



July 22, 2013
7:00 P.M.

CITY COUNCIL AGENDA

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

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) is 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.

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. Financial Report for June 2013
 - B. General Capital Improvement Fund Transfer
 - C. Special Legal Services for Retirement Plan Review
 - D. Quarterly Insurance Claims Report – April through June 2013
 - E. Preliminary Technical Energy Audits and Solar Photovoltaic Development
 - F. 98th Avenue Construction Contract
 - G. Strasburg Farm Irrigation Wells Replacement Design/Build Contract
 - H. Emergency Pump Repair Cumulative Expenses Over \$50,000 in 2013
 - I. Tank-Trailer Purchase for Big Dry Creek Wastewater Treatment Plant

9. **Appointments and Resignations**

10. **Public Hearings and Other New Business**

- A. Resolution No. 20 re Fall 2013 Adams County Open Space Grant Applications
- B. Councillor's Bill No. 25 re Lease of Open Space Property
- C. Councillor's Bill No. 26 re Tanglewood Creek Trail Construction Supplemental Appropriation
- D. Councillor's Bill No. 27 re FY2012 Carryover Appropriation into FY2013

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

12. **Miscellaneous Business and Executive Session**

- A. City Council

13. **Adjournment**

WESTMINSTER ECONOMIC DEVELOPMENT 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.



W E S T M I N S T E R

Strategic Plan

2012-2017
Goals and Objectives

STRONG, BALANCED LOCAL ECONOMY

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



FINANCIALLY SUSTAINABLE CITY GOVERNMENT PROVIDING EXCEPTIONAL SERVICES

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



SAFE AND SECURE COMMUNITY

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



VIBRANT NEIGHBORHOODS IN ONE LIVABLE COMMUNITY

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



BEAUTIFUL AND ENVIRONMENTALLY SENSITIVE CITY

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



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

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE CITY COUNCIL MEETING
HELD ON MONDAY, JULY 8, 2013, AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

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

CONSIDERATION OF MINUTES

Councillor Kaiser moved, seconded by Mayor Pro Tem Winter, to approve the minutes of the regular meeting of June 24, 2013, as revised and presented. The motion carried unanimously.

Clerk's Note: The minutes of June 10, 2013 had been mistakenly included in the agenda packet rather than the minutes of June 24, which were distributed to Council members prior to convening this meeting.

CITY MANAGER'S REPORT

Mr. McFall reported that July 4th events from the Fishing Derby to a spectacular fireworks display had brought a day of family entertainment to celebrate Independence Day. He thanked everyone throughout the organization that had been involved in the preparations for the events, as well as the City's partners Hyland Hills Parks and Recreation District and Adams School District 50. Activities were enjoyed by all, and the weather even cooperated so there were no last minute cancellations.

Mr. McFall reported that any public comment concerning the two public hearings on the agenda should be offered during the hearings rather than during Citizen Communication. Following adjournment of this meeting, the Westminster Economic Development Authority Board of Directors would meet.

COUNCIL REPORTS

Councillor Briggs echoed Mr. McFall's comments about the July 4th celebration. During the fireworks finale, you could hear "oohs and aahs" throughout the crowd and his neighbors asked him to extend their congratulations to the City for a wonderful event. Councillor Major thanked all the employees that worked the events on July 4th and made it possible for everyone else to thoroughly enjoy each activity of the day. Trash seemed to miraculously disappear so there was room for more, police officers were directing traffic at intersections near events, no parking signs had been placed along major arterials, and firefighters were behind the scenes setting up the fireworks display. The services of those who worked the holiday were greatly appreciated. Councillor Lindsey added that the concert prior to the fireworks display had provided wonderful music for the audience's enjoyment. Mayor McNally concurred with all and thought her six-year old grandson best described the crowd's sentiments when he said, "unbelievable" as the fireworks exploded in the sky. The day's activities were filled with fun and success, including the Historical Society's annual Vintage Baseball game.

CITIZEN COMMUNICATION

Hannah Mullen, Constituent Services Representative in the Office of Congressman Ed Perlmutter, updated Council on local events the Congressman was planning and noted that a new person had been hired to replace his key staff member in the area and would start his new position in September. A Veterans' Jobs Fair was planned on August 19, and a telephone Town Hall meeting on August 28. The Congressman was organizing a Student Advisory Board involving 9th to 12th grade students. Further information was available by calling 303-274-7944.

