
850	604	INLET TYPE D (SPECIAL)	1	EA	\$ 10,075.00	\$ 10,075.00	1	\$ 10,075.00
855	604	INLET TYPE R L 10 (5 FOOT)	6	EA	\$ 3,720.00	\$ 22,320.00	5	\$ 18,600.00
860	604	INLET TYPE R L 10 (10 FOOT)	5	EA	\$ 4,110.00	\$ 20,550.00	5	\$ 20,550.00
865	604	INLET TYPE R (SPECIAL)	1	EA	\$ 4,540.00	\$ 4,540.00	1	\$ 4,540.00
870	604	MANHOLE SLAB BASE (5 FOOT)	2	EA	\$ 2,125.00	\$ 4,250.00	2	\$ 4,250.00
875	604	MANHOLE SLAB BASE (10 FOOT)	3	EA	\$ 2,940.00	\$ 8,820.00	4	\$ 11,760.00
880	604	MANHOLE BOX BASE (10 FOOT)	2	EA	\$ 7,140.00	\$ 14,280.00	2	\$ 14,280.00
885	604	MANHOLE SLAB BASE (20 FOOT) (SANITARY)	1	EA	\$ 3,130.00	\$ 3,130.00	1	\$ 3,130.00
890	604	MANHOLE SLAB BASE (25 FOOT) (SANITARY)	3	EA	\$ 3,365.00	\$ 10,095.00	3	\$ 10,095.00
895	607	FENCE (TEMPORARY)	3,958	LF	\$ 1.65	\$ 6,530.70	3,958	\$ 6,530.70
900	608	CONCRETE CURB RAMP	167	SY	\$ 65.00	\$ 10,855.00	137.9	\$ 8,963.50
905	608	CONCRETE DRIVEWAY	64	SY	\$ 46.00	\$ 2,944.00	242.7	\$ 11,164.20
910	608	CONCRETE SIDEWALK (6 INCH)	3,694	SY	\$ 27.25	\$ 100,661.50	3,705	\$ 100,961.25
915	609	CURB AND GUTTER TYPE 2 (SECTION I-B)	6,354	LF	\$ 10.85	\$ 68,940.90	6,639.5	\$ 72,038.58
920	609	CURB AND GUTTER TYPE 2 (SECTION II-B)	6,353	LF	\$ 12.00	\$ 76,236.00	6,617	\$ 79,404.00
925	610	MEDIAN COVER MATERIAL (RED PATTERNED CONC)	4,319	SF	\$ 12.25	\$ 52,907.75	4,262.9	\$ 52,220.53
930	610	MEDIAN EDGING (RED PATTERNED CONCRETE)	4,189	LF	\$ 15.50	\$ 64,929.50	4,325	\$ 67,037.50
935	613	2 INCH ELECTRICAL CONDUIT (TRENCH)	2,640	LF	\$ 4.95	\$ 13,068.00	3,251	\$ 16,092.45
940	613	2 INCH ELECTRICAL CONDUIT (BORED)	250	LF	\$ 11.80	\$ 2,950.00	204	\$ 2,407.20
945	613	3 INCH ELECTRICAL CONDUIT (TRENCH)	350	LF	\$ 8.25	\$ 2,887.50	674	\$ 5,560.50
950	613	PULL BOX (30"x48"x12") - INTERCONNECT	6	EA	\$ 885.00	\$ 5,310.00	6	\$ 5,310.00
955	613	LARGE PULL BOX (18"x30"x12")	4	EA	\$ 370.00	\$ 1,480.00	4	\$ 1,480.00
960	614	SIGN PANEL (CLASS 1)	127	SF	\$ 15.55	\$ 1,974.85	81.75	\$ 1,271.21
965	614	STEEL SIGN POST (2X2 INCH TUBING)	223	LF	\$ 10.40	\$ 2,319.20	180.5	\$ 1,877.20
970	614	FLASHING BEACON (SOLAR POWERED)	4	EA	\$ 3,715.00	\$ 14,860.00	0	\$ -

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Address: 4800 W 92nd Ave
Westminster, CO 80031
Project: 144th Ave, Zuni Street to Jason Drive
Job #: S06-01A

29003
12/1/09 - 12/31/09
12/31/2009
12

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
975	619	BEND - WATER (DIP) (45 DEG - 4 INCH)	8	EA	\$ 184.00	\$ 1,472.00	8	\$ 1,472.00
980	619	BEND - WATER (DIP) (45 DEG - 10 INCH)	8	EA	\$ 425.00	\$ 3,400.00	8	\$ 3,400.00
985	619	BEND - WATER (DIP) (90 DEG - 4 INCH)	2	EA	\$ 185.00	\$ 370.00	2	\$ 370.00
990	619	BLOW-OFF ASSEMBLY	1	EA	\$ 2,060.00	\$ 2,060.00	1	\$ 2,060.00
995	619	WATER SERVICE LINE (NO METER)	2	EA	\$ 1,380.00	\$ 2,760.00	2	\$ 2,760.00
1000	619	WATER SERVICE LINE (WITH METER)	1	EA	\$ 970.00	\$ 970.00	1	\$ 970.00
1005	619	FIRE HYDRANT ASSEMBLY	5	EA	\$ 3,480.00	\$ 17,400.00	5	\$ 17,400.00
1010	619	PIPE - WATER (4 INCH) (PVC - C900)	1,365	LF	\$ 20.00	\$ 27,300.00	1365	\$ 27,300.00
1015	619	PIPE - WATER (10 INCH) (PVC - C900)	1,401	LF	\$ 29.00	\$ 40,629.00	1433	\$ 41,557.00
1020	619	PIPE - WATER (12 INCH) (PVC - C900)	21	LF	\$ 43.00	\$ 903.00	5	\$ 215.00
1025	619	PIPE - WATER (18 INCH) (PVC - C900)	206	LF	\$ 138.00	\$ 28,428.00	206	\$ 28,428.00
1030	619	PIPE - SANITARY (4 INCH) (PVC - C900)(DR26)	147	LF	\$ 26.00	\$ 3,822.00	147	\$ 3,822.00
1035	619	PIPE - SANITARY (8 INCH) (PVC - C900)(DR26)	1,622	LF	\$ 36.00	\$ 58,392.00	1577	\$ 56,772.00
1040	619	TEE - WATER (DIP) (4"x4")	2	EA	\$ 220.00	\$ 440.00	2	\$ 440.00
1045	619	TEE - WATER (DIP) (10"x4")	1	EA	\$ 570.00	\$ 570.00	1	\$ 570.00
1050	619	TEE - WATER (DIP) (10"x6")	4	EA	\$ 590.00	\$ 2,360.00	4	\$ 2,360.00
1055	619	TEE - WATER (DIP) (10"x10")	1	EA	\$ 600.00	\$ 600.00	1	\$ 600.00
1060	619	TEE - WATER (DIP) (12"x4")	1	EA	\$ 585.00	\$ 585.00	1	\$ 585.00
1065	619	TEE - WATER (DIP) (12"x10")	1	EA	\$ 730.00	\$ 730.00	1	\$ 730.00
1070	619	TEE - WATER (DIP) (12"x12")	1	EA	\$ 750.00	\$ 750.00	1	\$ 750.00
1075	619	REDUCER (12"x6")	1	EA	\$ 408.00	\$ 408.00	1	\$ 408.00
1080	619	VALVE - GATE (4 INCH)	5	EA	\$ 775.00	\$ 3,875.00	5	\$ 3,875.00
1085	619	VALVE - GATE (6 INCH)	4	EA	\$ 885.00	\$ 3,540.00	4	\$ 3,540.00
1090	619	VALVE - GATE (10 INCH)	4	EA	\$ 1,785.00	\$ 7,140.00	4	\$ 7,140.00
1095	619	VALVE - GATE (12 INCH)	3	EA	\$ 2,145.00	\$ 6,435.00	2	\$ 4,290.00
1100	620	SANITARY FACILITY	1	EA	\$ 1,400.00	\$ 1,400.00	1	\$ 1,400.00
1105	623	IRRIGATION SYSTEM	1	LS	\$ 66,520.00	\$ 66,520.00	1,072,159	\$ 71,320.00
1110	625	CONSTRUCTION SURVEYING	1	LS	\$ 22,500.00	\$ 22,500.00	1.17	\$ 26,365.50

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 Job #: S06-01A

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PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
1115	626	MOBILIZATION	1	LS	\$ 88,500.00	\$ 88,500.00	1	\$ 88,500.00
1120	627	PAVEMENT MARKING PAINT	34	GAL	\$ 98.60	\$ 3,352.40	34	\$ 3,352.40
1125	627	PREFORMED THERMO-PLASTIC PAVEMENT MARKIN	1,291	SF	\$ 11.40	\$ 14,717.40	1,291	\$ 14,717.40
1130	630	TRAFFIC CONTROL INSPECTION	65	DAY	\$ 80.00	\$ 5,200.00	65	\$ 5,200.00
1135	630	TRAFFIC CONTROL MANAGEMENT	161	DAY	\$ 130.00	\$ 20,930.00	161	\$ 20,930.00
1140	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE A)	11	EA	\$ 11.00	\$ 121.00	23	\$ 253.00
1145	630	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE B)	1	EA	\$ 13.00	\$ 13.00	2	\$ 26.00
1150	630	DRUM CHANNELIZING DEVICE	99	EA	\$ 1.50	\$ 148.50	99	\$ 148.50
1155	630	TRAFFIC CONE	38	EA	\$ 1.00	\$ 38.00	38	\$ 38.00
1160	630	FLASHING BEACON (TEMPORARY)	2	EA	\$ 95.00	\$ 190.00	1	\$ 95.00
1165	630	BARRICADE (TYPE 3 M-B)(TEMPORARY)	4	EACH	\$ 21.00	\$ 84.00	5	\$ 105.00
1170	630	FLAGGING	2,572	HOURL	\$ 19.00	\$ 48,868.00	1006	\$ 19,114.00
1175	700	UTILITY ADJUSTMENTS	1	FA	\$ 37,500.00	\$ 37,500.00	0.02	\$ 750.00
1180	700	LANDSCAPE AND IRRIGATION ADJUSTMENTS	1	FA	\$ 18,750.00	\$ 18,750.00	0	\$ -
CHANGE ORDERS								
1185	210	RESET VINYL FENCE AND BRICK COLUMNS	50	LF	\$ 31.00	\$ 1,550.00	35	\$ 1,085.00
1190	603	18 INCH CORRUGATED STEEL PIPE	60	LF	\$ 37.50	\$ 2,250.00	40	\$ 1,500.00
1195	603	18 INCH STEEL END SECTION	2	EA	\$ 225.00	\$ 450.00	2	\$ 450.00
1200	608	CONCRETE DRIVEWAY	20	SY	\$ 46.00	\$ 920.00	20	\$ 920.00
1205	503	DRILLED CAISSON (36 INCH)	20	LF	\$ 238.00	\$ 4,760.00	20	\$ 4,760.00
1210	603	18 INCH CORRUGATED STEEL PIPE	-40	LF	\$ 37.50	\$ (1,500.00)	0	\$ -
1215	603	18 INCH STEEL END SECTION	-2	EA	\$ 225.00	\$ (450.00)	0	\$ -
1220	613	LARGE PULL BOX (18"x30"x12") (TRAFFIC STAMP)	3	EA	\$ 370.00	\$ 1,110.00	3	\$ 1,110.00
1225	613	SMALL PULL BOX (13"x24"x12") (ELECTRIC STAMP)	2	EA	\$ 565.00	\$ 1,130.00	2	\$ 1,130.00
1230	613	WIRING (SIGNALS, LUMINAIRES, ELEC SERVICE)	1	LS	\$ 4,129.50	\$ 4,129.50	1	\$ 4,129.50
1235	613	2 INCH ELECTRICAL CONDUIT (TRENCH)	180	LF	\$ 4.95	\$ 891.00	180	\$ 891.00
1240	613	3 INCH ELECTRICAL CONDUIT (TRENCH)	90	LF	\$ 8.25	\$ 742.50	90	\$ 742.50
1245	613	2 INCH ELECTRICAL CONDUIT (TRENCH) (INSTALL C	224	LF	\$ 9.00	\$ 2,016.00	224	\$ 2,016.00

