



**REVISED
CITY COUNCIL AGENDA**

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

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

- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Consideration of Minutes of Preceding Meetings**
- 4. Report of City Officials**
 - A. City Manager's Report
- 5. City Council Comments**
- 6. Presentations**
 - A. Environmental Protection Agency National Award for Excellence in Industrial Pretreatment
- 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. Financial Report for December 2007
 - B. Deicing Salt Purchase
 - C. City Police Patrol Vehicles Purchase
 - D. Award of Asphalt and Crackseal Materials Bids
 - E. City Park Aquatics Renovation Design Contract
 - F. West 144th Avenue, Huron Street to Zuni Street – Final Engineering Design Consultant Contract
 - G. Second Reading of Councillor's Bill No. 1 re Westminster Sports Center Lease Agreement
 - H. Second Reading of Councillor's Bill No. 2 re Appropriating CIP Funds for MSC Facility Renovation
- 9. Appointments and Resignations**
 - A. Resolution No. 2 re Reappointments to Boards and Commissions
- 10. Public Hearings and Other New Business**
 - A. Resolution No. 3 re Source Water Protection Plan Grant Application
 - B. Resolution No. 4 re 2007 Private Activity Bond Allocation Assignment
 - C. Resolution No. 5 re Spring 2008 Adams County Open Space Grant Application
 - D. Resolution No. 6 re Authorizing the Purchase of the 1.0 Acre Teeples Property at 8055 West 108th Avenue
- 11. Old Business and Passage of Ordinances on Second Reading**
- 12. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session**
 - A. City Council
 - B. Executive Session – Discussion of proposed modifications to revenue sharing IGA with Broomfield and obtain direction thereon pursuant to WMC 1-11-3 (C) (7) and (8), and CRS 24-6-402 (4) (b) and (e)
- 13. Adjournment**

GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS

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

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JANUARY 28, 2008 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro Tem Dittman and Councillors Briggs, Kaiser, Major, and Winter were present at roll call. Councillor Lindsey was absent and excused. Stephen P. Smithers, Acting City Manager, Leslie Annand, Assistant City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Kaiser, to approve the minutes of the regular meeting of January 14, 2008, as presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. Smithers announced that Council would convene in executive session following adjournment of this meeting. The purpose of the executive session was to discuss proposed modifications to the revenue sharing Intergovernmental Agreement with the City and County of Broomfield pursuant to Section 1-11-3 (C)(7) and (8) of the Westminster Municipal Code and Section 24-6-402 (4)(b) and (e), C.R.S.

CITY COUNCIL COMMENTS

Mayor Pro Tem Dittman reported having attended the grand opening of the Westminster Sports Center following its renovation. The facility bore no resemblance to its previous appearance and provided space for the youth of the community to recreate. He extended kudos to Parks, Recreation and Library staff on a job well done.

Councillor Briggs reported having attended the funeral of former City Councillor Carl Walzak, whose contributions to the community would be sorely missed.

Councillor Major echoed the Mayor Pro Tem's praise regarding Westminster Sports Center, noting that much of the renovation work done on the building was performed by City employees at a significant saving to taxpayers.

Mayor McNally reported having attended a meeting concerning the status of the Northwest Parkway to hear what steps would need to be addressed next.

PRESENTATIONS

Councillor Winter joined David Meyer, Water Quality Specialist, to accept the second place 2007 National Clean Water Act Excellence Award for Outstanding Pretreatment Programs from Debbie Thomas and Al Garcia of the Region 8 Environmental Protection Agency. Ms. Thomas cited outstanding features of the City's program that guided the award selection process and evidenced the quality of the City's service to the community.

CITIZEN COMMUNICATION

Jane Fancher, 7260 Lamar Court, asked that Council table agenda item 8H concerning the financing of the Municipal Service Center (MSC) Facility renovation because the ratio of funding from the Utility Fund and the General Fund was not justified. She had understood that funding percentages would be tied to facility usage and thought the General Fund should pay much more than the Utility Fund.

Americus Kalmar, 9505 Teller Street, agreed that the Utility Fund should not be the primary means of financing MSC improvements. Utility customers had been told that rates had to be increased to maintain and replace the City's utility infrastructure.

Mr. Smithers reported that the staff report presented to Council in 2007 thoroughly analyzed the usage of the building and the funding of previous improvements to the facility. It showed that the funding ratio between the Utility and the General Funds was fair and equitable.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: acceptance of the December 2007 Financial Report; authorization to purchase rock salt from Independent Salt Company and Environtech Services, Inc., the two low quote vendors, in an amount not to exceed \$324,000; award the Colorado State bid for 12 Police patrol vehicles to Lakewood Fordland in the amount of \$274,630 with charges to the General Capital Outlay Replacement Fund; award the bid to Asphalt Specialties Company for purchase of asphalt materials and Deery American Corporation for crackseal materials in the unit prices indicated on the bid tabulation on an as-needed basis in an amount not to exceed \$500,000 for asphalt and \$100,000 for crackseal materials; authorization for the City Manager to execute a contract with Sink Combs Dethlefs in the amount of \$281,300 for design services for the City Park Recreation Center Aquatics Area Renovation and authorize a contingency of \$28,130; find that the public interest would be best served by a negotiated contract with Felsburg, Holt & Ullevig (FHU) and authorize the City Manager to execute a contract with FHU for the final engineering design of street improvements to West 144th avenue between Huron and Zuni Streets in an amount not to exceed \$369,702 with a \$37,000 design contingency; final passage of Councillor's Bill No. 1 ratifying a lease agreement with Westminster AFC, Inc. for office space at the Westminster Sports Center, a City-owned indoor soccer facility located at 6051 West 95th Avenue; and final passage of Councillor's Bill No. 2 approving the transfer of \$3,738,993 from the Utility Capital Project Reserve Fund to the Municipal Service Center Facility Renovation project account.

Mayor McNally inquired if any member of Council wished to remove an item from the consent agenda for individual consideration. No one made such a request.

It was moved by Councillor Major, seconded by Mayor Pro Tem Dittman, to approve the consent agenda as presented. The motion passed with all Council members voting yes.

RESOLUTION NO. 2 RE REAPPOINTMENTS TO BOARDS AND COMMISSIONS

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Major, to adopt Resolution No. 2 reappointing members whose terms expired December 31, 2007 to two-year terms and appointing alternate members to regular membership, where applicable, on the Board of Adjustment, the Board of Building Code Appeals, the Election Commission, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Advisory Board, the Personnel Board, the Planning Commission, the Special Permit and License Board, and the Transportation Commission. At roll call, the motion passed unanimously.

RESOLUTION NO. 3 RE SOURCE WATER PROTECTION PLAN GRANT APPLICATION

Councillor Major moved to adopt Resolution No. 3 authorizing the Department of Public Works and Utilities to pursue a Colorado Department of Public Health and Environment grant to develop a Source Water Protection Plan. Councillor Winter seconded the motion, and it carried unanimously on roll call vote.

RESOLUTION NO. 4 RE 2007 PRIVATE ACTIVITY BOND ALLOCATION ASSIGNMENT

Councillor Briggs moved, seconded by Councillor Kaiser, to adopt Resolution No. 4 assigning \$4,502,620 of the City of Westminster's 2007 Private Activity Bond allocation to the Colorado Housing and Finance Authority (CHFA) and authorize the Mayor and City Clerk to execute the necessary documents in a form acceptable to the City Attorney's Office and to CHFA. On roll call vote, the motion passed unanimously.

RESOLUTION NO. 5 RE SPRING 2008 ADAMS COUNTY OPEN SPACE GRANT APPLICATION

It was moved by Councillor Briggs, seconded by Councillor Major, to adopt Resolution No. 5 authorizing the Department of Community Development to pursue a grant with Adams County Open Space during the 2008 spring cycle for the acquisition of the Doulos Ministries parcel. The motion passed unanimously on roll call vote

RESOLUTION NO. 6 RE PURCHASE OF TEEPLES PROPERTY, 8055 WEST 108TH AVENUE

Upon a motion by Mayor Pro Tem Dittman, seconded by Councillor Kaiser, the Council voted unanimously on roll call vote to pass Resolution No. 6 authorizing the purchase of an approximately 1-acre parcel located at 8055 West 108th Avenue for \$130,000 and closing costs not to exceed \$5,000; and authorizing the City Manager to execute all documents required to close on the purchase of the property.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 7:30 p.m.

ATTEST:

Mayor

City Clerk

Summary of Proceedings

Summary of proceedings of the City of Westminster City Council meeting of Monday, January 28, 2008. Mayor McNally, Mayor Pro Tem Dittman, and Councillors Briggs, Kaiser, Major, and Winter were present at roll call. Councillor Lindsey was absent and excused.

The minutes of the regular meeting of January 14, 2008, were approved as presented.

Councillor Winter and David Meyer, Water Quality Specialist, accepted the 2nd place 2007 National Clean Water Act Excellence Award for Outstanding Pretreatment Program from the Region 8 EPA.

Council approved the following: December 2007 Financial Report; deicing salt purchase; City Police Patrol vehicles purchase; award of asphalt and crackseal materials bids; City Park aquatics renovation design contract; W. 144th Ave., Huron to Zuni St. – final engineering design consultant contract; final passage of Councillor's Bill No. 1 re Westminster Sports Center lease agreement; and final passage of Councillor's Bill No. 2 re appropriating CIP Funds for MSC Facility Renovation.

Council adopted the following Resolutions: Resolution No. 2 re appointments to Boards and Commissions; Resolution No. 3 re Source Water Protection Plan grant application; Resolution No. 4 re 2007 Private Activity Bond allocation assignment; Resolution No. 5 re Spring 2008 Adams County Open Space grant application; and Resolution No. 6 re authorizing purchase of 1.0-acre Teeple's property at 8055 W. 108th Ave.

The meeting adjourned at 7:30 p.m.

By order of the Westminster City Council
Linda Yeager, MMC, City Clerk
Published in the Westminster Window on February 7, 2008

ORDINANCE NO. **3396**
SERIES OF 2008

COUNCILLOR'S BILL NO. **1**
INTRODUCED BY COUNCILLORS

Major - Winter

A BILL FOR AN ORDINANCE RATIFYING A RENTAL LEASE AGREEMENT AT THE CITY'S WESTMINSTER SPORTS CENTER

WHEREAS, the City owns the Westminster Sports Center, located at 6051 W. 95th Avenue; and
WHEREAS, it is in the City's interest to maximize the income generated from such operation by collecting rental income from the office space located in the Westminster Sports Center.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The lease agreement with the following parties as summarized below, and attached hereto as Exhibit A, is hereby ratified:

Westminster AFC, Inc. for office space located in the Westminster Sports Center at 6051 W. 95th Avenue, Jefferson County, Colorado at a rental rate of \$200 per month.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of January, 2008. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of January, 2008.

Exhibit A was not published and is available for public review in the City Clerk's Office.

Briggs - Major

A BILL FOR AN ORDINANCE AMENDING THE 2008 BUDGETS OF THE WATER AND UTILITY RESERVE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2008 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2008 appropriation for the General Fund initially appropriated by Ordinance No. 3316 is hereby increased by \$7,477,986. This appropriation is due to the transfer of reserve funds.

Section 2. The \$7,477,986 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10C, dated January 14, 2008 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Water Fund	\$3,738,993
Utility Reserve Fund	<u>\$3,738,993</u>
Total	<u>\$7,477,986</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 14th day of January, 2008. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of January, 2008



WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Environmental Protection Agency National Award for Excellence in Industrial Pretreatment

Prepared By: Mike Happe, Water Resources and Treatment Manager
David Meyer, Water Quality Specialist

Recommended City Council Action

Councillor Winter to accept the 2nd place 2007 National Clean Water Act Excellence Award for Outstanding Pretreatment Program presented by Debbie Thomas and Al Garcia from the Region 8 Environmental Protection Agency.

Summary Statement

- The United States Environmental Protection Agency (EPA) awarded the 2nd Place 2007 National Clean Water Act Excellence Award for Outstanding Pretreatment Program to the City of Westminster in the zero to five Significant Industrial User category.
- EPA's Pretreatment Program Excellence Awards recognize wastewater treatment facilities with exemplary pretreatment programs that reduce the risk of discharge of toxic materials by commercial and industrial users of the treatment system.
- These efforts protect the environment, improve biosolids quality and protect utility workers' health and safety.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

The Environmental Protection Agency's Clean Water Act Recognition Awards program recognizes municipalities, wastewater treatment programs, facilities, and individuals on a national level as examples of outstanding commitment to protect and improve the quality of the nation's waters. Potential pretreatment program award winners are nominated by their Regional EPA administrator and then submit an award application describing their program. The application is reviewed at the national level and evaluated with programs of similar size, based on outstanding program accomplishments and implementation of all federal pretreatment requirements. The award was presented to the City at the Water Environment Federation Conference on October 15, 2007.

The City's pretreatment program establishes discharge limitations that are part of the Municipal Code to assure the protection of the City's wastewater treatment facility. Staff has issued discharge permits to four industrial users, regularly monitors wastewater discharges from permitted businesses, inspects permitted facilities to assure compliance with applicable regulations, and identifies new businesses that need to be issued permits.

The City's industrial pretreatment program helps protect the water quality of Big Dry Creek and the City's goal for a safe and secure community by ensuring the health and safety of the City's utility workers and citizens.

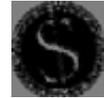
Debbie Thomas, EPA Region 8 Deputy Assistant Regional Administrator and Al Garcia, EPA Region 8 Pretreatment Coordinator will be present on Monday evening to present this award to City Council and Staff.

Respectfully submitted,

J. Brent McFall
City Manager



City Council Meeting
January 28, 2008



SUBJECT: Financial Report for December 2007

Prepared By: Tammy Hitchens, Finance Director

Recommended City Council Action

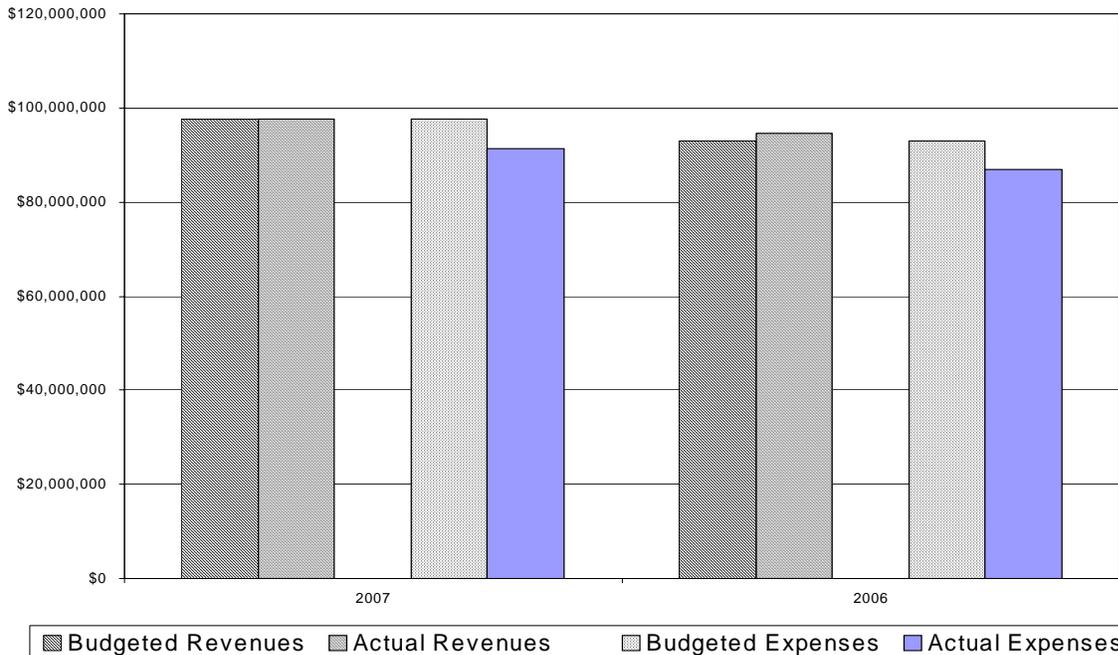
Accept the Financial Report for December as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. The budget numbers that are presented reflect the City’s adopted budget. This statement reflects December month end figures. There are several modifications based on year end accruals, both revenue and expense that will be made and will be part of the December year end figures that will be presented to Council in June, after the audit is complete. Some of the more significant accruals include about one-half of a payroll cycle with associated benefits, revenue earned in 2007 but not received until 2008, in particular intergovernmental revenue, and all expenses incurred in 2007 but paid in 2008. Revenues also include carryover where applicable.

The General Fund revenues and carryover exceed expenditures by \$6,332,000. The following graph represents Budget vs. Actual for 2006 – 2007. The \$32,944,900 Refunding Certificates of Participation, Series 2007 has been omitted from the graph in order to more accurately reflect operations and to reflect a more appropriate comparison to 2006.

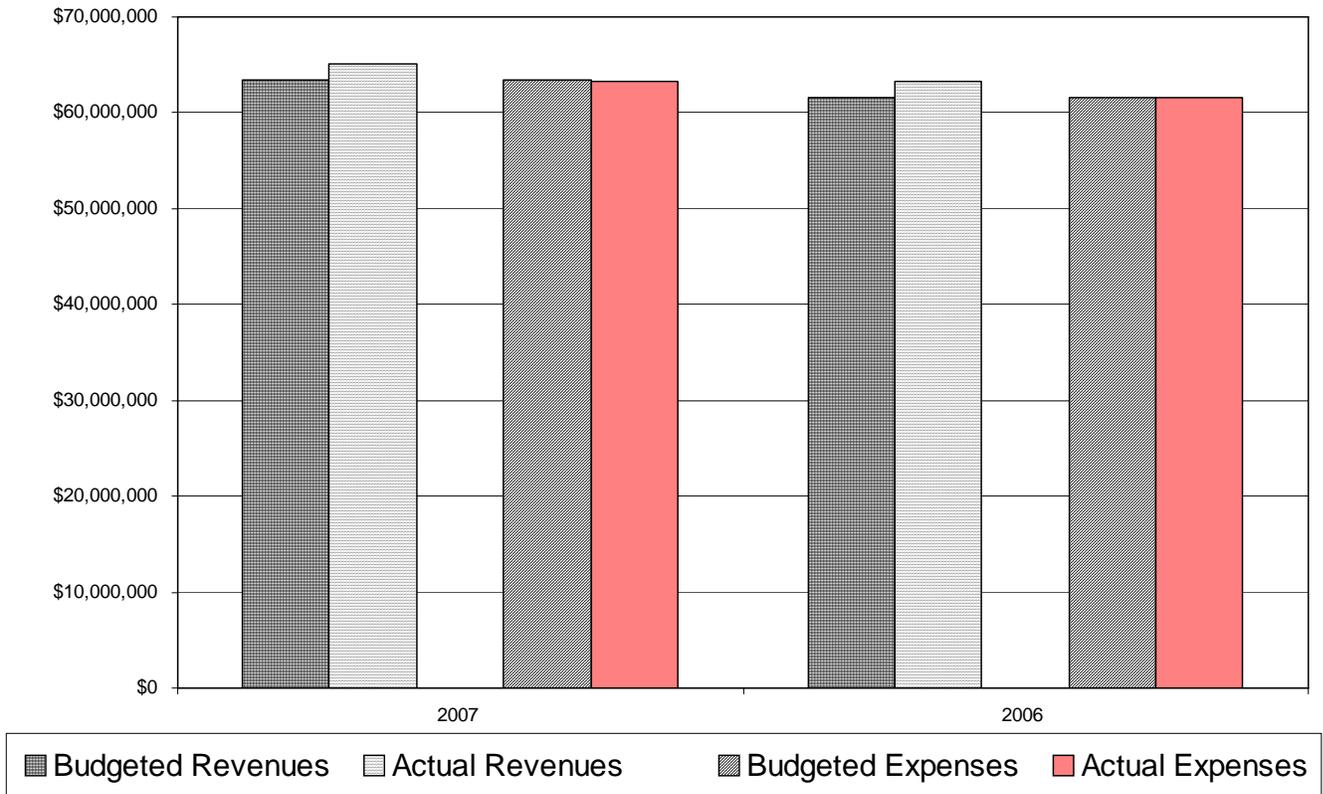
**General Fund
Budget vs Actual**



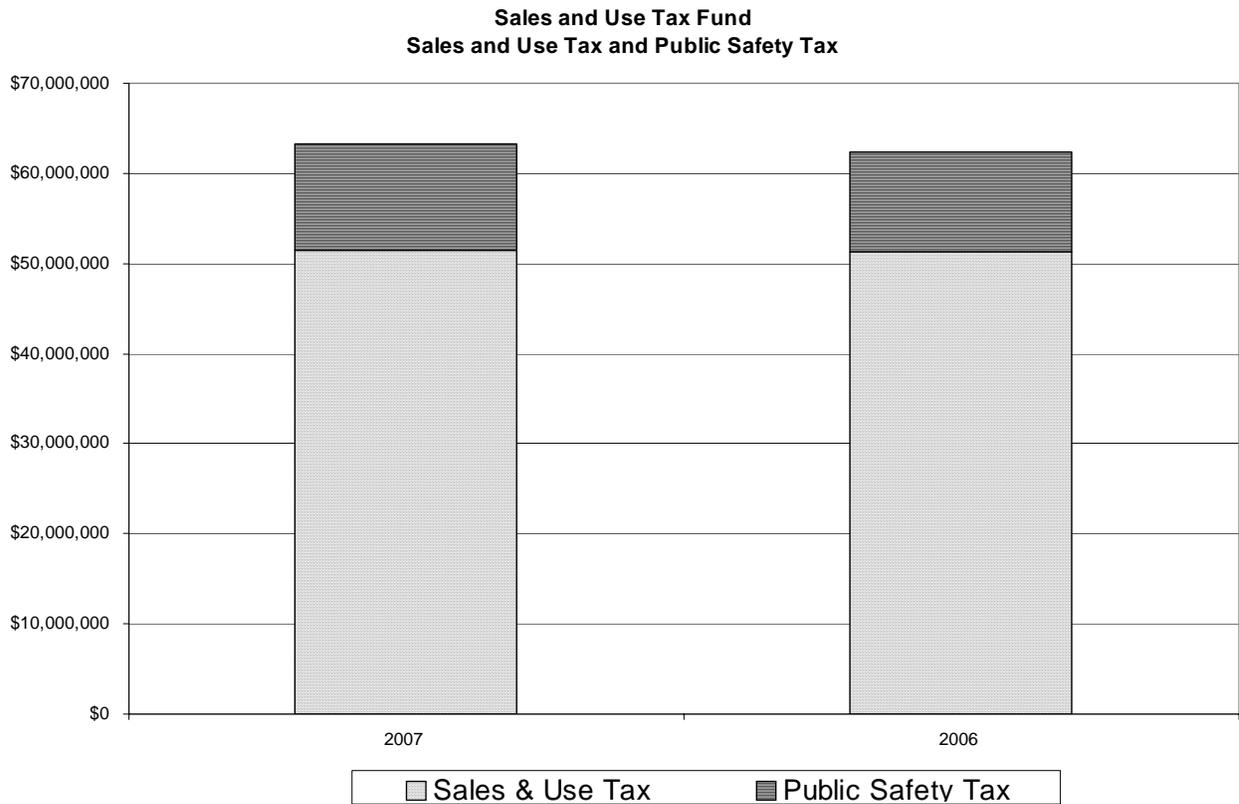
The Sales and Use Tax Fund's revenues and carryover exceed expenditures by \$1,868,000.