Paul Nilles, 4104 West 111th Circle, asked Council to read the letter he had written to them and delivered to the City Manager's Office earlier in the day. It pertained to elimination of Norway rats that had infested his property and the properties of his neighbors. The rats originated on City open space where they found water from an underground drainage and infiltrated the private properties for food. Mr. Nilles was familiar with the Norway rat and knew it was a carrier of Bubonic Plague. He was meeting with the City Forester the next day and asked for Council's support of City help to eradicate the rats.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: authorize the City Manager to execute the Second Amendment to the Exclusive Listing Agreement with the Laramie Company for the sale of the 14-acre parcel referred to as Promenade North and to execute the Fifth Amendment to the Exclusive Listing Agreement with The Laramie Company for the sale of the 6-acre parcel at the north east corner of Westminster Boulevard and 104th Avenue referred to as Promenade East; authorize the City Manager to enter into an intergovernmental agreement, in substantially the same form as distributed in the agenda packet, with the City and County of Denver relative to participation in the Metro Mortgage Assistance Plus Program; authorize the City Manager to execute a \$188,724 contract with Alpine Demolition, LLC, the lowest responsible bidder, for demolition services for the Barnum Printing site and authorize a \$28,308 contingency for a project budget of \$217,032; and based on the City Manager's recommendation, find that public interest would best be served by authorizing the City Manager to execute a sole source contract for engineering design services with Burns and McDonnell Company, Inc. in the amount of \$73,114 for the Lowell Boulevard Water Main Replacement Project and authorize a 10% contingency of \$7,311 for a total project budget of \$80,425.

Councillor Kaiser moved, seconded by Councillor Major, to approve the consent agenda as presented. The motion carried with all Council members voting favorably.

PUBLIC MEETING ON POTENTIAL SERVICE MODIFICATIONS FOR ADOPTED 2014 CITY BUDGET

Mr. McFall described the City's financial position by summarizing the sources and percentages of revenues and expenditures contained in the adopted 2014 Budget. While the City adopted a two-year budget, a financial update/budget review was conducted to review any recommended modifications and new citizen requests before the second year of each budget cycle started. The focus of this public meeting was to focus on potential service adjustments for the adopted 2014 Budget and solicit citizen comments and suggestions. Three modifications to core services were being contemplated: modification of post-snowstorm street sweeping; increase of in-service availability of the reserve "fifth" ambulance; and enhancement of Open Space management and more strategic Open Space acquisitions. The concepts of what was being considered in all three areas were outlined. Final recommended modifications would be submitted to City Council for review in early September. City Council was scheduled to conduct a Budget Review at the regularly scheduled Study Session of September 16.

The public was invited to offer input. No one wished to speak. The public's next opportunity to provide input at a public meeting would be at a regular meeting in September and a variety of ways to give input were provided through upcoming outreach events, as well as by telephone, email, U.S. mail, and the internet.

CONTINUED PUBLIC HEARING – APPEAL OF PLANNING COMMISSION DENIAL OF VARIANCE

At 7:34 p.m., the Mayor reopened a public hearing on an appeal of a Planning Commission decision to deny a sign variance for the 16th Amendment to the Village at Standley Lake Official Development Plan, Crown Point Filing No. 4, 1st Plat. The hearing had been continued on June 24 at the request of the applicant.

It was moved by Councillor Atchison, seconded by Councillor Kaiser, to determine that the requirements had been met for perfecting an appeal of the Planning Commission decision. The motion passed unanimously.

Mr. McFall reported that staff was prepared to make a presentation at the de novo hearing, however, a letter from the applicant requesting a continuance to September 2 had been received on July 3. Since September 2 was Labor Day, it was recommended that the hearing be continued to September 9 if the Council wished to grant said request.

Mac Cummins, Planning Manager, provided background information, advising that the applicant had requested an additional monument sign on Lot 4 for the exclusive use of that lot at the southwest corner of Wadsworth Parkway at approximately 101st Avenue in the Village at Standley Lake retail center. While it was not uncommon for businesses to want individual signage for their locations, no other lots in the Village at Standley Lake PDP had a monument sign for exclusive use. The Preliminary Development Plan (PDP) had addressed the location and number of monument signs (2), as well as the number of sign spaces on each sign (4) for the commercial part of the PDP. The request for the additional monument sign had been heard by the Planning Commission on March 12 and was denied by a unanimous vote of the Commissioners. Jon Harbour had filed a timely notice of appeal on behalf of the applicant on March 21. The originally scheduled hearing to consider the appeal was on April 22. At the applicant's request, the hearing of April 22 was continued to June 24.

Mr. Cummins entered the agenda memorandum and its attendant attachments A to J into the record. This hearing had been noticed in accordance with applicable provisions of the Westminster Municipal Code. Staff's evaluation of this request's compliance with applicable Westminster Municipal Code provisions was included in the agenda memorandum. Based on the Code's requirements in Section 11-11-8(A), staff recommended that Council find those requirements had not been met and that the appeal of the Planning Commission's decision be denied.