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PBS&J Item #'s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
1250	613	6 INCH ELECTRICAL CONDUIT (TRENCH) (INSTALL C	61	LF	\$ 14.00	\$ 854.00	61	\$ 854.00
1255	614	TRAFFIC SIGNAL POLE, 30' MA W/LUMINAIRE	2	EA	\$ 2,290.00	\$ 4,580.00	2	\$ 4,580.00
1260	614	PEDESTRIAN SIGNAL POLE (INCLUDES CAISSON)	2	EA	\$ 1,335.00	\$ 2,670.00	2	\$ 2,670.00
1265	614	PEDESTRIAN SIGNAL FACE (16) (COUNTDOWN)	4	EA	\$ 565.00	\$ 2,260.00	4	\$ 2,260.00
1270	614	PEDESTRIAN PUSH BUTTON	4	EA	\$ 150.00	\$ 600.00	4	\$ 600.00
1275	614	TRAFFIC SIGNAL FACE (12-12-12) LED, GELcore/Dalili	8	EA	\$ 715.00	\$ 5,720.00	8	\$ 5,720.00
1280	614	TRAFFIC SIGNAL CONTROLLER AND CABINET (ASC)	1	EA	\$ 15,000.00	\$ 15,000.00	1	\$ 15,000.00
1285	614	FLASHING BEACON (SOLAR POWERED)	-4	EA	\$ 3,715.00	\$ (14,860.00)	0	\$ -
1290	614	SIGN PANEL (CLASS I)	-33	SF	\$ 15.55	\$ (513.15)	0	\$ -
1295	614	STEEL SIGN POST (2X2 INCH TUBING)	-42	LF	\$ 10.40	\$ (436.80)	0	\$ -
1300	619	VALVE - GATE (10 INCH)	2	EA	\$ 1,785.00	\$ 3,570.00	2	\$ 3,570.00
1305	627	PREFORMED THERMO-PLASTIC PAVEMENT MARKIN	88	SF	\$ 11.40	\$ 1,003.20	33	\$ 376.20
1310	206	STABILIZATION MATERIAL (MATERIAL & HAUL)	87.39	TN	\$ 1,179.77	\$ 1,179.77	87.39	\$ 1,179.77
1315	206	12" x 8" Wet Tap	1	EA	\$ 3,255.00	\$ 3,255.00	1	\$ 3,255.00
1320	206	8" Tapping Valve	1	EA	\$ 2,073.75	\$ 2,073.75	1	\$ 2,073.75
1325	206	8" x 6" Reducer	1	EA	\$ 236.25	\$ 236.25	1	\$ 236.25
1330	206	Wood Fence	225	LF	\$ 23.25	\$ 5,231.25	225	\$ 5,231.25
1070	619	12" x 12" Tee	1	EA	\$ (750.00)	\$ (750.00)	1	\$ (750.00)
1075	619	12" x 6" Reducer	1	EA	\$ (408.00)	\$ (408.00)	1	\$ (408.00)
1090	619	12" Gate Valve	1	EA	\$ (2,145.00)	\$ (2,145.00)	1	\$ (2,145.00)
1335	1335	Dewatering	1	LS	\$ 26,152.00	\$ 26,152.00	1	\$ 26,152.00
1340	1340	Landscape SE Corner @ Huntington Trails	1	LS	\$ 14,532.13	\$ 14,532.13	0	\$ -
1345	1345	Open Space Trailhead Pedestrian Paths	1	LS	\$ 4,097.00	\$ 4,097.00	1	\$ 4,097.00
1350	1350	Relocate Water Service	1	LS	\$ 835.00	\$ 835.00	1	\$ 835.00
1355	1355	CONCRETE DRIVEWAY W/Rebar	25	SY	\$ 49.50	\$ 1,237.50	25	\$ 1,237.50
		Type I Delineators	6	EA	\$ 37.00	\$ 222.00	6	\$ 222.00
		Variable Message Boards	2	EA	\$ 10,500.00	\$ 21,000.00	2	\$ 21,000.00
		Final CO to Close	1	LS	\$ (160,502.96)	\$ (160,502.96)	1	\$ (160,502.96)

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Pay Estimate # 12 (FINAL)

29003
 12/1/09 - 12/31/09
 12/31/2009
 # 12

Name: City of Westminster
 Address: 4800 W 92nd Ave
 Westminster, CO 80031
 Project: 144th Ave, Zuni Street to Jason Drive
 Job #: S06-01A

PBS&J Item #s	Bid Item #	ITEM DESCRIPTION	PLANNED QUANTITY	UNIT	UNIT PRICE	CONTRACT TOTAL	TOTAL QUANTITY	TOTAL AMOUNT
Project Totals								\$ 3,154,807.04
								\$ 3,154,807.04

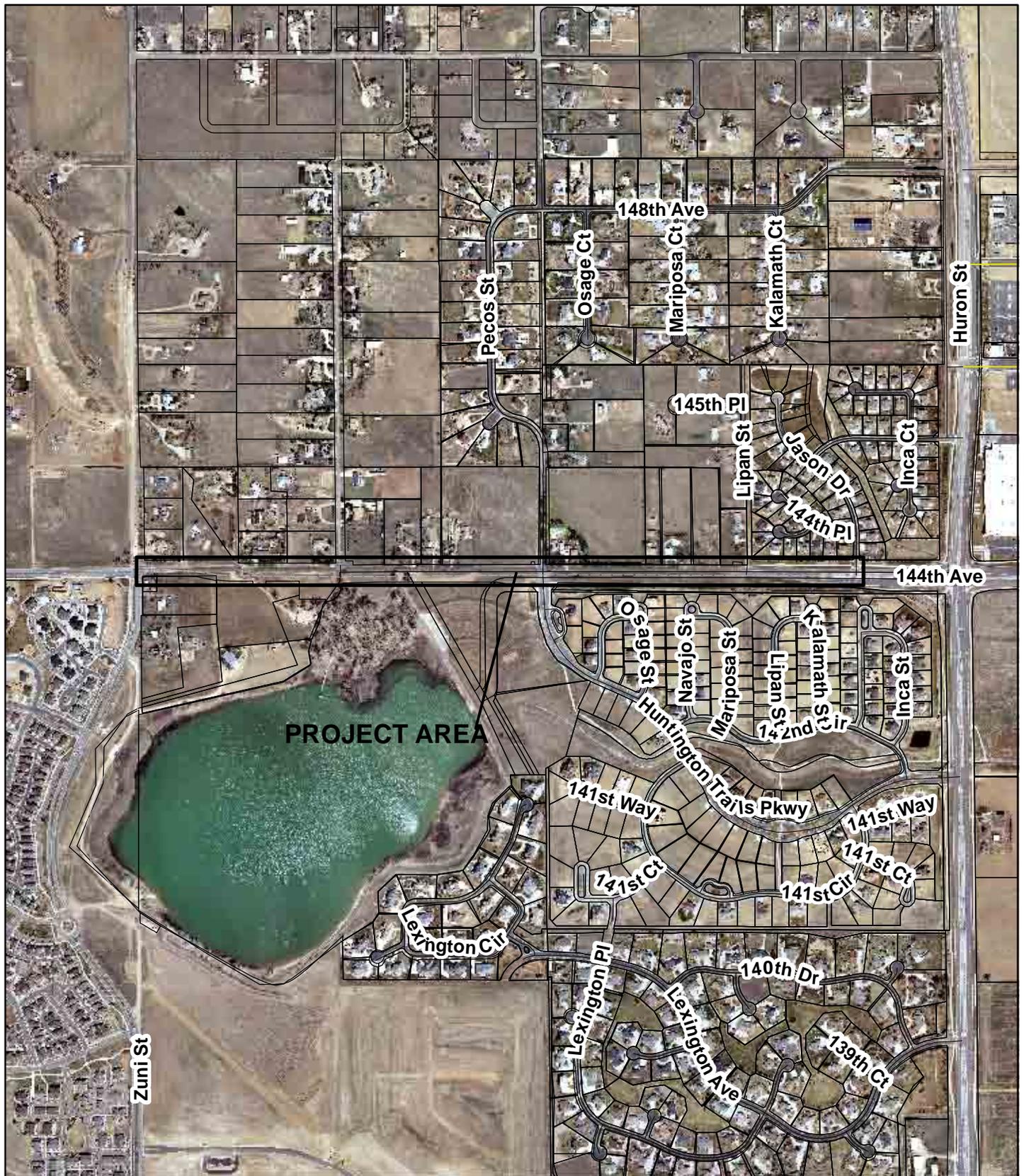


EXHIBIT "B"
144TH AVENUE, ZUNI STREET
TO JASON DRIVE PROJECT -
RECOVERY COSTS

F





WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
December 13, 2010



SUBJECT: Second Reading of Councillor's Bill No. 64 as Amended re Rental Property Proposed Fee Structure and Licensing Program

Prepared By: Dave Horras, Chief Building Official
Holly L. Clayton, Lead Housing Inspector

Recommended City Council Action

Pass Councillor's Bill No. 64 on second reading, as amended with Council's direction between first and second reading, amending Title V of the Westminster Municipal Code concerning licensing and regulations and Title XI of the Westminster Municipal Code concerning the Rental Property Maintenance Code.

