



## CITY COUNCIL AGENDA

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

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

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations

### 7. Citizen Communication (5 minutes or less)

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

### 8. Consent Agenda

- A. Sports Officiating Services Contract
- B. Open Space Demolition Project Contract
- C. 2010 Small Drainage Projects Construction Contract
- D. Northwest Water Treatment Facility Expansion Design/Build Contract
- E. Big Dry Creek Wastewater Treatment Facility Engineering Services Contract re Solids Processing and Handling
- F. Second Reading of Councillor's Bill No. 29 re Lease Agreement with School District 50 re England Park Field

### 9. Appointments and Resignations

- A. Metro Wastewater Reclamation District Board of Directors Re-Appointment

### 10. Public Hearings and Other New Business

- A. Public Meeting on 2011 and 2012 City Budget
- B. Resolution No. 19 re 2010 HOME Funding Allocation
- C. Resolution No. 20 re Residential Competition Service Commitment Awards
- D. Councillor's Bill No. 31 re Westminster Municipal Code Revision re Cash Handling Policy

### 11. Old Business and Passage of Ordinances on Second Reading

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

- A. City Council

### 13. Adjournment

**WESTMINSTER HOUSING AUTHORITY MEETING (separate agenda)**

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

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

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, MAY 24, 2010 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Members of Cub Scout Pack 583 presented the colors and led the Council, staff and audience in the Pledge of Allegiance. They were in attendance to learn about local government and were joined by two members of Boy Scout Troup 471 who were working on their citizenship in the community badges.

ROLL CALL

Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Scott Major, and Faith Winter were present at roll call. Mayor Nancy McNally and Councillor Mary Lindsey were absent and excused. Stephen P. Smithers, Acting City Manager, Martin McCullough, 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 May 10, 2010, as distributed. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. Smithers congratulated employees in the audience to accept Length of Service Awards, noting that their contributions to the City were vast and most appreciated.

Following the City Council meeting, the Council would convene in executive session pursuant to Westminster Municipal Code § 1-11-3(C)(6) and (8) and Colorado Revised Statutes § 24-6-402(b) to receive legal advice from the City Attorney concerning ordinance options affecting sexually violent predators.

CITY COUNCIL COMMENTS

Councillor Winter reported that the dedication of Westminster Center Park on May 21 had been a joyous community celebration with approximately 1500 people attending. The playground provided something for every age group to enjoy and sponsors of the event provided entertainment and food. The park remained a popular venue for children and would be for years to come. Councillor Major added that the development of the Westminster Center Park was an outstanding example of collaboration. In addition to City funding, Adams County and GOCO (Great Outdoors Colorado) funded grants for the project.

Councillor Major noted that Monday, May 31, was Memorial Day. City Hall would be closed and City Council would not meet during that week.

Councillor Briggs reported that May 15 was Armed Forces Day and additional bricks had been dedicated at the City's Armed Forces Tribute Garden. That same day Jefferson County hosted a Historical Preservation Conference, which would be held in Westminster next year during the Centennial Celebration.

EMPLOYEE LENGTH OF SERVICE AWARDS

Councillor Winter presented a certificate and pin for 20 years of service to Larry Garlick. Mayor Pro Tem Dittman presented a certificate, pin, and stipend to Cindy McDonald for 25 years of service to the City. Councillor Briggs presented a certificate and pin for 30 years of service to Mary Joy Barajas. Councillor Major presented a certificate and pin for 35 years of service to Carolyn Schierkolk. All were congratulated and thanked for their contributions to the organization's successes.

## PRESENTATION

Matt Lutkus, Deputy City Manager, presented the Denver Regional Council of Governments (DRCOG) Gold Award for Collaboration to City Council. The award was presented to the entities that comprised the US 36 Mayors/Commissioners Coalition, including elected officials and City staff in each entity and 36 Commuting Solutions, of which Mr. Lutkus was Chair. Council accepted the award and thanked Mr. Lutkus for his dedicated representation of the City in seeking improvement of US Highway 36.

## CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: accept the Financial Report for February as presented; authorize the City Manager to sign a contract for legal services on an as-needed basis with Williamson & Hayashi, LLC to advise the Special Permit & Licenses Board when a conflict of interest prevents the City Attorney's Office from representing the Board in a liquor license proceeding; based on the City Manager's recommendation, find the public interest would best be served by authorizing the City Manager to execute a \$42,365 contract with Olsson Associates, Inc. for completion of the Reclaimed Water Salinity Management Plan Phase II and authorize a 10% contingency in the amount of \$4,237; authorize the City Manager to execute contracts with Insituform Technologies, Inc. for small-diameter sewer pipe lining; and with Western Slope Utilities, Inc. (WSU) for large-diameter pipe lining, authorize a project budget for the small-diameter sewer pipe lining of \$1,198,227 with a 10% contingency of \$119,822 and a project budget for the large-diameter sewer pipe lining of \$109,560 with a 10% contingency of \$10,956; based on the City Manager's recommendation, find the public interest would best be served by authorizing the City Manager to execute a sole source professional services agreement with AMEC Earth and Environmental, Inc. for the Update and Refinement of the Standley Lake Water Quality Models for a cost not to exceed \$83,455, with \$37,555 being Westminster's share of the total cost; based on the recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to execute a contract amendment with Black & Veatch Corporation in the amount of \$438,855 to provide engineering final design and bid services for Phase 2 of the Reclaimed Water Treatment Facility expansion; based on the report and recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to execute a \$24,260 contract amendment with J&T Consulting, Inc. for owner's representative services related to the construction of Phase 1 of the Reclaimed Water Treatment Facility expansion project for a total contract amount of \$67,086; authorize the City Manager to execute a contract with the State of Colorado concerning the use of State Historical Fund grant funds awarded to the City of Westminster for the Bowles House Porch Rehabilitation and Wall Crack Repair; final passage of Councillors Bill No. 24 on second reading appropriating funds received from the United States Department of Housing and Urban Development, Community Development Block Grant program, in the amount of \$604,991; final passage of Councillor's Bill No. 25 on second reading providing for supplemental appropriation of funds to the 2009 budget of the General, Utility Rate Stabilization Reserve, Utility Capital Project Reserve, Conservation Trust, and General Capital Improvement Funds; final passage of Councillor's Bill No. 26 on second reading providing for supplemental appropriation of funds to the 2010 budget of the General, Utility, and General Capital Improvement Funds; and final passage of Councillor's Bill No. 27 on second reading authorizing the City Manager to sign a lease agreement with 5 Star Pups, LLC, for the former City of Westminster Animal Shelter located at 8800 Sheridan Boulevard, Unit 100.

No items were removed for individual consideration, and it was moved by Councillor Major, seconded by Councillor Kaiser, to approve the consent agenda as presented. The motion carried with everyone voting yes.

## COUNCILLOR'S BILL NO. 29 LEASING ENGLAND PARK SOFTBALL FIELDS TO DISTRICT 50

It was moved by Councillor Kaiser and seconded by Councillor Major to pass Councillor's Bill No. 29 on first reading authorizing the City Manager to sign a 25-year lease agreement with Adams County School District 50 for the use of the England Park Softball Field. At roll call, the motion passed unanimously.

LEGAL SERVICES AGREEMENT FOR PHASE II ENERGY PERFORMANCE & FINANCING CONTRACTS

Councillor Winter moved to authorize a legal services agreement in an amount not to exceed \$2,000 with Mr. Dee Wisor of the law firm of Sherman and Howard for bond counsel services in connection with Phase II Energy Performance and Financing contracts. Councillor Kaiser seconded the motion, and it passed.

RESOLUTION NO. 18 AUTHORIZING LEASE/PURCHASE WITH MUNICIPAL SERVICES GROUP

Councillor Briggs moved, seconded by Major, to adopt Resolution No. 18 authorizing the City to enter into a lease-purchase agreement with Municipal Services Group, Inc. with a principal amount not to exceed \$2,517,094 and authorizing the City Manager to sign the contract and all necessary documents. The motion passed unanimously on roll call vote.

COUNCILLOR'S BILL NO. 30 APPROPRIATING LEASE PROCEEDS TO GENERAL FUND

It was moved by Councillor Major and seconded by Kaiser to pass Councillor's Bill No. 30 as an emergency ordinance to appropriate lease proceeds totaling \$2,517,094 in the General Fund. The motion carried with all Council members voting affirmatively at roll call.

PHASE II ENERGY PERFORMANCE CONTRACT FOR ENERGY/WATER CONSERVATION

Upon a motion by Councillor Winter, seconded by Councillor Major, the Council voted unanimously to authorize the City Manager to sign all necessary documents to enter into an energy performance contract with Siemens Industry, Inc. Building Technologies for energy and water conservation and other related improvements in City facilities in an amount not to exceed \$3,384,282 and to authorize the City Manager to enter into a separate energy performance agreement with Siemens for providing facility improvements with the use of ARRA/EECBG Federal Stimulus Funding in an amount not to exceed \$468,700. The total contract with Siemens was an amount not to exceed \$3,852,982

ADJOURNMENT

There being no further business to come before the Council, it was moved by Councillor Kaiser, seconded by Major, to adjourn. The motion carried, and the meeting adjourned at 7:35 p.m.

ATTEST:

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City Clerk

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Mayor Pro Tem



## Agenda Item 8 A

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 14, 2010



**SUBJECT:** Sports Officiating Services Contract

**Prepared By:** Peggy Boccard, Recreation Services Manager  
Sean Layfield, Recreation Specialist

**Recommended City Council Action**

Authorize the City Manager to execute a contract with Playthewhistle.com, LLC (PTW) for officiating and related services in an amount not to exceed \$85,000 for a one year contract.

**Summary Statement**

- The City's Purchasing Officer issued formal bids through Demand Star for sports officiating services on May 7, 2010. In addition, two vendors were mailed hard copies of the bid packet. Those vendors were Playthewhistle.com, LLC. (PTW) and Kevin Marples. PTW was the only vendor to submit a bid.
- The proposed agreement between the City of Westminster and PTW includes the terms and conditions for PTW to provide officiating services for senior and adult programs that are provided by the City.
- The 2010 Recreation Programs Division operating budget contains the necessary funds to contract these professional officiating services. The services to be provided by PTW amount to approximately \$75,000 per year for indoor soccer and is based on a per-game charge. This amount is dependent upon the number of teams that participate in each of the City's sports programs during the year; therefore, Staff is requesting authorization to spend up to \$85,000.
- Revenues for these sports totaled \$232,000 in 2009, and revenues of \$250,000 are projected in 2010.

**Expenditure Required:** Not to exceed \$85,000 annually

**Source of Funds:** General Fund – Recreation Programs Division Operating Budget

**Policy Issue**

Should the City accept a bid from PTW and enter into a contract for officiating services for the City's indoor soccer leagues?

**Alternative**

Council could choose to not award the officiating services contract to PTW and ask Staff to rebid the officiating services in hopes of receiving a lower bid. Staff does not recommend this as the bid received meets all of the City's criteria as well as the officiating needs of the leagues.

**Background Information**

The Recreation Services Division offers ongoing indoor soccer programs for the youth and adults in the Westminster community. Indoor soccer programs provide recreational team sports opportunities for over 7,200 participants each year. The Recreation Services Division has had a working relationship with PTW for the past three years.

PTW is responsible for training, certifying, and scheduling the officials for the following soccer organizations: Foothills Park and Recreation District, Colorado Rapids, Colorado Storm, Colorado Rush, Boulder County Force, Colorado Fusion. PTW's current charges for services are \$15 per game per official and 10% assigning fee per game. Charges are paid on an as-used basis.

This contract supports the City's Strategic Plan Goal of "Financially Sustainable City Government Providing Exceptional Services."

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 14, 2010



**SUBJECT:** Open Space Demolition Project Contract

**Prepared By:** David W. Loseman, Senior Projects Engineer  
Heather Cronenberg, Open Space Coordinator

**Recommended City Council Action**

Authorize the City Manager to execute a contract with the lowest responsible bidder, Mendoza Demolition Services, Inc., in the amount of \$239,900 for the Open Space Demolition Project, and authorize a construction contingency in the amount of \$24,000 for a total project budget of \$263,900.

**Summary Statement**

- Over the years, the City has acquired six open space and park properties with various types of structures located on them. It is in the City’s best interest to now remove these structures and return the properties to a more native condition since many of the structures are subject to vandalism and are a source of blight.
- The six properties included in this project are as follows:
  1. The Barnett Property at 14390 and 14398 Zuni Street;
  2. The Feldman Property at 12661 Pecos Street;
  3. The Bott Property at 10395 Wadsworth Boulevard;
  4. The Spreser Property at 7490 Sheridan Boulevard;
  5. The Depalma Property at 7390 Sheridan Boulevard; and
  6. The Brown House at 11610 W. 100<sup>th</sup> Avenue (at the entrance to Standley Lake)

The first five properties are City open space parcels. The Brown House is located at Standley Lake and is considered a park property.