Present to address Council were David Cheknova, 107 Pearl Street in Boulder and the owner of the building, and Dr. Phil Rosenbaum of Arbor Family Medicine. Mr. Cheknova testified that the initial presentation to the Planning Commission had not described the need for individual signage on the building, nor had it offered any alternative solutions. The building on Lot 4 was under separate ownership from the balance of the development, and while signage for the overall property had been established in the PDP, divided ownership of the development had not been contemplated then. To accommodate exposure of the family medicine practice, individual signage or a suitable alternative was needed. The owner's consultant on this matter had been released and a new consultant hired. Mr. Cheknova asked that Council grant a continuance to accommodate the new consultant's evaluation of the property and to develop alternatives to mitigate the City's concerns. The City had not mislead the applicant in any fashion and the applicant hoped to gain an opportunity to work with staff toward a potential solution agreeable to both parties. He fully understood that Council might still uphold the Planning Commission's decision.

During discussion it was noted that the number of spaces on the existing monument signs could be increased to six through an amendment to the Official Development Code (ODP). The Arbor Colony building had signage rights currently. Negotiation was up to the private property owners.

It was moved by Councillor Briggs, seconded by Councillor Major, to continue this hearing to September 9, 2013. By a 4:3 margin, the motion passed with Councillors Atchison and Kaiser and Mayor McNally voting no.

ADJOURNMENT

With no further business to come before the City Council, it was moved by Councillor Kaiser, seconded by Councillor Major, to adjourn. The motion passed and the Mayor adjourned the meeting at 7:57 p.m.

ATTEST:

Mayor Pro Tem

City Clerk

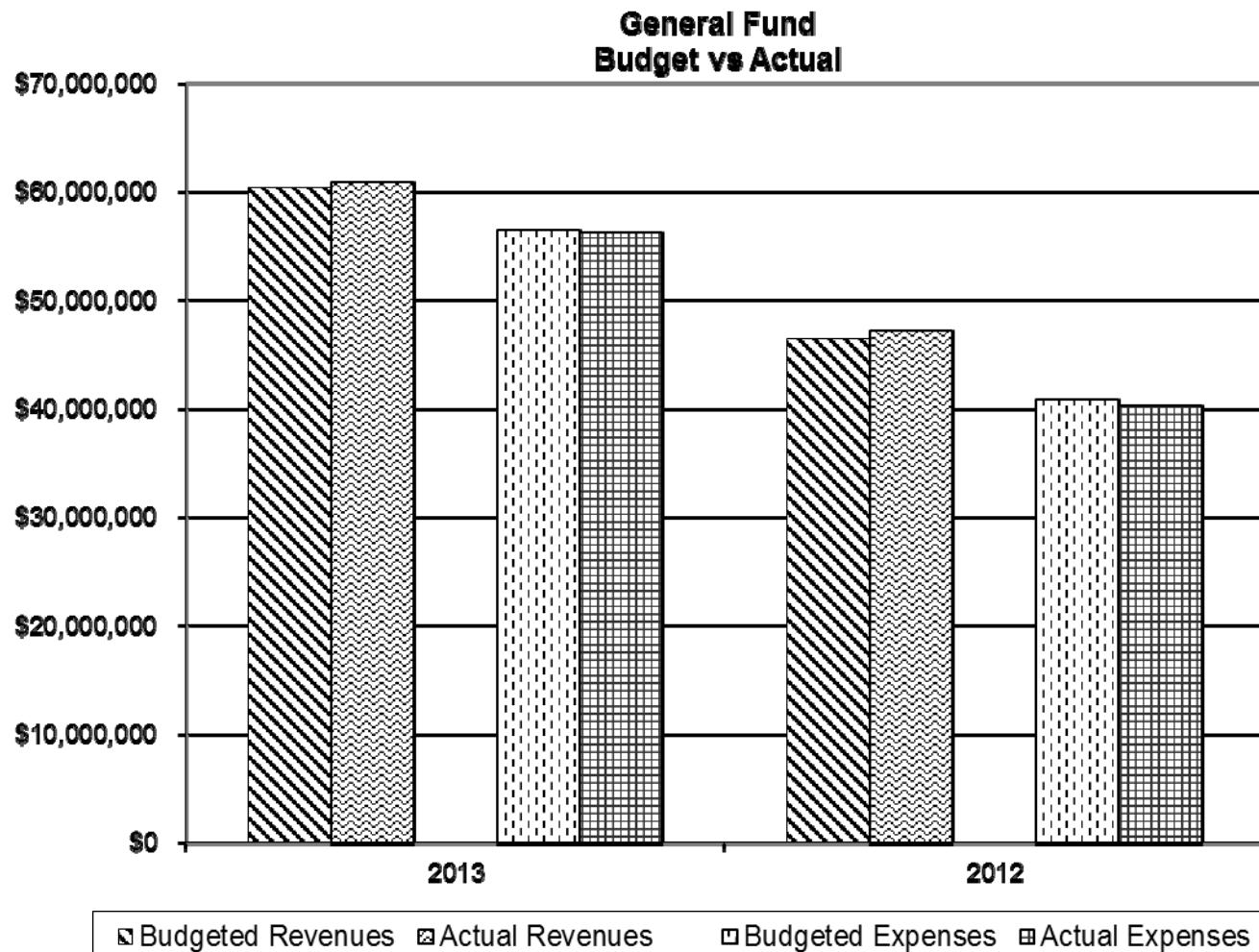
**Agenda Item 8 A****Agenda Memorandum**City Council Meeting
July 22, 2013**SUBJECT:** Financial Report for June 2013**Prepared By:** Tammy Hitchens, Finance Director**Recommended City Council Action**