Summary Statement

- This Councillor's Bill was passed on first reading on November 22, 2010. At that time, Council directed staff to look into creating a reduced inspection fee for affordable housing. Since first reading, staff researched the number of units that would fall within that classification (see attached listing), developed a definition of affordable housing as "income restricted property," and drafted minor amendments to Councillor's Bill No. 64 to address Council's request. Specifically, please note the following revisions to Councillor's Bill No. 64 from first reading:
 - Section 5-12-5(12) adds a requirement that, at the time of licensing, the property owner identifies and provides documentation of the number of income restricted units.
 - Section 5-12-6(B) creates the reduced inspection fee - \$20 instead of \$40 - per unit for income restricted property and places the burden on the property owner to demonstrate that the units qualify as income restricted property.
 - Section 11-12-3(9) sets forth the definition of "income restricted property."
- As discussed in greater detail in the December 6, 2010, informational only staff report, City Council has requested that staff look at a proposal to reduce the inspection fee for affordable rental units. Staff is recommending that "income restricted" rental units may best represent the types of affordable units intended in the City Council request. "Income restricted property" is proposed to be defined as "a unit of rental property over which the owner, whether a non-profit or a for-profit entity, lacks the sole discretion to increase rent due to state or federal law."
- Staff has identified 1,280 income restricted rental units in the City of Westminster. This represents about 13% of the 9,927 total known rental units included in the proposed licensing program. It is proposed to reduce the inspection fees for these units to \$20 per unit. This will

result in an average reduction of revenue of \$11,625 per year. This reduction in revenue will result in anticipated average revenue for the program of \$158,000 per year. A listing of properties with income restricted rental units is included as an attachment to this agenda memo.

- As a review from first reading, the proposed revisions to the Rental Property Maintenance Code will require licensing for all multi-family rental properties within the City of Westminster with a fee for the license and the required inspection. The existing Rental Property Inspection Program will remain essentially intact, providing for the systematic inspection of all multi-family rental units, with the addition of new requirements for licensing and the assessment of fees. The proposed licensing program and fee structure will help address the following issues:
 - The initial goal, prior to considering a reduced inspection fee for affordable housing, was to enable the rental housing inspection program to generate revenue from fees to support fully the existing program.
 - Obtaining and maintaining complete ownership information on rental properties to provide for the effective enforcement of the Rental Property Maintenance Program. The owners of the properties are ultimately responsible for the condition and use of their property, but ownership information is not always easily obtained or accurate.
- Additionally, it is proposed to establish a registration program for all other residential rental dwelling units within the City of Westminster. The registration program would apply to residential rental dwelling units that do not fall within the definition of “rental properties,” meaning that fewer than four units in one property are held in common ownership. Typically, rental dwellings will not be part of a large-scale rental community. These properties would not be regularly inspected or pay any fees as part of the registration.

Expenditure Required: \$158,000 (Revenue from new fees)
Source of Funds: General Fund

Respectfully submitted,

J. Brent McFall
City Manager

Attachments - Income Restricted Properties
Councillor’s Bill No. 64, as Amended

**Income Restricted Properties in Westminster
12/01/2010**

<u>Property Name</u>	<u># of Income Restricted Units</u>	<u>Total # of Units</u>
Village of Greenbriar	11	221
Orchard Crossing Apts.	72	89
Susan Kay Apts.	16	16
Toscana Apts.	252	252
Mountain Terrace Apts.	151	151
Westchester Apts.	20	20
East Bay Senior Housing	81	81
Glendale Apts.	120	120
Walnut Creek Apts.	55	220
Bradburn Gardens Apts.	43	43
Westbury Apts.	228	228
Claire of Assisi	59	60
Villa Maria	40	40
Redwood Village Apts.	7	50
Westminster Commons	125	130
Total	1,280	1,721

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **64**

SERIES OF 2010

INTRODUCED BY COUNCILLORS
DITTMAN - KAISER

A BILL

FOR AN ORDINANCE CREATING CHAPTER 12 OF TITLE V AND REPEALING AND REENACTING CHAPTER 12 OF TITLE XI OF THE WESTMINSTER MUNICIPAL CODE CONCERNING RENTAL PROPERTY LICENSES AND THE RENTAL PROPERTY MAINTENANCE CODE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title V, W.M.C., is hereby amended BY THE ADDITION OF A NEW CHAPTER 12 to read as follows:

CHAPTER 12

RENTAL PROPERTY LICENSE AND REGISTRATION

- 5-12-1: APPLICATION OF CHAPTER**
- 5-12-2: DEFINITIONS**
- 5-12-3: LICENSE REQUIRED; RENTAL PROPERTY**
- 5-12-4: REGISTRATION REQUIRED; RENTAL DWELLINGS**
- 5-12-5: LICENSE APPLICATION; TERM OF LICENSE AND RENEWAL**
- 5-12-6: APPLICATION REVIEW**
- 5-12-7: LICENSE AND REGISTRATION ADMINISTRATION**
- 5-12-8: LICENSE CANCELLATION, SUSPENSION, NON-RENEWAL, OR REVOCATION**
- 5-12-9: RULES AND REGULATIONS**

5-12-1: APPLICATION OF CHAPTER: As of January 1, 2011, and for the reasons set forth in Title 11, Chapter 12, of the Westminster Municipal Code, it shall be unlawful for any owner in the City to do either of the following:

- (A) Lease for occupancy any rental property or portion thereof without first obtaining a rental property license pursuant to this Chapter; or
- (B) Lease for occupancy any rental dwelling or portion thereof without first registering the rental dwelling pursuant to this Chapter.

5-12-2: DEFINITIONS: For purposes of this Chapter and unless the context clearly indicates otherwise, words, terms and phrases shall have the same meaning assigned to them by Title 11, Chapter 12, of the Westminster Municipal Code, the "Rental Property Maintenance Code."

5-12-3: LICENSE REQUIRED; RENTAL PROPERTY:

(A) On or before March 1, 2011, every owner of rental property shall file with the City Manager, acting by and through the Building Division, an application for a rental property license.

(B) A single license may be issued for the entire rental property and all units therein.

(C) A restricted license may be issued or restrictions placed on an existing license for a rental property if there is a portion of the property or certain units that do not comply with the provisions of this Chapter. Restricted licenses shall clearly identify the portion or portions of the rental property or units not in compliance with the provisions of this Chapter, and those portions shall not be rented or occupied until the City, upon reinspection pursuant to Title 11, Chapter 12, of the Westminster Municipal Code, has removed such restriction from the license.

(D) Applications for a license shall be required, and denial, non-renewal, suspension, or revocation of a license shall proceed according to this Chapter. Licensees shall have a duty to report changes as set forth in this Chapter.

5-12-4: REGISTRATION REQUIRED; RENTAL DWELLING:

(A) On or before March 1, 2011, every owner of a rental dwelling(s) shall register the rental dwelling(s) with the City Manager, acting by and through the Building Division, according to the application process for licensing outlined in Section 5-12-5 below.

(B) The procedures set forth in Section 5-12-5(A) and (B), Section 5-12-7, and Section 5-12-8 shall apply to registration. However, registration of rental dwellings is performed without the imposition of a fee and no renewal is required.

5-12-5: LICENSE AND REGISTRATION APPLICATION; TERM OF LICENSE; RENEWAL:

(A) Application. Applications for a rental property license or a rental dwelling registration shall be submitted in writing on forms furnished by the Building Division and shall provide the following information:

(1) The full name, mailing address, telephone numbers and birth date for the property owner, if the property owner is an individual.

(2) The full names, mailing addresses, telephone numbers and birth dates for the property owner(s) if the property is owned by more than one individual.

(3) The full name, mailing address and birth date of at least one officer, manager or director, if the property owner is a business entity.

(4) An affirmation that the application is complete and contains no false, misleading or fraudulent statements.

(5) An affirmation that the applicant is in good standing for any other permits or licenses granted by the City of Westminster.

(6) An affirmation that each unit of the rental property currently complies with the requirements set forth in the Rental Property Maintenance Code, Title XI, Chapter 12, of the Westminster Municipal Code.

(7) The address of all the unit(s) including individual unit numbers.

(8) The number and type of units (One (1) Bedroom, Two (2) Bedrooms, etc.) within the property.

(9) The age of the property, calculated from the date of issuance of the building's certificate of occupancy.

(10) For every rental property or rental dwelling, an owner or agent shall reside or operate within fifty (50) miles of the property. If an owner does not reside or operate within a fifty (50) mile radius of the property, the owner shall appoint an agent meeting these requirements.

(11) A site plan for or description of the property showing existing site improvements including, but not limited to structures, parking areas, and landscaping and specifying the materials used for each improvement.

(12) Disclosure of how many units within the property, if any, constitute qualified income restricted property and proof, satisfactory to the City, of such status.

(B) Notices given to an agent designated by an owner pursuant to this Chapter shall be sufficient to satisfy any requirement of notice to the owner.

(C) Term. License terms for rental properties shall be as follows:

(1) Rental properties less than six (6) years old, shall have a license term of up to the time they turn six (6) years old.

(2) Rental properties between six (6) and twenty (20) years old, shall have a license term of every four (4) years.

(3) Rental properties older than twenty (20) years old shall have a license term of every two (2) years.

(4) Upon adoption of this Chapter, the term of the initial license shall be determined by the age of the rental property and the existing City inspection schedule, as set forth in Title XI, Chapter 12, of the Westminster Municipal Code. License renewal shall take place at the time of the next regularly scheduled inspection following adoption of this Chapter.

(D) The owner or agent shall maintain the license on site and produce it upon request. Posting of the license at the rental property is not required.