- The Request for Bids for the demolition of these structures was sent to a select list of 18 demolition contractors, and bids were opened on May 27. Five bids were received, and the lowest responsible bidder is Mendoza Demolition Services, Inc. with a bid of \$239,900. Staff has reviewed the bids and recommends awarding this construction contract to Mendoza Demolition Services, Inc. A \$24,000 contingency is also recommended.

**Expenditure Required:** \$263,900

**Source of Funds:** \$236,200 POST Bond Funds  
\$27,700 Standley Lake CIP

**Policy Issue**

Should the City proceed with the demolition of all structures on these six separate open space and park parcels?

**Alternative**

Council could chose to forego the demolition of any of the structures on the six different open space and park parcels or not pursue this project at all. Staff recommends proceeding with the entire project as bid since very favorable bids were received. Postponing these demolitions may result in higher costs in the future.

**Background Information**

Over the years, the City has purchased many properties to add to the open space inventory. Five of these properties on open space and one park property include structures, outbuildings and various amounts of trash and debris. The demolition of all structures within these six separate open space and park parcels has been considered by staff since the purchase of these properties. The removal of all structures and debris on these properties will return the land to a more native open space condition, will remove a source of blight in their respective neighborhoods and will reduce the City’s potential liability from the unsafe conditions of the structures. The demolition of structures and debris removal include the following six properties:

1. The Barnett Property at 14390 and 14398 Zuni Street
2. The Feldman Property at 12661 Pecos Street
3. The Bott Property at 10395 Wadsworth Boulevard
4. The Spresser Property at 7490 Sheridan Boulevard
5. The Depalma Property at 7390 Sheridan Boulevard and,
6. The Brown House at 11610 W. 100<sup>th</sup> Avenue (at the entrance to Standley Lake)

The Request for Bids for this demolition project was sent to a select list of 18 demolition contractors, and bids were opened on May 27. Five bids were received, and the lowest responsible bidder is Mendoza Demolition Services, Inc. with a bid of \$239,900. Staff has reviewed the bids and recommends awarding this construction contract to Mendoza Demolition Services, Inc

The bid results are as follows:

<u>Contractor</u>	<u>Submitted Bid</u>
Mendoza Demolition Services, Inc.	\$239,000.00
Colorado Cleanup Corporation	\$280,909.00
Recycled Materials Company	\$388,200.00
Left Hand Excavating	\$492,922.00
Alpine Demolition and Recycling, LLC	Bid withdrawn by contractor
<b>Engineer’s Estimate</b>	<b>\$300,000</b>

The bid by Alpine Demolition and Recycling, LLC was actually \$64,239, but the contractor failed to include a very significant portion of the work. This contractor requested that the City allow him to withdraw his bid since he stated that he could not perform the work for the amount of his bid. Staff believes it is appropriate in this case to allow Alpine Demolition to withdraw its bid and to award the project to Mendoza Demolition Services.

The project bid documents included an option for the prospective bidder to relocate any or all of the structures rather than simply demolishing them. Of the five bidders, Mendoza Demolition Services is the only one to choose this option. The benefits of this are that approximately 60% of the waste materials in the Mendoza bid are being diverted from the landfill-waste stream versus 5% to 20% proposed by the other bidders.

Staff has reviewed the results of the bidding procedure and recommends that the low bidder, Mendoza Demolition Services, Inc. be awarded the contract in the amount of \$239,000. Staff has also reviewed the references for Mendoza Demolition Services, Inc. and believes that the company is very capable of performing this type of demolition project. The contingency amount of \$24,000 is approximately 10% of the cost of construction. Staff believes that this is an adequate contingency for this type of work.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 14, 2010



**SUBJECT:** 2010 Small Drainage Projects Construction Contract

**Prepared By:** Andrew Hawthorn, Engineer

**Recommended City Council Action**

Authorize the City Manager to execute a contract with 53 Corporation, the lowest responsible bidder, in the amount of \$204,693 for the construction of the 2010 Small Drainage Projects, and authorize a construction contingency in the amount of \$30,703 for a total project budget of \$235,396.

**Summary Statement**

- In 2001, the City Council established a Storm Water Utility for the City. The purpose, in part, of this Utility is to remedy localized storm drainage problems.
- Three such localized drainage problems have been identified for mitigation in 2010. For economy of scale purposes, the three small projects have been bundled together into one contract. The projects are located (1) on North Cotton Creek at 111<sup>th</sup> Avenue, (2) at the intersection of 104<sup>th</sup> Avenue and Owens Street and (3) in the vicinity of the intersection of 80<sup>th</sup> Avenue and Wolff Street.
- The “Request for Bids” for the construction of these projects was advertised in the Daily Journal for three weeks, and bids were opened on May 11. Ten bids were received and opened. The two lowest bidders did not acknowledge the receipt of an addendum to the contract. The lowest complete bid was submitted by 53 Corporation.
- Staff has reviewed the bids and recommends awarding this contract to 53 Corporation in the amount of \$204,693. A \$30,703 construction contingency is also recommended.

**Expenditure Required:** \$235,396

**Source of Funds:** Storm Water Utility Fund

**Policy Issue**

Should the City enter into a contract with 53 Corporation to perform the desired construction services?

**Alternatives**

Council could choose to not authorize the execution of this construction contract. This alternative is not recommended due to the fact that all three of the identified drainage problems cause hardships for Westminster residents and/or business owners. The City's Storm Water Utility was created for the purpose of resolving these very types of localized storm drainage issues. Council could also elect to award the construction contract to one of the other bidders or order the project to be advertised and bid again. Staff believes that 53 Corporation, the lowest bidder who successfully followed all of the bidding requirements and has the appropriate experience to perform the work, should be awarded this contract.

**Background Information**

The three drainage problems to be rectified by the 2010 Small Drainage Projects are described as follows:

Project A (North Cotton Creek Channel Improvements)

In July 2009, City staff began updating the regulatory floodplain along the complete length of North Cotton Creek to incorporate changes to topography that resulted from various developments in this area. Citizens' requests for relief from mandatory flood insurance, administered by the federal government, prompted this update. The capacity of the existing channel must be increased at a small area of the Creek located immediately north of the 111<sup>th</sup> Avenue cul-de-sac in order to remove all residences from the regulatory floodplain. The installation of a box culvert was determined to be most economical and effective means of accomplishing this goal.

Project B (104<sup>th</sup> Avenue and Owens Street Storm Sewer System)

In 2008, City staff along with an outside consultant investigated a potential leak from the Great Western Ditch (a/k/a the Church Ditch), which runs through a portion of Countryside Subdivision. Residents of homes located along 104<sup>th</sup> Avenue whose backyards abut the ditch were experiencing a substantial amount of standing water. The standing water would rise to the point where it would flow from the back yards all the way into the front yards, over the sidewalk and into the street. These back yards became unusable due to the swamp-like conditions that were created.

City staff evaluated options for eliminating the water accumulation in the yards and implemented the most cost effective option which was to install underground drains to pipe the substantial, constant flows out of the residents' yards to the street. Their yards have returned to normal, but the City is now faced with the challenge of the deterioration of the curb, gutter and sidewalk in the area due to the continuous flows from the pipe system. These continuous flows have created algae and excessive icing conditions downstream of the drains. The installation of a storm sewer system to capture the constant flow, remove it from the street and sidewalks and convey it a safe outfall point has been deemed to be the permanent solution to this problem.

Project C (80<sup>th</sup> Avenue and Wolff Street Storm Inlet)

Following a few large storm/hail events of the early summer of 2009, staff was alerted to a flooding issue at 4800 West 80<sup>th</sup> Avenue. This property experienced flooding in the basement of the building due to the higher than normal storm water flows in the area. An existing storm sewer inlet located adjacent to this property clogged causing runoff to overtop the curb and flow into the building. The existing inlet is undersized and has no bypass if clogging occurs on the grate. A new inlet will remedy this problem.

Bids for the construction of these projects were advertised in The Daily Journal for three weeks and were opened on May 11. Ten contractors submitted bids, and the bid results are as follows:

<u>Contractor</u>	<u>Submitted Bid</u>
Diaz Construction Group	\$182,304.00*
Duran Excavating	\$187,663.00*
53 Corporation	\$204,693.00
T Lowell Construction	\$230,000.00
Levi Contractors	\$246,388.00
Hudic Excavating	\$248,018.00
BT Construction	\$253,448.00
American West	\$289,904.50
New Design Construction	\$302,857.00
KECI Colorado	\$357,658.00
<b>Engineer's Estimate</b>	<b>\$215,034</b>

\* Did not acknowledge Addendum #1, therefore, did not have a complete bid package.

Diaz Construction Group and Duran Excavating submitted bid packages without acknowledging the receipt of Addendum #1; the other bidders did acknowledge the Addendum. Addendum #1, which was e-mailed to the addresses submitted by each company, added three new line items to the bid schedule and should have increased the project costs by about \$22,000. The City's standard bid documents, which were purchased and signed for by all bidders, state that it is the bidder's responsibility to direct any questions pertaining to the project to the City's Project Manager and established the deadline of May 7 for such questions.

Since the date of the bid opening, a representative of Diaz Construction Group contacted the City Engineer with an offer to construct the project (including the work defined by Addendum #1) at the previously-bid price of \$182,304. While this is an enticing offer, staff is concerned about the potentially questionable practice of allowing a bidder to verify his bid after all other bids have been made public. More importantly, City staff has serious reservations over this contractor's ability to perform this type of work. References provided by this contractor were sketchy and indicated no previous experience with the installation of storm drainage improvements. The Colorado Secretary of State's records indicate that Diaz Construction was formed in 2009. For these reasons, staff feels that the bid submitted by Diaz Construction Group should be rejected.

Duran Excavating sent a letter to staff requesting the City give their incomplete bid further consideration based on their argument that they contacted City clerical staff three hours before the bid opening on May 11 to inquire about any potential addendums. Apparently, Duran received an erroneous answer to this question. Duran has offered to renegotiate their bid to a figure that would be less than that of the lowest responsible bidder that had a complete bid package (53 Corporation). Again, staff believes that it would be inappropriate to negotiate a new bid from this contractor, especially in light of the fact that Duran did not follow the instructions contained within the bid documents with respect to the City staff person to be contacted with questions and the deadline for asking such questions.

Staff checked references and interviewed officers of 53 Corporation. All references contacted had positive comments about the work of this company. During the interview, staff became confident that 53 Corporation has the experience and resources necessary to complete this project.

**SUBJECT:** 2010 Small Drainage Projects Construction Contract

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Staff recommends the lowest responsible bidder with complete bid documents, 53 Corporation, be awarded the contract for construction in the amount of \$204,693. The contingency amount of \$30,703 is approximately 15% of the cost of construction, which staff believes is necessary for a project of this size and complexity.

Construction is anticipated to begin in July 2010 and be completed in September 2010.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
June 14, 2010



**SUBJECT:** Northwest Water Treatment Facility Expansion Design/Build Contract

**Prepared By:** Kent W. Brugler, Senior Engineer, Utilities Planning and Engineering Division

### Recommended City Council Action

Based on the recommendation of the City Manager, find that the public interest will best be served by authorizing the City Manager to execute an agreement with Garney Companies, Inc. as the sole source for final design and construction of the Northwest Water Treatment Facility expansion in an amount of \$2,847,600 and authorize a 10% contingency of \$285,000 for a total expenditure of \$3,132,600.

### Summary Statement

- The Northwest Water Treatment Facility (NWTF) was constructed in 2001 with the expectation that its capacity would be expanded in the future as water demands increased.
- The NWTF is intended to supply all of the City's winter time water demands to allow the Semper Water Treatment Facility (Semper WTF) to be taken out of service for maintenance. An expansion of the NWTF is necessary to continue to meet this objective.
- The Garney Companies, Inc. design/build team includes Burns & McDonnell. This team designed and constructed the original facility and is most familiar with the requirements of this project.
- Staff negotiated the scope of work including major equipment purchases with the Garney design/build team. The associated project cost is both fair and competitive.
- The design phase is scheduled to be completed in September 2010 and the construction phase by July 2011.

**Expenditure Required:** \$3,132,600

**Source of Funds:** Utility Fund Capital Improvements  
NWTF Membrane Expansion  
NWTF Major Repair and Replacement

**Policy Issue**

Should the City award the sole source design/build contract to Garney Companies, Inc. for final design and construction of the NWTF expansion project?