- On a year-to-date cash basis, sales & use tax returns are down 1.0%.
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 9.5% from the prior year. Included in the Shopping Center report is \$455,000 of audit revenue from 2 different audits. It also includes Urban Renewal Area (URA) money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 2.9%. This reflects the significant contribution to Sales Tax the URA's are making.
- The top 50 Sales Taxpayers, who represent about 58% of all collections, were down 1.7% after adjusting for one time audit revenue and Urban Renewal Area money.
- The Westminster Mall is down 10% on a year-to-date basis.
- Building Use Tax is up 2.4% year-to-date over 2006.

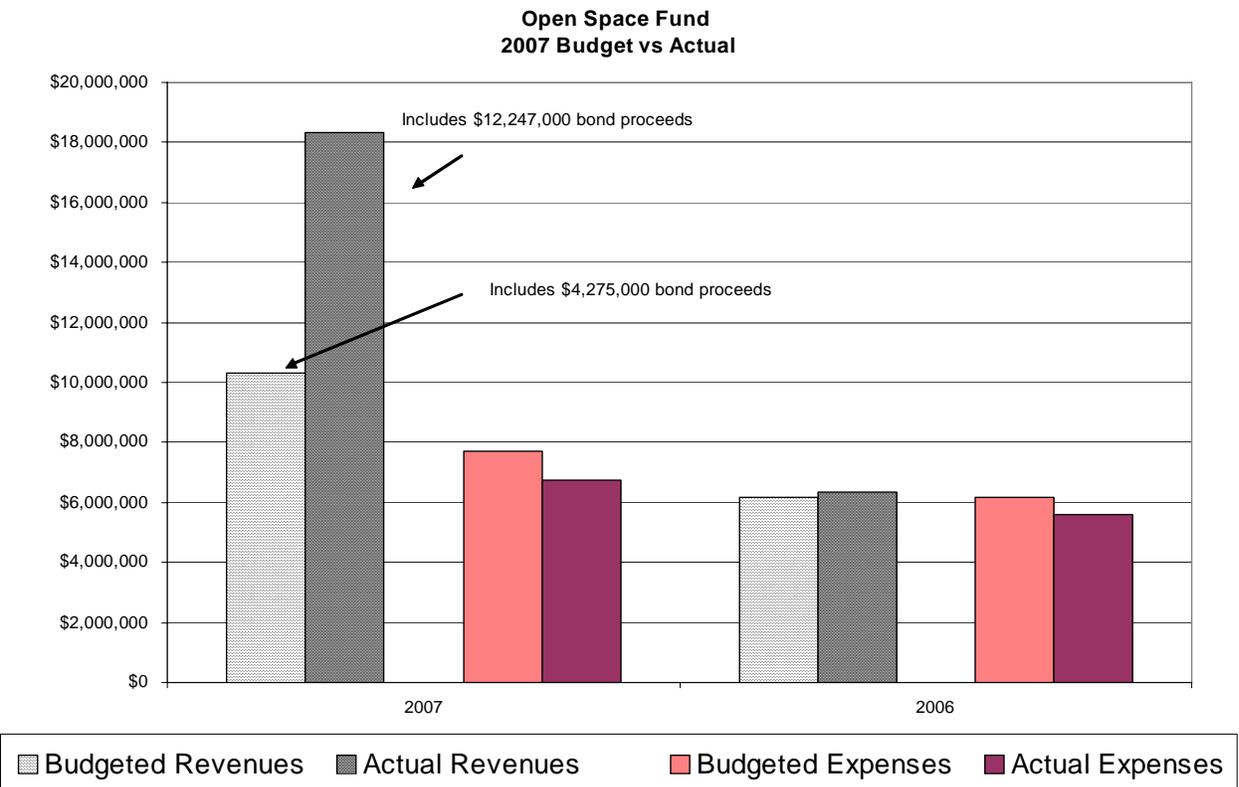
Sales & Use Tax Fund
Budget vs Actual



The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.

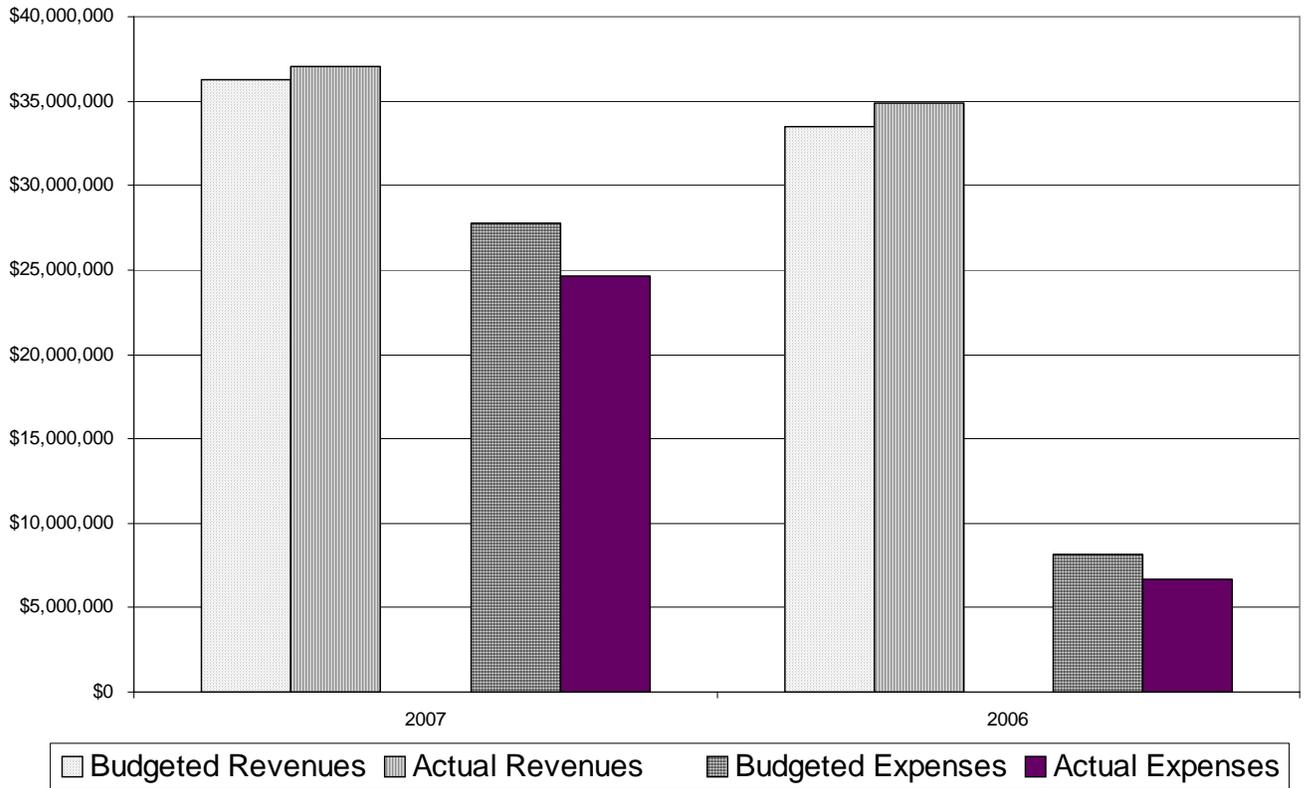


The Open Space Fund revenues exceed expenditures by \$11,582,000. This reflects bond proceeds of \$12,247,000. \$4,275,000 of the bond issue has already been appropriated, the remaining \$7,972,000 of the bond issue will be appropriated in a 4th quarter housekeeping supplemental.



The combined Water & Wastewater Funds' operating revenues and carryover exceed operating expenses by \$19,644,000. \$18,898,000 is budgeted for capital projects and reserves. The City has collected \$4,997,000 less in tap fees than in 2006.

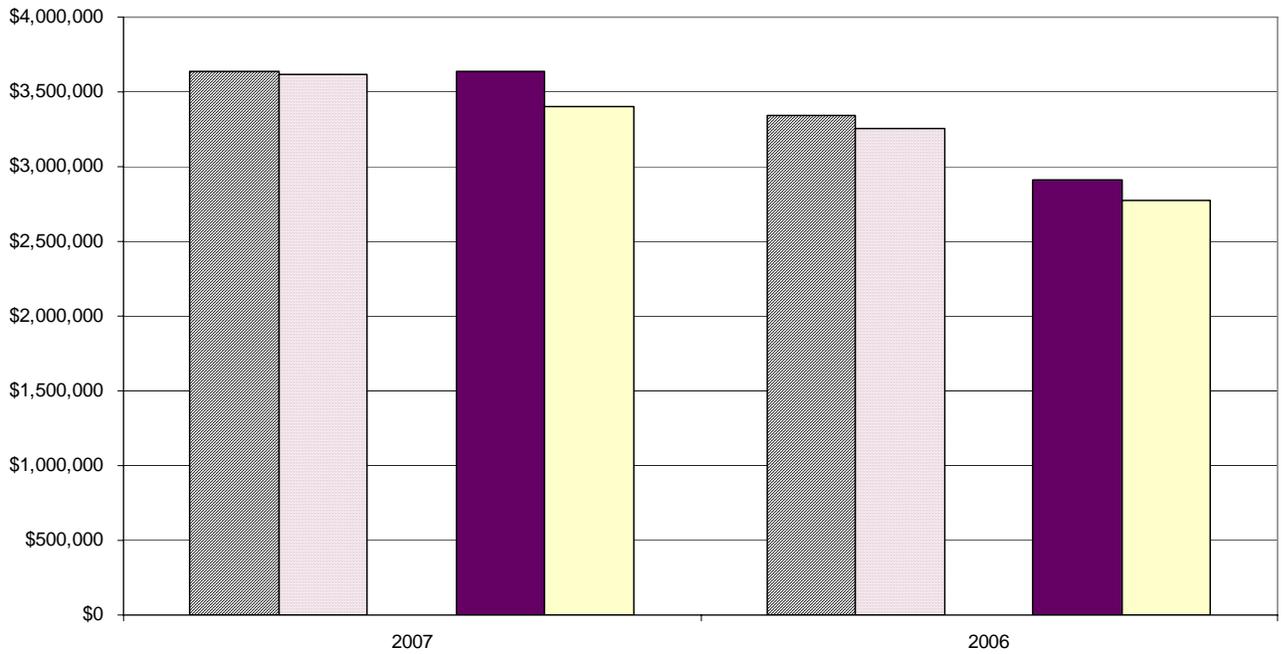
**Combined Water and Wastewater Funds
2007 Operating Budget vs Actual**



The combined Golf Course Funds' revenues exceed expenditures by \$219,000. Revenues for Charges for Services are \$198,000 higher than 2006. The following transactions have been omitted in order to reflect a more appropriate comparison between years and results of operations.

Account	Purpose	2007	2006
Other Financing Source & Use	Legacy Maintenance Equip	547,000	
Other Financing Source & Use	Heritage Golf Carts		582,144
Transfers In	Reduce Negative Cash	700,000	750,000

**Golf Course Enterprise
Budget vs Actual**



Budgeted Revenues
 Actual Revenues
 Budgeted Expenses
 Actual Expenses

Policy Issue

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

Alternative

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

Background Information

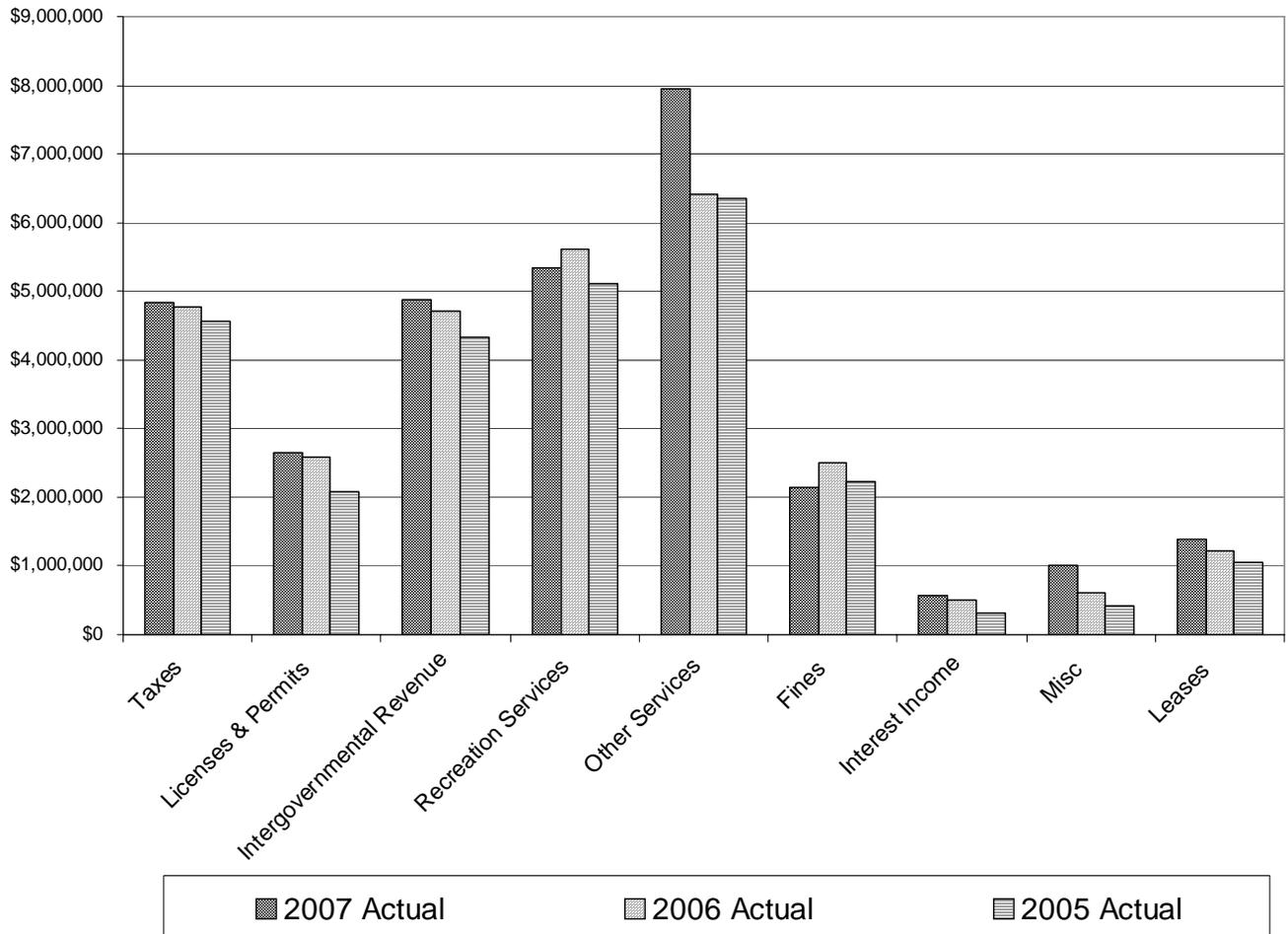
This section includes a discussion of highlights of each fund presented.

General Fund

This fund reflects the results of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions; City Manager, City Attorney, Finance, and General Services.

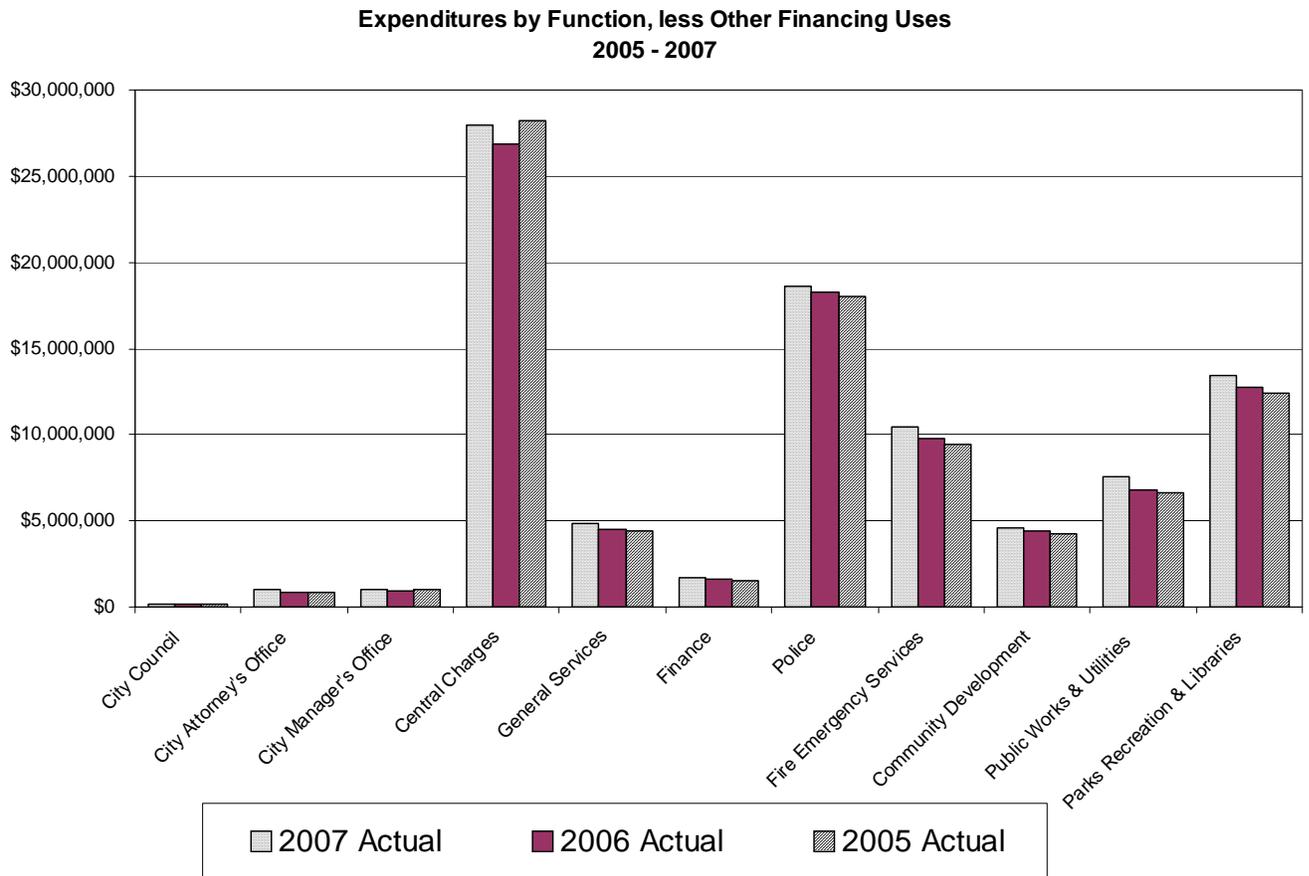
The following chart represents the trend in actual revenues from 2005 – 2007 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2005 - 2007**



The increase in Other Services reflects the Infrastructure fee. As reflected in the Licenses & Permits of the Financial Report, commercial building permits are up significantly, causing a positive variance. Leases are lower than anticipated due to the delay in getting the former police building leased.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2005 –2007.