Accept the Financial Report for June as presented.

Summary Statement

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. The budget numbers that are presented reflect the City's amended adopted budget. Both revenues and expense are pro-rated based on 10-year historical averages.

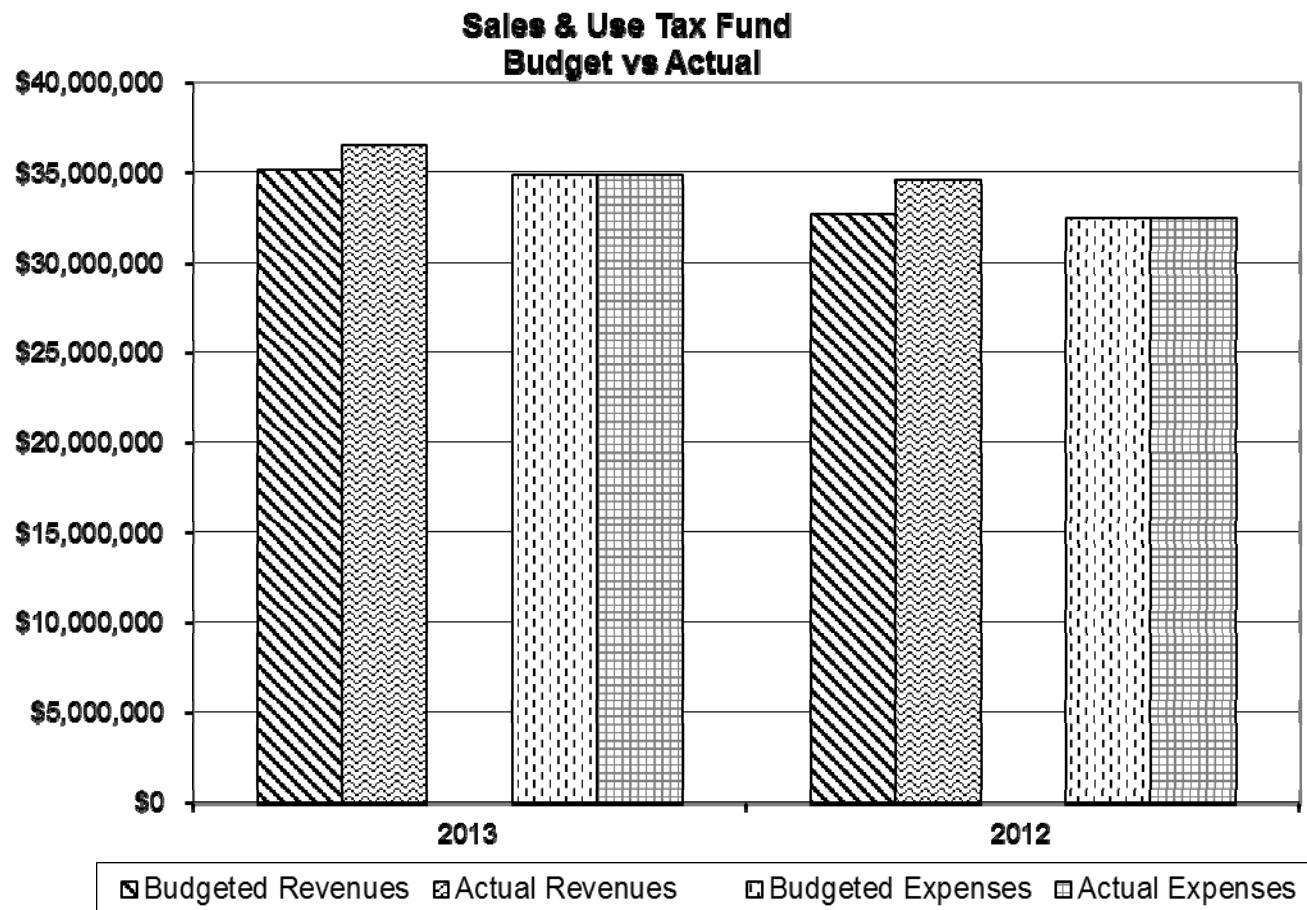
The General Fund revenues exceed expenditures by \$4,609,747. The following graph represents Budget vs. Actual for 2012-2013.