(E) Renewal. Approximately sixty (60) days prior to the license expiration, the Building Division shall send the owner a notice of renewal. Applications for renewal licenses shall proceed as follows:

(1) Submit a license application as required by Section 5-12-5.

(2) Pay inspection fees as required by Section 5-12-6.

(3) Schedule the rental property inspection with the Building Division.

(4) Upon payment of the inspection fee, completion of the inspection and possible subsequent reinspections, and with the property in full compliance, a license shall be renewed for the term identified in Section 5-12-5(C) unless the Building Division reduces or increases the term

of a license as permitted by Title XI, Chapter 12, of the Westminster Municipal Code. No scheduled inspection shall be extended more than two (2) years for any property and no inspection schedule shall exceed six (6) years between inspections.

(5) Renewal of a license may be denied pursuant to Section 5-12-8 of this Chapter.

5-12-6: APPLICATION REVIEW:

(A) Applications for rental property license and for rental dwelling registration shall be filed with the Building Division for review and approval or denial by the City Manager or authorized representative.

(B) Fees. Applicants for a new rental property license shall pay a licensing fee of \$50.00 upon submission of a license application and shall pay a rental inspection fee of \$40.00 per unit, unless the unit is a qualified income restricted property, as addressed below, prior to the next regularly scheduled inspection, which fee amounts may be amended by subsequent resolution of City Council. Registration of rental dwellings is performed without the imposition of a fee and no renewal is required.

(1) The rental inspection fee shall be \$20.00 per unit of qualified income restricted property, as that term is defined in Section 11-12-3 of Westminster Municipal Code, prior to the next regularly scheduled inspection, which fee amount may be amended by subsequent resolution of City Council.

(2) The burden of establishing that a unit is a qualified income restricted property rests on the owner.

(C) Standards for review and approval. A license or registration application may be denied by the Building Division for any of the reasons set forth in Section 5-1-6 of the Westminster Municipal Code.

(D) Appeal right. The denial of license or registration application may be appealed pursuant to the procedures established in Chapter 1 of this Title V.

(E) Terms and conditions. As a condition of licensing and registration, an owner of rental property or of a rental dwelling shall cooperate in the inspection of the property according to the procedure outlined in Title XI, Chapter 12, of the Westminster Municipal Code.

(F) Effective date. A rental property license or rental dwelling registration shall be affective as of the date indicated in the notice provided by the City.

5-12-7: LICENSE AND REGISTRATION ADMINISTRATION:

(A) It shall be the duty of each owner of a rental property or a rental dwelling to provide the Building Division with notice of changes as follows:

(1) If an owner or agent legally changes the use of a structure by adding units, the owner or agent shall provide notice of the change to the Building Division no later than sixty (60) days following issuance of the certificate of occupancy for the new units and before any new units are occupied. At the time of giving notice, there shall be no additional fee assessed for the units that were added to the structure; however, when the license is next renewed the inspection fee will include the additional units.

(2) If an owner reduces the number of units within the rental property or a rental dwelling, the owner or agent shall provide notice of the change to the Building Division no later than sixty (60) days following completion of the change. The owner or agent shall not be entitled to a refund of any fee previously paid.

(3) For newly constructed property, inspections to determine compliance with the provisions of this Chapter and the associated fees are not required prior to issuance of the initial license if a license application is submitted no later than sixty (60) days following issuance of the certificate of occupancy for the rental property.

(4) The Building Division must be promptly notified, in writing, within thirty (30) days of any changes to the information provided on the license or registration application; except that the Building Division shall be notified in writing within fifteen (15) days after the change of an agent for a property and shall provide the name and mailing address of the new agent.

(B) A license or registration is non-transferable. Within thirty (30) days of the transfer of ownership of a rental property or a rental dwelling, the new owner shall submit a new license or registration application.

(C) Violation and Penalty. It shall be unlawful for any person to violate a provision of this Chapter or to obstruct an inspection being conducted pursuant to Title XI, Chapter 12, of the Westminster Municipal Code. Violators shall be subject to the penalties provided by Section 1-8-1 of the Westminster Municipal Code and the procedures set forth in Chapter 1 of this Title V. A separate offense shall be deemed committed upon each day such person is in violation of this Chapter.

5-12-8: LICENSE CANCELLATION, SUSPENSION, NON-RENEWAL, OR REVOCATION:

(A) A license or registration may be cancelled, suspended, revoked or non-renewed as set forth in Chapter 1 of this Title V, and any such adverse action may be appealed pursuant to the procedures established in Chapter 1 of this Title V.

(B) In rental properties containing multiple units, upon issuance of a restricted license according to Section 5-12-3(C), a revocation, suspension, denial or non-renewal may apply to any portion or portions of the property.

(C) In addition to the process set forth in Chapter 1 of this Title V, a license or registration may be summarily suspended for no more than thirty (30) days by the Building Division when required for the immediate protection of the public health, safety and welfare. Notice of the summary suspension shall be given in the manner set forth in Chapter 1 of this Title V, and a hearing thereon before the Special Permit and License Board shall be provided as soon as reasonably possible thereafter.

(D) All hearings before the Special Permit and License Board shall be conducted pursuant to the procedures established for hearings in Chapter 1 of this Title V.

5-12-9: RULES AND REGULATIONS: The City Manager or authorized representative is authorized to promulgate rules and regulations necessary for the implementation of this Chapter.

Section 2. Title XI, Chapter 12, W.M.C., is hereby REPEALED AND REENACTED to read as follows:

CHAPTER 12

RENTAL PROPERTY MAINTENANCE CODE

- 11-12-1: GENERAL INTENT**
- 11-12-2: MINIMUM STANDARDS**
- 11-12-3: DEFINITIONS**
- 11-12-4: SPACE AND OCCUPANCY STANDARDS**
- 11-12-5: FIRE PROTECTION**
- 11-12-6: EXTERIOR MAINTENANCE AND ACCESSORIES**
- 11-12-7: SITE MAINTENANCE**
- 11-12-8: VACANT OR ABANDONED BUILDINGS**
- 11-12-9: LICENSE REQUIRED; RENTAL PROPERTY**
- 11-12-10: REGISTRATION REQUIRED; RENTAL DWELLINGS**
- 11-12-11: INSPECTIONS**
- 11-12-12: INSPECTION PROCEDURES**
- 11-12-13: NOTICE OF NON-COMPLIANCE; INSPECTION REPORT**
- 11-12-14: UNLAWFUL CONDUCT; PUBLIC NUISANCE**
- 11-12-15: ENFORCEMENT**
- 11-12-16: APPEAL**
- 11-12-17: REMEDIES**
- 11-12-18: IMMINENT DANGER**

11-12-1: GENERAL INTENT:

(A) Title. These regulations shall be known as the Rental Property Maintenance Code of the City of Westminster, herein referred to as the "Rental Code."

(B) Purpose. The purpose of this Rental Code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location, and maintenance of all residential structures available for rent within the City of Westminster. This Rental Code establishes minimum standards for basic equipment and facilities, for light, ventilation and heating; for safety from fire; for the use and amount of space for human occupancy; and for the safe and sanitary maintenance of residential rental properties.

(C) Scope. The provisions of this Rental Code shall apply to all existing residential rental buildings, and structures, excluding manufactured homes, and all existing premises, or portions thereof used, designed, or intended to be used for dwelling purposes on a rental basis as well as the site, including parking lots, driveways and landscaping, and accessory structures, such as fences, retaining walls, sheds, and other such structures. Rooming houses, congregate residences or lodging houses shall comply with all the requirements of this Rental Code. Except as provided herein, properties, including buildings, or portions thereof, equipment, devices and safeguards, which were required by the building code shall be maintained in conformance with the building code under which they were installed, provided such continued use is not dangerous to life. Where there are conflicts between the building code and this Rental Code, the provisions of this Rental Code shall apply.

(D) Non-Conforming Rights. Except for smoke detectors and carbon monoxide alarms as required by Sections 11-12-5(B) and 11-12-5(C), of this Rental Code, existing residential rental units that were constructed and approved under a previous edition of the building code shall be considered as demonstrating compliance with the construction provisions of this Rental Code, provided that the approved construction is not dangerous to life or health. Nothing in this Rental Code shall be construed to allow the degradation of those systems, devices and equipment required by the building code under which the building was constructed.

11-12-2: MINIMUM STANDARDS: No person shall lease to another for occupancy any structure that does not comply with the requirements of this Rental Code. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of compliance as required herein.

11-12-3: DEFINITIONS:

(A) The following words, terms and phrases, when used in this Rental Code, shall have the following meanings unless the context clearly indicates otherwise:

(1) “Agent” shall mean a manager or operator, or any person, agent, firm or corporation who is designated in writing by the owner to act as the representative of the owner on issues related to a rental property or rental dwelling or for receipt of notices related to a rental property or rental dwelling.

(2) “Bedroom” shall mean any room or space used or intended to be used for sleeping purposes.

(3) “Building” shall mean any structure used or intended for supporting or sheltering any use or occupancy.

(4) “Building code” shall mean any of the codes currently adopted by the City as part of Title XI, Chapter 9, of the Westminster Municipal Code.

(5) “Common authority” shall mean the status of having joint access or control over a leased premise for most purposes.

(6) “Floor area” shall mean the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above.

(7) “Habitable space” shall mean the space in a building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility spaces, and similar areas are not considered habitable space.

(8) “Imminent danger” shall mean a condition that could cause serious or life-threatening injury or death at any time.

(9) “Income restricted property” shall mean a unit of rental property over which the owner, whether a non-profit or a for-profit entity, lacks the sole discretion to increase rent due to state or federal law. By way of example, and not limitation, units within a Section 8 housing project, as defined by 42 U.S.C. § 1437(f), as amended, as well as properties for which the owner takes an income tax credit pursuant to Sections 38 and 42 of the Internal Revenue Code (Title 26, U.S.C.), as amended, qualify as income restricted properties. However, units not within a Section 8 housing project that are rented with tenant-based Section 8 vouchers, pursuant to 42 U.S.C. § 1437(f), as amended, do not qualify as income restricted properties.

(10) “Infestation” shall mean the presence within or around a structure of insects, rodents, vermin or other pests of such kind, or in such numbers, as to cause a hazard to health.

(11) “Lease” shall mean:

(a) an agreement by which an owner gives up to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property; or

(b) the act of an owner giving to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

(12) "Occupancy" shall mean the purpose for which a building or portion thereof is utilized or occupied.