The positive variance seen on the attached spreadsheets (page 1) in CMO is mostly related to salary savings. Although one particular area does not stand out, City Council's budget reflects a positive variance due to overall less spending.

Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space Sales & Use Tax Fund)

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund, the Debt Service Fund, and the Golf Course Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

This chart indicates how the City’s Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Open Space Sales & Use Tax.

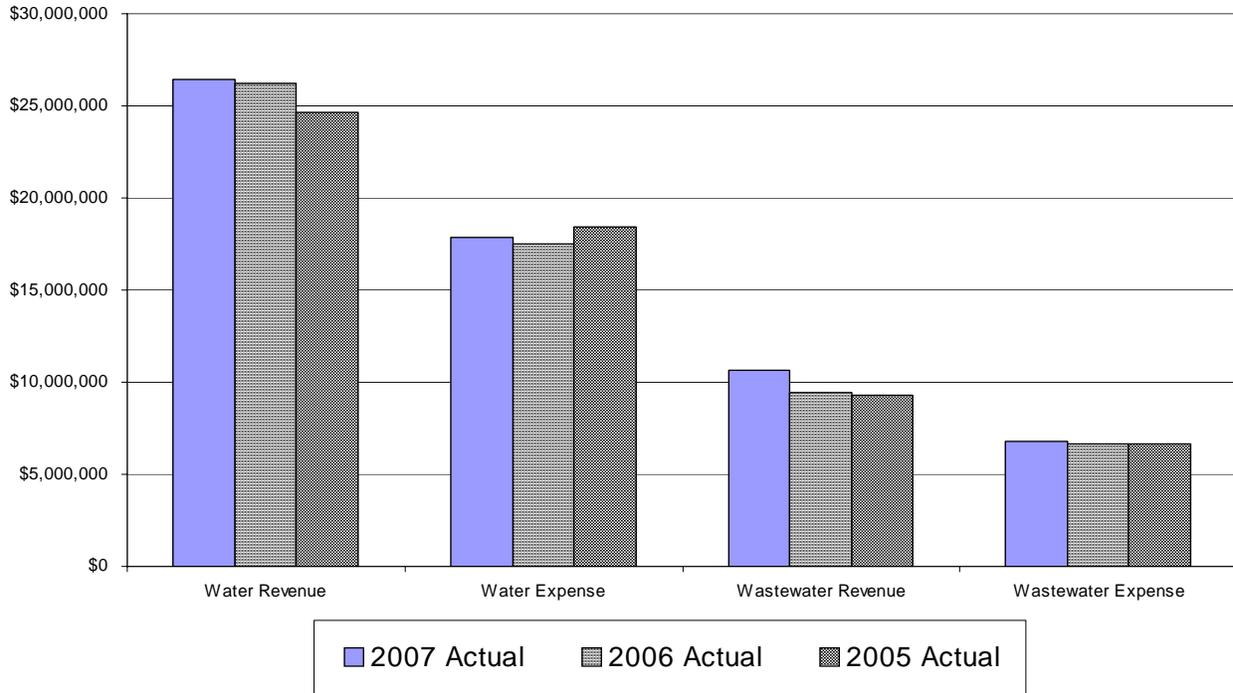


Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

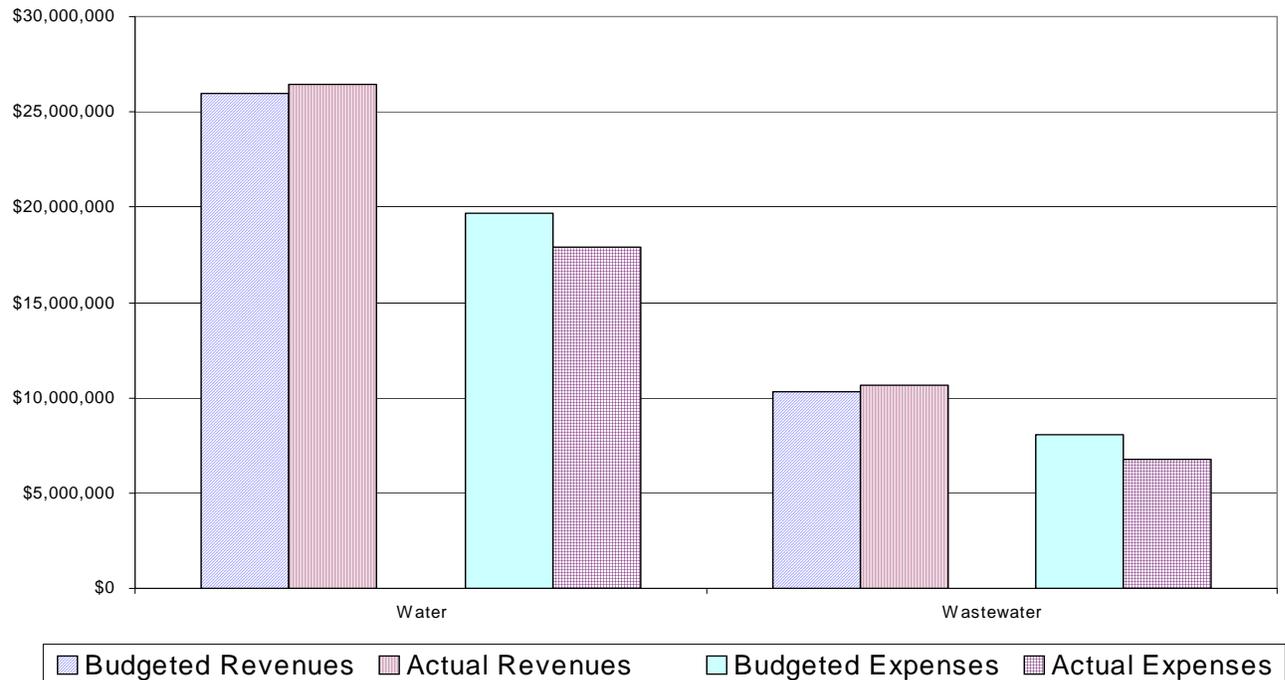
This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects. The variance between 2006 and 2007 can be attributed to an unusually high 2006 and a slightly low 2007.

These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds
Operating Revenue and Expenses 2005-2007**



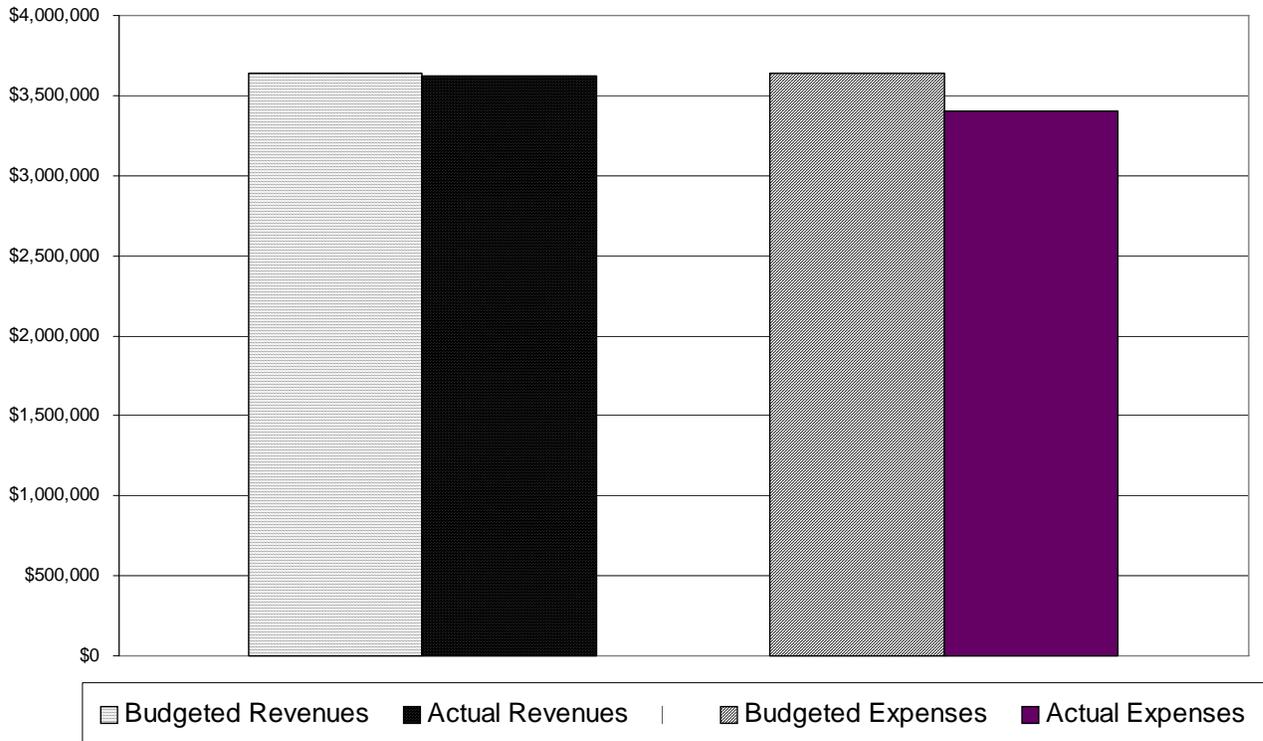
**Water and Wastewater Funds
2007 Operating Budget vs Actual**



Golf Course Enterprise (Legacy and Heritage Golf Courses)

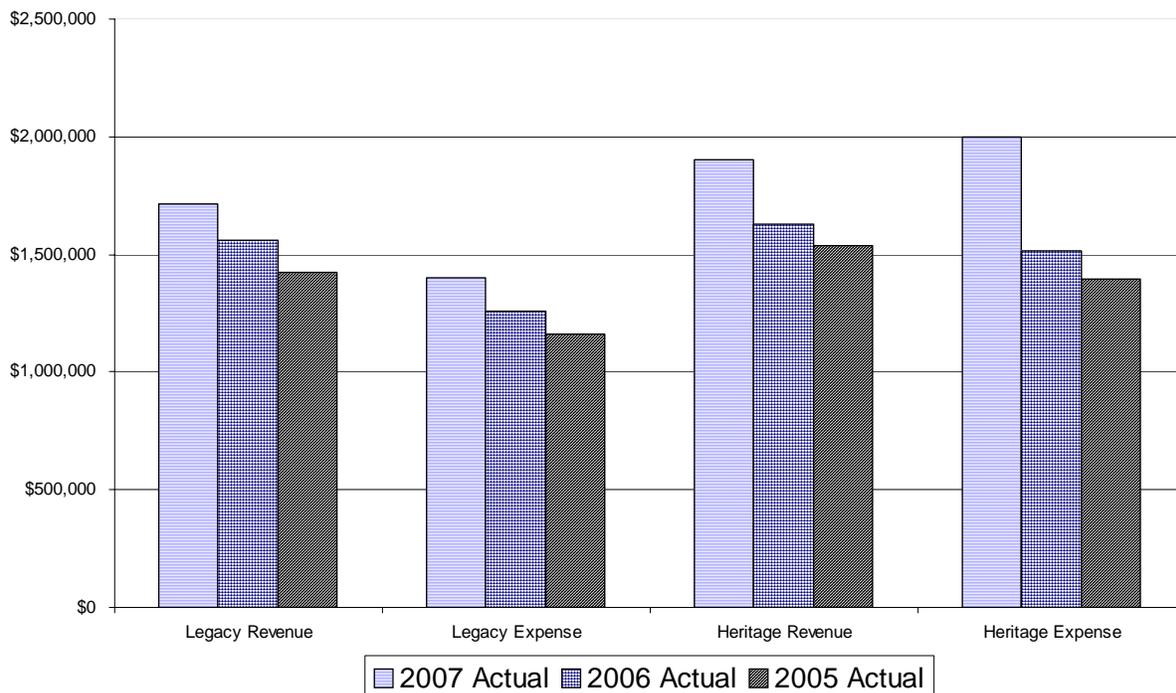
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses
2007 Budget vs Actual**



The following graphs represent the information for each of the golf courses.

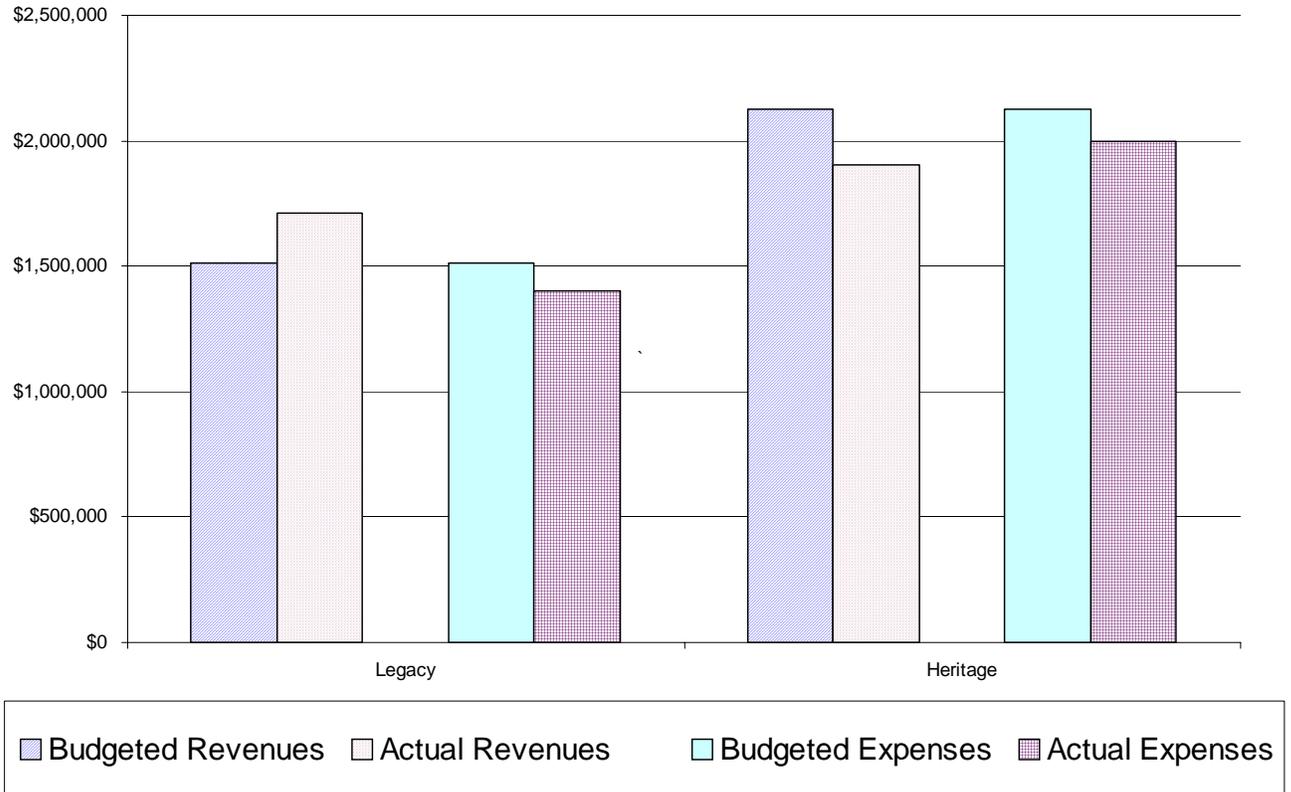
**Legacy and Heritage Golf Courses
Revenue and Expenses 2005-2007**



Heritage's expenses reflect the lease payments that were started in July of 2006. A one time Other Financing Source and Use of \$547,000, which was a lease purchase of maintenance equipment, is omitted from 2007. A one time Other Financing Source and Use of \$582,144, which was a lease purchase of golf carts, is omitted from 2006 Heritage Revenue and Expense for comparison purposes. The increase in revenue can be attributed to the sale of corporate passes and an increase in transfers in.

The financial statements reflect a positive variance in Recreation Facilities versus the budget. This is primarily due to salary and utility savings.

**Legacy and Heritage Golf Courses
2007 Budget vs Actual**



Respectfully submitted,

J. Brent McFall, City Manager

Attachments

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)
MONTH OF DECEMBER 2007

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	438,469	18,139	456,609	434,367	10,611	444,977	1	71	3
WESTMINSTER MALL 88TH & SHERIDAN 4 DEPARTMENT STORES	379,852	5,484	385,336	404,915	3,015	407,930	-6	82	-6
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	265,986	903	266,889	55,499	46	55,545	379	1863	380
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN COMP USA/CIRCUIT CITY	236,804	3,978	240,782	236,984	1,258	238,242	0	216	1
SHOPS AT WALNUT CREEK 104TH & REED TARGET	215,698	3,184	218,882	155,108	1,364	156,472	39	133	40
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	200,094	1,043	201,136	188,904	671	189,575	6	55	6
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	189,334	151	189,485	213,971	582	214,553	-12	-74	-12
THE ORCHARD 144TH & I-25 JC PENNEY	167,639	1,039	168,678	116,670	7,328	123,998	44	-86	36
SHERIDAN CROSSING SE CORNER 120TH & SHER	150,808	1,382	152,190	157,874	855	158,729	-4	62	-4
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	122,570	15,345	137,916	122,394	19,102	141,496	0	-20	-3
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	6,743	126,026	132,769	8,861	41,873	50,733	-24	201	162
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	116,477	569	117,046	109,529	251	109,780	6	127	7
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	94,991	192	95,182	86,220	1,836	88,056	10	-90	8
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	62,376	152	62,528	52,489	102	52,591	19	49	19
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER	61,652	471	62,123	56,778	883	57,661	9	-47	8

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY (CC)
MONTH OF DECEMBER 2007

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
GUITAR STORE									
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	59,726	157	59,883	54,758	119	54,876	9	32	9
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	52,292	277	52,569	49,473	232	49,704	6	19	6
WILLOW RUN 128TH & ZUNI SAFEWAY	48,177	129	48,305	54,048	119	54,167	-11	8	-11
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	39,697	225	39,922	37,013	171	37,184	7	32	7
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	24,760	1,657	26,416	22,955	397	23,352	8	317	13
SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY	22,753	69	22,822	19,002	72	19,074	20	-5	20
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	22,159	235	22,395	13,475	52	13,527	64	351	66
NORTHVIEW S SIDE 92ND YATES-SHER	21,933	78	22,011	37,484	244	37,728	-41	-68	-42
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	21,334	36	21,370	27,862	29	27,891	-23	24	-23
BROOKHILL IV E SIDE WADS 90TH-92ND HANCOCK FABRICS	21,173	74	21,247	11,625	33	11,658	82	123	82
	3,043,497	180,993	3,224,490	2,728,256	91,244	2,819,500	12	98	14

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)
MONTH OF DECEMBER 2007

Center Location Major Tenant	YTD 2007			YTD 2006			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use	Total	
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	4,996,985	40,132	5,037,117	4,820,097	79,957	4,900,053	4	-50	3
WESTMINSTER MALL 88TH & SHERIDAN 4 DEPARTMENT STORES	4,212,683	43,689	4,256,373	4,680,196	71,987	4,752,184	-10	-39	-10
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN COMP USA/CIRCUIT CITY	2,886,368	23,233	2,909,601	2,760,004	21,877	2,781,881	5	6	5
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	2,635,308	83,614	2,718,922	588,053	43,396	631,449	348	93	331
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	2,452,511	10,889	2,463,400	2,732,723	7,057	2,739,780	-10	54	-10
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	2,273,023	21,031	2,294,054	2,306,743	20,444	2,327,187	-1	3	-1
SHOPS AT WALNUT CREEK 104TH & REED TARGET	2,218,216	31,051	2,249,266	1,722,801	40,904	1,763,705	29	-24	28
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	1,972,578	229,003	2,201,581	1,602,198	232,097	1,834,294	23	-1	20
SHERIDAN CROSSING SE CORNER 120TH & SHER	1,557,156	16,485	1,573,641	1,991,372	18,838	2,010,210	-22	-12	-22
THE ORCHARD 144TH & I-25 JC PENNEY	1,474,406	14,606	1,489,012	219,477	76,191	295,668	572	-81	404
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SCOOPERS	1,178,573	14,463	1,193,036	1,105,517	5,179	1,110,696	7	179	7
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	1,166,288	3,830	1,170,118	1,188,691	12,042	1,200,733	-2	-68	-3
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SCOOPERS	804,804	2,950	807,754	797,383	4,504	801,887	1	-35	1
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	723,666	6,458	730,125	721,191	4,860	726,051	0	33	1
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH	674,976	3,074	678,051	666,279	2,039	668,319	1	51	1

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)
MONTH OF DECEMBER 2007

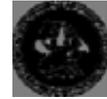
Center Location Major Tenant	YTD 2007			YTD 2006			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use	Total	
SAFEWAY WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH	669,976	3,145	673,121	627,118	6,920	634,038	7	-55	6
SAFEWAY WILLOW RUN 128TH & ZUNI	647,630	2,371	650,001	701,642	2,601	704,243	-8	-9	-8
SAFEWAY VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	487,513	15,379	502,891	507,233	11,273	518,506	-4	36	-3
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	399,032	2,505	401,537	403,133	2,799	405,932	-1	-11	-1
NORTHVIEW S SIDE 92ND YATES-SHER	360,387	6,660	367,048	505,989	9,080	515,068	-29	-27	-29
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	359,902	18,736	378,638	347,143	8,268	355,411	4	127	7
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	299,423	4,118	303,541	231,924	6,207	238,131	29	-34	27
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	299,185	10,227	309,412	295,777	7,946	303,723	1	29	2
SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY	273,251	1,627	274,878	257,653	1,735	259,388	6	-6	6
FEDERAL STRIP W SIDE FEDERAL 68TH-72ND BOVAS	250,911	907	251,819	274,099	6,812	280,911	-8	-87	-10
	35,274,753	610,184	35,884,937	32,054,434	705,013	32,759,447	10	-13	10



**WESTMINSTER
COLORADO**

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Deicing Salt Purchase

Prepared By: Ray Porter, Street Operations Manager

Recommended City Council Action

Authorize the purchase of rock salt from the two low quote vendors Independent Salt Company and Envirotech Services, Inc. in an amount not to exceed \$324,000.