**Alternatives**

1. The City could choose to complete the project using a traditional design, bid, build project delivery method. Staff does not recommend this approach since the design/build team of Garney Companies, Inc./Burns & McDonnell is the same team that successfully completed the initial design and construction of the facility and is most familiar with the equipment and construction requirements for the expansion. Also, this option would delay the construction of the expansion and could expose the project to rising equipment and construction costs.
2. The City could choose to delay the expansion of the facility, however this is not recommended due to the potential for rising equipment and construction costs mentioned above and the need to outpace rising winter time water demands.

**Background Information**

The Northwest Water Treatment Facility (NWTF) was designed and constructed in 2001 to replace the decommissioned England Water Treatment Plant. The NWTF was initially designed to supply all of the wintertime water demand of the City in order for the Semper Water Treatment Facility to be taken off-line in the winter for major maintenance. The facility was designed and constructed with an initial treatment capacity of 11 million gallons per day (mgd) of wintertime capacity and 15 mgd of summertime capacity. Design elements of the original facility included capabilities to expand the plant capacity to 15 mgd winter and 20 mgd summer. Currently, the NWTF is marginally capable of providing all of the City's wintertime demand. Expanding the capacity of the facility is necessary to outpace rising winter time water demands as the City grows. This expansion will maximize the capacity of the NWTF site and provide sufficient capacity to supply the City's anticipated wintertime water demand through build out.

Staff negotiated a scope of the work for the NWTF expansion project with a design/build team led by Garney Companies, Inc. and includes Burns & McDonnell. This is the same team used for construction of the original plant. The final design/build scope of work includes the purchase and installation of three (3) new membrane filtration racks and related equipment as manufactured by Pall Corporation. These new racks will match the eight existing filtration racks in design, make and model components. The project also includes replacement of selected sections of existing piping that have developed leaks.

The value of the Pall Corporation membrane filtration equipment represents approximately 56% of the overall project costs. Although a significant portion of the project costs, requiring Garney to sole source this equipment from Pall was an essential component of the project for three main reasons: 1) Matching the existing Pall equipment and controls maintains consistency and operational efficiency for plant staff; 2) Plant staff are able to use existing processes and controls to support the new equipment; and 3) Pall equipment currently in use at the facility has proven to be reliable in the production of high quality drinking water.

Staff believes the negotiated costs for the project are fair and competitive. The costs are based on contractor fees and mark-ups significantly below industry standard ranges (3-4% compared with typical 10-15%). In addition, the negotiated total project costs were reduced approximately 20% from initial estimates despite a slight increase in the project scope of work. The Garney Companies, Inc. design/build team has direct experience with the City's facility and has successfully completed many projects together.

Staff believes the City will receive a high quality product at a reasonable, competitive cost. Project estimates determined in 2008 were calculated to be approximately \$5 million. However, due to the favorable bidding environment, the successful negotiations with the design/builder and equipment supplier, and the flexibility to move this project forward to 2010, a cost savings of approximately \$2 million has been achieved.

The design phase is scheduled through September 2010 with final construction completed by July 2011. The costs for this project are to be initially funded from the Utility Capital Project Reserve Fund and will be reimbursed by the debt funding to be secured later this year.

This project helps achieve two of the City Council's Strategic Plan goals: 1) Achieving a "Financially Sustainable City Government" by contributing to the objective of well-maintained and operated City facilities and 2) Contributing to a "Beautiful and Environmentally Sensitive City" by enhancing the reliability and capacity of the City's water treatment system.

Respectfully submitted,

J. Brent McFall  
City Manager



# Agenda Item 8 E

**WESTMINSTER**  
**COLORADO**

## Agenda Memorandum

City Council Meeting  
June 14, 2010



**SUBJECT:** Big Dry Creek Wastewater Treatment Facility Engineering Services Contract for Predesign Improvements for Solids Processing and Handling

**Prepared By:** Steve Grooters, Senior Projects Engineer  
Kent W. Brugler, Senior Engineer  
Mike Happe, Utilities Planning and Engineering Manager

### Recommended City Council Action

Based on the recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to execute a contract with Black & Veatch Corporation in the amount of \$73,083 to provide engineering services for improvements to the Big Dry Creek Wastewater Treatment Facility solids processing and handling facilities and authorize a ten percent contingency in the amount of \$7,308 for a total project budget of \$80,391. In addition, authorize the transfer of \$80,391 from the Sewer Open Cut capital project account to fund this project.

### Summary Statement

- Solids handling processes at the Big Dry Creek Wastewater Treatment Facility (BDCWWTF) have recently experienced operational constraints and challenges.
- Current operational challenges appear related to new plant operations and the resulting unforeseeable increases in the viscosity of solids flow streams.
- Current conditions have led to bottlenecks and plugging in the facility piping. This in turn has increased staff efforts related to solids handling/disposal and risks of basin overflows and environmental spills. Modifications may be needed to provide safe, stable and sustainable long-term treatment operations.
- Due to seasonal flow and water temperatures at the plant, inspection of the solids processing tanks is only feasible during summer months. Rapid project implementation is necessary to meet this schedule constraint.
- Due to the need to correct this problem promptly, Staff believes it is in the best interest of the City to execute a sole source contract with Black & Veatch Corporation (Black & Veatch) to systematically evaluate current conditions and predesign appropriate system modifications. Black & Veatch is intimately familiar with the unique character and composition of the solids streams at the site and has a history of successful performance with other City projects.
- Staff has negotiated a scope of services and a fee that is competitive and adequate funds are available for this item.
- If capital improvements are identified during this project they will be implemented through subsequent design and construction contracts consistent with available funds.
- Staff is also requesting the transfer of funds from the Sewer Open Cut capital account into a capital account entitled BDCWWTF Solids Processing Master Plan specifically for this project. Adequate funding will remain in the Sewer Open Cut account to address projects planned for 2010.

**Expenditure Required:** \$80,391

**Source of Funds:** BDCWWTF Solids Processing Master Plan capital account

**Policy Issue**

Should the City award a sole source contract to Black & Veatch to evaluate the Big Dry Creek Wastewater Treatment Facility solids handling system and predesign appropriate system modifications?

**Alternatives**

1. The City could choose to solicit proposals from other engineering consulting firms to complete this project. However, time is of the essence to identify and correct the problem. Retaining Black and Veatch will facilitate a timely and cost-effective means to completing the project within seasonal operational constraints at the facility. Additionally, Black & Veatch has a history of success on current and past projects for the City, including an evaluation of the plant's sludge mixing system.
2. The City could choose to implement this project at a later date. This option is not recommended as the current operational constraints observed at the plant increase the risk of a wastewater spill and place an excessive demand on plant staff.

**Background Information**

Portions of the recently completed Big Dry Creek Wastewater Treatment Facility (BDCWWTF) Expansion Project involved capital improvements to the BDCWWTF's solids handling facilities. Following construction, these improvements were placed into service successfully, but have since experienced operational constraints and/or challenges. Some of the operational challenges experienced at the plant appear related to the new biological operations and the resulting unforeseeable changes in the viscosity of the facility's solids flow streams. These changes have led to piping bottlenecks and plugging that require significant, daily manual intervention to overcome – effort that is not cost-effective or sustainable for plant staff over the long term. In addition, current conditions have increased risks of basin overflows and wastewater spills. Modifications may be needed to provide safe, stable, and sustainable long-term treatment operations.

Overall, operational improvements are needed with regard to specific areas of the solids handling facilities at the BDCWWTF including two relatively high priority areas: 1) Pipe bottlenecks and plugging to/from and between digester tanks, and 2) Bottlenecks and plugging in the piping that leads to the final solids storage tank and truck hauling station. These two areas are impacted by adjacent upstream and downstream treatment processes, which complicate troubleshooting efforts. As a result, a systematic, step by step evaluation is necessary to accurately identify appropriate modifications.

The overall goals of this project include establishing and executing a comprehensive troubleshooting effort related to the solids handling processes and development of recommended modifications through a predesign level of detail. The evaluation process will involve inspection of several tanks and pipelines associated with the solids handling processes. Due to seasonal flows, water temperatures, and the resulting treatment capacity of these processes, down time and inspection is limited to summer months. Timely project implementation is necessary to meet this operational constraint.

For several reasons staff believes it is in the best interest of the City to sole source engineering services for this project to Black & Veatch. This firm has successfully completed a recent study of the BDCWWTF sludge mixing system, is intimately familiar with the unique character and composition of the solids streams at the site and has a history of successful performance with other City projects. Based on these qualifications, staff negotiated with Black and Veatch to establish the project scope of work and a corresponding fee. Staff believes the negotiated fee is consistent with the project scope and competitive. Retaining Black and Veatch for this project will facilitate the fast track schedule required for the work.

**SUBJECT:** BDCWWTF Engineering Services Contract

Page 3

Staff is also requesting the transfer of funds from the Sewer Open Cut capital account into a capital account entitled BDCWWTF Solids Processing Master Plan specifically for this project. There are sufficient funds available in the Sewer Open Cut account to fully fund this new capital account.

This project helps achieve two of the City Council's Strategic Plan goals: 1) Achieving a "Financially Sustainable City Government" by contributing to the objective of well-maintained and operated City facilities and 2) Contributing to a "Beautiful and Environmentally Sensitive City" by enhancing the reliability of the City's wastewater treatment system.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 14, 2010



**SUBJECT:** Second Reading of Councillor’s Bill No. 29 re Lease Agreement with Adams County School District 50 for the use of the England Park Softball Field

**Prepared By:** Marty McCullough, City Attorney  
Bill Walenczak, Director of Parks, Recreation and Libraries

**Recommended City Council Action**

Pass Councillor’s Bill No. 29 on second reading authorizing the City Manager to sign a 25-year lease agreement with Adams County School District 50 for the use of the England Park Softball Field.

**Summary Statement**

- Staff from Adams County School District 50 approached City Staff last December to see if the City would be interested in leasing the England Park ball field in exchange for the School District investing the necessary funds to completely renovate the softball field, irrigation system, lighting and build a new concession/restroom building (see attached plan).
- In exchange for their capital investment in the field renovation, the District has requested that the City enter into a 25-year lease so that the School District could use the softball field for their girls’ softball program as well as the use of the field for physical education classes throughout the year.
- The City then would have guaranteed use of the field for such things as the Old Timers softball game each year in July, as well as other City programs as needed. The lease agreement includes a no cancellation clause for City scheduled events.
- The District would be responsible for maintenance and scheduling of the ball field.
- By leasing the England Park ball field from the City, the District would be able to keep the school bus garage in its present location on the high school site.
- The renovation of the ball field also fits into the proposed Master Plan for the Little Dry Creek corridor park.
- This Councillor’s Bill was approved on first reading by City Council on May 24, 2010.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **29**

SERIES OF 2010

INTRODUCED BY COUNCILLORS  
**Kaiser - Major**

**A BILL**

**FOR AN ORDINANCE APPROVING A LEASE AGREEMENT WITH ADAMS COUNTY  
SCHOOL DISTRICT 50 FOR THE USE OF THE ENGLAND PARK SOFTBALL FIELD**

WHEREAS, the City owns the England Park Softball Field, located at 7190 Osceola Street; and

WHEREAS, it is in the City's best interest to enter into this agreement with Adams County School District 50 whereby the School District agrees to renovate and maintain the England Park Softball Field, at no cost to the City, in exchange for their use of the facility.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. Pursuant to City Charter Section 13.4, the Lease Agreement attached hereto as Exhibit A is hereby approved.

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

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The lease agreement attached hereto as Exhibit A shall be executed by the lessee prior to consideration of this ordinance 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 24<sup>th</sup> day of May, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 14<sup>th</sup> day of June, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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

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

**INTERGOVERNMENTAL AGREEMENT  
AND LEASE**

**Between the City of Westminster and Adams County School District #50**

This Intergovernmental Agreement and Lease (“Agreement and Lease”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the **CITY OF WESTMINSTER**, a Colorado home-rule municipality, hereinafter called the “City,” and **ADAMS COUNTY SCHOOL DISTRICT NO. 50**, a Colorado school district, hereinafter called the “School District.” The City and School District may be referred to collectively or separately as “Parties” or “Party.”