(13) "Owner" shall mean any person, agent, firm or corporation, or a designated representative of the same, having a legal or equitable interest in a rental dwelling or a rental property; or otherwise having control of such property, including the guardian of an estate and an executor or administrator of an estate when ordered to take possession of real property by a court.

(14) "Person" shall mean any individual, partnership, corporation, association, or other type of entity capable of owning or managing property, or an agent, servant, or employee of any individual, partnership, corporation, association, or other entity capable of owning or managing property.

(15) "Premises" shall mean a lot, plot or parcel of land including any buildings thereon.

(16) "Property" shall mean one lot or adjacent lots under common ownership.

(17) "Rental dwelling" shall mean any building or buildings, or portion thereof, on a property under common ownership consisting of no more than three units that provides shelter for human habitation or residential purpose, any portion of which is leased by the owner for occupation by a tenant. "Rental dwelling" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities or nursing homes.

(18) "Rental property" shall mean any building or buildings, or portion thereof, on one property under common ownership consisting of more than three units that provides shelter for human habitation or residential purposes, any portion of which is leased by the owner for occupation by a tenant. "Rental property" shall not mean hotels, motels, hospitals, State licensed residential care facilities, assisted living facilities or nursing homes.

(19) "Structure" shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(20) "Tenant" shall mean a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof.

(21) "Unit" shall mean a rental property or a rental dwelling, in whole or in part, that is separately available to be leased and that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the building code.

(B) Words, terms and phrases used in this Rental Code and not defined above shall have the same meaning as assigned by the building codes currently adopted by the City in Title XI, Chapter 9, of the Westminster Municipal Code.

11-12-4: SPACE AND OCCUPANCY STANDARDS:

(A) Improper Occupancy. Buildings or structures shall not be used for purposes other than those for which the building or structure was designed or intended or in violation of any other provisions of the Westminster Municipal Code or ordinances.

(B) Room Dimensions.

(1) Ceiling Heights. Habitable rooms in units shall have a ceiling height of not less than seven (7) feet. In rooms with sloped ceilings, the required ceiling height shall be provided in at least 50% of the room. No portion of any room with a ceiling height of less than 5 feet shall be considered as contributing to the minimum floor area as required in subsection (2) below.

(2) Floor Area.

(a) Every unit shall contain at least one hundred fifty (150) square feet of habitable floor space for the first occupant and an additional one hundred (100) square feet of floor space for each additional occupant. Every room used for sleeping purposes shall have at least seventy (70) square feet of floor space for the first occupant and an additional thirty (30) square feet of floor space for each additional occupant.

(b) The Building Official may waive or modify the above-stated minimums in appropriate circumstances such as the birth or adoption of additional children, a temporary need for medical care for a family member, or care of children by a non-custodial parent.

(3) Width. No room used for living or sleeping purposes shall be less than 7 feet in any dimension. Each toilet shall be installed in a clear space of at least 27 inches in width.

(C) Light and Ventilation.

(1) General. For the purpose of determining light or ventilation required by this Section, any room may be considered as a portion of an adjoining room if one half of the common wall is open and unobstructed and provides an opening of at least 10% of the floor area of the interior room.

(2) Light. Every habitable room within a unit shall be provided with windows or skylights with an area of at least 10% of the floor area. All public hallways, stairways and other exit ways shall be illuminated at all times with not less than 5 footcandles at the floor level.

(3) Ventilation.

(a) Habitable rooms within a unit shall be provided with natural ventilation by means of at least one openable exterior window or skylight with an area of not less than 1/20 of the floor area with a minimum of 5 square feet.

(b) In lieu of required exterior openings for natural ventilation, an approved mechanical ventilation system may be provided. Such system shall be capable of providing two air changes per hour in all habitable rooms and public hallways. In such case, one fifth of the required air supply shall be taken from the outside.

(c) Bathrooms, water closet compartments and similar spaces shall be provided with natural ventilation by means of openable exterior openings with an area not less than 1/20 of the floor area of such rooms with a minimum of 1 1/2 square feet.

(d) In lieu of required exterior openings for natural ventilation in bathrooms containing a bathtub or shower and similar rooms, mechanical ventilation system connected

directly to the exterior capable of providing five air changes per hour shall be provided. The point of discharge of exhaust containing only a toilet or lavatory or combination thereof, and similar rooms may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

(D) Sanitation.

(1) Units. Every unit shall be provided with a toilet, lavatory, and either a bathtub or shower. These facilities shall be located within the same building as the occupants and occupants shall not be required to go outside the building or through another dwelling unit to reach the facilities.

(2) Fixtures. All plumbing fixtures and piping shall be maintained as provided in the building code. Each plumbing fixture shall be provided with hot and cold running water necessary for its normal operation and be properly connected to an approved water and sewer system. Plumbing system waste piping shall be maintained free of all sewage obstructions and leaks. Potable water piping shall be free of leaks that cause a consistent flow of water. All plumbing fixtures shall be of smooth, impervious, easily cleanable surfaces and be maintained in safe and sanitary working condition, free of cracks, breaks, rust and leaks. All plumbing fixtures shall be of an approved glazed earthenware type or similar nonabsorbent material. All plumbing fixtures shall be adequately secured so that no strain is placed on the piping connections.

(3) Lavatory Basins. Every room containing a toilet shall have a lavatory located in the same room or in the room immediately adjacent to the room containing the toilet. Laundry tubs, kitchen sinks, or bathtubs are not acceptable substitutes for lavatory purposes.

(4) Room Separation. Every room containing a toilet, bathtub or shower shall be completely enclosed by partitions, doors, or windows from floor to ceiling and wall to wall which will afford privacy to the occupant.

(5) Bathtub and Shower Enclosures. The interior of every shower enclosure shall be watertight, maintained in sound condition, and be easily cleanable. Walls and floors of every shower enclosure shall be made of smooth, non-absorbent materials free of sharp edges and properly sloped to drain completely. Joints in any bathtub or shower enclosure shall be maintained waterproof with caulking or similar material. Repairs shall be required if more than two square feet of the enclosure wall or floor is no longer waterproof or more than two linear feet of caulking has failed or if the leak is causing an unsafe electrical condition.

(6) Kitchen Sink. Every unit shall contain a kitchen sink of seamless construction and impervious to water and grease. Where garbage disposals are provided, they shall be in working order, free of leaks, installed per manufacturer installation instructions and powered by a UL listed power cord.

(7) Openings for Piping. All exterior openings into the interior of the building, including those in a crawl space, provided for the passage of piping shall be properly sealed with snug fitting collars of metal or other material so as to be rodent and insect resistant and securely fastened in place.

(8) Environmental Health. All surfaces in and around the dwelling unit shall be maintained free of mold and mildew.

(E) Structural Requirements.

(1) General. Roofs, floors, walls, foundations, ceilings, stairs, handrails, guardrails, doors, porches, all other structural components, and all appurtenances thereto shall be capable of resisting any and all forces and loads to which they may be normally subjected, and shall be kept in sound condition and in good repair.

(2) Foundations. Every foundation shall be maintained plumb and free of open cracks and breaks, kept in sound condition and good repair, and shall be weathertight and watertight.

(3) Weather Protection. Every foundation, floor, roof, ceiling, and exterior and interior wall and all exterior doors and windows shall be weathertight and watertight and maintained free of holes, cracks or other defects that admit rain so as to provide shelter for the occupants against the elements and to otherwise exclude dampness. Windows that are designed to open vertically shall be capable of remaining open without the use of tools, props or special knowledge.

(4) Interior Maintenance. Floors, walls doors and ceilings shall be secure and free of holes, cracks, and breaks. Floor coverings shall be free from any defects that could cause tripping or would prevent the floor from being easily cleaned. Floor coverings such as carpeting, tile, linoleum, and similar material shall be repaired or replaced when more than 10% of the floor covering area is severely deteriorated or if defects create an unsafe or unsanitary condition. Floor coverings that have tears in excess of six inches that are raised above the floor surface to present a tripping hazard shall be repaired.

(5) Drainage. All rain water shall be so drained and conveyed away from every roof and away from every foundation so as to not cause dampness in basements or in walls, ceilings or floors of any building, or erosion of exterior surfaces. Water shall not be discharged in a manner that adversely affects the safety of the general public.

(F) Mechanical Requirements.

(1) Heating.

(a) Every unit shall be provided with heating facilities capable of maintaining a minimum room temperature of 68° F at a point 3 feet (3') above the floor in all habitable rooms, bathrooms, and water closet compartments. Units shall be supplied with heat during the period of October through April. Electric heating appliances that are not permanently installed, cooking appliances of any type, or decorative appliances shall not be considered heating facilities for the purpose of providing heat as required by this Section. Unvented fuel-burning heaters or decorative appliances are not permitted except as permitted and approved by the Building Division.

(b) All heating devices or appliances shall be of an approved type and installed as required in the building code and maintained in safe working condition. Required clearances to protected or unprotected combustible materials shall be maintained for heating equipment as well as sufficient clearance to permit the cleaning, maintenance, service and repair of the appliance. Required clearances are those listed on the equipment or otherwise required by the building code. Venting systems for gas-fired appliances shall be maintained in accordance with the building code.

(c) Except within an efficiency dwelling unit, gas-fired water heaters shall not be installed in any sleeping area. Water heating equipment serving any dwelling unit shall be capable of providing water at a temperature of at least 120 F at the fixture outlet and a recovery capacity of at least twenty gallons per hour for each dwelling unit. Water heaters shall be provided with an approved temperature and pressure relief valve and drain extension that terminates at an approved location.

(d) Closets containing heating equipment shall be kept free of stored items, combustibles, flammables or accelerants.

(2) Electrical.

(a) All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with the building code. All electrical equipment shall be permanently installed and be an integral part of the electrical wiring of the entire building. Electrical appliance or fixture cords shall be protected with proper coverings having no frayed or exposed wiring.

(b) Every habitable room, bathroom, kitchen, laundry room and public hallway shall have at least two convenience outlets or one convenience outlet and one electric light fixture. Every water closet compartment, furnace room and public stairway shall contain at least one electric light fixture. Electrical light fixtures should house only those bulbs approved by the manufacturer. Wattage of bulbs shall not exceed the manufacturer's maximum wattage recommendations for the fixture. Exterior fixtures shall be free of missing or broken globes that may leave the bulb exposed to the elements.