Summary Statement

- Deicing salt is purchased as a deicing product to ensure safer travel for the motoring public.
- 2007 bids for deicing salt were extended through 2008 by the Multiple Assembly of Procurement Officials (MAPO) organization. Independent Salt Company has guaranteed to hold the price of \$53.92/ton.
- The 2008 State of Colorado low bid for deicing salt, (ice slicer) with Envirotech Services, Inc. has been quoted at \$78.00/ton.
- 5,700 tons of deicing salt was utilized during 2007.

Envirotech Services, Inc. – 2,100 tons
Independent Salt Company – 3,600 tons

- The \$324,000 authorization requested will allow for the purchase of 4,912 tons of deicing salt. If the City continues to experience significant snow and ice conditions and these materials are used up, Staff will need to request additional spending authority.
- Splitting this purchase between the two vendors has proven to expand available resources and the two products are mixed 50/50 to decrease the overall price per ton (\$65.96).

Expenditure Required: \$324,000

Source of Funds: General Fund - Public Works and Utilities 2008 Street Operations Budget

Policy Issue

Should City Council authorize the purchase of deicing salt from the two available vendors, Independent Salt Company and Envirotech Services, Inc., in an amount not to exceed \$324,000?

Alternatives

One alternative is to not purchase deicing materials, which is not recommended as keeping the streets safe for the motoring public during the winter months is of the highest priority.

A second alternative is to re-bid the salt purchase. This alternative is not recommended since Staff believes the unit cost of salt and the vendors will remain the same. Locking into one vendor increases the chance for non-delivery and running out of the product.

Background Information

The City has successfully purchased salt through the MAPO bid and CDOT bid in past years with no problems. These expenditures are within the approved 2008 Public Works and Utilities Street Operations Division budgeted amount for these items. Deicing salt costs increased 57% over the 2005-2006 winter season, primarily due to rising fuel prices. Vendors have guaranteed their 2007 prices for the 2008 calendar year.

In 2007 shortages have been experienced across the country and Staff has contacted all known suppliers with negative success for procurement. Once the entire 2008 budgeted \$324,000 allotment for deicing salt is depleted, (depending on the severity of the remaining winter season) additional funding in 2008 may be required. At this writing, Westminster's stockpile is at 60% capacity. Staff will make a recommendation to City Council if such a situation should arise.

This purchase helps achieve City Council's strategic plan goal of a "Safe and Secure" community by meeting the objective of safe citizen travel throughout the City.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Purchase of City Police Patrol Vehicles

Prepared By: Carl F. Pickett, Purchasing Officer

Recommended City Council Action

Award the State of Colorado bid for twelve Police Department patrol vehicles to Lakewood Fordland in the amount of \$274,630, and charge the General Capital Outlay Replacement Fund.

Summary Statement

- City Council action is requested to award vehicle purchases based on the State of Colorado award for patrol vehicles.
- The City saves considerable dollars by purchasing these vehicles through the State Bid.
- City Council previously approved \$293,630 in the 2008 General Capital Outlay Replacement Fund (GCORF) budget to purchase 12 patrol units.

Expenditure Required: \$ 274,630

Source of Funds: General Capital Outlay Replacement Fund

Policy Issue

Should the City utilize the State of Colorado bid for the purchase of City Police Department patrol vehicles?

Alternatives

1. Reject the State bid and instruct City Staff to re-bid vehicles. This is not recommended because the State bid reflects the purchasing power of all the political subdivisions in the state. The City would not be able to match the bid prices afforded by the State Bid.
2. Do not purchase some or all of the proposed replacement vehicles in 2008. This is not recommended because all of these vehicles will have a maintenance history that makes it impractical to keep them in regular service, based on Fleet Maintenance recommendations.

Background Information

As part of the 2008 budget, City Council approved the purchase twelve patrol vehicles. The patrol units will be replaced on a “to be determined” basis, based on the condition and maintenance history of each of the vehicles currently in operation. Replaced units are sent to auction, none are kept in the fleet in other capacities. There are currently forty-eight marked patrol units in the fleet.

The State of Colorado sends out a request for bids for vehicles every year to car dealers in Colorado. This bid request was sent out in September of 2007 and received responses from local vendors. The local vendors know that all political subdivisions in the State utilize this bid, and set their pricing accordingly. Political subdivisions actually buy about three quarters of the vehicles purchased from the State bid.

The City is purchasing two types of patrol units this year, ten Ford Crown Victoria marked units and two unmarked units. The bid price of the Ford Crown Victoria marked units from Lakewood Fordland is \$22,981. Last year, using the State award the bid price was \$22,541 and two years ago, using the State award, the bid price was \$22,102 each. The bid price is still less than the price obtained though the State in 2002 and 2003. The bid prices average 18% off dealer invoice, a discount that the City would not be able to obtain by bidding these vehicles on its own. The bid price for the two unmarked units is \$22,270. Service and parts manuals make up the remaining cost.

The present condition and maintenance history of the vehicles to be replaced would make it impractical to continue to operate them in regular service based on Fleet Maintenance replacement criteria, which are based on a combination of vehicle age, maintenance costs, utilization, cost per mile to operate, and depreciation.

This project meets Council’s Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by keeping the police fleet on the street and improving their service level at the best possible price.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Award of Asphalt and Crackseal Materials Bids

Prepared By: Ray Porter, Street Operations Manager

Recommended City Council Action

Award the bid to Asphalt Specialties Company for purchase of asphalt materials and Deery American Corp. for crackseal materials at the unit prices indicated on the bid tabulation on an as-needed basis in an amount not to exceed \$500,000 for asphalt and \$100,000 for crackseal materials.

Summary Statement

- City Council approved funds in the 2008 Street Operations budget to purchase hot mix asphalt and crackseal materials.
- Hot mix asphalt material is used for all types of street maintenance repairs including pothole patching, surface replacement, and preparation of streets earmarked for 2008 and 2009 improvements.
- Rubberized cracksealing material is used to seal moisture from asphalt pavements citywide.
- City crews will need an estimated 14,700 tons of hot mix asphalt material and 312,500 lbs. of rubberized crackseal material to be purchased on an as-needed basis throughout 2008.
- Bids were solicited through the MAPO (Multiple Assembly of Procurement Officials) in 2007 and prices have been extended through 2008.

Expenditure Required: \$600,000

Source of Funds: General Fund – 2008 Street Operations Division Operating Budget

Policy Issue

Should the City accept the 2008 extension of the lowest 2007 MAPO bid for asphalt and crackseal materials from Asphalt Specialties Company and Deery American Corporation?

Alternative

An alternative for 2008 asphalt and crackseal material purchasing would be to execute a bid for just the City of Westminster’s materials requirements. This alternative is not recommended because the smaller quantities would increase the costs.

Background Information

The results of the 2007 bidding were as follows:

2007 MAPO Hot Mix Asphalt Bids

	Asphalt Specialties Company	Brannan Sand & Gravel	Aggregate Industries	LaFarge
Grading “SX” ½” material per ton	\$34.00	\$38.75	\$39.81	\$40.20

Asphalt Specialties Company was the 2007 low bidder for hot mix asphalt material and staff has confirmed that they will guarantee 2007 pricing through the calendar year 2008. The plant is fully automated and the mix design meets City specifications. Street Operations Division Staff successfully purchased hot mix asphalt material during 2007 from this plant.

2007 MAPO Rubberized Crackseal Material Bid

	Deery American Corporation	Westates Inc.
Cost per pound – delivered	\$0.327	\$0.353

Deery American Corporation was the 2007 low bidder for crackseal material and staff has confirmed that they will guarantee 2007 pricing through the calendar year 2008. City street maintenance crews have utilized this crackseal material successfully last year and over the past eight years on roadways throughout the city.

The 2008 asphalt materials and crackseal materials bids reflect a 0% increase over the 2007 prices. These vendors agreed to extend their 2007 bid prices through the 2008 calendar year under the MAPO bid agreements. City Staff surveyed other metro area entities who have secured 2008 bids or negotiated costs and prices increased from 1% to 10%.

Purchasing these materials through the MAPO bid process helps achieve City Council’s goals of “Financially Sound City Government” and “Vibrant Neighborhoods and Commercial Areas” by meeting the following objectives:

- Well maintained City infrastructure and facilities
- Maintained and improved neighborhood infrastructure

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: City Park Aquatics Renovation Design Contract

Prepared By: Becky Eades, Landscape Architect II

Recommended City Council Action

Authorize the City Manager to execute a contract with Sink Combs Dethlefs in the amount of \$281,300 for design services for the City Park Recreation Center Aquatics Area Renovation and authorize a contingency in the amount of \$28,130 (10%) for a total budget of \$309,430.

Summary Statement

- On November 12, 2007, Councillor's Bill No. 62 was passed approving the sale of up to \$20 million in Parks, Open Space, and Trails (POST) Special Purpose Sales and Use Tax Revenue Bonds to fund open space land purchases and to fund improvements to parks and recreation facilities, including the renovation of the aquatics area at City Park Recreation Center.
- The project budget for the City Park Recreation Center aquatics renovation is \$3.5 million, including design fees.
- Emphasis will be placed on ensuring that other amenities incorporated into the aquatics area design will help the City Park Recreation Center better service Westminster residents as well as make the facility more regionally competitive, including incorporation of a family changing area.
- The expansion/renovation will be designed to compliment the existing architecture and will be in compliance with the Americans with Disabilities Act.
- Sink Combs Dethlefs is the same architect chosen by the City for the City Park Fitness Center.
- Competitive proposals were sought for this project.
- The design for these improvements is anticipated to be completed by August 2008. The project will then be put out to bid with construction projected to be completed by mid year 2009.

Expenditure Required: \$309,430

Source of Funds: General Capital Improvement Fund - City Park Recreation Center Aquatics Enhancements Project

Policy Issue

Does City Council wish to proceed with the renovation of the City Park Recreation Center aquatics area?

Alternatives

1. City Council could choose to award the design project to a firm other than Sink Combs Dethlefs. Staff does not recommend this alternative, as the proposals received were from highly-qualified consultants and were competitive. Furthermore, Sink Combs Dethlefs demonstrated its ability through a past project, City Park Fitness Center, and understands the City’s requirements of the design process and budget constraints.
2. City Council could direct Staff to repeat the design consultant procurement process in hopes to find a better qualified firm or to potentially lower the fee. Staff does not recommend this option as the Request for Proposals (RFP) process was competitive.
3. City Council could chose not to move forward with this project. Staff does not recommend this as the City Park aquatics area is in need of renovation in order for it to remain competitive with the regional recreation market and components of this project, such as the addition of family changing rooms, are listed in the current Parks and Recreation Master Plan.

Background Information

In November of 2007, RFPs for design services for this project were sent to four local architectural firms. Each of these firms is experienced in recreation center and aquatics design and has worked previously for the City. On December 4, 2007, a mandatory pre-proposal meeting was held at the City Park Recreation Center and representatives from three of the architectural firms attended. On December 19, 2007, acceptable proposals were received from two of the firms. The third firm’s proposal was submitted one hour and forty-five minutes past the time limit for acceptance of proposals and was therefore not accepted per Part 12 of the Instructions to Bidders that was included as part of the RFP. The two acceptable bids are as follows:

Sink Combs Dethlefs	\$281,300
Barker Rinker Seacat Architecture	\$373,000

Sink Combs Dethlefs worked successfully with the Department of Parks, Recreation and Libraries on the City Park Fitness Center and the cost differential of \$91,700 was not satisfactorily justified by the proposals. Therefore, Staff is comfortable with awarding this contract to the low bidder. The design fees proposed by Sink Combs Dethlefs equal 8% of the overall project budget, which is in line with the design fees on other recent building construction projects within the City. For comparison, design fees for the Irving Street Library were approximately 9.5% of construction costs; design fees for the Public Safety Center were approximately 7.5% of the construction costs; and design fees for Fire Station 2 were approximately 12.7%.

This project supports the City Council Strategic Plan Goals of “Financially Sustainable City Government” and “Beautiful City.”

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: West 144th Avenue, Huron Street to Zuni Street – Final Engineering Design Consultant Contract

Prepared By: Richard M. Kellogg, Jr., Senior Projects Engineer

Recommended City Council Action

Find that the public interest will be best served by a negotiated contract with Felsburg, Holt & Ullevig (FHU); authorize the City Manager to execute a contract with FHU for the final engineering design of street improvements to West 144th Avenue between Huron Street and Zuni Street in an amount not to exceed \$369,702, plus an additional \$37,000 design contingency.

Summary Statement:

- With the construction of the recent improvements to Huron Street from 128th Avenue to 150th Avenue and the 144th Avenue/I-25 interchange combined with continuing development of The Orchard at Westminster retail center, traffic volumes and turning movements will increase along 144th Avenue.
- Both the City of Westminster and Adams County have a desire to improve 144th Avenue between Huron Street and Zuni Street. A total of \$2,424,688 was earmarked in the appropriation of FY2006 Carryover Funds into the General Capital Improvement Fund for the purpose of funding the final design of 144th Avenue, necessary right-of-way acquisitions and a portion of the construction of the improvements.
- FHU prepared a corridor design study for this section of 144th Avenue during 2007. It is in the City's best interest to continue their services through the final design effort due to this firm's knowledge of the project. Since the City of Westminster is one of this consulting firm's top clients, FHU representatives were motivated to negotiate a fee for the final design services that equates to 5.9% of the estimated cost of construction as opposed to the 7.5% to 8% that is considered to be an industry norm. The cooperative relationship between the City and FHU will result in a final design cost savings of well over \$100,000.
- Authorization is sought for a total of \$406,702. The design contract with Felsburg, Holt & Ullevig will be up to \$369,702. A project contingency of \$37,000 is also being requested.
- Funds for this design and contingency are available in the appropriate project account in the General Capital Improvement Fund.

Expenditure Required: \$406,702

Source of Funds: General Capital Improvement Fund – 144th Avenue, Huron to Zuni Project

Policy Issues

Should the City proceed with the final engineering design for the 144th Avenue (Huron Street to Zuni Street) widening improvement project?

Should a negotiated contract be executed with Felsburg, Holt & Ullevig?

Alternatives

Alternatives to proceeding with the final design include postponing or abandoning the construction of improvements to this roadway. Given the desire of the City to safely accommodate increased traffic on this major route to The Orchard at Westminster and other nearby destinations, the postponement or abandonment alternatives are not recommended.

The alternative to the execution of a negotiated contract with FHU is to solicit proposals from several consulting firms and make a selection through a competitive process. Under a competitive process, there is no assurance that FHU or any other qualified firm will match the 5.9% (of estimated construction cost) offer that has been negotiated. In consideration of FHU's fine reputation in transportation engineering, their knowledge of this particular project and the very favorable fee that they have quoted, it is recommended that the negotiated contract be approved.

Background Information

The subject segment of 144th Avenue is the only remaining portion of this street within the City of Westminster that remains as a two-lane rural roadway. With the recent completion of the Huron Street and 144th Avenue/I-25 Interchange improvements, which upgrade those facilities to full arterial street standards, this link of 144th Avenue remains as the only traffic "bottleneck" within the far northeastern reaches of the City. The City and County of Broomfield has already started improving the 144th Avenue corridor to the west of Zuni Street, and the City of Thornton has improved 144th Avenue to the east as far as Washington Street. Additionally, the Denver Regional Council of Governments (DRCOG) 2030 Regional Transportation Plan has 144th Avenue designated as a Principal Arterial roadway link between McCaslin Boulevard in Louisville to the west and Colorado Boulevard in Thornton to the east.

On January 22, 2006, City Council approved funding for the 144th Avenue Corridor Design Study between Zuni Street and Huron Street, which identified necessary infrastructure requirements as well as environmental and social impacts within the corridor. This study was completed in October 2007 by the consulting firm of Felsburg, Holt & Ullevig.

City staff requested that Felsburg, Holt & Ullevig prepare a final design proposal for review. Staff estimated that the final design effort to produce construction documents would require the payment of a fee of approximately 8% of the value of the construction, or approximately \$501,680. It should be noted that the construction cost estimate used to calculate the final design fee (\$6,271,000) does not include the components of design engineering, construction engineering, right-of-way expenses or street lighting. FHU representatives and City staff negotiated a final design engineering fee of \$369,702, which is 5.9% of the construction cost estimate.

A detailed review of the proposal by Westminster staff concluded with the recommendation that the firm of Felsburg Holt & Ullevig be awarded the contract for the final design. Staff determined that the value for continuing with Felsburg, Holt & Ullevig is in the best interest of the City and will provide the best value for the design of the project. The negotiated proposal submitted by Felsburg Holt & Ullevig showed a thorough understanding of the project that results from the prior corridor design study.

SUBJECT: W. 144th Ave. Huron St. to Zuni St. –Engineering Design Consultant Contract Page 3

In addition to the design fee of \$369,702, authorization is sought for \$37,000 for a design contingency. This brings the total required funding for the final design to \$406,702.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 G

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Second Reading of Councillor's Bill No. 1 re
Westminster Sports Center Lease Agreement

Prepared By: Peggy Boccard, Recreation Services Manager

Recommended City Council Action

Pass Councillor's Bill No.1 on second reading ratifying a lease agreement with Westminster AFC, Inc., for office space at the Westminster Sports Center, a City-owned indoor soccer facility located at 6051 W. 95th Avenue.

Summary Statement

- The Westminster AFC, Inc. office will be located in the old concessions room within the facility. Vending machines, located in another area of the facility, will be used to provide concessions.
- The lease agreement is for a thirteen-month period, with an option to renew, at a monthly rental rate of \$200 (120 sq ft at \$20 per square foot equaling \$2,400 annually). Staff has recently surveyed the surrounding market and this rate is very competitive with other comparable office space of this type in the area.
- Leasing of property owned by the City must be ratified by ordinance under Section 13.4 of the City's Charter.

Expenditure Required: \$ 0

Source of Funds: N/A

Respectively submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3396**

COUNCILLOR'S BILL NO. **1**

SERIES OF 2008

INTRODUCED BY COUNCILLORS
Major - Winter

**A BILL
FOR AN ORDINANCE RATIFYING A RENTAL LEASE AGREEMENT AT THE CITY'S
WESTMINSTER SPORTS CENTER**

WHEREAS, the City owns the Westminster Sports Center, located at 6051 W. 95th Avenue; and

WHEREAS, it is in the City's interest to maximize the income generated from such operation by collecting rental income from the office space located in the Westminster Sports Center.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The lease agreement with the following parties as summarized below, and attached hereto as Exhibit A, is hereby ratified:

Westminster AFC, Inc. for office space located in the Westminster Sports Center at 6051 W. 95th Avenue, Jefferson County, Colorado at a rental rate of \$200 per month.