**RECITALS**

**WHEREAS**, this Agreement and Lease is authorized by Colorado Constitution, Article XIV, Section 18(2)(a), Article XX and Article XI, Section 7, and Part 2 of Article I of Title 29, C.R.S.; and

**WHEREAS**, the City and the School District have a long-standing history of working cooperatively to provide functions, services and facilities that assist their respective constituencies and maximize the use of taxpayers’ funds; and

**WHEREAS**, the City owns, operates, and maintains a public park located at 7190 Osceola Street commonly known as England Park, which includes a regulation softball field and associated facilities and improvements; and

**WHEREAS**, the School District has commenced construction of a new Westminster High School, administrative offices, and related athletic and parking facilities generally located north of 68<sup>th</sup> Avenue, south of 70<sup>th</sup> Avenue and east of Utica Street; and

**WHEREAS**, the School District wishes to lease the City’s softball field, and related facilities and improvements located in England Park; and

**WHEREAS**, the City is willing to lease said field, facilities, and improvements to the School District pursuant to the terms of this Agreement and Lease.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree and contract as follows:



## AGREEMENT

1. The City hereby leases to the School District the real property and improvements defined and described in Exhibit "A" attached hereto and incorporated by this reference (the "Premises").
2. In lieu of rent, and as partial consideration for this Agreement and Lease, the School District agrees to pay the cost of architectural services, engineering, demolition, and construction of a new softball facility on the Premises, to include a softball field, lawn irrigation system, restrooms, fences and related facilities. The Parties agree that the new softball facilities will be constructed with the specifications designated in the plan attached hereto as Exhibit "B," and incorporated herein by this reference (the "New Facility"). Any changes in material or fixtures designated in the plan shall be approved by the City.
3. The City and the School District shall cooperate and agree on the final design of the New Facility. The School District shall be responsible for the construction of the New Facility. The New Facility shall be substantially complete no later than August 31, 2011.
4. The School District agrees to operate and maintain the Premises and to pay the ongoing costs for mowing, field preparation, water, electricity, sewage and other expenses incidental to the operation of the New Facility and the maintenance of the Premises throughout the term of this Agreement and Lease. In addition, the School District agrees to maintain the areas shown on Exhibits "C" and "D." City hereby grants to School District a pedestrian and maintenance right of access through and across the areas shown on Exhibits "C" and "D," provided, however, that either or both rights of access may be terminated by the City in connection with the City's implementation of the Little Dry Creek Park Development Master Plan described in paragraph 17, below. In the event that the City terminates School District's right of access through and across the area shown on Exhibit "D," the City agrees to provide a reasonable substitute right of access on request by the School District.
5. The School District may permit others to use the Premises. The School District shall be solely responsible for receiving and processing requests for use of the Premises, including, without limitation, scheduling activities, establishing reasonable rules and procedures relating to maintenance, operations, requests for and uses of the Premises, and charging and receiving fees for use of the Premises. The City shall direct all inquiries by third parties regarding use of the Premises to the School District. The School District shall notify the City promptly each time it reserves the Premises for any function or event.
6. Not later than December 15th of each year, the City shall submit a written request for the use of the Premises for the ensuing 12 months. All requests submitted by the City shall be scheduled in accordance with the provisions of this paragraph and paragraphs 7, 8, and

9 of this Agreement and Lease. The School District agrees not to schedule the Premises for the ensuing 12-month time period until it has reviewed the City's proposed schedule of use. The City may present additional written requests to the School District at any time it desires to use the Premises for any City-related function or event. All other requests shall be scheduled on a first-come, first-served basis.

7. The Parties agree that, once accepted by the School District, all activities scheduled by the School District at the request of the City shall take precedence over all other subsequent requested uses by the School District or by members of the community, but every effort will be made to facilitate other reasonable and timely requests for the utilization of such facilities by both Parties and by members of the community. Notwithstanding anything in this Agreement and Lease to the contrary, the Parties agree that the City shall have guaranteed use of the Premises on a date to be determined in July for a vintage old-timers softball game.
8. Subject to the provisions of Paragraphs 6 and 7 above, the School District shall have the exclusive right and first priority to use the Premises for its academic and extracurricular activities, including, without limitation, physical education classes and girls' softball. These activities shall be limited to regular school hours, practice and game times for girls' softball.
9. Subject to the relative rights and priorities set forth in Paragraphs 7 and 8 above, the City shall have the right and priority to reserve and use the Premises for all open times upon presenting a written request to the School District. For the purposes of this Agreement and Lease, the term "open times" shall mean all times for which the School District has not informed the City that the Premises is reserved, pursuant to Paragraph 5 above. The School District may schedule any such open times for City use, outside groups, Hyland Hills, community groups, the public, and the School District. However, once a City group reserves the Premises with confirmation for a particular date and time, the District shall not cancel the City's reservation for a School District function at the same date and time.
10. All fees, compensation, rents and other moneys received by the School District for use of the Premises shall remain the sole and exclusive property of the School District.
11. The City shall not be required to pay any permit fees or rent for the Premises, provided the City shall be responsible for any other cost related to its use of the Premises, such as field preparation, staff expenses, and concession operations.
12. (a) This Agreement and Lease shall be in effect from and shall cover the period May 1, 2010, through April 30, 2035. The School District may terminate this Agreement and Lease at any time upon giving, in writing, the City six (6) months notice of its intention to terminate same. Following the initial period ending April 30, 2035, this Agreement and Lease shall continue in effect from year to year, unless either party notifies the other, in writing, of intent to terminate, or modify, at least ninety (90) days prior to the expiration date.

- (b) At the end of the fifteenth (15th) year, both parties shall meet to examine the physical infrastructure of the Premises to determine if major repairs or renovations are necessary to restore the Premises to their condition at the time of the completion of the improvements described in Paragraph 2. It shall be the School District's sole responsibility to make any needed repairs or upgrades to the facility at that time. Repairs, modifications or upgrades will be agreed upon by both Parties. In the event the Parties are unable to agree on such repairs and a timeline for completing them, this Agreement and Lease may be terminated pursuant to the provisions of paragraph 18 below.
13. To the extent allowable by law, the City shall hold harmless and free from liability the School District, its Board of Education, officers, agents, servants or employees, while acting as such, from all damages, costs or expenses which any of them shall become obligated to pay by reason of liability imposed by law because of damage to property or injury to or death of persons, received or suffered by reason of the City's use of the Premises pursuant to this Agreement and Lease; and, the School District shall hold harmless and free from liability the City, its Council members, officers, agents, servants or employees, while acting as such, from all damages, costs or expenses for which any of them shall become obligated to pay by reason of liability imposed by law because of damage to property or injury to or death of persons, received or suffered by reason of the School District's operation and maintenance of the Premises pursuant to this Agreement and Lease; provided, however, that each Party shall be responsible for its own negligence and shall not be responsible for any negligent act or omission of the other. The School District and the City agree that in the event any claim or suit is brought against both Parties or either of them by any third party as a result of any activity conducted pursuant to this Agreement and Lease, both Parties will reasonably cooperate with each other in defending such claim or suit. Any provisions herein to the contrary notwithstanding, nothing in this Agreement and Lease shall be deemed or construed as a waiver of any rights or protections either Party may enjoy under Colorado law, including, without limitation, the Colorado Constitution and the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*
14. Each Party shall be responsible to the other for any and all damage proximately caused by its employees, guests, invitees or contractors as a result of any activity conducted at the Premises, excepting wear and tear due to normal use of the property. The Party responsible for any damage to the Premises shall cause the damage promptly to be repaired and the condition of the Premises to be restored to the same general state of being, repair or efficiency as it was following the School District's improvements and renovations pursuant to paragraph 3 above. In the event of damage for which the City is responsible, the School District shall have the right to make whatever repairs are necessary and shall be entitled to reimbursement from the City within thirty (30) days of presenting an itemized statement to the City for such repairs.
15. The School District shall carry appropriate liability insurance for its operation of the Premises, and a certificate of insurance covering the current year shall be filed and/or reviewed annually with the City.

16. The City shall be required to carry appropriate insurance covering its use of and responsibility for damage at the Premises.
17. The Parties acknowledge that the Premises is located within the boundaries of the Little Dry Creek Park Development Master Plan (the "Master Plan"), and that land adjacent to or near the Premises may be subject to development, improvement, regulation and oversight by the City consistent with the terms of the "Master Plan." The City represents that, pursuant to the terms of the Master Plan, it is not the present intent of the City that the Premises will be sold, developed or used for any purpose other than as a recreational area.
18. Notwithstanding anything in this Agreement and Lease to the contrary, the City shall have the right to terminate this Agreement and Lease by 1) providing twelve (12) months advance written notice to the School District, and 2) paying the School District an amount to be commensurate with the School District's investment in the design and construction of the Premises and any improvements to the Premises less an amount commensurate to the School District's benefit from this Agreement and Lease during the time this Agreement and Lease was in effect. In the event the Parties cannot agree on the amount to be paid as the result of the City's termination of this Agreement and Lease, the School District shall be entitled to compensation in the amount of the sum of:
  - a) the School District's actual expenses in 2010 for architectural services, remodeling, improvements and construction, which amount shall be reduced each year on May 1 on a *pro rata* basis over the initial 25-year term of this Agreement and Lease, and
  - b) the School District's actual expenses after 2010 for upgrades, remodeling, improvements and construction, which amount shall be reduced each year on March 1 on a *pro rata* basis from the date of the School District's expense through April 30, 2035.

In the event of termination of this Agreement and Lease by the City pursuant to paragraph 12(b) above, the amount of compensation to the School District shall be reduced by the estimated design and construction cost of any major repairs or renovations determined at the end of the fifteenth (15<sup>th</sup>) year of this Agreement and Lease to be needed to restore the Premises to their condition at the time of the completion of the improvements described in Paragraph 2. In the event the Parties are unable to agree on such costs, the Parties will refer the matter to an independent construction professional selected by mutual agreement.

19. The Parties shall meet regularly, but no less frequently than quarterly, to review the operations, maintenance, use and condition of the Premises. A review committee composed of the City's Park Services Manager and the School District's Director of Maintenance and Operations or their respective designees shall serve this function.

20. This Agreement and Lease may not be modified, revised, altered, added to, or extended in any manner, or superseded, except by an instrument in writing signed by the parties hereto.
21. The failure of a Party to enforce any provision or provisions of this Agreement and Lease shall not be in any way construed as a waiver of any such provision or provisions nor prevent that party thereafter from enforcing each and every provision of this Agreement and Lease.
22. The invalidity or unenforceability of any provision of this Agreement and Lease shall not affect the other provisions hereof, and this Agreement and Lease shall be construed in all respects as if such invalid or unenforceable provision was omitted.
23. Any conflicting provisions of this Agreement and Lease shall supersede and take precedence over the provisions of any prior agreements between the Parties regarding the subject matter of this Agreement and Lease, and shall be binding upon and inure to the benefit of the Parties hereto.
24. This Agreement and Lease may be enforced by a Party only by an action for specific performance, provided, however, that prior to bringing any such action, the Parties agree to attempt to resolve any dispute they are unable to resolve by negotiation through the use of a mutually acceptable third-party mediator for a period of time not less than sixty (60) days prior to the filing of any such action, unless the bringing of an action before that time is required by an applicable statute of limitations. Any action for specific performance may include an action to enforce the City's payment obligations under this Agreement and Lease.
25. In the event it becomes necessary for either Party to bring an action to enforce this Agreement and Lease, the prevailing party in such action shall be entitled to an award of its reasonable attorney fees. Venue for any such action shall be in the District Court for Adams County, Colorado.

**IN WITNESS WHEREOF**, the City and the School District have caused this Agreement and Lease to be executed by their duly authorized officers and their corporate seals to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**ADAMS COUNTY SCHOOL DISTRICT NO. 50**

APPROVED AS TO FORM:

SEMPLE, FARRINGTON & EVERALL, P.C.

By: \_\_\_\_\_  
Matt Ratterman

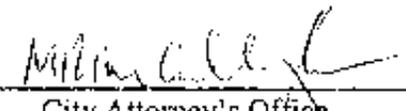
By: \_\_\_\_\_  
Vicky Marshall  
President, Board of Education

ATTEST

By: \_\_\_\_\_  
Sharon Whitehair  
Secretary, Board of Education

**CITY OF WESTMINSTER, COLORADO**

APPROVED AS TO FORM:

By:   
City Attorney's Office

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

ATTEST:

By: \_\_\_\_\_  
Linda Yeager, City Clerk

**Note:**

THESE DOCUMENTS ARE A PROGRESS SET TOWARDS FINAL CONSTRUCTION DOCUMENTS. BY THEIR NATURE, THEY ARE INCOMPLETE. THEY ARE NOT SUITABLE FOR BIDDING OR CONSTRUCTION AND ANY ATTEMPT TO ESTABLISH CONSTRUCTION COSTS FROM THESE DOCUMENTS MUST BE DONE WITH EXTREME CAUTION. COST ALLOWANCES MUST BE PROVIDED FOR DESIGN ELEMENTS AND MATERIALS NOT YET INDICATED ON THESE DOCUMENTS. THE ARCHITECTURE AND CIVIL CONSULTANTS HAVE NO RESPONSIBILITY OR LIABILITY FOR COSTS OF CONSTRUCTION ASSOCIATED WITH DESIGN ELEMENTS AND MATERIALS NOT YET SHOWN ON THESE DOCUMENTS.