(c) Breaker panels shall be readily accessible, shall not be blocked or covered by storage or decoration, and shall not be painted shut. There shall be no unapproved openings within any electrical enclosure.

(3) Extension Cords. Extension cords shall not be used as permanent electrical wiring or required electrical outlets. No extension cords shall extend or pass from one room to another room. No extension cord shall be placed across any doorway, through any wall or partition, or in an area where such cord is subject to physical damage.

(G) Exits.

(1) General. All buildings or structures shall be provided with exits, including stairways, handrails, and guardrails, and have access to the public way as required by the building code. All doors, windows, corridors, stairways, fire escapes or other means of egress shall be maintained free of stored or discarded materials or other obstructions or locks as to prevent or impede egress from the building or structure.

(2) Dwelling Units. Every unit or guest room shall have access directly to the exterior of the building or to a public corridor that leads to the exterior. Sleeping rooms located below the fourth story and in basements shall have at least one operable window or exterior door meeting the building code requirements for emergency escape or rescue. These required windows or doors shall be operable from the inside to provide the required full clear opening without the use of separate tools or keys and not requiring special knowledge or effort.

(H) Appliances. Appliances whether supplied by the owner or tenant, shall be maintained in good working condition, free of leaks or other defects so as not to cause any unsafe or unsanitary condition.

11-12-5: FIRE PROTECTION:

(A) General. Required fire rated assemblies shall be maintained as specified in the building code and the fire code adopted in Title XI, Chapter 10, of the Westminster Municipal Code. Such assemblies shall be properly repaired, restored, or replaced when damaged, altered, breached, penetrated, removed or improperly installed. Fire protection equipment, including but not limited

to extinguishing systems, fire alarm systems, smoke detectors, and fire extinguishers, shall be maintained in good and safe working condition as required by the Fire Department.

(B) Smoke Detectors. Smoke detectors shall be installed in all units as required by the building codes.

(C) Carbon Monoxide Alarms. Any unit that includes fuel-fired appliances or an attached garage in which interior alterations, repairs, fuel-fired appliance replacement or additions, any of which requires a building permit to be issued, have been made, or any unit that has a change in tenant or occupancy, shall have carbon monoxide alarms installed as required by the building code.

(D) Open Flame Cooking Devices. Open flame cooking devices shall be regulated as required by the provisions of the building code and the fire code adopted in Title XI, Chapter 10, of the Westminster Municipal Code.

11-12-6: EXTERIOR MAINTENANCE AND ACCESSORIES:

(A) Weather protection. Buildings, or portions thereof, shall have exterior walls that are weathertight and watertight, and kept free of deterioration, holes, breaks, or loose boards or coverings. Roof surfaces shall be watertight and not have any defects that that will allow water to enter into the structure.

(B) Exterior maintenance.

(1) The exterior finish of all structures shall be maintained. If the exterior finish of a structure is paint or stain, the structure shall be painted or stained prior to a time when the exterior finish has substantially deteriorated. Graffiti shall be removed per Title VIII, Chapter 4, of the Westminster Municipal Code.

(2) All architectural projections such as cornices, moldings, lintels, sills and similar projections shall be maintained in good repair and free of defects.

(3) All chimneys, antennae (including satellite dishes), vents, gutters and downspouts and similar projections or building accessories shall be structurally sound and in good repair. Such projections shall be properly secured, when applicable, to an exterior wall or roof.

(C) Windows and doors. Windows and exterior glazing shall be soundly and adequately glazed, free from loose and broken glass and cracks that could cause physical injury or allow the elements to enter the structure. Windows and doors are to be maintained so that they can be secured in a closed position. Exterior doors shall be maintained weathertight, watertight and rodentproof. Exterior doors of unit shall be solid core or equivalent and be provided with a deadbolt locking device that tightly secures the door. Where window mounted cooling appliances are utilized, the opening around the appliance must be sealed with materials resistant to weather.

(D) Screens. Screens shall be provided, year round, for all operable windows. All screens, including screen doors, shall be maintained in good repair and free from tears, holes, or other imperfections of either screen or frame that would admit insects such as flies, flying insects or mosquitoes. Screens with holes one square inch or larger or with tears in excess of two inches shall be repaired or replaced. Screens shall not be damaged or warped, shall fit tight in the framework of the window, and be removable for cleaning and maintenance purposes. Sliding screen doors are required wherever sliding glass doors are present.

(E) Infestation. All structures and exterior property shall be maintained free of rodent, insect or vermin infestation which creates an unsafe or unsanitary environment on the subject, or adjacent

buildings or properties. All structures and exterior property shall be maintained free of conditions which may cause an unsafe or unsanitary environment.

(F) Addresses. Address numbers a minimum of 3" in height shall be provided on every occupied building or structure located so as to be visible from the street. Individual units within a building or structure shall be individually identified. Address numbers shall be of a contrasting color to their background for easy visibility.

(G) Accessory Structures. All accessory structures shall be maintained in a state of good repair or removed from the site. Such structures shall include, but not be limited to, clubhouses, offices, maintenance buildings, carports, retaining walls, fences, garages, and miscellaneous sheds or structures. These structures should be constructed of materials consistent for the use of the structure and not constructed in a makeshift or haphazard manner.

11-12-7: SITE MAINTENANCE:

(A) General. The accumulation of weeds, vegetation, junk (including, but not be limited to, abandoned, unused or nonoperational appliances, equipment, vehicles, machinery, or household furnishings), dead organic matter, debris, garbage, stagnant water, combustible materials or similar materials or conditions shall be subject to the provisions of Title VIII, Chapter 1 of the Westminster Municipal Code and shall be subject to abatement provisions therein.

(B) Parking Areas. All off street parking and access drives shall be improved with asphalt pavement or an equivalent approved surface as determined by the City. Parking areas shall be kept free from potholes, cracks or other deterioration. No dirt, grass or sod parking areas are allowed. All striping and signage, including parking signage and fire lane or access signage shall be maintained in good condition and clearly legible.

(C) Landscaping.

(1) All landscape areas, improvements and materials shall comply with and be maintained according to the City of Westminster Landscape Regulations and the Westminster Municipal Code. All landscape areas shall be landscaped with approved landscaping, including grass, shrubs, and trees. All landscape areas shall be maintained and all dead or severely damaged plant materials shall be replaced with plant materials as required by the City of Westminster Landscape Regulations. All turf areas shall be maintained so that no turf area exceeds 6 (six) inches in height. Weeds shall not exceed twelve (12) inches in height. Landscape areas may not include tree canopy, dirt, weeds, artificial turf or paving and drive improvements. Properties with an existing Official Development Plan shall be maintained as required by such plan.

(2) Rental dwellings shall be required to have one (1) tree and three (3) shrubs in the front yard landscape area. As required by the City of Westminster Landscape Regulations, a minimum of fifty percent (50%) of each yard area adjacent to a street, or public or private park or open space shall be landscape area. Remaining lot area not landscape area may only be paving or drives as defined in the City of Westminster Standards and Specifications for the Construction of Public Improvements.

(3) Rental properties shall be required to have one (1) tree and three (3) shrubs per 1,000 square feet of landscape area. A minimum of thirty percent (30%) of the lot shall be landscape area as defined by the City of Westminster Landscape Regulations, unless an exception is made by the City for good cause. Remaining lot area not landscape area may only be paving or drives as defined in the City of Westminster Standards and Specifications for the Construction of Public Improvements.

(D) Trash. Trash enclosures shall be installed and maintained as required by the Westminster Municipal Code. All trash shall be kept inside the enclosure. Oversized trash that will not fit within the trash enclosure shall be removed from the property as required by Westminster Municipal Code.

(E) Properties not in compliance with the requirements of this Section shall become compliant by January 1, 2016. Properties determined not to be in compliance based on inspection or review of the site plan required by Section 5-15-5 of the Westminster Municipal Code shall before January 1, 2012, submit to the City a plan for property improvements detailing how the property will be timely brought into compliance.

11-12-8: VACANT OR ABANDONED BUILDINGS:

(A) Vacant or abandoned buildings shall be secured to prevent unauthorized entry.

(B) Exterior building maintenance and site maintenance of abandoned or vacant buildings shall be the same as required for occupied buildings.

(C) Vacant or abandoned buildings and properties shall be maintained free of accumulations of combustible or hazardous material.

11-12-9: LICENSE REQUIRED; RENTAL PROPERTY: Prior to leasing any rental property for occupancy, an owner shall obtain and maintain in good standing a rental property license from the City pursuant to Title V, Chapter 12, of the Westminster Municipal Code.

11-12-10: REGISTRATION REQUIRED; RENTAL DWELLINGS: Prior to leasing any rental dwelling for occupancy, an owner shall obtain and maintain in good standing a rental dwelling registration with the City pursuant to Title V, Chapter 12, of the Westminster Municipal Code.

11-12-11: INSPECTIONS:

(A) General.

(1) The City Manager, acting by and through the Building Division, shall establish a regular and orderly schedule to inspect all rental property within the City. Such schedule shall not preclude inspection of a rental property at other times based on a request of a resident, owner or manager, or other complainant.

(2) Rental dwellings shall be inspected by the City on a complaint basis or as conditions warrant with no regular inspection schedule.

(3) Any violations shall be documented and a photographic record may be made of the property or of any violations discovered on the property.

(B) Right of Entry.

(1) When necessary to make an inspection for compliance with the provisions of this Rental Code as part of scheduled inspections, or when the City has probable cause to believe that there exists upon any premises any condition that constitutes a violation of the provisions of this Rental Code, the City Manager or authorized representative, hereinafter referred to as the "Inspector," may enter a premise at all reasonable times to inspect or to perform any duty imposed on him, provided that the following procedure has been followed:

(a) If a premise is currently leased, the Inspector shall first present proper credentials and request permission to enter from a tenant or other person having common authority over the premise. If the leased premise is currently unoccupied, the Inspector shall make a reasonable effort to locate the tenant, and upon locating the tenant, shall present proper credentials and request permission to enter. If a tenant or other person having common authority over the premise cannot be located after a reasonable effort, a notice of intent to inspect shall be posted on the premises giving notice that an inspection may proceed after a court order is obtained from the Municipal Judge of the City.