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of January, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of January, 2008.

ATTEST:

Mayor

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney's Office

EXHIBIT A

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this _____ day of _____, 2007, between the CITY OF WESTMINSTER, a Colorado home rule municipality (the "Lessor"), and Westminster AFC, Inc. whose registered address is 825 Logan Street, Denver, Colorado 80203 (the "Lessee").

In consideration of the payment of the rent and the keeping and performance of the mutual promises set forth below, the Lessor hereby agrees to lease to the Lessee the premises as shown on Exhibit "A" attached hereto and incorporated herein, consisting of approximately 120 square feet marked "Westminster AFC" (the "Premises"). The Premises are within the building known as the Westminster Sports Center located at 6051 W. 95th Avenue, Westminster, Colorado (the "Facility").

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

B. TERM OF LEASE

1. Lessor leases to Lessee the described Premises, for a term of Thirteen (13) months, December 1, 2007 - December 31, 2008. In the event the Lessor is not able to deliver possession of the premises on December 1, 2007, Lessee shall only be liable for a pro rata share of the rental payment set forth below.

2. At the end of said Term, the Lease may be renewed by Lessee for a further period of One (1) year and such renewal shall be upon all of the same terms and conditions applicable during the initial term, except for the lease rate which shall be mutually agreed upon. After the first renewal term, a further renewal term may be negotiated by the Parties.

C. RENTAL PAYMENTS

1. Lessee shall pay rent to Lessor at the rate of \$200.00 dollars per month for Thirteen (13) months.

2. Payments shall be due on the first day of each month and payable in advance, at the City Hall of the Lessor at 4800 West 92nd Avenue, Westminster, Colorado, 80031, in monthly installments, and continuing thereafter in monthly installments for the entire term of Thirteen (13) months. Payments not received by the tenth of the month shall be subject to a late fee, until such payment is received, equal to 1.25% of the amount unpaid per month. The late fee may be abated in whole or in part by the City Manager for good cause.

The first payment shall be prorated to reflect the date that Lessee begins occupancy.

3. If Lessee vacates the Premises for any reason before the end of the Term and ceases to pay rent to Lessor as provided in this Lease, Lessor may, at its option and without notice, and using such force as may be necessary, enter said Premises, remove any equipment, fixtures, personalty and effects of Lessee therefrom, and re-let the same, or any part thereof, as it may see fit, for the account of Lessee, without thereby avoiding or terminating this Lease, and for the purpose of such re-letting, Lessor is authorized to make any repairs, changes, alterations or additions in or to said premises, as may, in the opinion of Lessor, be necessary or desirable for the purpose of such re-letting, and if a sufficient sum shall not be realized from such re-letting each month to equal the quarterly

installments agreed to be paid by Lessee under the provisions of this Lease, then Lessee agrees to pay such deficiency each quarter. However, Lessor shall have no obligation to re-let the Premises. Lessee shall remain obligated to continue Lease payments for the full Fourteen (14) month Term. Lessor may, at its option, terminate the Lease upon terms negotiated and agreed to by both Parties. Notwithstanding any provision of this Lease to the contrary, in the event that Lessor elects to use the Premises for its own purposes, such as, but without limitation, expansion of the public recreation facilities, then Lessee's liability under this Lease shall end.

D. OBLIGATIONS OF LESSEE

In consideration of the lease of the Premises, the Lessee covenants and agrees as follows:

1. To use the Premises for the operation and management of a youth soccer club or other soccer/sports purposes, if such other soccer/sports purposes have been approved by the City Manager, which approval shall not be unreasonably withheld.
2. To pay the rent for said Premises as provided above.
3. To use the Premises for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster;
4. To allow the Lessor at any reasonable hour of the day to enter into and go through the Premises. Except in cases of emergency, Lessor will provide notice of entry, such notice to be reasonable under the circumstances. Lessor shall not interfere with the operations of Lessee during such entry. Notwithstanding this paragraph, Lessor shall have no duty to inspect the premises or make repairs except as provided herein.
5. Not to permit the Premises, or the walls or floors thereof, to be endangered by overloading, or the Premises to be used for any purpose that would render the insurance thereon void or the insurance risk more hazardous. Lessee shall take all such action as may be necessary to prevent the Premises from ever being occupied in excess of City and State limits of occupancy.
6. Not to make any alterations to, or modifications in or upon the Premises, including the installation or removal of attached fixtures, without first obtaining the Lessor's written consent, which will not be unreasonably withheld and which shall include provisions for removal of the alterations or modifications if desired by Lessor. No such alterations or modifications shall be made, except pursuant to plans submitted by Lessee to the City Manager or his designee. All such alterations or modifications shall be done in conformance with all applicable laws, codes, regulations, and rules of the City and the State of Colorado. All such alterations or modifications shall be done at the Lessee's expense. All such expenses shall be the sole financial responsibility of the Lessee.
7. To exercise reasonable care in the supervision of its employees, officers, directors, and staff coaches at all times when they are in or upon the Premises.
8. To reimburse Lessor for any expense incurred by it in repairing any damage to the Premises caused by Lessee, its directors, officers, employees or agents, or any person in their care, or present with their permission, unless Lessee makes the repairs, to the reasonable satisfaction of Lessor.
9. To indemnify, defend, and hold harmless the Lessor from and against any claim for personal injury or property damage resulting from any negligent act or omission of Lessee

or its employees or agents, to carry liability insurance covering bodily injury and property damage in the minimum amount of \$1,000,000 per occurrence, and to make Lessor an additional insured under its policy of liability insurance, and to provide the Lessor with a certificate of insurance as evidence of coverage prior to Lessee's occupancy of the Premises.

10. To sublet no part of the Premises, nor assign this lease or any interest therein without Lessor's specific written consent, and the use is compatible with other uses of the Facility. Lessor's consent to sublet or assign shall not be unreasonably withheld.
11. Not to permit any disorderly conduct or nuisance whatever about the Premises, the building in which they are located, or on the building grounds, having a tendency to annoy, disturb or interfere with other occupants of the building.
12. At the expiration or termination of this Lease, to surrender and deliver up the Premises in as good order and condition as when the same were entered upon, loss by fire or other casualty, inevitable accident and ordinary wear excepted.
13. To furnish and equip the space it occupies on the Premises. Lessee may remove fixtures it has installed if removal can be done so that floors, walls, or structures are in substantially the same condition as at the beginning of Lease, fire or other casualty, inevitable accident and ordinary wear excepted.
14. If Lessee desires such signage, to pay for and place signage on the Facility building designating it as the "Westminster AFC, Inc." with approval of the City of sign design and quality.
15. To repair and maintain standard items such as paint and tile surfaces, window glass, lighting fixtures and plumbing fixtures, which are not the responsibility of Lessor as provided below.
16. Notwithstanding any provision in this Lease Agreement to the contrary, to perform all repairs of an emergency nature necessary to protect the Premises from undue and avoidable injury or damage.
17. To arrange and pay for all telephone installation and internet connections Lessee deems necessary for its use and the service charges therefore.
18. Lessee accepts the Premises "as is" and acknowledges that Lessor shall have no obligation for maintenance or repair of the Premises except as described in Paragraph E.

E. OBLIGATIONS OF LESSOR

In consideration of the receipt of rent and the covenants of Lessee, the Lessor covenants and agrees as follows:

1. To provide free parking for the use of Lessee on the site.
2. To provide or cause to be provided, all normal utility services for the Premises, including water (including adequate hot water), sanitary sewer, electric and gas; but not including telephone or television. Lessor will also provide adequate heating and ventilation systems for the Premises, as well as smoke alarms and fire sprinklers to the extent required by the International Building Code. The Lessor will pay all charges for gas, electricity, insurance, taxes and water used on the premises, except as otherwise herein provided.

3. To provide trash removal, snow removal, grounds maintenance, and exterior building maintenance.
4. To provide maintenance and repair for structural systems, heating and ventilation systems, water supply lines, waste water lines and electrical and gas systems.
5. Lessee may quietly hold and enjoy the premises without any interruption by the Lessor or any person claiming under the Lessor.

F. MISCELLANEOUS TERMS

1. Lessor shall have no responsibility or liability for any loss or damage to any personal property of the Lessee or any fixtures installed by the Lessee.
2. Lessee shall store no flammable, toxic, dangerous, hazardous or obnoxious materials anywhere in the Premises.
3.
 - (a) If the Premises becomes so damaged by fire, flood, act of God or any other casualty so as to render the Premises untenable, the Lessee may terminate this Lease without further obligation, unless the repairs for damage are started within ninety (90) days, in which case the Lease will continue under the existing terms and conditions.
 - (b) The rent payable under this Lease shall abate following any damage to the Premises, to the extent all or part of the Premises is rendered untenable, until such damage has been repaired by Lessor.
 - (c) Within thirty (30) days after the occurrence of the damage, Lessor shall give written notice to Lessee of Lessor's best estimate of the time that will be required to repair the damage (without the payment of overtime or any premium). Lessor may also notify Lessee of the availability of other portions of the Facility or other temporary premises, if any. Notwithstanding the offer of alternate premises, if the estimated time to repair is more than ten (10) months, and Lessee rejects alternate premises, Lessee may terminate this Lease without further obligation. If Lessee does not so terminate, this Lease will continue under the existing terms and conditions, subject to paragraph (b) above.
 - (d) Notwithstanding the above paragraphs, if the Premises are damaged more than fifty percent (50%) of its full insurable value, as reasonably determined by Lessor, Lessor may terminate this Lease. Lessor shall give Lessee written notice of termination or Lessor's decision to continue the Lease within thirty (30) days of the occurrence of the damage. If Lessor chooses to continue the Lease, Lessee may terminate the Lease by giving notice to Lessor in writing within thirty (30) days of Lessor's notice to continue.
4. If the Premises are left vacant and Lessee ceases to pay rent to Lessor, the Lessor may, at its option, either retake possession of the Premises, terminating the Lease and Lessor's and Lessee's obligations thereunder, or it may re-rent the Premises, subject to the provisions of paragraph C.3 above.
5. If the Lessee becomes insolvent, or is declared bankrupt, the Lessor may terminate this Lease forthwith, and all rights of the Lessee hereunder shall thereupon terminate, subject to the provisions of paragraph C.3 above.

6. At the expiration of the term of this Lease, whether by passage of time or by act of the Lessor as provided in this Lease Agreement, the Lessee shall surrender and deliver up the Premises peaceably to the Lessor, and if the Lessee shall remain in possession after termination of this Lease, the Lessee shall be deemed guilty of a forcible detainer of the Premises under the statute, and shall be subject to eviction and removal in accordance with state law.
7. If default shall be made in any of the covenants or agreements contained in this Lease Agreement to be kept by Lessee, Lessor shall provide written notice to Lessee of the default. Lessee shall have thirty (30) days after the notice to cure the default. If Lessee fails to cure the default within said thirty days, Lessor may, but need not, declare the term ended and repossess the Premises in accordance with state law. If the nature of the default is such that it cannot be cured with reasonable diligence within thirty (30) days, then Lessee shall not be in default if it commences to cure such default within thirty (30) days and thereafter diligently prosecutes such cure.
8. No any failure to act regarding nor any assent, express or implied, to any breach of any one or more of the covenants or agreements contained in this Lease Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.
9. Nothing herein contained, either in the method of computing rent or otherwise, shall create between the parties hereto, or be relied upon by others as creating any relationship of partnership, association, joint venture, or otherwise. The sole relationship of the parties hereto shall be that of Landlord and Tenant.
10. If either Party shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default thereunder, the unsuccessful party in such action or proceeding agrees to reimburse the successful party its reasonable attorney fees.
11. This Lease shall be binding upon and inure to the benefit of the parties hereto, their respective successors, assigns, administrators, legal representatives and executors.
12. There are no oral agreements or representations between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements or representations and understandings, if any, between the parties hereto with respect to the subject matter hereof.
13. If any provision of this Lease shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect.
14. Except as otherwise provided in this Lease, any prevention, delay or stoppage due to strike, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
15. The following persons are hereby designated by the parties as the persons responsible for the implementation of this Lease. Should Notices need to be sent or problems arise concerning this Lease the parties agree to contact:

For the Lessee: Jeff Rubel
825 Logan St
Denver, CO 80203 (c) 303-941-8791

For the Lessor: _____

16. Lessee agrees to execute any and all documents subordinating this Lease as requested by Lessor.

17. This lease shall bind the Lessor and the Lessee and their respective assigns, administrators, legal representatives and executors.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals this _____ day of _____, 20____.

LESSEE - Westminster AFC, Inc.
By: Jeffrey C Rubel
Printed Name: Jeffrey C Rubel
Title: President

Attest: [Signature]
Secretary

(Corporate Seal,
if applicable)

LESSOR: CITY OF WESTMINSTER
By: _____
Printed Name: _____
Title: _____

Attest: _____
City Clerk

(Seal)

Approved as to legal form:

City Attorney



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Second Reading of Councillor’s Bill No. 2 re Appropriating CIP Funds and Construction Contract for Municipal Service Center Facility Renovation

Prepared By: Michael C. Wong, P.E., Senior Engineer
Abel Moreno, Capital Projects and Budget Manager

Recommended City Council Action

Pass Councillor’s Bill No. 2 on second reading approving the transfer of \$3,738,993 from the Utility Capital Project Reserve Fund to the Municipal Service Center Facility Renovation project account.

Summary Statement

- This Councillor’s Bill was passed on first reading on January 14, 2008.
- At its January 14, 2008 meeting, City Council approved the Construction Manager/General Contractor contract with JHL Constructors, Inc. with a guaranteed-maximum-price in the amount of \$8,467,678, and a \$608,010 contingency, and authorized the City Manager to execute a change order with Fisher Associates, the City’s architect, in the amount of \$50,000 for construction testing services.
- This transfer of funds provides the balance of funds necessary to move forward with this project.
- The Municipal Service Center (MSC) renovation has been in the planning stages for a number of years. The City’s consulting architect, Fisher Associates, was hired in December 2005 and JHL Constructors, Inc., the City’s contractor, was hired as the City’s Construction Manager/General Contractor (CM/GC) in June 2007.
- The renovation of the MSC will include significant improvements to the Administration and Operations Buildings, a new 20 bay heated vehicle storage building, a new sand/salt storage and PVC pipe material storage facility, and general site improvements.
- The total project budget for the MSC Renovation project is \$11,204,463.

Expenditure Required: \$9,125,688 (Construction Cost)

Source of Funds:	General Fund 2006 Carryover	\$2,536,000
	Utility Fund – MSC Renovation	\$4,929,470
	Utility Fund – Capital Project Reserves	<u>\$3,738,993</u>
	Total:	\$11,204,463

Respectfully submitted,

J. Brent McFall
City Manager
Attachment

BY AUTHORITY

ORDINANCE NO. **3397**

COUNCILLOR'S BILL NO. **2**

SERIES OF 2008

INTRODUCED BY COUNCILLORS
Briggs - Major

A BILL

FOR AN ORDINANCE AMENDING THE 2008 BUDGETS OF THE WATER AND UTILITY RESERVE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2008 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2008 appropriation for the General Fund initially appropriated by Ordinance No. 3316 is hereby increased by \$7,477,986. This appropriation is due to the transfer of reserve funds.

Section 2. The \$7,477,986 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10C, dated January 14, 2008 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

Water Fund	\$3,738,993
Utility Reserve Fund	<u>\$3,738,993</u>
Total	<u>\$7,477,986</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 14th day of January, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of January, 2008

ATTEST:

Mayor

City Clerk



Agenda Item 9 A

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Resolution No. 2 re Reappointments to Boards and Commissions

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Adopt Resolution No. 2 reappointing members whose terms expired December 31, 2007 to two-year terms and appointing alternate members to regular membership, where applicable, on the Board of Adjustment, the Board of Building Code Appeals, the Election Commission, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Advisory Board, the Personnel Board, the Planning Commission, the Special Permit and License Board, and the Transportation Commission.

Summary Statement

- City Council action is requested to reappoint citizens who are serving as members of the aforementioned established City Boards and Commissions whose terms of appointment expired on December 31, 2007, and to appoint alternate members to regular membership where vacancies exist.
- All affected Board members were contacted to determine interest and willingness to continue serving. In addition, City Council is taking into consideration attendance records and other issues in making determinations on reappointments. New terms are for periods of two years.
- Other vacancies on City Boards and Commissions will be filled at a later date after City Council has had the opportunity to conduct interviews with interested Westminster citizens.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Does City Council want to reappoint those individuals on Boards and Commissions whose terms of office expired on December 31, 2007, and fill vacancies through the appointment of alternate members to regular membership?

Alternative

None identified

Background Information

The terms of office of four members on the Board of Adjustment expired on December 31. Bernice Aspinwall, Samuel Biller, Raymond Selix and Tom Roemersberger (alternate) are interested in being reappointed to the Board, and their reappointments will allow for the Board to function with a full complement of members.

The terms of office of two members of the Board of Building Code Appeals expired on December 31. Stephen Fenimore and Jonathan Talbott would like to be reappointed. Vacancies in one regular and two alternate memberships need to be filled at a later date.

The terms of office of all members of the Election Commission expired December 31. Denis DuFresne, Jeanne Nearing, and William Noonung would like to be reappointed. Delbert Lennie resigned, as he has retired and is leaving the community. The regular member vacancy will be filled at a later date.

The terms of three Environmental Advisory Board members expired December 31. Lisa Bressler, Yvonne Martin, and Nick Pizzuti would like to be reappointed to the Board. There is an alternate member vacancy on this Board that will be filled at a later date.

The terms of office of Sergio Aradillas (Alternate), Linda Cherrington, Stephen Graziano, and Betty Roan of the Historic Landmark Board expired on December 31. Ms. Cherrington and Mr. Graziano will be reappointed if the attached resolution is adopted. Ms. Roan asked that she not be reappointed because her schedule has become too busy; and Mr. Aradillas resigned to seek appointment to another Board. The regular and alternate member vacancies will be filled at a later date.

The terms of office of two Human Services Board members expired December 31. Kristin Burns and Dennis White are interested in being reappointed. Jeff Konrade-Helm, whose term does not expire until December 31, 2008, resigned in late 2007 because he accepted employment outside of Colorado. If the attached resolution is adopted, Kathleen Dodaro, the alternate, will be appointed to regular membership to fill the remainder of Mr. Konrade-Helm's unexpired term. The alternate member vacancy will be filled at a later date.

The terms of four members of the Open Space Advisory Board expired December 31, and Ben Beaty, Ed Getsch, Sandra Goodwin, and Randal Tucker have expressed interest in being reappointed. Councillor Briggs was a regular member on this Board, and a vacancy was created when he was elected to City Council. The attached resolution, if adopted, will appoint the alternate, Marley Steele-Inama, the regular member to fill the remainder of Mr. Briggs' unexpired term. The alternate membership on this Board will be filled at a later date.

The terms of office of two members on the Parks, Recreation and Libraries Advisory Board expired at year end. Beverly Bishop and Paula Saunders would like to be reappointed. This Board has a regular member and an alternate member vacancy to be filled at a later date.

The terms of office of John Brann, Wesley Underwood, Candee Wells (Alternate), and Stacy Worthington on the Personnel Board expired on December 31. All would like to be reappointed. There is an alternate member vacancy on this Board.

The terms of three members of the Planning Commission expired on December 31. Donna Alengi (1st alternate), Joseph Barsoom, and James Boschert would like to be reappointed. There are no vacancies on the Planning Commission.

The terms of office of five members of the Special Permit and License Board expired on December 31. Mildred DeSmet, Frank Jaime, and BJ Sanchez (alternate) have all expressed interest in being reappointed. Resignations were received from Donna McMillan and long-time Chair of the Board, Nancy Peters. The attached resolution names BJ Sanchez a regular member. The regular member and alternate member vacancies will be filled at a later date.

The terms of office of three Transportation Commission members expired on December 31. Terrance Ramirez, Jara Raphaelson, and Pat Wales would like to be reappointed. There is an alternate member vacancy to be filled at a later date.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 2

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**CITY OF WESTMINSTER BOARD AND COMMISSION REAPPOINTMENTS
AND NEW APPOINTMENTS**

WHEREAS, Each member of the City's 12 Boards and Commissions whose term expired on December 31, 2007 has been contacted and a number of them have confirmed the desire to be re-appointed to the Board where they are currently serving; and

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized members to carry out the business of the City of Westminster with citizen representation; and

WHEREAS, Resignations have been received from Kathy Reynolds (regular member) on the Environmental Advisory Board; Sergio Aradillas (alternate member) and Betty Roan (regular member) on the Historic Landmark Board, Jeff Konrade-Helm (regular member) on the Human Services Board; and Donna McMillan (regular member) and Nancy Peters (regular member) on the Special Permit and License Board; and Robert Briggs, Jr. on the Open Space Advisory Board, who was recently elected to City Council.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby reappoint the following individuals to the City of Westminster Board or Commission listed below with the terms of office to expire December 31, 2009.