**ARCHITECT OF RECORD**

**H.L. Architecture**  
 H.L. Architecture  
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 Denver, CO 80203  
 (p) 303.295.1792 (f) 303.292.6437

**CIVIL ENGINEER**

S.A. Miro, Inc.  
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 Denver, Colorado 80237  
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**LANDSCAPE CONSULTANT**

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**STRUCTURAL ENGINEER**

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**MECHANICAL ENGINEER**

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 Wheat Ridge, Colorado 80033  
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**ELECTRICAL ENGINEER**

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**IT CONSULTANT**

Rimrock Group  
 2080 Briargate Parkway, Suite 220  
 Colorado Springs, Colorado 80920  
 (p) 719.533.1112 (f) 719.533.1113

**Adams County School District No. 50**  
**England Park**  
 7150 OSCEOLA ST. WESTMINSTER, CO 80030

The District of Choice  
 Adams County School District 50

This drawing is an instrument of service and shall remain the property of H.L. Architecture. The drawings and the concepts and ideas contained herein shall not be used, reproduced, revised, or otherwise used without the express written approval of H.L. Architecture. Substitution or distribution of this drawing, in whole or in part, without the express written approval of H.L. Architecture is prohibited. This drawing is not to be construed as a publication or a representation of any of the rights of H.L. Architecture.

Project Number	405.03
Issued For	PR 014
Date:	05 APRIL 2010
Revision	Date

**OVERALL SITE PLAN**

**L 1.0**

**GENERAL NOTES**

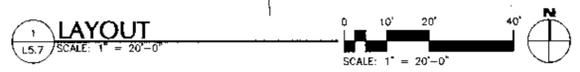
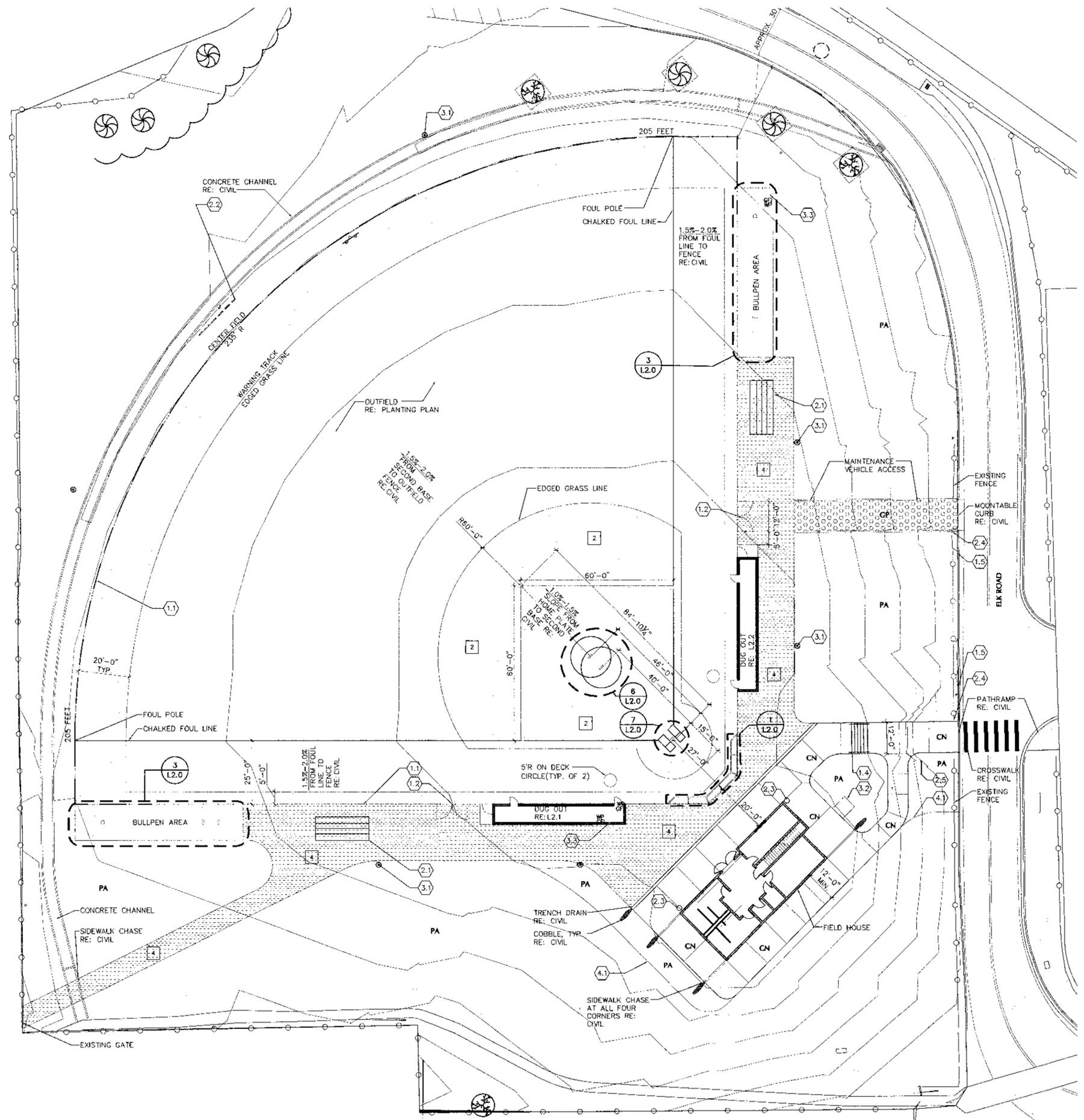
1. THE LANDSCAPE DRAWING SERIES SHALL BE USED IN CONJUNCTION WITH THE CIVIL, ARCHITECTURAL, STRUCTURAL, MECHANICAL, AND ELECTRICAL DRAWINGS TO PROVIDE COMPLETE INFORMATION REGARDING SITE WORK.
2. CONTRACTOR SHALL INSPECT EXISTING PROJECT WORK IN PLACE AND SITE CONDITIONS AFFECTING HIS WORK FOR COMPLIANCE WITH THE CONTRACT DOCUMENTS AND ADVISE THE ARCHITECT OF ANY INCONSISTENCIES WITH SAID CONDITIONS FOR RESOLUTION, PRIOR TO COMMENCING LANDSCAPE WORK.
3. ALL EXISTING AND NEW UTILITIES SHALL BE LOCATION PRIOR TO COMMENCING PLANTING.
4. EXISTING AND NEW UTILITIES SHOWN FOR REFERENCE ONLY. REFER TO CIVIL FOR UTILITY PLANS.
5. ELEVATIONS FOR BASES AND PITCHER'S RUBBER ARE RELATIVE; CONTRACTOR TO SUBMIT SPECIFIC ELEVATIONS FOR ARCHITECT'S REVIEW.
6. RE: ELECTRICAL AND PLUMBING FOR POWER AND WATER REQUIREMENTS AT FIELDS.

**SURFACING LEGEND**

- 1 WARNING TRACK MIX
- 2 INFIELD MIX
- 3 HILLTOPPER MOUND CLAY
- 4 BASE BID ASPHALT ALTERNATE 1, CONCRETE
- GR GRASS PAVE RE: X/LX.X
- CN CONCRETE PAVING WITH CONTROL JOINTS RE: CIVIL
- PA PLANTING AREA
- EJ EXPANSION JOINT

**DETAIL KEYNOTES**

- 1.0 SITE WALLS/ STAIRS/ FENCING
  - 1.1 6'-0" TALL CHAIN-LINK FENCE
  - 1.2 CHAIN LINK DOUBLE SWING GATE 6'-0" TALL
  - 1.3 CHAIN LINK SINGLE SWING GATE 6'-0" TALL
  - 1.4 STAIRS WITH RAILING & CHIEF WALL
  - 1.5 CONCRETE CURB
- 2.0 SITE FURNISHINGS
  - 2.1 PREFABRICATED BLEACHERS (SEATING 50)
  - 2.2 ATHLETIC SCOREBOARD
  - 2.3 TRASH RECEPTACLE
  - 2.4 WOODEN FENCE
  - 2.5 PARK RULES SIGNAGE
- 3.0 LIGHTING
  - 3.1 STADIUM LIGHTING
  - 3.2 ELECTRICAL TRANSFORMER
  - 3.5 ELECTRICAL OUTLET
- 4.0 MISCELLANEOUS
  - 4.1 STEEL EDGER



**LAYOUT**  
 SCALE: 1" = 20'-0"



## Agenda Item 9 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
June 14, 2010



**SUBJECT:** Metro Wastewater Reclamation District Board of Directors Re-Appointment

**Prepared By:** Mike Smith, Director of Public Works and Utilities

#### **Recommended City Council Action**

Reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District's Board of Directors, with a term of office effective through June 30, 2012.

#### **Summary Statement:**

- City Council action is requested to reappoint Curtis Aldstadt to the Metro Wastewater Reclamation District Board of Directors. Mr. Aldstadt has represented the City of Westminster on the Metro Board of Directors since April 12, 1999.
- The Metro District Bylaws and State Statute require that in order to become a member of the Board of Directors, one must live within the member municipality and within the Metro District service area.
- At this time, there is not a City Staff member to fill the vacancy based on these requirements. Therefore, the recommendation of Staff is to fill the vacancy with Curtis Aldstadt, a City resident and business owner who currently works closely with the Department of Public Works and Utilities on a variety of issues and has represented Westminster's interest extremely well.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does Council wish to reappoint Mr. Aldstadt or open up the recruitment to fill this seat?

**Alternative**

As an alternative, Staff could solicit additional names of interested citizens who may wish to represent the City on the Metro Wastewater Reclamation Board. The value of Mr. Aldstadt's appointment is that he is currently involved with the Department of Public Works and Utilities on a number of projects that make him a valuable asset to this Department's team. In addition, Mr. Aldstadt's involvement in the water and wastewater industry provides the City with a citizen who will protect its interest on the Metro Board of Directors and ensure representation of the City.

**Background Information**

The Metro Wastewater Reclamation District treats approximately 40 percent of the total wastewater generated in Westminster, with the District serving the area south of approximately 97th Avenue.

Over the past nine years since Mr. Aldstadt's appointment to the Metro Wastewater Reclamation District Board of Directors he has kept City Staff informed of pertinent activities occurring at the Metro District, while also representing the City's interests very well with the Metro District.

The Metro Wastewater Reclamation District Board of Directors meets at 7:00 p.m. on the third Tuesday of each month. In addition, all Board Members serve on one operations committee, which meets monthly either in the morning or at noon. Mr. Aldstadt currently holds the position of Officer/Chairman Pro Tem and serves on the Executive Committee, Operations Committee, and Ethics Committee.

The re-appointment of Mr. Aldstadt supports Council's goals of a financially sustainable city government by providing efficient and cost-effective internal and external services.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 10 A

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
June 14, 2010



**SUBJECT:** Public Meeting on 2011 and 2012 City Budget

**Prepared By:** Barbara Opie, Budget and Special Projects Manager

#### **Recommended City Council Action**

Hold a public meeting on the 2011 and 2012 City Budget and receive citizen comments.

#### **Summary Statement**

- City Staff is currently preparing budget information for both 2011 and 2012, and this meeting is intended to focus on both 2011 and 2012 citizen requests, comments and suggestions. The public meeting is an informal opportunity for the public to provide input to the City Council on the City Budget.
- City Council officially adopted the City's fourth two-year budget with the 2009/2010 Budget in October 2008; a mid-year review and amendment process occurred in October 2009. Departments prepare their proposed 2011 and 2012 Budgets through the summer, working to reflect the current economic conditions and community needs. The Departments' efforts culminate in the distribution of the Proposed Budget to City Council at the beginning of September.
- A second public meeting is scheduled for July 26 and a public hearing is scheduled for September 13 so that citizens will have two more opportunities to comment and provide feedback on the 2011 and 2012 City Budget. City Council must adopt the budget by the October 25 City Council meeting, in accordance with the City Charter.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Listen to citizen requests, comments and suggestions as they pertain to the 2011 and 2012 budget.

**Alternative**

Council could choose to not conduct a public meeting at this time. This is not recommended as providing citizens an opportunity for input early on in the budget process plays an important role in assuring that the budget reflects community needs.