(b) If a premise is not currently leased, the Inspector shall present proper credentials and request permission to enter from the owner or agent. If the owner or agent cannot be located after a reasonable effort, a notice of intent to inspect shall be posted on the premises giving notice that an inspection may proceed upon issuance of a court order by a Municipal Judge of the City.

(2) If entry is refused, or twenty-four (24) hours after the premises have been posted, the Inspector may appear before the Municipal Judge and shall request pursuant to Rule 241(b)(2) of the Municipal Court Rules of Procedure, as amended, a court order entitling the Inspector to enter upon the premises. Upon presentation of the court order and proper credentials, or possession of same in the case of unoccupied premises, the Inspector may enter upon the premises, using such reasonable force as may be necessary to gain entry.

(3) For purposes of this Section, "probable cause" for a court order exists upon a showing that the inspection is part of the systematic schedule of inspections that is a condition of licensing the rental property and that the tenant or other person having common authority over the premise has failed or refused to grant entry to the Inspector or upon a showing that the facts and circumstances within the Inspector's knowledge are sufficient to warrant a person of reasonable caution in the belief that a violation of this Rental Code may exist. The Inspector shall not be required to demonstrate specific knowledge of the condition of the particular premises in issue in order to obtain a court order.

(C) Unlawful Resistance. It shall be unlawful for any owner, tenant, or person having common authority of a rental property or rental dwelling to deny entry of an Inspector acting pursuant to a court order that has been issued according to the procedure outlined in this Section.

11-12-12: INSPECTION PROCEDURES:

(A) Authority. The City Manager, acting by and through the Building Division, may inspect rental properties and rental dwellings, individual units thereof, and their associated properties, in order to determine compliance with the provisions of this Rental Code.

(B) Scheduled Inspections of Rental Properties.

(1) The frequency of inspections on rental properties shall be as follows:

(a) Properties less than six (6) years old shall not be scheduled for inspection.

(b) Properties between six (6) and twenty (20) years old shall be inspected every four (4) years.

(c) Properties older than twenty (20) years shall be inspected every two (2) years.

(2) Inspections may be increased in frequency upon a determination that violations of this Rental Code, revealed during an inspection, individually or in combination, demonstrate a failure to maintain the rental property in a decent, safe, and sanitary condition.

(3) Inspections may be decreased in frequency based on satisfactory results of the latest inspection of the entire rental property; however, a modification of the scheduled inspection schedule shall not be extended more than two (2) years for any property and no inspection schedule shall exceed six (6) years between inspections.

(4) Any rental property may be inspected at any time due to complaints or as conditions warrant.

(C) Notification prior to Inspections. It shall be the responsibility of the owner or agent to notify the individual tenants of the property of the scheduled inspection and to request that permission for the City to enter the premises be granted at the time of the inspection, by a tenant or person with common authority over the premise, either in person or in writing. Without such express permission to enter a unit scheduled for inspection, the City shall not proceed to inspect and shall instead obtain a court order according to the process outlined in Section 11-12-11(B). In addition to the right of entry process set forth in Section 11-12-11(B) above, regular inspections may be preceded by the following notice:

(1) A letter of intent to inspect a property based on the systematic inspection schedule mailed to the owner or agent of the property stating the proposed date and time of the inspection and given a minimum of thirty (30) days before inspection.

(2) Notice to the owner or agent at least seven (7) days in advance of the scheduled inspection to verify the time and date.

(3) If it is necessary for the City to cancel a scheduled inspection, it may send a cancellation notice to the owner or agent of the effected property at least three (3) days prior to the scheduled inspection date.

(D) Inspections of Rental Dwellings. Inspection of rental dwellings shall be on a complaint basis or as conditions warrant with no regular inspection schedule and shall proceed according to the process for right of entry set forth in Section 11-12-11(B).

11-12-13: NOTICE OF NON-COMPLIANCE; INSPECTION REPORT:

(A) When the City determines that non-compliance with this Rental Code exists, a notice of non-compliance and order to correct shall be issued. The notice of non-compliance shall be in writing and shall describe the violation with sufficient detail for it to be properly addressed and corrected. The notice of non-compliance shall provide a reasonable time for correction, no less than seven (7) and no more than ninety (90) days.

(B) Inspection Report. A report of inspection results, including notice of non-compliance, if any, shall be sent to the property owner or agent within ten (10) days of completion of an inspection.

(1) The inspection report shall include the results of the inspection, the period of time for correction of any non-compliant conditions, and the scheduled reinspection date and time.

(2) An inspection report containing only satisfactory results with no notice of non-compliance need not be personally served and may be mailed to the owner or agent at the address currently on file with the City as part of the licensing or registering of the property pursuant to Title V, Chapter 12, of Westminster Municipal Code.

(C) Any notice of non-compliance and order to correct and any inspection report containing a notice of non-compliance and order to correct shall be served by one of the following methods:

(1) Personally upon the owner or agent, in which case service shall be deemed complete on the date such service occurs.

(2) Notice posted on the premises and mailed to the owner or agent at the address currently on file with the City as part of the licensing or registering of the property pursuant to Title V, Chapter 12, of Westminster Municipal Code. Service by this method shall be deemed complete three days after mailing and posting, even if no acknowledgment of receipt is provided.

(D) Reinspections. Reinspections may be conducted to verify that the violations identified in a notice of non-compliance have been corrected. Violations that were not noted during the initial inspection but are discovered on the reinspection shall not be subject to correction as part of the initial notice of non-compliance, but may result in the issuance of an additional notice of non-compliance. Imminent hazards identified on a reinspection shall be subject to the provisions of Section 11-12-18.

(E) Owner Certification for Corrections. The City may accept written affirmation from the owner or agent confirming correction of any or all violations documented in the formal notice of non-compliance.

(F) Reinspection Fees. A reinspection fee may be assessed for each follow-up inspection required after the initial reinspection due to an owner's failure to correct satisfactorily the identified violations. For each follow-up inspection required after the initial reinspection a reinspection fee of \$ 50.00 per unit and common area may be assessed, which fee amount may be amended by subsequent resolution of City Council. Reinspection fees not paid in full within thirty (30) days of assessment shall constitute a lien on the property and shall be recorded as such with the County Clerk.

(G) Extensions. If an owner cannot complete the required corrective action in the time set forth in the notice of non-compliance, the owner or agent may request an extension to the completion date, which may be granted upon a determination that substantial progress is being made to correct the violation(s). Such request shall be made in writing and shall contain the reasons that an extension is necessary and the requested length of extension. A request for extension shall be made no less than three (3) days prior to a scheduled reinspection or the required completion date, whichever is earlier.

(H) No Show Fees: If an owner or agent fails to attend an inspection or reinspection, fails to request a timely extension, or fails to provide notice to tenants of the City's request for permission to enter, a no-show fee of \$ 50.00 per missed appointment may be assessed. The fee amount may be amended by subsequent resolution of City Council.

11-12-14: UNLAWFUL CONDUCT; PUBLIC NUISANCE:

(A) It shall be unlawful for any owner or agent to lease or to allow the use, maintenance, or occupancy of any residential dwelling or residential property that does not comply with the requirements of this Rental Code.

(B) Securing Structures. Any residential dwelling or residential property that is abandoned or uninhabited and is dilapidated, deteriorated or has become a place frequented by trespassers or transients or has otherwise been declared as a hazard shall be deemed a public nuisance.

(C) The City Manager or authorized representative is hereby deemed a peace officer for the limited purpose of enforcing the provisions of this Rental Code, and shall have the power to issue complaints and summons for violations of these provisions, pursuant to Rule 204, Municipal Court Rules of Procedure, as amended, and Section 1-22-18 of the Westminster Municipal Code.

(D) Any person found guilty of violating any of the provisions of this Rental Code shall, upon conviction thereof, be punished by a fine or imprisonment or both, pursuant to Section 1-8-1 of the Westminster Municipal Code. Each day that a violation of any of the provisions of this Rental Code continues to exist shall be deemed to be a separate and distinct violation.

(E) A violation of any of the provisions of this Rental Code is hereby declared to be a public nuisance, and may be abated according to the procedures established in Title 8, Chapter 4, of the Westminster Municipal Code for the abatement of nuisances.

(F) In addition to all other penalties available, a violation of the provisions of this Rental Code may result in an action to revoke or suspend a rental property license or a rental dwelling registration according to the process set forth in Title V, Chapter 12, of the Westminster Municipal Code.

11-12-15: ENFORCEMENT: If, after notice and order to correct, an owner, fails to timely correct the violation and fails to timely appeal the notice and order, the City Manager or authorized representative may issue a complaint and summons for prosecution in Municipal Court or for abatement as a nuisance.

11-12-16: APPEAL:

(A) An owner may appeal a notice of non-compliance and order to correct to the Board of Building Code appeals. Any such appeal shall be filed in writing with the City Manager within thirty (30) days of the date of service of the notice of non-compliance.

(B) The Board of Building Code Appeals shall hear the appeal within a reasonable time. Procedure for the hearing shall be as established in Title II, Chapter 10, of Westminster Municipal Code. Compliance with a notice of non-compliance shall be stayed until the Board has met and issued its decision.

(C) Any appeal of the decision of the Board shall be made to the District Court. The appellant shall pay for the costs of preparing a transcript and other expenses of preparation of the record of hearing before the Board.

11-12-17: REMEDIES: Recovery of Costs. The cost of enforcement proceedings together with the cost of abatement, if so ordered, shall be assessed in any judgment rendered. If the costs identified are not paid they shall constitute a lien upon the property.

11-12-18: IMMINENT DANGER:

(A) If any structure, premise or portion thereof is found to present an imminent hazard to life or health, the premises shall be posted and the property shall be ordered vacated. Upon order to vacate, the property, or portion thereof, shall be posted as "Dangerous, Do Not Occupy" and written notification of the violations that deem the property, or portion thereof, as an imminent hazard shall be served as required in Section 11-12-13(C).

(B) It shall be unlawful for any person to remove or deface the posted notice, or to occupy the property or to enter the structure except for the purpose of repair. The violations identified as causing the property or portion thereof, to be an imminent hazard shall be corrected and reinspected before the posting is removed and the property, or portion thereof, is reoccupied.

(C) The owner or agent may appeal the order to vacate to the Board of Building Code Appeals, in the same manner as stated in Section 11-12-16, except that the duty to comply with the order to vacate shall not be stayed pending a hearing.