BOARD/COMMISSION	NAMES OF RE-APPOINTEES
Board of Adjustment	Bernice Aspinwall, Samuel Biller, Raymond Selix, and Tom Roemersberger (alternate)
Board of Building Code Appeals	Stephen Fenimore and Jonathan Talbott
Election Commission	Denis DuFresne, Jeanne Nearing, and William Noonng
Environmental Advisory Board	Lisa Bressler, Yvonne Martin, and Nick Pizzuti
Historic Landmark Board	Linda Cherrington and Stephen Graziano
Human Services Board	Kristin Burns and Dennis White
Open Space Advisory Board	Ben Beaty, Ed Getsch, Sandra Goodwin, and Randal Tucker
Parks, Recreation and Library Advisory Board	Beverly Bishop and Paula Saunders
Personnel Board	John Brann, Wesley Underwood, Candee Wells (alternate), and Stacy Worthington
Planning Commission	Donna Alengi (1 st Alternate), Joseph Barsoom, and James Boschert
Special Permit and License Board	Mildred DeSmet and Frank Jaime
Transportation Commission	Terrance Ramirez, Jara Raphaelson, and Pat Wales

The following appointments of alternate members are being made to fill vacancies in regular memberships:

BOARD/COMMISSION	NAMES OF APPOINTEES	TERM EXPIRES
Human Services Board	Kathleen A. Dodaro	December 31, 2008
Open Space Advisory Board	Marley Steele-Inama	December 31, 2008
Special Permit & License Board	BJ Sanchez	December 31, 2009

PASSED AND ADOPTED this 28th day of January, 2008.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Resolution No. 3 re Source Water Protection Plan Grant Application

Prepared By: Mary Fabisiak, Water Quality Administrator

Recommended City Council Action

Adopt Resolution No. 3 authorizing the Department of Public Works and Utilities to pursue a Colorado Department of Public Health and Environment grant to develop a Source Water Protection Plan.

Summary Statement

- The City of Westminster has an Intergovernmental Agreement (IGA) with the cities of Northglenn and Thornton to share costs related to protection of Standley Lake water quality.
- The protection of the water quality in Standley Lake is essential to providing high quality drinking water.
- The Colorado Department of Public Health and Environment is offering grants to water providers to develop source water protection plans in order to help identify and address threats to water quality of drinking water supplies.
- The City of Westminster, along with Thornton and Northglenn, is requesting \$50,000 in grant money on behalf of the IGA group. Westminster will administer the grant on behalf of the three cities.
- The grant will be used to retain a consultant to assist the Standley Lake Cities in developing a source water protection plan in cooperation with other stakeholders in the Standley Lake watershed.
- The cities of Westminster, Thornton and Northglenn will get matching fund credits for work that was already planned for 2008 for water quality protection efforts, therefore no additional budgeted expenditures are required in order to fulfill the grant requirements.
- This process will lead to a formal source water protection plan that will include strategies to help protect Standley Lake water quality.

Expenditure Required: \$0

Source of Funds: Utility Fund - Water Resources and Treatment Operating Budget

Policy Issue

Should the City attempt to seek assistance for the development of a Source Water Protection Plan by pursuing grant monies from the Colorado Department of Public Health and Environment?

Alternatives

1. Council could choose not to pursue additional funding for the development of a Source Water Protection Plan and proceed with funding through the Water Resources and Treatment Division Operating budget. However, Staff recommends attempting to secure additional funding for this project through this grant opportunity to fully utilize City of Westminster funds already allocated for this purpose.
2. Council could choose not to develop a Source Water Protection Plan, which is a voluntary effort supported by the Colorado Water Quality Control Commission. The City of Westminster could wait until this becomes a regulatory requirement or wait until another municipality that is dependent on Clear Creek Watershed for their drinking water supply develops a plan.

Background Information

Clean and dependable public water supplies are critical to the health and economic sustainability of the Clear Creek Watershed and the City of Westminster. Considering the associated economic value and the importance of the City's water resources, local public water providers have worked diligently for years to protect the water sources. These efforts can now become the basis for what is the logical "next step" for the creation of a Clear Creek Watershed Source Water Protection Plan. Source water issues often impact multiple public water providers and long-term solutions will likely require both communication and cooperation. The protection plan development process is locally driven and designed to enhance collaboration between public water providers and community stakeholders. This voluntary program can increase awareness of protecting water resources and provide an excellent framework for watershed collaboration with a drinking water focus. Funding is available to facilitate this process through a \$50,000 grant administered by the Colorado Department of Public Health and Environment.

Meaningful outcomes include increased public awareness, greater communication between water providers, decision makers and stakeholders, better access to watershed data, water supply valuation mechanisms, regional and governmental policy changes if appropriate, new funding opportunities, memorandums of understanding and other benefits.

End products are the Source Water Protection Plan and a Best Management Practices guidance document. A Source Water Protection Plan provides local public water providers and community stakeholders appropriate protection and pollution prevention strategies.

This Source Water Protection Plan grant application supports City Council's goal of Financially Sustainable City Government Objectives 2 and 6 and Goal 1: Safe and Secure Community. Protection of the City's source water is important to providing safe, clean drinking water to the citizens.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 3

INTRODUCED BY COUNCILLORS

SERIES OF 2008

GRANT REQUEST FOR DEVELOPMENT OF A SOURCE WATER PROTECTION PLAN

WHEREAS, The Colorado Department of Public Health and Environment has established a grant application process to assist water providers with the development of Source Water Protection Plans; and

WHEREAS, The City of Westminster has budgeted for watershed protection efforts; and

WHEREAS, grant money received from the Colorado Department of Public Health and Environment would significantly supplement the funding for these efforts.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Colorado Department of Public Health and Environment, requesting funding in the amount of \$50,000 to enhance the development of a Source Water Protection Plan for the Clear Creek Watershed.

PASSED AND ADOPTED this 28th day of January, 2008.

ATTEST:

Mayor

City Clerk



WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Resolution No. 4 re 2007 Private Activity Bond Allocation Assignment

Prepared By: Vicky Bunsen, Community Development Programs Coordinator

Recommended City Council Action

Adopt Resolution No. 4 assigning \$4,502,620 of the City of Westminster's 2007 Private Activity Bond allocation to the Colorado Housing and Finance Authority (CHFA), and authorize the Mayor and City Clerk to execute the necessary documents in a form acceptable to the City Attorney's Office and to CHFA.

Summary Statement

- On September 10, 2007, City Council passed Resolution No. 31 exercising the "carry forward" Private Activity Bonds (PAB) provision in the total amount of \$4,502,620, thereby moving the assignment deadline to February 15, 2008, pursuant to federal Internal Revenue Service regulations governing Private Activity Bonds.
- No specific projects in Westminster have been identified that require assignment of PAB capacity at this time; however, there is an ongoing need for single-family mortgage programs to assist homebuyers.
- The Colorado Housing and Finance Authority provide single-family mortgage programs to homebuyers in Westminster. The City has not assigned PAB capacity to CHFA over the past ten years.
- Staff recommends that the City's 2007 PAB capacity be assigned to CHFA for the purpose of issuing qualified single-family mortgage revenue bonds.
- The attached Resolution and Assignment of Allocation have been reviewed and approved by the City Attorney's Office and are ready for City Council's formal action.
- If a specific assignment of the City's 2007 PAB allocation is not made by February 15, 2008, the City and the State will lose this allocation.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Should the City assign its 2007 private activity bond allocation to CHFA, knowing that the assignment does not guarantee that proceeds from the assignment will serve Westminster residents?

Alternative

City Council may choose to take no action, and allow the City's allocation to revert to the federal PAB pool. This option is not recommended because it decreases the amount of tax-exempt financing that is available in Colorado for qualified uses. City Council may also choose to assign the allocation to another Westminster governmental entity or housing developer. This option is not recommended, since no projects have been identified that would benefit from the assignment. Past assignments to WEDA have expired due to the passage of more than three years since the assignment.

Background Information

When cities intend to issue tax-exempt bonds to finance certain eligible "private activities" as allowed by the Internal Revenue Code, they can do so only to the extent they have received a Private Activity Bond (PAB) allocation from the federal government. Each year, the City of Westminster receives an allocation of private activity bonds to use towards bond financing of certain eligible "private activities" as defined by federal law. The issuance of low-interest, tax-exempt bonds can save developers and the City from the higher costs of commercial financing that can provide a significant savings to the project. Such bonds can also be used to provide subsidies for certain qualified homebuyers. The PAB financing further allows cities to sponsor community development activities that they deem important.

Private Activity Bonds (PAB) are tax-exempt bonds that can be issued for qualified public purposes. Qualified uses of PAB include:

- Industrial bonds for construction of small manufacturing facilities;
- Single-family mortgage revenue bonds for first-time homebuyers;
- Mortgage revenue bonds to finance housing for veterans;
- Redevelopment bonds to acquire property in blighted areas and prepare land for redevelopment activities;
- Student loans for eligible students;
- Residential rental project bonds to finance new construction or acquisition/rehabilitation of housing for persons with low to moderate incomes;
- Exempt facility bonds such as hazardous waste facilities, water, sewer and solid waste facilities.

Fifty percent (50%) of the state allocation is made available directly to state authorities. Eligible state authorities include the Colorado Housing and Finance Authority, Colorado Agricultural Development Authority, Colorado Post-Secondary Education Facility Authority, Colorado Health Facilities Authority and the Colorado Student Obligation Bond Authority. The remaining 50% of the PAB allocation is made available to local governments based on population. Those local governments whose populations warrant an allocation of \$1 million or more receive a direct allocation from the State of Colorado.

The City of Westminster receives a direct annual allocation in PAB as determined by the Colorado State Division of Local Affairs. In 2007, the City received an allocation of \$4,502,620. The allocation is available to local governments from January 1 to September 15 of each year. Any portion of a direct allocation not assigned for a qualified project by a local government by September 15 of each funding

year reverts to the statewide balance, unless the local government exercises its right to “carry forward” the decision on an assignment(s) to February 15th of the following year. The City Council carried forward the 2007 allocation by resolution on September 10, 2007.

The City has utilized its PAB allocation in the past to fund the following projects:

TOTAL PRIVATE ACTIVITY BOND ASSIGNMENTS 1998 – 2007		
YEAR	BONDS ASSIGNED TO	AMOUNT ASSIGNED
1998	WEDA	\$2,320,000*
1999	Metro Mayors Caucus Mortgage Program	\$250,000
1999	WEDA	\$2,148,300*
2000	Metro Mayors Caucus Mortgage Program	\$1,000,000
2000	Mendel-Allison Panorama Point	\$1,432,675**
2001	WEDA	\$3,069,281*
2002	WEDA	\$3,785,250*
2003	Metro Mayors Caucus TOD Housing	\$500,000
2003	WEDA	\$3,385,938*
2004	Toscana Apartments	\$500,000
2004	Metro Mayors Caucus TOD Housing	\$1,000,000
2004	WEDA	\$2,660,440*
2005	Metro Mayors Caucus TOD Housing	\$4,180,880
2006	Metro Mayors Single-Family Mortgages	\$4,207,080
2007	To be Assigned before 2//15/08	\$4,502,620
2008	Allocation available in 2008	\$4,537,513
*Allocation expired		
**Not used at Panorama Point, reverted to CHFA pool.		

PAB allocations are lost if not used in three years. Allocations made to WEDA from 1998 to 2004 have expired due to non-usage. The Metro Mayors Caucus TOD Housing program holds \$5,680,880 assigned by Westminster, but no projects are being built yet in Westminster or in the larger metro area. Therefore, the Metro Mayors Caucus is not soliciting additional assignments at this time. No housing or urban renewal projects are currently available for WEDA to assist with private activity bonds.

In 2006, the allocation was assigned to the Metro Mayor's Caucus single-family mortgage program. Roughly one-third to one-half of that allocation was used for mortgages in Westminster before the balance was released to be used on a metro-wide basis.

CHFA also offers several single-family mortgage programs that have been made available to Westminster homebuyers for several years. A total of 132 loans, totaling \$21,180,000 in funding, have been made in Westminster from 2005 to 2007 through CHFA programs. Because of this level of lending activity that has benefitted Westminster buyers and which will continue to be made available by CHFA, it is recommended that the City assign the 2007 allocation of private activity bonds to CHFA in the amount of \$4,537,513.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. 4

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**AUTHORIZING ASSIGNMENT TO THE
COLORADO HOUSING AND FINANCE AUTHORITY OF A PRIVATE ACTIVITY
BOND ALLOCATION OF THE CITY OF WESTMINSTER PURSUANT
TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT**

WHEREAS, the City of Westminster (the "City") is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City has an allocation of the 2007 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2007 (the "2007 Allocation"); and

WHEREAS, the City has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2007 Allocation; and

WHEREAS, the City has determined that the 2007 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the City Council of the City of Westminster has determined to assign \$4,502,620 of its 2007 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City and the Authority (the "Assignment of Allocation").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Westminster as follows:

1. The assignment to the Authority of \$4,502,620 of the City's 2007 Allocation be and hereby is approved.
2. The form and substance of the Assignment of Allocation be and hereby are approved; provided, however, that the City Attorney and City Manager be and hereby are authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as they shall deem necessary or appropriate and not inconsistent with the approval thereof by this resolution.

3. The Mayor of the City of Westminster be and hereby is authorized to execute and deliver the Assignment of Allocation on behalf of the City and to take such other steps or actions as may be necessary, useful or convenient to effect the aforesaid assignment in accordance with the intent of this resolution.

4. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

5. This resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED this 28th day of January, 2008.

Mayor

(SEAL)

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

ASSIGNMENT OF ALLOCATION

This Assignment of Allocation (the "Assignment"), dated this _____ day of _____, is between the City of Westminster (the "Assignor") and the Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2007 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, the "Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City of Westminster and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the Allocation; and

WHEREAS, the Assignor has determined that the 2007 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2007 Allocation; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee \$4,502,620 of its 2007 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee \$4,502,620 of its 2007 Allocation, subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of \$4,502,620 of Assignor's 2007 Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds, in one or more series, and to make proceeds of such Revenue Bonds available from time to time during the period of two (2) years from the date of this Assignment for the purchase of mortgage loans in at least the aggregate amount of \$4,502,620 to finance single-family housing facilities located in the City of Westminster. Unless otherwise agreed to in writing, the mortgage loans will be subject to all applicable current requirements of Assignee's mortgage revenue bond program, including Assignee's income and purchase price limits.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the assignment set forth herein as an allocation for a project with a carryforward purpose.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans to finance single-family housing facilities located in the City of Westminster.

6. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

CITY OF WESTMINSTER

[S E A L]

ATTEST:

By: _____
Nancy McNally, Mayor

By: _____
City Clerk

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney

COLORADO HOUSING AND FINANCE
AUTHORITY

[S E A L]

ATTEST:

By: _____
Executive Director

By: _____
Assistant Secretary



Agenda Item 10 C

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Resolution No. 5 re Spring 2008 Adams County Open Space Grant Application

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action:

Adopt Resolution No. 5 authorizing the Department of Community Development to pursue a grant with Adams County Open Space during the 2008 spring cycle for the acquisition of the Doulos Ministries parcel.

Summary Statement

- The Department of Community Development wishes to pursue a grant from Adams County Open Space for funding assistance with the Doulos Ministries acquisition.
- Staff recommends requesting up to \$655,000 for a grant to match open space bond funds to assist with the acquisition of the Doulos Ministries property, located at 124th Avenue and Zuni Street. Staff pursued a grant in the amount of \$1,255,000 from Adams County in the Fall, 2007 grant cycle to assist with this acquisition. The City was awarded \$600,000 towards the purchase. The total purchase price for this property is \$2,650,000. Staff would like to pursue a second grant for the Doulos Ministries acquisition from Adams County for the difference in the amount that was requested and the amount that was awarded. The Open Space Advisory Board considers the acquisition of the Doulos property a high priority and recommends this purchase.

Expenditure Required: Matching funds in the amount up to \$655,000 for the Doulos acquisition

Source of Funds: Open Space Bond Funds

Policy Issue

Should the City attempt to seek assistance for the acquisition of this property by pursuing grant monies from the Adams County Open Space Grant Program?

Alternative

Council could choose not to pursue additional funding for this acquisition and use Open Space Bond Funds for the entire purchase amount. However, Staff recommends attempting to secure additional funding for this acquisition through this grant opportunity.

Background Information

The Departments of Community Development has been successful in applying for and receiving grants from a variety of sources in the past. In recent years, the City has received grant money from Adams County Open Space for park and trail development projects as well as open space acquisitions. The City has developed a strong partnership with Adams County in its successful use of these grant funds. Recent Adams County grants include: a grant in the amount of \$600,000 for the Doulos Ministries acquisition in the Fall of 2007, two grants in the spring of 2007 for Cheyenne Ridge Park and 128th Avenue and Big Dry Creek Park for \$80,000 and \$500,000 respectively; a 2005 grant in the amount of \$600,060 for Westfield Village Park; a 2005 grant in the amount of \$775,000 for Tanglewood Creek Open Space Acquisition; and three grants in 2003 and 2004 for the Metzger Farm Open Space Acquisition totaling \$1,502,500.

The Doulos Ministries parcel is the location of a residential treatment facility for youth. The property has been on the market for sale for several years. The appraisal values the land at \$2,750,000. Staff negotiated a sale price at \$100,000 less than the appraisal amount or \$2,650,000. Staff received approval from City Council to move forward with the acquisition and expects to close on the property on January 31, 2008. Staff applied for a grant for the Doulos Ministries acquisition from the Adams County Open Space program for the Fall, 2007 grant cycle in the amount of \$1,255,000. Adams County awarded a \$600,000 grant towards the purchase price. Since the full grant amount was not funded, staff would like approval to resubmit this grant to Adams County in the Spring, 2008 cycle for the remainder of the original grant request or up to \$655,000.

The Doulos Ministries property is a high priority acquisition for the City's Open Space Advisory Board. This property is the last remaining privately owned property along Big Dry Creek within the City. The Big Dry Creek trail that crosses the parcel is on a temporary trail easement subject to immediate revocation. The property has extensive wetlands and floodplain areas and affords beautiful mountain views. Acquisition of this property would preserve a 1,600 foot wide wildlife corridor along the creek. The Colorado Division of Wildlife recommends protecting a 1,000 foot wide corridor along streams such as Big Dry Creek to accommodate wildlife movements. The existing buildings on the site would be demolished and the land revegetated once under city ownership.

This grant request supports the City's Strategic Plan Goals of "Financially Sustainable City Government" and "Beautiful City" by increasing revenues that support defined City projects and by providing the City with increased open space.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **5**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

GRANT REQUEST FOR THE 2008 OPEN SPACE GRANT PROGRAM

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

WHEREAS, The City of Westminster has a strong interest in purchasing the Doulos property for Open Space and;

WHEREAS, grant money received from Adams County would significantly assist with the acquisition of this property.

WHEREAS, grant money received from Adams County would reduce the amount of money needed from the Open Space Bond Funds to purchase this property.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Adams County Open Space Grant program for the Spring funding cycle of 2008, requesting funding in the amount of up to \$655,000 for the Doulos Ministries acquisition.

PASSED AND ADOPTED this 28th day of January, 2008.

ATTEST:

Mayor

City Clerk

Doulos Ministries Property





Agenda Item 10 D

WESTMINSTER
COLORADO

Agenda Memorandum

City Council Meeting
January 28, 2008



SUBJECT: Resolution No. 6 re Purchase of the 1.0 acre Teeples Property at 8055 West 108th Avenue

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Adopt Resolution No. 6 authorizing the purchase of the approximately 1.0 acre parcel located at 8055 W. 108th Avenue for \$130,000 and closing costs not to exceed \$5,000; and authorizing the City Manager to execute all documents required to close on the purchase of the property.

Summary Statement

- The Teeples property is a Priority 1 acquisition for the City's Open Space Advisory Board.
- Acquisition would allow the City to continue to put together the pieces necessary to build a trail for passive recreational and commuting purposes, from City Park to the Heritage Golf Course and Ball Corporation/Westmoor Technology Park area. Additionally, this property would provide for a future connection from the Rocky Mountain Metropolitan Airport buffer land trails to the Walnut Creek Trail.
- Staff has negotiated the purchase of the approximately 1.0 acre parcel at 8055 W. 108th Avenue (see attached vicinity map) for a total purchase price of \$130,000 (or \$2.98 per square foot).

Expenditure Required: \$130,000 plus closing costs not to exceed \$5,000

Source of Funds: Open Space Bond Funds

Policy Issue

Should City Council approve the use of the open space bond funds for the purchase of the 1.0 acre parcel at 8055 W. 108th Avenue?