**Background Information**

In April, City Council reviewed and prioritized core services for the City of Westminster. This work was done in concert with the City Council Strategic Plan Goals identified below:

- Financially Sustainable City Government Providing Exceptional Services
- Safe and Secure Community
- Vibrant Neighborhoods and Commercial Areas
- Strong, Balanced Local Economy
- Beautiful and Environmentally Sensitive City

The direction provided by City Council assists City Staff as they develop the 2011 and 2012 City Budget. Other considerations that go into developing a comprehensive budget are department priorities that strive to achieve Council goals identified in the Strategic Plan, maintain existing service levels and citizen or neighborhood input. The City is anticipating 5-6 percent in overall reductions as part of the Proposed 2011/2012 Budget being developed this summer. The reductions are part of a comprehensive strategy to reduce spending to a point that is sustainable with very modest increases in revenue anticipated in coming years, and with a focus on the core services of local government. Staff is utilizing the City Council prioritized core services inventory from Council's April retreat to assist efforts to make lasting reductions to the budget.

In November of 2000, Westminster voters approved a City Charter amendment that allows the City Council to adopt a formal two-year budget. City Council officially adopted the City's first two-year budget with the 2003/2004 Budget. The Proposed 2011/2012 Budget will represent the fifth iteration of biennial budgeting in the City of Westminster.

A Proposed Budget will be submitted to City Council at the beginning of September for review. After reviewing the Proposed Budget for several weeks, City Council is scheduled to conduct a full-day Budget Retreat on Saturday, September 25. City Council will deliberate on final funding decisions on staffing levels, programs, services, and capital projects at this Budget Retreat.

Two public meetings and one formal public hearing will be held on the Proposed 2011 and 2012 City Budget to solicit citizen input. The public meetings are scheduled for June 14 and July 26 and a public hearing is scheduled for September 13.

Monday's public meeting was advertised in the *Westminster Window*, *Westsider* and *Weekly Edition*; and on cable Channel 8 and the City's website.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 14, 2010



**SUBJECT:** Resolution No. 19 re 2010 HOME Funding Allocation

**Prepared By:** Tony Chacon, Senior Projects Coordinator

**Recommended City Council Action**

Adopt Resolution No. 19 allocating the balance of HOME funds being administered per agreement by Adams County.

**Summary Statement**

- The U.S. Department of Housing and Urban Development (HUD) provides an allocation of HOME funds annually to the City of Westminster through Adams County (ADCO), pursuant to a HUD requirement, to support affordable housing efforts;
- The City received a HOME fund allocation of \$243,670 for 2010;
- The City currently has a balance of \$601,778, including the 2010 allocation, that needs to be allocated to HOME eligible affordable housing activities per resolution as requested by Adams County;
- Pursuant to HUD regulations and an agreement with ADCO, the County retains 10% of the annual allocation to apply towards administration of the program;
- Per previous agreements between the City and ADCO, the balance of the City's HOME funds have regularly been split between homebuyer down-payment assistance and homeowner housing rehabilitation keeping an approximate balance of \$100,000 for each program;
- The inability to effectively expend these funds, caused by a variety of federal regulatory requirements and challenges coming out of the current economy, has led to the City having a substantial surplus balance on an annual basis;
- Staff is recommending that the current balance be allocated to the following HOME eligible activities providing assistance to low income households:
  - \$24,367 Adams County Community Development Administration
  - \$100,000 Homeownership Down Payment Assistance;
  - \$50,000 Housing Rehabilitation Program; and,
  - \$427,411 Affordable Housing Development Projects

**Expenditure Required:** \$601,778

**Source of Funds:** HOME Fund Administered by Adams County

**Policy Issue**

Should the City allocate HOME funds to homebuyer assistance, housing rehabilitation and affordable housing development projects?

**Alternatives**

1. The City could choose not to allocate the funds. This alternative is not suggested as it will prevent Adams County from expending the funds, which then will be required to be returned to the Federal government.
2. The City could choose to allocate a higher proportion of the funds to the homebuyer and rehabilitation programs. This alternative is not recommended as previous experience indicates that a substantial portion of these funds is not readily expended annually resulting in an ever growing surplus that needs to be expended or returned to the Federal government.

**Background Information**

The City receives an annual allocation of federal HOME funds that are distributed to and administered by Adams County. In the past, these funds have been applied primarily to first-time homebuyer down payment assistance and homeowner residential rehabilitation. The City's balance in these accounts has remained high over the years as few eligible households have taken advantage of the program. A substantial reason for lack of participation is a result of the higher regulatory requirements attached to the HOME funds. For example, to obtain a rehabilitation loan for the purpose of replacing a roof, the applicant may also have to remediate lead paint, replace the furnace, and repair the foundation concurrently thereby driving up the cost beyond the applicant's financial capability. On the home buying side, down payment assistance using HOME funds can only be granted to lower income eligible households, whereby the income limitations prevent many grant applicants from securing a mortgage loan. These impediments among others have made it hard for Adams County to disburse the funds for the original intended purposes. This situation has potential consequences relative to the City maintaining its HUD imposed rate-of-expenditure, whereby HUD requires HOME funds to be spent within three years of receipt. A substantial portion of the City's present balance must be spent soon to maintain compliance with HUD's requirement.

As the City has continually built up a surplus of funds, the City Council has authorized some of the homebuyer and rehabilitation funds to be reallocated to affordable housing projects. Among these projects were the Westchester Apartments in the 7200 block of Newton Street (\$230,000) and the Panorama Pointe Senior Affordable Apartments at 84<sup>th</sup> Avenue just east of Federal Boulevard (\$400,000) approved in early 2010. Even taking into consideration the Panorama Pointe allocation in 2010, the City still retains a current balance of \$601,778 as of March 24, 2010. Given the historical challenges associated with expending the homebuyer and rehabilitation funds, and the City's regular support for affordable housing development, Staff is recommending the HOME balance be allocated as follows:

- HOME Administration -- \$24,367. This amount reflects 10% of the 2010 HOME allocation which is permitted by HUD and in accordance with agreement with ADCO;
- Homeownership Down Payment Assistance -- \$100,000
- Housing Rehabilitation Program -- \$50,000
- Affordable Housing Development Projects -- \$427,411

**SUBJECT:** Resolution re 2010 HOME Funding Allocation

Page 3

Staff recommends \$50,000 in the HOME rehabilitation program to supplement \$50,000 of CDBG funds allocated by the City Council earlier in the year to fund a minor home repair/rehabilitation program to be administered by the City. This would provide a total of \$100,000 in combined HOME/CDBG funds being available for housing rehabilitation. An annual allocation of \$100,000 for the homebuyer and rehabilitation programs has been more than adequate based upon historical trends.

Staff also recommends the balance of the allocation be applied towards affordable housing development given future development opportunities and heightened developer interest in building affordable housing.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **19**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

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**A RESOLUTION  
ALLOCATING THE BALANCE OF 2010 HOME FUNDS**

WHEREAS, the City of Westminster receives an annual allocation of HOME funds from the U.S. Department of Housing and Urban Development (HUD) through Adams County; and

WHEREAS, such funds must be applied towards assisting low to moderate income families in obtaining and maintaining residences in safe and habitable housing; and

WHEREAS, the City has an available balance of \$601,778 remaining to be allocated to one or more eligible HOME fund activities; and,

WHEREAS, Adams County has requested that the City formally allocate the fund balance accordingly; and,

WHEREAS, the City wishes to make the funds available for down payment assistance to homebuyers, rehabilitation of single family homes, and development of new affordable housing.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that Adams County is hereby authorized to allocate the City of Westminster HOME balance as follows:

- o \$24,367 Adams County HOME Administration;
- o \$100,000 Homeownership Down Payment Assistance;
- o \$50,000 Housing Rehabilitation; and
- o \$427,411 Affordable Housing Development Projects

PASSED AND ADOPTED this 14<sup>th</sup> day of June, 2010.

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Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

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City Clerk

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City Attorney Office



## Agenda Item 10 C

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 14, 2010



**SUBJECT:** Resolution No. 20 re Residential Competition Service Commitment Awards

**Prepared By:** Jana Easley, Principal Planner

**Recommended City Council Action**

Adopt Resolution No. 20 awarding Category B-1 Service Commitments to the Loon Lake single-family detached project.

**Summary Statement**

- The City received one application for the residential competition process for a Single-Family Detached (SFD) project.
- Staff has reviewed the project application and recommends awarding 6 Service Commitments (SC) to the project. Please see the attached map for the location and the background section for a summary of the submittal.
- The attached Single-Family Detached resolution would award a total of 6 SCs for the 3.2-acre project over a 2-year period beginning in 2011.
- The attached resolution is contingent upon ultimate City approval of any necessary documents and does not commit the City to approve any document or project as a result of this award.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

As a result of the residential competition process, should the City award Service Commitments as proposed to one new single-family detached project?

**Alternative**

Do not adopt the attached resolution awarding Service Commitments to the recommended residential project. If this option is chosen, this project would not be allowed to proceed to the City’s development review process, and developer of this project would be required to compete in a future residential competition.

**Background Information**

As part of the City’s Growth Management Program, the intent of these SC competitions is for a limited number of new residential projects to proceed to the City’s development review process. Any project awarded SCs must process any required documents, including Comprehensive Land Use Plan (CLUP) amendments, if necessary. The City does not require that applications for the competitions comply with the CLUP designation for the site, but a CLUP amendment must be submitted with the application if a change is proposed. It is not necessary for projects to process their CLUP amendments prior to the awards. The SC awards do not obligate the City to approve any required plan or document as a result of the award. If a project does not receive approval of any required documents, the SCs are returned to the water supply figures.

As a reminder, in December 2009, City Council allocated 150 SCs to be awarded in 2010 on a competitive basis for all five residential competition categories. The project that submitted for the current competition has not competed in any prior year. As indicated in the table below, the applicant is requesting SCs beginning in the year 2011. The table below details the applicant’s request.

<b>RESIDENTIAL COMPETITION SUBMITTALS - 2010</b>						<b># SCs Requested</b>				
<b>Project Name/Location</b>	<b>Developer</b>	<b>Acres</b>	<b>Units</b>	<b>du/a*</b>	<b>Score</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Total</b>
<i>Single-Family Detached Project:</i>										
<b>1. Loon Lake</b> South of 100th Ave at Kline St	James Davenport	3.2	6	2.3	<b>1350</b>	0	3	3	0	6
<b>TOTALS</b>			<b>6</b>			<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>6</b>
<i># SCs available for 2010:</i>						<b>150</b>				

*\*net density (dwelling units per acre)*

Additional information about the submittal is detailed below:

**Single-Family Detached Competition**

Loon Lake – Score 1350 - This project proposes 6 units to be built on a 3.2-acre site just east of the Wayne Carle Middle School, south of 100th Avenue at about Kline Street. The property was annexed into the City in 1998 as part of the Standley Lake Annexation. The site is zoned O-1 and would need to be rezoned to PUD and receive Preliminary Development Plan and Official Development Plan approval in order to begin building homes. The single-family home on the property receives City water and has one existing water tap. However, since the developed property would need 6 sewer taps, 6 SCs are being requested.

The CLUP designation is R-3.5, which allows a net density up to 3.5 dwelling units per acre. If this project receives an award for SCs, the rezoning request would be formally brought to Planning Commission and City Council for consideration. The applicant is aware that the SC award would be contingent on City Council approval of rezoning, and there is no guarantee that the City will approve their rezoning request.