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 22nd day of November, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT AS AMENDED ORDERED PUBLISHED this 13th day of December, 2010.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

**CITY OF WESTMINSTER PROMENADE PARKING GARAGE
GENERAL IMPROVEMENT DISTRICT
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, December 13, 2010
7:00 P.M.**

1. Roll Call
2. Minutes of Previous Meetings (October 12, 2009)
3. New Business
 - A. Public Hearing re Promenade Parking Garage GID 2011 Proposed Budget
 - B. Resolution No. 11 Adopting 2011 Proposed Budget & Mill Levy
4. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE PROMENADE PARKING GARAGE GENERAL IMPROVEMENT DISTRICT
MONDAY, OCTOBER 12, 2009 AT 7:38 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Dittman, Board Members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney, and Linda Yeager, Secretary.

CONSIDERATION OF MINUTES

Board Member Briggs moved, seconded by Lindsey to approve the minutes of the meeting of October 13, 2008 with no additions or corrections. The motion passed with all members voting favorably.

PUBLIC HEARING ON PROPOSED 2010 BUDGET

At 7:39 p.m. a hearing was opened to receive public comment on the proposed 2010 Budgets of the City of Westminister's General Improvement Districts (GID), which included the 136th Avenue GID, the 144th Avenue GID, the Amherst GID, the Mandalay Town Center GID, the Promenade Parking Garage GID, and Sheridan Crossing GID. Staff was present to answer questions. No one wished to comment. The Chairperson closed the public hearing at 7:40 p.m.

RESOLUTION NO. 10 TO ADOPT 2010 BUDGET & MILL LEVY

It was moved by Board Member Major and seconded by Winter to adopt Resolution No. 10 setting the mill levy for the taxable year 2009 for collections in 2010 at 5.5 mills for the City of Westminister Promenade Parking Garage General Improvement District, formally adopting the 2010 budget as presented, and appropriating the funds as budgeted. At roll call, the motion passed unanimously.

ADJOURNMENT

The meeting was adjourned at 7:44 p.m.

Chairperson

ATTEST:

Secretary

Promenade Parking Garage GID Agenda Item 3 A & B

City of Westminster Promenade Parking Garage General Improvement District Meeting
December 13, 2010



SUBJECT: Public Hearing and Resolution No. 11 re City of Westminster Promenade Parking Garage General Improvement District 2011 Budget

Prepared By: Karen Creager, Special Districts Accountant

Recommended Board Action

1. Hold a Public Hearing on the Promenade Parking Garage General Improvement District 2011 Proposed Budget.
2. Adopt Resolution No. 11 that sets the mill levy for the taxable year 2010 for collections in 2011 at 5.5 mills for the City of Westminster Promenade Parking General Improvement District (District), formally adopts the 2011 budget for the District as presented, and appropriates the funds as budgeted.

Summary Statement

- The Board is requested to adopt the attached Resolution approving the 2011 budget for the City of Westminster Promenade Parking General Improvement District that reflects all proposed District operations and services to be provided in 2011.
- State of Colorado Local Government Budget Law (Budget Law), Colorado Revised Statutes (C.R.S.) 29-1-103, requires an annual budget to be adopted for the District.
- A public hearing was held as required by Budget Law, C.R.S. 29-1-108.
- The operating mill levy of 5.5 mills for 2011 collections remains unchanged from the previous year.
- Based on the preliminary total assessed valuation, the operating mill levy of 5.5 mills will generate \$157 in property tax revenue. This is the only revenue estimated for the District.
- Projected costs in 2011 are \$157 for administrative fees and property tax collection fees.
- A budget message describing the important features of the proposed budget and a description of services to be delivered during the budget year is required by C.R.S. 29-1-103(e) and is included in the background information section of this agenda.
- An emergency reserve of \$5 as required under Article X, Section 20 of the Colorado Constitution (TABOR Amendment) is included in the ending fund balance.

Staff continues to discuss possible alternative uses for the property in this District. If any of these alternatives require budgetary changes, the budget changes will be presented to the Board at a later date for approval.

Expenditure Required: \$157

Source of Funds: Estimated property tax revenues for the District

Policy Issue

Should the attached 2011 budget be adopted by the Board?

Alternative

The alternative would be to not adopt a budget for 2011. However, according to Budget Law, C.R.S. 29-1-103, the District is required to adopt a budget each year. If a budget is not adopted, Budget Law, C.R.S. 29-1-108, allows for the re-appropriation of ninety percent of the amount appropriated in the current fiscal year for District expenditures.

Background Information

The Promenade Parking General Improvement District was organized by City Council on August 14, 2000. The principal purpose of the District is to facilitate the construction of a parking garage at the Westminster Promenade and to operate and maintain it once constructed. Pursuant to the creation ordinance, the Westminster City Council is the ex-officio Board of Directors of the District.

On November 7, 2000, the property owners in the District took the following actions: 1) Approved \$100,000 annually for expenditures of the District, provided by a mill levy not to exceed 5.5 mills; 2) Authorized debt of \$9,885,000 to finance the costs of constructing a parking facility and related costs; 3) Authorized refunding of the District's debt in the amount of \$10,500,000; and 4) Authorized the District to collect and spend all taxes and other revenues received without regard to any expenditure, revenue raising or other limitation contained within the TABOR Amendment or the laws of the State of Colorado. However, an emergency reserve of \$5 is still required and has been established.

The District entered into an agreement on May 15, 2001 with the City of Westminster (City), Inland Pacific Colorado, LLC (IPC) and Westminster Promenade Development Company, LLC (WPDC). The agreement sets the District's total mill levy not to exceed 32 mills unless approved by WPDC, facilitates the completion of the Promenade Parking Facility and each party's obligations thereto, and outlines the repayment of the construction costs to the City and WPDC through the District's mill levy.

Development of the parking garage has stalled due to continued vacant office space in the US 36 Corridor and the Denver Metropolitan area, as well as the down turn in the economy. Staff believes that it is important to keep the District in place to be able to address the parking demand that might be created by the alternative uses being considered. If none of the alternatives move forward in the next few years, Staff will bring a recommendation to the Board on the future of the District.

Budget Law requires that a budget message be filed along with a certified copy of the budget to the Division of Local Government (DLG) no later than 30 days following the beginning of the fiscal year. The budget message to be submitted to the DLG is as follows:

BUDGET MESSAGE

The attached 2011 budget for the City of Westminster Promenade Parking General Improvement District (District) includes these important features:

Westminster City Council organized the District on August 14, 2000. Pursuant to the creation ordinance, the Westminster City Council is the ex-officio Board of Directors of the District. The principal purpose of the District is to facilitate the construction of a parking garage at the Westminster Promenade and to operate and maintain the parking garage once constructed.

The District's 2010 preliminary assessed valuation is \$28,510 with no change from 2009. The District will certify a 5.5 operating mill levy that will generate property tax revenues of \$157 based on the preliminary assessed valuation. Property taxes are the only estimated revenues for 2011.

Projected expenditures for 2011 are \$157 for administrative and property tax collection fees. Total expenditures are estimated to be \$157 for 2011.

An emergency reserve of \$5 as required by Article X, Section 20 of the Colorado Constitution is included in the ending fund balance.

The budgetary basis of accounting used by the District is the modified accrual basis.

The mill levy will be certified with Jefferson County, Colorado for 5.5 mills.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachments

**CITY OF WESTMINSTER PROMENADE PARKING GARAGE
GENERAL IMPROVEMENT DISTRICT**

RESOLUTION NO. **11**

INTRODUCED BY BOARD MEMBERS

SERIES 2010

2011 BUDGET AND MILL LEVY

WHEREAS, the Board of Directors of the City of Westminster Promenade Parking General Improvement District must adopt an operating budget prior to each fiscal year; and

WHEREAS, a proposed budget for 2011 was prepared and submitted to the Board of Directors on October 4, 2010 for its review; and

WHEREAS, proper notice was published on December 9, 2010 pursuant to the requirements of Section 29-1-106, Colorado Revised Statutes; and

WHEREAS, a public hearing was held on December 13, 2010 pursuant to the requirements of Section 29-1-108, Colorado Revised Statutes; and

WHEREAS, no objections have been filed by any member of the public to the proposed budget;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Westminster Promenade Parking General Improvement District of Jefferson County, Colorado:

1. That the attached budget for \$157 is hereby approved and the amounts stated therein are hereby appropriated for the fiscal year 2011.
2. That the tax levy of 5.5 mills is fixed for the taxable year 2010 for collections in 2011.
3. That City of Westminster Finance Director, Tammy Hitchens, is hereby directed to certify said tax levy to the Jefferson County Board of County Commissioners and to cause a certified copy of the attached budget to be filed in the office of the Division of Local Government, Department of Local Affairs, 1313 Sherman Street, Room 520, Denver, Colorado 80203.

PASSED AND ADOPTED THIS 13th day of December 2010.

Chairperson

ATTEST:

Secretary

City of Westminster
Promenade Parking General Improvement District - LGID# 30150/1
2011 Proposed Budget

	2009 Actual	2010 Budget	2010 Estimated	2011 Proposed
Revenues				
Taxes:				
Property taxes-gen operating	\$ 173	\$ 157	\$ 157	\$ 157
Ownership taxes	0	0	0	0
Total taxes	<u>173</u>	<u>157</u>	<u>157</u>	<u>157</u>
Interest	0	0	0	0
<i>Total Revenues</i>	<u>173</u>	<u>157</u>	<u>157</u>	<u>157</u>
Expenditures				
General Operating:				
Administration	165	155	155	155
Treasurer's fees	3	2	2	2
<i>Total Expenditures</i>	<u>168</u>	<u>157</u>	<u>157</u>	<u>157</u>
<i>Excess Revenue over (under) Expenditures</i>	5	0	0	0
Beginning Balance	<u>431</u>	<u>430</u>	<u>436</u>	<u>436</u>
Ending Balance	<u>\$ 436</u>	<u>\$ 430</u>	<u>\$ 436</u>	<u>\$ 436</u> *

* Ending balance includes \$5 budgeted for emergency reserves to comply with TABOR Amendment.

Mill Levy				Assessed Valuation	
Budget Year	Operating	Debt Svc	Total		
2011	5.50	0.00	5.50	2010	\$28,510
2010	5.50	0.00	5.50	2009	\$28,510
2009	5.50	0.00	5.50	2008	\$30,510
<i>Maximum levy is 32 mills by contract, inclusive of max 5.5 mills general operating</i>					