Alternative

City Council could choose not to authorize the acquisition or the expenditure at this time. Staff does not support this option because this property is a critical link to the proposed trail from City Park to Heritage Golf Course, as well as a connecting trail from Rocky Mountain Metro Airport buffer land to the Walnut Creek Trail. Should the City not acquire this parcel now, there is a threat of residential development, eliminating the possibility of constructing the trail through this property.

Background Information

The acquisition of the Teeples property will provide a critical link for future trails that will serve passive recreational and commuting purposes. The City has plans to extend a trail from City Park west under the Burlington Northern and Santa Fe Railroad/US 36 overpass, around the north side of Lower Church Lake, across Green Knolls Park and the Rocky Mountain Metropolitan Airport property, to the Heritage Golf Course and the Westmoor Technology Park area. This parcel is the “missing link” which, if acquired, would allow a trail to be built between 108th Avenue and Green Knolls Park. This trail would be a popular bicycle commuting route between the relocated Church Ranch Park-N-Ride/future commuter rail station and the Westmoor Business Park. With an additional land acquisition in the future and use of current City ROW, another trail could be constructed to connect the Rocky Mountain Metro Airport buffer land trails, through Green Knolls Park, to the Walnut Creek Trail.

Ben and Nancy Teeples purchased this vacant lot along with the adjoining property to the west in February 1998 for \$250,000. The Teeples recently listed the property for \$150,000. Residential development of the parcel is a threat and the Teeples will continue to seek a buyer if the City does not purchase the land. The designation under the Jefferson County Zoning Resolution is R1, which allows one single family detached home. City Staff obtained an appraisal from Eagle Appraisals, Inc., who valued the property at \$97,500. Because the property is an “in-fill” lot, the appraisers had limited comparable sale values. Feeling that more research was necessary, Staff acquired comp values from the city appraisal prepared for the Engineering division’s Old Wadsworth Big Dry Creek Trail project, just south of the Teeples’ property. Based on these values, Staff valued the Teeples property at \$177,000, then subtracted \$25,000 because the property does not currently have access to utilities, for a total value of \$152,000. Staff then made the Teeples an offer of \$130,000, which was accepted. This purchase price is \$20,000 less than the listed price and \$22,000 less than the Staff estimated value.

Staff believes this is an important purchase to enable future trail construction within the City of Westminster, supplying residents with more recreational and alternative commuting opportunities.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Resolution
- Vicinity Map

RESOLUTION

RESOLUTION NO. **6**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**A RESOLUTION
AUTHORIZING THE PURCHASE OF THE APPROXIMATELY 1.0 ACRE
BEN & NANCY TEEPLES PROPERTY AT 8055 W 108th AVENUE**

WHEREAS, the City of Westminster has negotiated with Ben and Nancy Teeple to purchase the approximately 1.0 acre parcel at 8055 W 108th Avenue (the "Property") for \$130,000.

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

1. The City Council hereby authorizes the purchase of the Property for \$130,000.
2. The City Manager is hereby authorized to acquire such property interests consistent with applicable law, including the execution of all documents necessary to complete these purchases.
3. The City Manager shall be further authorized to incur reasonable costs associated with acquiring the properties in question, including, without limitations, contractual services, the cost of title examination, title insurance, appraisal fee payments mandated by statute, normal closing costs, filings fees and charges and all other related or incidental costs or expenses customarily associated with the acquisition of property.
- 4: This Resolution to be in full force and effect from and after its passage and approval.

PASSED AND ADOPTED this 28th day of January, 2008.

ATTEST:

Mayor Nancy McNally

Linda Yeager, City Clerk



Teeples Acquisition



**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE
MONDAY, January 28, 2008
7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting (December 17, 2007)**
- 3. New Business**
 - A. 128th Avenue Widening (Delaware Street to I-25) Construction Contract
 - B. Resolution No. 100 re ICA between WEDA and Hyland Village Metropolitan District re Tax Revenues
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, JANUARY 28, 2008 AT 7:30 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Dittman, and Board Members Briggs, Kaiser, Major, and Winter. Board member Lindsey was absent and excused. Also present were Stephen P. Smithers, Acting Executive Director, Leslie Annand, Assistant Attorney for the Authority, and Linda Yeager, Secretary.

CONSIDERATION OF MINUTES

Board Member Briggs moved, seconded by Kaiser, to approve the minutes of the meeting of December 17, 2007 with no additions or corrections. The motion carried unanimously.

CONSTRUCTION CONTRACT FOR WIDENING OF 128TH AVENUE (DELAWARE TO I-25)

Based on a finding that the public interest would best be served by a negotiated contract with Jalisco International Inc., Board Member Briggs moved to authorize the Executive Director to sign a \$774,343 construction contract with Jalisco International Inc. for the widening of the south side of West 128th Avenue and the Tanglewood Creek box culvert between Delaware Street and I-25; to authorize a \$77,435 project contingency; to authorize an expenditure of \$15,000 to be paid to Xcel Energy for the installation of street lights associated with the widening project; and to authorize an expenditure of \$5,000 to be paid to the Federal Emergency Management Agency for the review of a Letter of Map Revision upon the completion of the construction. The motion was seconded by Vice Chair Dittman and passed unanimously.

RESOLUTION NO. 100 RE ICA WITH HYLAND VILLAGE METROPOLITAN DISTRICT

Board Member Major moved, seconded by Dittman, to adopt Resolution No. 100 authorizing the Executive Director to execute an Intergovernmental Cooperation Agreement (ICA) with Hyland Village Metropolitan District in substantially the same form as attached to the agenda memo regarding the release of certain tax increment revenues to finance the District's improvements to property located within the Westminster Economic Development Authority's Westminster Center Urban Renewal Area. The motion carried unanimously on roll call vote.

ADJOURNMENT

There being no other business to come before the Authority, the meeting adjourned at 7:33 p.m.

ATTEST:

Secretary

Chairperson

Agenda Memorandum

Westminster Economic Development Authority Meeting
January 28, 2008



SUBJECT: 128th Avenue Widening (Delaware Street to I-25) – Construction Contract

Prepared By: Richard M. Kellogg, Jr., Senior Projects Engineer

Recommended Board Action

Find that the public interest will best be served by a negotiated contract with Jalisco International Inc.; authorize the Executive Director to sign a construction contract with Jalisco International Inc. for the construction of the widening of the south side of West 128th Avenue and the Tanglewood Creek box culvert between Delaware Street and I-25 in an amount not to exceed \$774,343; authorize a \$77,435 project contingency; authorize an expenditure of \$15,000 to be paid to Xcel Energy for the installation of street lights associated with the widening project; and authorize an expenditure of \$5,000 to be paid to the Federal Emergency Management Agency (FEMA) for the review of a Letter of Map Revision (LOMR) upon the completion of the construction.

Summary Statement

- The City of Westminster, in accordance with an Intergovernmental Agreement with Adams 12 Five Star School District pertaining to the development of the new school complex at 128th Avenue and Huron Street, widened the south side of 128th Avenue to arterial street standards between Huron Street and Delaware Street in 2006.
- The Colorado Department of Transportation (CDOT) recently determined that the two-lane 128th Avenue overpass of I-25 required replacement. The CDOT plan was to replace the bridge with a minimal two-lane structure, but both adjoining cities, Westminster and Thornton, financially participated in the widening of the bridge to gain a four-lane structure, wider sidewalks and certain aesthetic enhancements. This project is currently under construction.
- With the completion of the replacement overpass by CDOT in mid-2008 and the widening by the City between Huron Street and Delaware Street in 2006, a “bottleneck” will occur between Delaware Street and the I-25 overpass on the south side of 128th Avenue.
- Jalisco International Inc. is currently constructing the new 128th Avenue bridge over I-25 for CDOT. Staff requested a price proposal from Jalisco International Inc. based on the previously prepared construction plans and bid documents rather than going through the formal advertisement and opening of bids from a number of contractors. This negotiated bid approach is recommended because (1) it would be advantageous to have 128th Avenue reopened to traffic by the start of the fall school semester, which could not be accomplished if the City waited until CDOT’s bridge replacement project was completed before commencing this “bottleneck” removal project; (2) it would be contractually risky to have two different contractors working independently in the same vicinity at the same time; and (3) Jalisco’s proposed construction fee of \$774,343 is reasonable.
- Jalisco’s contract will include not only the widening of 128th Avenue between Delaware Street and I-25 on the south side of 128th; it also includes the installation of the major storm overflow drainage concrete box culvert for the tributary flows of Tanglewood Creek. Additionally, this concrete box culvert will serve as a pedestrian trail underpass for the connection of the future Tanglewood Trail south of 128th to the future trail north of 128th ultimately connecting to the Big Dry Creek Trail.
- This project lies within the defined boundaries of the North Huron Urban Renewal Area. Funds are available from the North I-25 WEDA Bonds issued for street improvements in this WEDA area.

Expenditure Required: \$871,778

Source of Funds: WEDA Bond Funds

Policy Issue

Should WEDA proceed with funding the construction of the widening of the south side of 128th Avenue between Delaware Street and I-25? Does the WEDA Board agree that it is in the public interest to execute a negotiated contract with Jalisco International Inc. to perform this work?

Alternatives

Alternatives to proceeding at this time include postponing or abandoning the construction of this roadway widening. Postponement or abandonment alternatives are not recommended due to the danger that would exist for motorists if this “bottleneck” is not eliminated. There are no practical alternatives to executing a negotiated contract with Jalisco if the WEDA Board agrees that it is important to have 128th Avenue reopened to traffic by the early fall of 2008. If the Board finds that it is not critical to have the street reopened in time for the fall school semester, this proposed project could be advertised and bid in the usual manner. Due to the fact that this portion of 128th Avenue has been closed on three separate occasions within the past three years (twice by CDOT and once by the City/Adams 12), it is recommended that a fourth closure be avoided.

Background Information

The widening of the south side of 128th Avenue between Delaware Street and I-25 has become an important consideration due to the “bottleneck” that will soon be created by the construction of adjacent roadway improvements projects. Over a year ago, the City sponsored a project to enhance access to the new Mountain Range High School by widening the south side of 128th Avenue between Huron Street and Delaware Street. Additionally, CDOT has commenced with the construction of a new four-lane bridge over I-25, but this widening will not extend nearly as far west as Delaware Street. As a result, a “missing link” of unimproved roadway exists along the south side of 128th Avenue between the bridge over I-25 and Delaware Street, thus causing troublesome transitions from four-lane to two-lane and back to four-lane sections along this relatively short eastbound stretch of the street. Considering the fact that many of the users of this street will be young, inexperienced drivers attending Mountain Range High School, it would be advisable to remove this potential “bottleneck” and avoid numerous vehicle merging movements in this vicinity. Additionally, the widening will provide a significantly safer access for pedestrians to the school complex with wider, detached sidewalks. When the currently vacant property on the north side of 128th Avenue is developed, perhaps as early as this year, the westbound portion of the roadway will be designed and constructed by that developer to complete the full arterial street section.

City Staff is very familiar with Jalisco International Inc. Jalisco has worked in the past with the City of Westminster as the contractor for both the 144th Interchange at I-25 and the 120th Interchange at I-25. The bid proposal submitted by Jalisco has been reviewed in detail by staff, and it meets the requirements of the construction project. Staff is recommending awarding the contract for the construction of the project to Jalisco International Inc. in the amount up to \$774,343. In addition, authorization is sought for \$77,435 for a project contingency, \$15,000 for the installation of street lights and \$5,000 for the review fee for the LOMR to FEMA. The recommended funding authorizations are summarized below:

Construction Contract with Jalisco International Inc.	\$773,343
Project Contingency	\$ 77,435
Street Lights (Estimated Cost)	\$ 15,000
FEMA Review Fee for the Letter of Map Revision (LOMR)	\$ 5,000
TOTAL	\$871,778

Respectfully submitted,

J. Brent McFall
Executive Director
Attachment

ERICKSON RETIREMENT COMMUNITY

TANGLEWOOD CREEK BOX CULVERT

Interstate 25

128th Ave

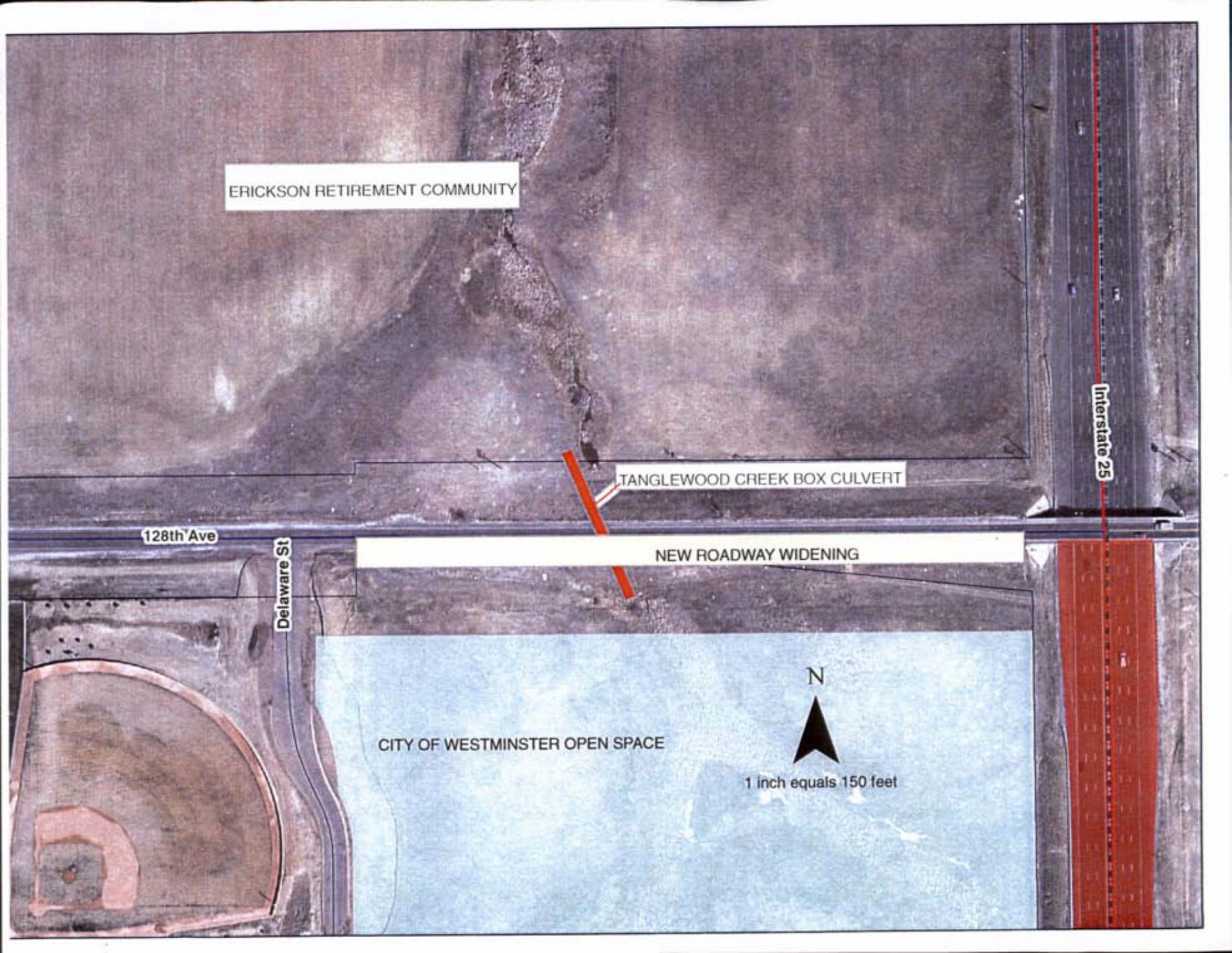
Delaware St

NEW ROADWAY WIDENING

CITY OF WESTMINSTER OPEN SPACE

N

1 inch equals 150 feet



WEDA Agenda Item 3 B

Agenda Memorandum

Westminster Economic Development Authority Meeting
January 28, 2008



SUBJECT: Resolution No. 100 re Intergovernmental Cooperation Agreement with Hyland Village Metropolitan District

Prepared By: Karen Creager, Special Districts Accountant

Recommended Board Action

Adopt Resolution No. 100 authorizing the Executive Director to execute an Intergovernmental Cooperation Agreement (ICA) with Hyland Village Metropolitan District (the "District") in substantially the same form as attached regarding the release of certain tax increment revenues to finance the District's improvements to property located within the Westminster Economic Development Authority's (WEDA) Westminster Center Urban Renewal Area (URA).

Summary Statement

- On August 28, 2006, Council approved the service plan for the Hyland Village Metropolitan District.
- The District consists of approximately 72 acres of predominately residential with some commercial development located at approximately 96th Avenue and Sheridan Boulevard.
- The District's service plan provides for improvements to the property of the District to be financed through the District's issuance of bonds. The District will annually certify a mill levy on property owners of the District to pay the debt service and operating costs of the District.
- The District is located within the boundaries of WEDA's Westminster Center East URA.
- Pursuant to state statute, WEDA as a tax increment financing district receives incremental revenues attributable to development from overlapping jurisdictions within the boundaries of the URA.
- The attached ICA provides for WEDA to release the additional property tax increment revenues attributable to the District's mill levy to the District for use in paying debt service and other operating costs of the District.

Expenditure Required: Amount of returned tax increment to be determined annually based upon tax generated by the District's mill levy, less a collection fee

Source of Funds: Incremental Property Tax Revenues

Policy Issue

Should WEDA enter into an ICA with the District for the release of certain incremental property tax revenues?

Alternative

The alternative to the recommended action is to not approve the ICA. This alternative is not recommended as the incremental property tax revenues are needed by the District to finance the improvements outlined in the Service Plan previously approved by City Council.

Background Information

The District is located within the boundaries of the Westminster Center East URA, which was established in December 2003 to foster redevelopment primarily along Sheridan Boulevard north of the Burlington Railroad to 98th Avenue. The District encompasses approximately 72 acres at approximately 96th Avenue and Sheridan Boulevard. In accordance with the District's Service Plan, the District will undertake the planning, design, acquisition, construction installation, relocation, redevelopment and financing of certain public improvements needed for this Project. The primary purpose of the District is to finance the construction of these public improvements through an imposition of a mill levy certified with Jefferson County annually. The maximum allowed mill levy is 25 mills for the public improvements. The Amended Service Plan provides an additional 5 mills to fund more expensive road construction if required by the City to address drainage issues.

WEDA as a tax increment financing district receives incremental revenues attributable to development from overlapping jurisdictions. As such, the District's mill levy on any valuation above the base valuation is allocated and remitted to WEDA. In order for the District to meet its obligations under the Service Plan, WEDA will need to release the incremental property tax revenues attributable to the District's mill levy to the District.

The attached cooperation agreement outlines the responsibilities of WEDA and the District with respect to the release of these revenues. WEDA will automatically receive the incremental property tax revenues from Jefferson County net of the County's 1.5% collection fee. The cooperation agreement specifies that the District will invoice WEDA by the 20th of each month for the amount of the current month's ad valorem taxes for the District. WEDA will pay the District's invoice, less a 3% collection fee, by the 20th of the following month. The 3% collection fee includes the County's 1.5% collection fee plus an additional 1.5% fee to cover WEDA's cost of processing the release of the tax to the District.

There is currently no bonded indebtedness in this URA and WEDA will be able to meet its obligations with the balance of the incremental revenues received by the URA.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachments

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **100**

INTRODUCED BY COMMISSIONERS

SERIES OF 2008

**A RESOLUTION
APPROVING AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE
WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AND HYLAND VILLAGE
METROPOLITAN DISTRICT REGARDING TAX INCREMENT REVENUES**

WHEREAS, the Westminster Economic Development Authority (“WEDA”) and the Westminster City Council have adopted an urban renewal area based on the Westminster Center Reinvestment Plan (“Westminster Center Reinvestment Area”) under and pursuant to the Colorado Urban Renewal Law, Section 31-25-101, *et seq.*, C.R.S., as amended (the “Act”); and

WHEREAS, in accordance with the Westminster Center Reinvestment Plan and the Act, WEDA is authorized to finance project improvements through the use of sales and property tax increment financing (“Tax Increment Revenues”) within the Westminster Center Reinvestment Area; and

WHEREAS, the Hyland Village Metropolitan District (“District”) was organized to provide certain improvements within or immediately adjacent to the District’s boundaries as more specifically set forth in the District’s Amended and Restated Service Plan approved by the City of Westminster on October 22, 2007 (“Service Plan”); and

WHEREAS, the District plans to provide for the design, acquisition, construction, installation, and financing of certain water, sanitation, street and safety protection, and park and recreation improvements and services to the Property (“Improvements”) through the issuance of bonds; and

WHEREAS, the Improvements will benefit the property within the Westminster Center Reinvestment Area; and

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution, as well as Sections 29-1-201, *et seq.*, and 29-20-105 of the Colorado Revised Statutes authorize and encourage governments to cooperate by contracting with one another for their mutual benefit; and

WHEREAS, the District is authorized to levy *ad valorem* taxes on real and personal taxable property within its boundaries to finance the Improvements, to provide services and to conduct its operations; and

WHEREAS, pursuant to the District’s Service Plan, the District intends to issue bonds to pay for the Improvements and levy *ad valorem* taxes to pay for the debt service on the bonds; and

WHEREAS, because the District was created subsequent to the creation of the Westminster Center Urban Renewal Area, any taxes imposed by the District will go to WEDA unless otherwise provided by an agreement between WEDA and the District; and

WHEREAS, WEDA and the District desire to enter into an Intergovernmental Cooperation Agreement Regarding Tax Increment Revenues to assure that taxes levied by the District are made available to the District for purposes of paying the debt service on the bonds and administrative costs as provided in the District’s Service Plan; and

WHEREAS, WEDA and the District have determined it to be in the best interests of their respective taxpayers, residents and property owners to enter into the Intergovernmental Cooperation Agreement Regarding Tax Increment Revenues.