The incentives offered by the applicant for this project include:

- 4-ft minimum offsets on all front elevations – recessed or projecting architectural elements and offsets of at least 4 feet along the face of a home (excluding the garage face). Such features could be in the form of a bay window, recessed porch, or similar offset so as to break up the front plane of the house.
- roof breaks on all models – to prevent one solid roofline, the roofline is broken into two or more planes. This could occur through dormer windows, change in elevation of roofs, or similar articulation.
- garage doors will be separated with masonry elements
- garage door windows will be incorporated in the design of 50% of the models and will complement the style of the house windows
- side, rear or front-loaded garages (with min. 30-ft setbacks) will occur on at least 20% of the models
- interior garage area of each model will include a storage area of at least 50 sf (min. 3-ft depth) that will not encroach into 22-ft depth
- 30% or more masonry on all four sides of all residences
- usable porches of 80 sf minimum and 6-ft min. depth on at least 50% of all units and minimum 120 sf patios in side or rear yard for all residences
- for lots at least 10,000 sf, a minimum of 3 trees and 10 shrubs in the front yard
- front yard and front half of the side yard landscaping with 3 trees, 10 shrubs, and automatic sprinkler system
- 30% or more of trees (ornamental/deciduous) in the right-of-way and common area will be a minimum 3½ inch caliper and a minimum 10 ft tall for evergreens

A notification letter was mailed to the applicant indicating staff's recommendation for the City Council meeting on June 14. Because detailed site development plans are not reviewed as part of this competition process, and significant changes typically occur during the development review process, the sketch plans submitted for these competitions are not reviewed with City Council as part of these competitions. The developer has been informed that a presentation will not be scheduled for the City Council meeting on June 14 since the developer would tend to focus on site plans not yet reviewed with the City. The developer was also notified that, while it is not required for him to attend the City Council meeting, he is welcome.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments:

- A - Vicinity Map – Single-Family Detached Competition Submittal
- B - Resolution re Category B-1 Competition and Service Commitment Awards



RESOLUTION

RESOLUTION NO. 20

INTRODUCED BY COUNCILLORS

SERIES OF 2010

**A RESOLUTION CONCERNING  
CATEGORY B-1 (NEW SINGLE-FAMILY DETACHED)  
COMPETITION AND SERVICE COMMITMENT AWARDS**

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

WHEREAS, the goals of the Growth Management Program include balancing growth with the City's ability to provide water and sewer services, preserving the quality of life for the existing Westminster residents, and providing a balance of housing types; and

WHEREAS, within the Growth Management Program there is a provision that Service Commitments for residential projects shall be awarded in Category B-1 (new single-family detached) on a competitive basis through criteria adopted periodically by resolution of the City Council and that each development shall be ranked within each standard by the degree to which it meets and exceeds the said criteria; and

WHEREAS, the City's ability to absorb and serve new single-family detached development is limited, and the City of Westminster has previously adopted Resolution No. 54, Series of 2003, specifying the various standards for new single-family detached projects based upon their relative impact on the health, safety and welfare interests of the community, and has announced to the development community procedures for weighing and ranking projects prior to receiving the competition applications; and

WHEREAS, the City of Westminster has previously allocated 150 Service Commitments for the year 2010 for use in servicing new residential developments based on the criteria set forth in Section 11-3-1 of the Westminster Municipal Code; and

WHEREAS, one application was received for the single-family detached competition and no Service Commitments are requested in 2010; and

WHEREAS, the application requested a total of 6 Service Commitments requested over a two-year period for the total build-out of the 6 total single-family detached units proposed.

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

1. Category B-1 Service Commitment awards are hereby made to the specific projects listed below as follows:

<u>Project</u>	<u>Location</u>	<u># SCs per Year</u>				<u>Total</u>
		<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	
Loon Lake	South of 100th Ave at Kline St	0	3	3	0	<u>6</u>
						6

2. These Service Commitment awards to the project listed above are conditional and subject to the following:
  - a. The property must be successfully annexed into the City and establish PUD zoning, including Preliminary Development Plan approval.
  - b. The applicant must complete and submit proposed development plans in the form of an Official Development Plan to the City for the required development review processes. All minimum requirements and all incentive items indicated by the applicant as specified within the competition shall be included as part of the proposed development and listed on the Official Development Plan for the project.
  - c. Service Commitment awards for the project listed above, if approved by the City, may only be used within the project specified above.
  - d. These Service Commitment awards shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.
  - e. These Service Commitment awards shall be subject to all of the provisions specified in the Growth Management Program within Chapter 3 of Title XI of the Westminster Municipal Code.
  - f. Each Service Commitment award is conditional upon City approval of the project listed above and does not guarantee City approval of any project, proposed density or proposed number of units.
  - g. The City of Westminster shall not be required to approve any Annexation, Establishment of Zoning, Preliminary Development Plan or amendment, Official Development Plan or amendment necessary for development of property involved in this Category B-1 award nor shall any other binding effect be interpreted or construed to occur in the City as a part of the Category B-1 award.
  - h. Any and all projects that do not receive City approval are not entitled to the Service Commitment awards, and the Service Commitments shall be returned to the water supply figures.
  - i. The Growth Management Program does not permit City Staff to review any new residential development plans until Service Commitments have been awarded to the project. During the competition process the City Staff does not conduct any formal or technical reviews of any sketch plans submitted by applicants. It should be expected that significant changes to any such plans will be required once the City's development review process begins for any project.
  - j. Awards shown for the year 2010 are effective as of the date of this Resolution (June 14, 2010). Future year awards are effective as of January 1 of the specified year and cannot be drawn prior to that date. If fewer Service Commitments are needed for a project in any given year, the unused amount in that year will be carried over to the following year(s) provided the Service Commitments have not expired.
  - k. In order to demonstrate continued progress on a project, the following deadlines and expiration provisions apply:
    - 1) The project must proceed with the development review process and receive Official Development Plan approval by December 31, 2012, or the entire Service Commitment award for the project shall expire.
    - 2) The project must be issued at least one building permit within two years of Official Development Plan approval (by December 31, 2014), or the entire Service Commitment award for the project shall expire.
    - 3) Following the issuance of the first building permit for the project, all remaining Service Commitments for a project shall expire if no building permit is issued for the project during any consecutive 12-month period.
  - l. If Service Commitments are allowed to expire, or if the applicant chooses not to pursue the development, the Service Commitment award shall be returned to the Service Commitment supply figures. The award recipient shall lose all entitlement to the Service Commitment award under those conditions.
  - m. This award resolution shall supersede all previous Service Commitment award resolutions for the specified project locations.

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

PASSED AND ADOPTED this 14th day of June, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

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

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



## Agenda Item 10 D

WESTMINSTER

COLORADO

Agenda Memorandum

City Council Meeting  
June 14, 2010



**SUBJECT:** Councillor's Bill No. 31 re Westminster Municipal Code Revision re Cash Handling Policy

**Prepared By:** Robert Smith, Treasury Manager  
Robert Byerhof, Financial Analyst  
Rachel Price, Financial Analyst  
Michele Trujillo, Internal Auditor

### Recommended City Council Action

Pass Councillor's Bill No. 31 on first reading, making revisions to the Westminster Municipal Code regarding the Cash Handling Policy.

### Summary Statement

- Staff has reviewed the Cash Handling Policy and has found needed updates due to technological changes. Staff is proposing changes to the Westminster Municipal Code (Code) language to expand the penalty currently charged on dishonored checks to include all forms of dishonored payments.
- Proposed Code revisions will allow first dishonored payments to be resubmitted via cash, certified check, or credit card.
- Proposed Code revisions will allow the City to charge at least the minimum charge incurred by the City for returned payments.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issues**

1. Should the City amend the Code regarding the type of dishonored payments for which penalties will be applied?
2. Should the City amend the Code to allow a dishonored payment to be resubmitted via cash, certified check or credit card?
3. Should the City amend the Code to charge the dishonoring party at least the minimum charge actually incurred by the City?

**Alternatives**

1. Do not amend the Code regarding the types of dishonored payments to which penalties will be applied. This alternative is not recommended because the City is being charged fees for all forms of dishonored payments, not simply checks. Currently, the additional fees incurred for other dishonored payment types are not being passed on to the dishonoring party.
2. Do not amend the Code to allow a dishonored payment to be resubmitted via cash, certified check or credit card. This alternative is not recommended because the current language allows for only cash or check to be resubmitted. By accepting "checks" the City increases its risk of receiving a second dishonored payment since the funds are not certified by the bank. Revising the language to "certified checks" and adding credit cards to the list of eligible forms to resubmit payment provides greater protection for the City to ensure full payment, thereby reducing the risk of receiving a second dishonored payment.
3. Do not amend the Code to charge at least the minimum charge actually incurred by the City. This alternative is not recommended because the cost of dishonored payments is an additional expense borne by the City and these charges have increased and are being subsidized by others over time. In order to ensure the dishonoring party is absorbing the cost, the proposed language would set the minimum penalty high enough to cover the cost the dishonored payments.

**Background Information**

There has not been a comprehensive review and update of Section 1-8-3 of the Code pertaining to the payment types and penalties since 1996. In the meantime, there have been numerous changes in the methods of payments the City will accept, including electronic payments such as: Automated Clearing House (ACH), Electronic Funds Transfer (EFT) and credit cards. The proposed Code revisions would treat all forms of payment equally when dishonored by the bank.

For dishonored payments the City is currently incurring a multitude of bank fees, including: returned deposit item, returned item maintenance, redeposit returned item, and image research. In addition, a growing amount of Staff time is spent researching the initial payments, contacting the dishonoring party, processing a resubmitted payment, and monitoring to ensure a second payment was not dishonored. The entire process of getting paid in this manner results in increased expense to the City via extra bank charges. The proposed Code revisions would ensure the dishonoring party is held responsible for the covering the additional charges incurred by the City.

Respectfully submitted,

J. Brent McFall  
City Manager

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **31**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING SECTION 1-8-3 OF THE WESTMINSTER MUNICIPAL CODE  
CONCERNING CASH HANDLING POLICY

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Section 1-8-3, W.M.C., is hereby AMENDED as follows:

**1-8-3: DISHONORED CHECK; PENALTIES:**

(A) Any ~~payment check~~ received by the City which is subsequently returned from the bank will be subject to a service fee and any other applicable ~~check~~ collection charge or fee as may, from time to time, be imposed by the City. (1354 1699 2422)

(B) Any amount due to the City which is paid by ~~any payment type check~~ that is subsequently dishonored by the bank will not be considered paid until the funds are collected. Such liabilities will be subject to any late charges and fines or other enforcement procedures of the ordinance or contract controlling the original liability in addition to the service fee provided in subsection (A) of this section. (1354 1699)

(C) ~~Subject to the payment discretion of a manager or supervisor, a~~ person may ~~redeem-resubmit~~ a dishonored ~~payment check~~ by cash, ~~or certified check, and when permissible, credit card~~. However, if ~~a~~ the second ~~payment check~~ is dishonored by the bank, an additional penalty of ~~thirty twenty-five~~ dollars (\$~~3025~~) will be assessed in addition to any other charges incurred by the City for the returned payment. Only cash or ~~a~~ certified check will be accepted for the redemption of a second dishonored check for the same liability. (1354 1699)

(D) Payments made to redeem a dishonored ~~payment check~~ will be applied first to the service charge. Any remaining amount will then be applied to the original liability and/or any penalties or fines as may be specified in the ordinance or contract controlling the original liability or as otherwise specified in this code. (1354 1699)

(E) The City Manager is allowed to administratively set the returned ~~payment check~~ fee, but at minimum, fees will reflect actual charges incurred by the City for any returned payment-taking-into-account-current-rates-charged-by-other-entities. (2422)

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14th day of June, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28th day of June, 2010.

ATTEST:

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

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

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

**WESTMINSTER HOUSING AUTHORITY  
WESTMINSTER CITY HALL, 4800 W. 92ND AVENUE  
MONDAY, June 14, 2010  
7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (October 26, 2009)
- 3. New Business**
  - A. Resolution No. 39 re Housing Assistance Payments Contract with U.S. Department of Housing and Urban Development
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY  
MONDAY, OCTOBER 26, 2009 AT 7:38 P.M.

ROLL CALL

Present at roll call were Housing Authority Chairperson McNally, Vice Chairperson Dittman and Members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Linda Yeager, Secretary.

MINUTES OF PRECEDING MEETING

Member Briggs moved, seconded by Major, to accept the minutes of the meeting of September 14, 2009 as written and distributed. The motion carried unanimously.

RESOLUTION NO. 37 RE 2008 CARRYOVER SUPPLEMENTAL APPROPRIATION

It was moved by Member Major, seconded by Kaiser, to adopt Resolution No. 37 authorizing a supplemental appropriation of \$107,900 to the 2009 Westminster Housing Authority budget. The motion passed unanimously at roll call.

RESOLUTION NO. 38 RE 2010 BUDGETS FOR WHA AND WESTMINSTER COMMONS

Upon a motion by Member Lindsey, seconded by Major, the Authority voted unanimously at roll call to adopt Resolution No. 38 adopting the 2010 Westminster Housing Authority Budget and the 2010 Westminster Commons Senior Housing Project Budget.

PROPERTY MAINTENANCE IGA BETWEEN WHA AND CITY OF WESTMINSTER

Member Lindsey moved to authorize the Executive Director to enter into an intergovernmental agreement with the City of Westminster relative to the City providing assistance in maintaining WHA-owned properties. The Vice Chairperson seconded the motion, and it carried with all members voting yes.

ADJOURNMENT:

There being no further business to conduct, it was moved by Kaiser, seconded by Winter to adjourn. The motion carried and the meeting adjourned at 7:40 p.m.

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

# WHA Agenda Item 3 A

## Agenda Memorandum

Westminster Housing Authority Meeting  
June 14, 2010



**SUBJECT:** Resolution No. 39 re Housing Assistance Payments Contract with U.S. Department of Housing and Urban Development

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

### Recommended Board Action

Adopt Resolution No. 39 authorizing the Executive Director to execute a Project-Based Section 8 Housing Assistance Payments Contract for five years with the U.S. Department of Housing and Urban Development (HUD).

### Summary Statement

- The Board of Commissioners is requested to approve a Project-Based Section 8 Housing Assistance Payments Contract for five years with the U.S. Department of Housing and Urban Development (HUD).
- The Authority has entered into housing assistance payment contracts with HUD since 1980 in order to subsidize the rents at Westminster Commons.
- By entering into this contract, the Authority allows eligible low-income residents to live at Westminster Commons and pay no more than 30% of their income as rent. The contract obligates HUD to pay the difference between the tenant's rent and the market rate rent approved by HUD.
- The contract is for five years and may be renewed at that time or renegotiated prior to that time.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the Westminster Housing Authority enter into a Housing Assistance Payments Contract with HUD?

**Alternatives**

Do not enter into the Housing Assistance Payments Contract. This is not recommended because the Westminster Commons budget would lack sufficient revenue to operate the facility without raising rents to market rate, making it unaffordable to the low-income seniors and tenants with disabilities who currently live at the Commons.

**Background Information**

Westminster Commons is a 130-unit rental facility operated by the Westminster Housing Authority to provide housing for seniors and residents with disabilities who are defined as “very low-income” under federal law. Tenants who qualify to live at the Commons pay no more than 30% of their monthly income for rent and the balance of the rent, up to the current market rate for this type of housing, is paid by the U.S. Department of Housing & Urban Development (HUD). This subsidy provides sufficient revenue to allow the Commons to be operated and maintained as a safe and comfortable multi-unit housing project. This contract is known as a “project-based section 8 housing assistance payments contract.”

HUD has been providing this subsidy since 1980. The last contract with HUD extended from 2005 to 2010. The housing assistance payments contract is now up for renewal. The renewal process has been handled by the Authority’s property manager, Bishop Realty & Management. The proposed contract allows for a 5% increase in the subsidy to be paid by HUD, with annual adjustments based on changes in the cost of living. This contract may be renegotiated during the five-year term under appropriate circumstances.

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachments

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **39**

INTRODUCED BY COMMISSIONERS

SERIES OF 2010

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**A RESOLUTION  
APPROVING A HOUSING ASSISTANCE PAYMENTS CONTRACT WITH THE U.S.  
DEPARTMENT OF HOUSING & URBAN DEVELOPMENT**

WHEREAS, the Westminster Housing Authority owns the Westminster Commons rental housing facility, which provides housing for low-income seniors and residents with disabilities; and

WHEREAS, the Authority has been receiving project-based Section 8 housing assistance payments from the U.S. Department of Housing & Urban Development since 1980 to subsidize the rents at the Westminster Commons; and

WHEREAS, this Housing Assistance Payments Contract is scheduled for renewal for another five-year term.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Westminster Housing Authority that the Executive Director is hereby authorized to execute the Project-Based Section 8 Housing Assistance Payments Renewal Contract with the U.S. Department of Housing & Urban Development for a five (5) year term, ending June 17, 2015.

PASSED AND ADOPTED this 14th day of June, 2010.

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Nancy McNally, Chairperson

ATTEST:

APPROVED AS TO LEGAL FORM:

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Secretary

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Authority Attorney

**U.S. Department of Housing and Urban Development**  
**Office of Housing**

**Project-based Section 8**

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT**

**MULTI-YEAR TERM**

**PREPARATION OF CONTRACT**

Reference numbers in this form refer to notes at the end of the contract text.  
These endnotes are instructions for preparation of the Basic Renewal Contract.  
The instructions are not part of the Renewal Contract.

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**(d) Adjusting contract rent**

**10**

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**10**

**(4) No other adjustments**

**10**

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U.S. Department of Housing and Urban Development  
Office of Housing

Project-based Section 8

**HOUSING ASSISTANCE PAYMENTS**

**BASIC RENEWAL CONTRACT<sup>1</sup>**

**MULTI-YEAR TERM**

**1 CONTRACT INFORMATION<sup>2</sup>**

**PROJECT**

**Section 8 Project Number:** CO990037006

**Section 8 Project Number of Expiring Contract:** CO990037006

**FHA Project Number (if applicable):** N/A

**Project Name:** Westminster Commons

**Project Description:<sup>3</sup>**

**TYPE OF RENEWAL**

- Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

**PARTIES TO RENEWAL CONTRACT**

**Name of Contract Administrator<sup>4</sup>**

Colorado Housing and Finance Authority

**Address of Contract Administrator**

1981 Blake Street  
Denver, CO. 80202

**Name of Owner<sup>5</sup>**

Westminster Housing Authority

**Address of Owner**

4800 West 92<sup>nd</sup> Avenue  
Westminster, CO. 80031

**2 TERM AND FUNDING OF RENEWAL CONTRACT**

- a** The Renewal Contract begins on 06/17/2010<sup>6</sup> and shall run for a period of 5<sup>7</sup> years.
- b** Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ 453866.00,<sup>8</sup> an amount sufficient to provide housing assistance payments for approximately 12<sup>9</sup> months of the first annual increment of the Renewal Contract term.

Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007



- c HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

### 3 DEFINITIONS

**ACC.** Annual contributions contract.

**Anniversary.** The annual recurrence of the date of the first day of the term of the Renewal Contract.

**Contract rent.** The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

**Contract units.** The units in the Project which are identified in Exhibit A by size and applicable contract rents.

**Fifth year anniversary.** The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

**Fifth year comparability adjustment.** An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**HAP contract.** A housing assistance payments contract between the Contract Administrator and the Owner.

**HUD.** The United States Department of Housing and Urban Development.

**HUD requirements.** HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

**MAHRA.** The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No.105-05, October 27, 1997, 111 Stat. 1384), as amended.

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**Mid-term comparability adjustment.** An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

**OCAF.** An operating cost adjustment factor established by HUD.

**PHA.** Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.).

**Project.** The housing described in section 1 of the Renewal Contract.

**Renewal Contract.** This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

**Section 8.** Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

#### **4 RENEWAL CONTRACT**

##### **a Parties**

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

**b Statutory authority**

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

**c Expiring Contract**

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

**d Purpose of Renewal Contract**

(1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.

(2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

**e Contract units**

The Renewal Contract applies to the Contract units.

**5 EXPIRING CONTRACT – PROVISIONS RENEWED**

a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such

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provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).

- b** All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
- (1)** Identification of contract units by size and applicable contract rents;
  - (2)** The amount of the monthly contract rents;
  - (3)** Contract rent adjustments; and
  - (4)** Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c** The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

## **6 CONTRACT RENT**

### **a Initial contract rents**

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

### **b Contract rent adjustments**

#### **(1) OCAF or Budget-Based Rent Adjustments**

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
- (i) Using an OCAF; or
  - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.
- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

**(2) Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, if applicable).**
- (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).

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- (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
- (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.
- (c) **Mid-term adjustment (discretionary comparability adjustment within 5-year term)**

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

**(d) Adjusting contract rent**

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

**(3) Procedure for rent adjustments during renewal term**

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

**(4) No other adjustments**

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

**7 OWNER WARRANTIES**

- a** The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b** The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

**8 OWNER TERMINATION NOTICE**

- a** Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b** If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

**9 HUD REQUIREMENTS**

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

**10 STATUTORY CHANGES DURING TERM**

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

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**11 PHA DEFAULT**

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

**12 EXCLUSION OF THIRD-PARTY RIGHTS**

- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

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**13 WRITTEN NOTICES**

- a Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

**SIGNATURES**

**Contract administrator (HUD or PHA)**

Name of Contract Administrator

Colorado Housing and Finance Authority

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

Signature of authorized representative

D. Brian Miller, Director, Asset Management Division

Name and official title

Date \_\_\_\_\_

**U.S. Department of Housing and Urban Development**

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

Signature of authorized representative

Linda Y. Cluck, Director, Project Management

Name and official title

Date \_\_\_\_\_

**Owner**

Name of Owner

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

Signature of authorized representative

\_\_\_\_\_  
Name and title

Date \_\_\_\_\_

Basic Renewal Contract  
Multi-Year Term  
REV-11 05 2007

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**EXHIBIT A**
**IDENTIFICATION OF UNITS ("CONTRACT UNITS")  
BY SIZE AND APPLICABLE CONTRACT RENTS**
**Section 8 Contract Number: CO990037006**
**FHA Project Number (if applicable): N/A**
**Effective Date of the Rent Increase (if applicable): 06/17/2010**

<u>Number of Contract Units</u>	<u>Number of Bedrooms</u>	<u>Contract Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
129	1	613	0	613
1	2	613	0	613

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**NOTE:** This Exhibit will be amended by Contract Administrator notice to the Owner to specify adjusted contract rent amounts as determined by the Contract Administrator in accordance with section 6b of the Renewal Contract.

Comments:

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Basic Renewal Contract  
Multi-Year Term  
REV-11-05-2007

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## INSTRUCTIONS FOR PREPARATION OF RENEWAL CONTRACT

The following instructions are not part of the Renewal Contract.

Endnote numbers are keyed to references in the text of the Renewal Contract.

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<sup>1</sup> This form of Renewal Contract is to be used for initial and subsequent renewals of an expiring Section 8 project-based HAP contract under the authority of Section 524(a) or 524(b)(1) of MAHRA for a term of two years or more. Attachment 11-1 is to be used for renewals under the authority of Section 524(a) or 524(b)(1) of MAHRA for a renewal term of one year.

This form may not be used for Mark-Up-To-Market Renewals. The HUD prescribed form of Mark-Up-To-Market Renewal Contract must be used for this purpose.

Section 2 of the Renewal Contract specifies the contract term.

<sup>2</sup> To prepare the Renewal Contract for execution by the parties, fill out all contract information in section 1 and section 2.

<sup>3</sup> Enter a description of housing that will be covered by the Renewal Contract. The description must clearly identify the Project by providing the Project's name, street address, city, county, state, and zip code, block and lot number (if known), and any other information, necessary to clearly designate the covered Project.

<sup>4</sup> Enter the name of the Contract Administrator that executes the Renewal Contract. If HUD is the Contract Administrator, enter "United States of America Department of Housing and Urban Development (HUD)". If the Contract Administrator is a public housing agency ("PHA"), enter the full legal name of the PHA.

<sup>5</sup> Enter the full legal name of the Owner. For example: "ABC Corporation, Inc., a Maryland corporation."

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<sup>6</sup> The Renewal Contract must be entered before expiration of the Expiring Contract. Enter the date of the first day after expiration of the term of the Expiring Contract.

<sup>7</sup> Enter a whole number of two or more years.

<sup>8</sup> Enter the amount of funding obligated.

<sup>9</sup> Enter a whole number of months.

**NOTIFICATION OF SECTION 8 GROSS RENTS**

Section 8 Contract No. CO990037006

Rent Effective Date 06/17/2010

Number of Units	Number of Bedrooms	Contract Rent	Utility Allowance	Gross Rents
129	1	613	0	613
1	2	613	0	613

**Signatures**

**Contract Administrator**

**Owner**

By: \_\_\_\_\_  
 (Signature)  
 \_\_\_\_\_  
 D. Brian Miller  
 (Print)  
 \_\_\_\_\_  
 Director, Asset Management Division  
 (Official Title)

By: \_\_\_\_\_  
 (Signature)  
 \_\_\_\_\_  
 (Print)  
 \_\_\_\_\_  
 (Official Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Contract Number: CO990037006  
 Contract Version: HUD-Amendment

**NOTIFICATION OF SECTION 8 CONTRACT FUNDING**

FOR (Check one):     Initial Renewal     Subsequent Renewal     Amend Rent/TA Only

Section 8 Contract No. CO990037006      Current Contract Expires on 06/16/2010

Owner Name: Westminster Housing Authority

Project Name: Westminster Commons

Project Location: 3180 West 76<sup>th</sup> Avenue, Westminster, CO, 80030

FHA Project No.: N/A

**FUNDING**

**BUDGET AUTHORITY INCREASE: \$453866.00 for 12 months**

Contract/Renewal Effective Date 06/17/2010

Expiration Date 06/16/2015

For HUD Use Only:

HUD Notice to Owner executed by:

United States of America  
Department of Housing and Urban Development

Contract Administrator  
Colorado Housing and Finance Authority

By:

(Signature)

Linda Y. Cluck

(Print)

Director, Denver Multifamily Hub

(Official Title)

By:

(Signature)

D. Brian Miller

(Print)

Director, Asset Management Division

(Official Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Contract Number: CO990037006  
Contract Version: HUD-Amendment