NOW, THEREFORE, BE IT RESOLVED BY THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF WESTMINSTER, COLORADO, AS FOLLOWS:

1. That the Intergovernmental Cooperation Agreement between the Westminster Economic Development Authority and Hyland Village Metropolitan District Regarding Tax Increment Revenues, attached hereto and incorporated herein by this reference, is hereby approved.
2. That the Secretary is authorized to sign, and the City Clerk to attest, the Intergovernmental Cooperation Agreement.
3. That the Intergovernmental Cooperation Agreement shall not be effective until executed by WEDA and the District.

PASSED AND ADOPTED at a special meeting of the Westminster Economic Development Authority of the City of Westminster, Colorado, this 28th day of January, 2008.

WESTMINSTER ECONOMIC DEVELOPMENT
AUTHORITY

Nancy McNally, Chairperson

ATTEST:

Linda Yeager, Secretary for WEDA

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE WESTMINSTER
ECONOMIC DEVELOPMENT AUTHORITY AND THE HYLAND VILLAGE METROPOLITAN
DISTRICT REGARDING TAX INCREMENT REVENUES**

This Intergovernmental Cooperation Agreement (the "Agreement"), dated as of January ____, 2008, by and among the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY ("WEDA"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado and HYLAND VILLAGE METROPOLITAN DISTRICT ("District"), a quasi-municipal corporation and political subdivision of the State of Colorado created pursuant to Title 32, Article 1, C.R.S., as amended (collectively the "Parties").

W I T N E S S E T H :

WHEREAS, WEDA and the Westminster City Council have adopted an Urban Renewal Plan known as the "Westminster Center Reinvestment Plan" ("Reinvestment Plan") under and pursuant to the Colorado Urban Renewal Law, Section 31-25-101, et. seq., C.R.S., as amended (the "Act"); and

WHEREAS, in accordance with the Reinvestment Plan and the Act, WEDA is authorized to undertake urban renewal projects and activities and to finance such projects and activities in part by utilization of certain incremental property taxes ("Tax Increment Revenues"); and

WHEREAS, the District currently encompasses approximately seventy-two (72) acres of real property ("Property"). The boundaries of the Property are set forth in **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Property is located within the boundaries of the urban renewal area of the Reinvestment Plan which is known as the "Westminster Center Reinvestment Area;" and

WHEREAS, the District plans to provide for the design, acquisition, construction, installation, and financing of certain water, sanitation, street and safety protection, and park and recreation improvements and services to the Property ("Improvements"), and the Improvements are designed to remedy blight and otherwise implement and further the purposes of the Reinvestment Plan and further the policy of WEDA; and

WHEREAS, the District is authorized to levy *ad valorem* taxes on real and personal taxable property within its boundaries to finance the Improvements, to provide services and to conduct its operations; and

WHEREAS, pursuant to the Amended and Restated Service Plan for the District approved October 22, 2007 (the "Service Plan"), the District has the authority to issue a total maximum amount of Five Million Five Hundred Thousand Dollars (\$5,500,000) in General Obligation Bonds, and upon receipt of written approval from the City Manager and City Attorney and modification of the Service Plan in accordance with Section 32-1-207(3)(b), C.R.S., the District may issue an additional One Million Dollars (\$1,000,000) in General Obligation Bonds to finance alternate pavement requirements, which bonds will be secured, in part, by the Tax Increment Revenues (as defined herein) paid to the District pursuant to this Agreement; and

WHEREAS, the development which results from the construction of the Improvements is expected to generate tax revenues and provide extraordinary public benefit to the City; and

WHEREAS, WEDA and the District are authorized by the Act to enter into cooperative agreements with respect to projects and activities; and

WHEREAS, WEDA and the District desire to enter into an agreement setting forth their intent to cooperate as to the provision of the Improvements and to assure that taxes levied by the District are made available to the District for purposes of implementing the Service Plan.

NOW THEREFORE, in consideration of the foregoing recitals, and the following terms and conditions, WEDA and the District hereby agree as follows:

1. Improvements. The District and WEDA hereby state their intention to cooperate in providing the Improvements to be financed by the District as may be desirable and to serve the Property. This statement of intention shall not obligate any Party with respect to the Improvements and services which, without this Agreement, would be the obligation of any other Party hereto.
2. Property Taxes. In consideration of the District providing the Improvements and services within the Property, WEDA agrees that the portion of revenues which it receives as a result of Tax Increment Revenues which are attributable to the District's current and future levy of *ad valorem* taxes on real and personal taxable property within the Property and encompassed by the Reinvestment Plan, shall be remitted to the District monthly. The District will invoice WEDA (based on invoices received from Jefferson County) by the 20th of each month for the current month's tax increment revenues remitted to WEDA by Jefferson County. The District's invoice will include sufficient documentation, as required by the City of Westminster's Finance Director, to substantiate the amount of tax increment revenue received by Jefferson County attributable to the District's *ad valorem* levy. WEDA will remit payment for the District's invoice, less a 3% collection fee to be retained by WEDA, electronically to the District's designated financial institution by the 20th of the month following receipt of the funds by WEDA from Jefferson County.
3. District Improvements and Financing. In consideration of WEDA paying the Tax Increment Revenues to the District, the District agrees to provide the Improvements. In order to provide the Improvements, it will be necessary for the District to incur debt to provide funding for the construction of the Improvements. The primary source of repayment of such debt are the revenues described herein. The obligation of WEDA set forth herein shall constitute an obligation to the District within the meaning of Section 31-25-107(9) of the Act. The District agrees that all revenues provided pursuant to this Agreement shall be used in accordance with the Act, the Reinvestment Plan and the District's Service Plan.
4. WEDA Covenant Relating to Pledge of Amounts Owing. WEDA hereby covenants that so long as this Agreement is in effect, it will not pledge, encumber or otherwise transfer the revenues or the right to the revenues resulting from the levy of *ad valorem* taxes by the District and paid to WEDA in accordance with the Act, but shall maintain the same for the use and benefit of the District until paid to the District. The covenant set forth in this paragraph shall include all revenues received by WEDA arising from any mill levy imposed by the District on real and personal taxable property for payment of operations and maintenance and debt, as authorized by the Service Plan or any subsequent amendments thereto.
5. Cooperation. WEDA and the District covenant with each other that in any action or challenge of the Reinvestment Plan and/or this Agreement, regarding the legality, validity or enforceability of any provision thereof, the Parties will work cooperatively and in good faith to defend and uphold each and every such provision.
6. Enforcement. WEDA agrees that it shall enforce the collection of all moneys which may qualify as Tax Increment Revenues.
7. Enforceable Opinion. Each Party agrees that during the term of this Agreement, either Party may request an opinion from the other Party's bond counsel to the effect that, this Agreement and the obligations of the Parties set forth herein are valid and binding and which shall be reasonably acceptable to the Party requesting the opinion. The District shall pay the costs for any opinions requested pursuant to this section.
8. Litigation. Each of the Parties agrees to promptly notify the other Parties hereto in writing of the pendency of any litigation involving this Agreement in which any other Party hereto is not a named party. So long as the Parties are not adverse parties in the litigation, no Party will object to or otherwise oppose any effort by another Party hereto to intervene in such litigation proceeding.
9. Effective Date; Term. This Agreement shall become effective as of the date set forth in the initial paragraph hereof. Unless sooner terminated by mutual consent of the Parties, this Agreement shall remain in full force and effect until the earlier event to occur of (i) the expiration of the tax allocation provision of the Reinvestment Plan pursuant to the Act or (ii) payment in full or defeasance of the District's bonded indebtedness. If on or after the expiration of this Agreement, WEDA has or receives any Tax Increment Revenues which would have been due to the District

under this Agreement, it shall pay such Tax Increment Revenues to the District notwithstanding the expiration.

10. Amendments and Waivers. No amendment or waiver of any provision of this Agreement, nor consent to any departure herefrom, in any event shall be effective unless the same shall be in writing and signed by the Parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.
12. Headings. Paragraph headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.
13. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.
14. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronically-confirmed facsimile transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District: Hyland Village Metropolitan District
141 Union Blvd., #150
Lakewood, CO 80228
Phone: (303) 987-0835
Fax: (303) 987-2032

With a Copy To: McGeady Sisneros, P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203-1214
Phone: 303-592-4380
Fax: 303-592-4385
Attn: Mary Jo Dougherty

To WEDA: Westminster Economic Development Authority
Westminster City Hall
4800 W. 92nd Avenue
Westminster, CO 80031
Phone: (303) 430-2400
Fax: (303) 706-3920
Attn: Martin McCullough, City Attorney's Office

With a Copy To: City of Westminster
4800 W. 92nd Avenue
Westminster, CO 80031
Phone: (303) 430-2400
Fax: (303) 706-3920
Attn: Karen Creager, Special District Accountant

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service, upon electronic confirmation of facsimile transmission, or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

EXHIBIT A

Legal Description

HYLAND VILLAGE SUBDIVISION

A PARCEL OF LAND SITUATED IN THE SOUTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN MORE FULLY DESCRIBED AS BLOCKS 49, 50, 51, 52, 61, 62, 63 AND 64 OF SEMPER GARDENS EXCEPT THOSE PORTIONS OF BLOCKS 52, 61 AND 62 LYING WITHIN THE DENVER BOULDER TURNPIKE (U.S. 36) AS DESCRIBED IN DEED RECORDED MARCH 1, 1951 IN BOOK 709 AT PAGE 416 AND EXCEPT THAT PORTION OF BLOCKS 49 AND 64 AS CONVEYED TO THE CITY OF WESTMINSTER IN THE DEED RECORDED JULY 29, 1983 AS RECEPTION NO. 83071247 AND RE-RECORDED AUGUST 18, 1983 AS RECEPTION NO. 83078586 AND AUGUST 19, 1983 AS RECEPTION NO. 83079011 AND EXCEPT THAT PORTION OF BLOCKS 51, 52 AND 61 AS CONVEYED TO THE CITY OF WESTMINSTER RECORDED NOVEMBER 20, 2002 AS RECEPTION NO. F1625084 FOR THE OVERPASS OF THE DENVER BOULDER TURNPIKE (U.S. 36) BY WESTMINSTER BLVD., COUNTY OF JEFFERSON, STATE OF COLORADO.

AND

A PARCEL OF LAND LYING IN THE NORTHEAST ¼ OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO.

AND

THAT VACATED RIGHT OF WAY FOR WEST 96TH AVENUE BETWEEN THE EAST RIGHT OF WAY FOR U.S. HIGHWAY 36 AND THE WEST RIGHT OF WAY FOR SHERIDAN BOULEVARD, SITUATED IN THE SOUTH ONE-HALF OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO.

THE PERIMETER OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST ¼ OF SAID SECTION 24; THENCE NORTH 89°16'56" WEST, A DISTANCE OF 133.43 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NORTH SHERIDAN BOULEVARD, AS DEFINED BY THAT DOCUMENT RECORDED IN THE PUBLIC RECORDS OF JEFFERSON COUNTY AT RECEPTION NO. 84072575, SAID POINT BEING THE POINT OF BEGINNING;

THENCE THE FOLLOWING FOUR (4) COURSES AND DISTANCES ALONG THE WESTERLY RIGHT-OF-WAY LINE OF NORTH SHERIDAN BOULEVARD:

1. THENCE SOUTH 00°00'52" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BOULEVARD AS DEFINED BY THAT DOCUMENT RECORDED IN THE PUBLIC RECORDS OF JEFFERSON COUNTY AT RECEPTION NO. 84072575, A DISTANCE OF 53.76 FEET;
2. THENCE SOUTH 44°34'41" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BOULEVARD AS DEFINED BY THAT DOCUMENT RECORDED IN THE PUBLIC RECORDS OF JEFFERSON COUNTY AT RECEPTION NO. 84072575, A DISTANCE OF 81.02 FEET;
3. THENCE SOUTH 00°15'28" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BOULEVARD AS DEFINED BY THAT DOCUMENT RECORDED IN THE PUBLIC RECORDS OF JEFFERSON COUNTY AT RECEPTION NO. 84072575, AND ALONG THE EXTENSION OF SAID LINE, A DISTANCE OF 319.01 FEET;
4. THENCE SOUTH 01°00'46" EAST, ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID BOULEVARD, A DISTANCE OF 56.22 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE FARMERS HIGHLINE CANAL, AS DEFINED BY THAT DOCUMENT RECORDED IN THE PUBLIC RECORDS OF JEFFERSON COUNTY AT BOOK 147, PAGE 529;

THENCE THE FOLLOWING TWELVE (12) COURSES AND DISTANCES ALONG THE FARMERS HIGHLINE CANAL, AS DEFINED BY THAT DOCUMENT RECORDED IN THE PUBLIC RECORDS OF JEFFERSON COUNTY AT BOOK 147, PAGE 529:

1. THENCE SOUTH 83°58'35" WEST, DEPARTING FROM THE WESTERLY RIGHT-OF-WAY LINE OF SAID BOULEVARD, A DISTANCE OF 60.37 FEET TO THE BEGINNING OF A NON-TANGENT CURVE;
2. THENCE ALONG A CURVE TO THE LEFT, WHOSE DELTA IS 32°54'18", WITH RADIUS OF 160.70 FEET, (CHORD BEARS SOUTH 67°45'20" WEST, 91.03 FEET), A DISTANCE OF 92.29 FEET;
3. THENCE SOUTH 51°09'19" WEST, A DISTANCE OF 90.14 FEET TO THE BEGINNING OF A NON-TANGENT CURVE;
4. THENCE ALONG A CURVE TO THE RIGHT, WHOSE DELTA IS 40°03'28", WITH RADIUS OF 183.04 FEET, (CHORD BEARS SOUTH 71°16'56" WEST, 125.38 FEET), A DISTANCE OF 127.97 FEET TO A POINT OF TANGENCY;
5. THENCE NORTH 88°42'53" WEST, A DISTANCE OF 96.64 FEET TO THE BEGINNING OF A NON-TANGENT CURVE;
6. THENCE ALONG A CURVE TO THE RIGHT, WHOSE DELTA IS 33°04'24", WITH RADIUS OF 167.99 FEET, (CHORD BEARS NORTH 72°10'56" WEST, 95.63 FEET), A DISTANCE OF 96.97 FEET;

7. THENCE NORTH 55°38'04" WEST, A DISTANCE OF 279.67 FEET TO THE BEGINNING OF A NON-TANGENT CURVE;
8. THENCE ALONG A CURVE TO THE LEFT, WHOSE DELTA IS 11°02'12", WITH RADIUS OF 875.65 FEET, (CHORD BEARS NORTH 61°11'21" WEST, 168.41 FEET), A DISTANCE OF 168.67 FEET TO THE BEGINNING OF A NON-TANGENT CURVE;
9. THENCE ALONG A CURVE TO THE LEFT, WHOSE DELTA IS 17°11'07", WITH RADIUS OF 1052.48 FEET, (CHORD BEARS NORTH 75°16'47" WEST, 314.50 FEET), A DISTANCE OF 315.68 FEET;
10. THENCE NORTH 83°45'01" WEST, A DISTANCE OF 43.10 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SAID SECTION 24, FROM WHENCE THE EAST 1/16TH CORNER COMMON TO SECTIONS 24 AND 13 OF SAID TOWNSHIP, BEARS NORTH 00°00'21" WEST, A DISTANCE OF 285.75 FEET;
11. THENCE NORTH 83°49'03" WEST, A DISTANCE OF 201.33 FEET;
12. THENCE NORTH 81°44'41" WEST, A DISTANCE OF 197.67 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO 36;

THENCE ON A NON-TANGENT CURVE TO THE LEFT, DEPARTING FROM THE NORTHERLY RIGHT-OF-WAY LINE OF SAID CANAL, AND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 36, WHOSE DELTA IS 02°52'29", WITH RADIUS OF 5830.00 FEET, (CHORD BEARS NORTH 21°16'27" WEST, 292.48 FEET), A DISTANCE OF 292.51 FEET TO THE POINT OF INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 36 WITH THE SOUTH LINE OF BLOCK 62, SEMPER GARDENS;

THENCE ALONG THE SOUTH LINE OF SAID BLOCK 62, NORTH 89°12'33" WEST, A DISTANCE OF 11.03 FEET, TO THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 36 WITH THE SOUTH LINE OF SAID BLOCK 62 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, WHOSE DELTA IS 6°14'19", WITH A RADIUS OF 5880.00 FEET, (CHORD BEARS NORTH 26°07'22" WEST, 639.92 FEET), A DISTANCE OF 640.23 FEET, TO THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN DOCUMENT RECORDED AS RECEPTION NO. F1625084.

THENCE THE FOLLOWING THREE (3) COURSES AND DISTANCES ALONG THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN DOCUMENT RECORDED AS RECEPTION NO. F1625084:

1. THENCE NORTH 36°05'12" EAST, A DISTANCE OF 209.01 FEET;
2. THENCE NORTH 24°35'02" EAST, A DISTANCE OF 266.88 FEET;

3. THENCE NORTH 00°00'00" EAST, A DISTANCE OF 271.05 FEET TO THE NORTH LINE OF SAID BLOCK 51, SEMPER GARDENS;

THENCE SOUTH 89°20'43" EAST, ALONG THE NORTH LINE OF SAID BLOCK 51, SEMPER GARDENS, A DISTANCE OF 557.32 FEET; THENCE SOUTH 89°19'13" EAST, ALONG THE NORTH LINE OF SAID BLOCK 50, SEMPER GARDENS, A DISTANCE OF 645.36 FEET; THENCE SOUTH 89°19'30" EAST, ALONG THE NORTH LINE OF SAID BLOCK 49, A DISTANCE OF 570.68 FEET TO THE WESTERLY RIGHT OF WAY FOR SHERIDAN BOULEVARD AS DESCRIBED IN DOCUMENT RECORDED AS RECEPTION NO. 83071247;

THENCE THE FOLLOWING TEN (10) COURSES ALONG THE WESTERLY RIGHT OF WAY FOR SHERIDAN BOULEVARD AS DESCRIBED IN DOCUMENT RECORDED AS RECEPTION NO. 83071247:

1. THENCE SOUTH 43°05'00" EAST, A DISTANCE OF 55.31 FEET;
2. THENCE SOUTH 00°40'30" WEST, A DISTANCE OF 330.37 FEET;
3. THENCE SOUTH 00°03'10" WEST, A DISTANCE OF 179.90 FEET;
4. THENCE SOUTH 00°18'00" WEST, A DISTANCE OF 80.38 FEET;
5. THENCE SOUTH 01°07'58" WEST, A DISTANCE OF 81.69 FEET;
6. THENCE SOUTH 00°08'54" EAST, A DISTANCE OF 107.96 FEET;
7. THENCE SOUTH 00°33'34" WEST, A DISTANCE OF 179.99 FEET;
8. THENCE SOUTH 00°05'08" EAST, A DISTANCE OF 210.10 FEET;
9. THENCE SOUTH 44°08'54" WEST, A DISTANCE OF 55.86 FEET;
10. THENCE SOUTH 00°17'28" EAST, A DISTANCE OF 9.26 FEET TO THE SOUTH LINE OF SAID BLOCK 64, SEMPER GARDENS;

THENCE SOUTH 30°03'34" WEST, A DISTANCE OF 34.59 FEET, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS A GROSS AREA OF 71.53 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY OF RECORD.

THE ABOVE AND FOREGOING DESCRIBES A SURFACE ESTATE ONLY. EXPRESSLY EXCLUDED FROM THIS LEGAL DESCRIPTION ARE ANY ESTATES BELOW THE SURFACE INCLUDING SAND AND GRAVEL AND ANY RELATED RIGHTS OF SURFACE USE.