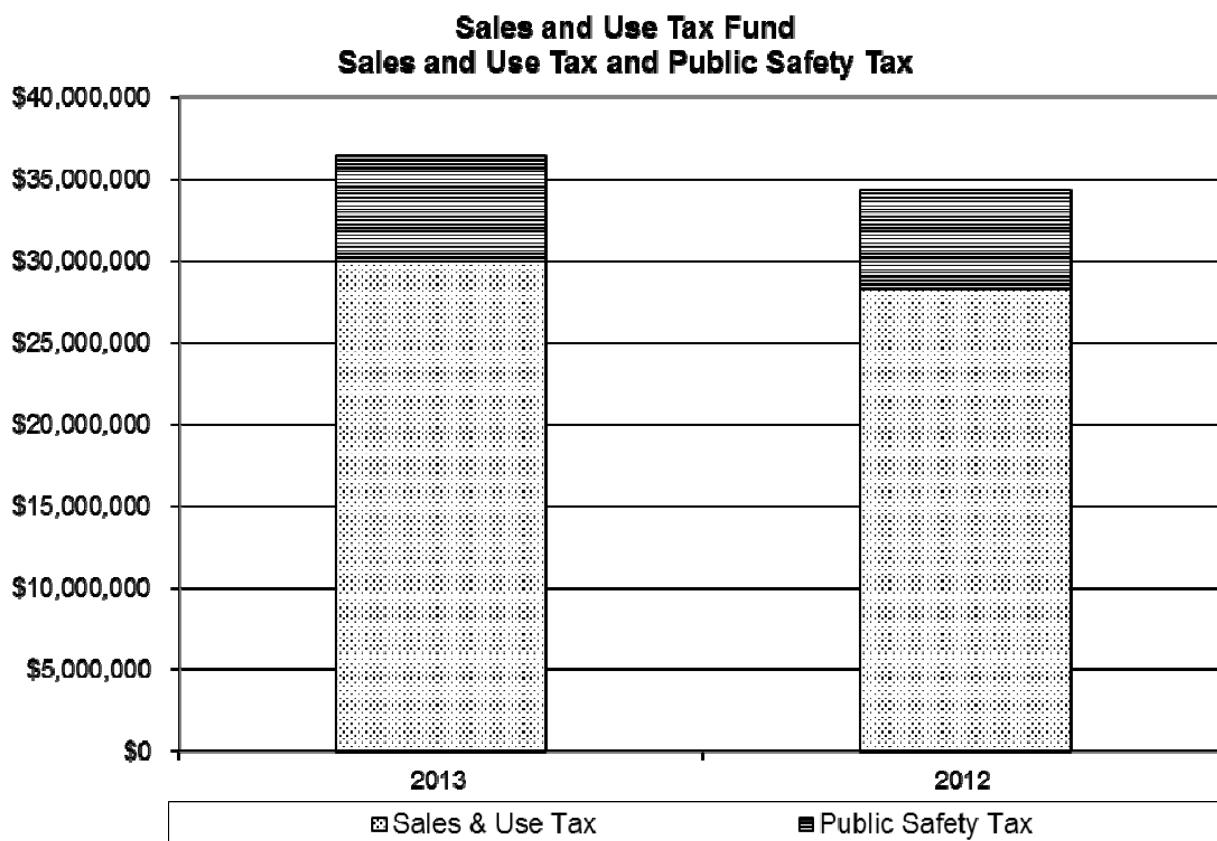
The revenue and expense variance between years reflects the refinancing of the 2005 Certificates of Participation.

The Sales and Use Tax Fund revenues exceed expenditures by \$1,745,792. On a year-to-date cash basis, total sales and use tax is up 5.8% from 2012. Key components are listed below:

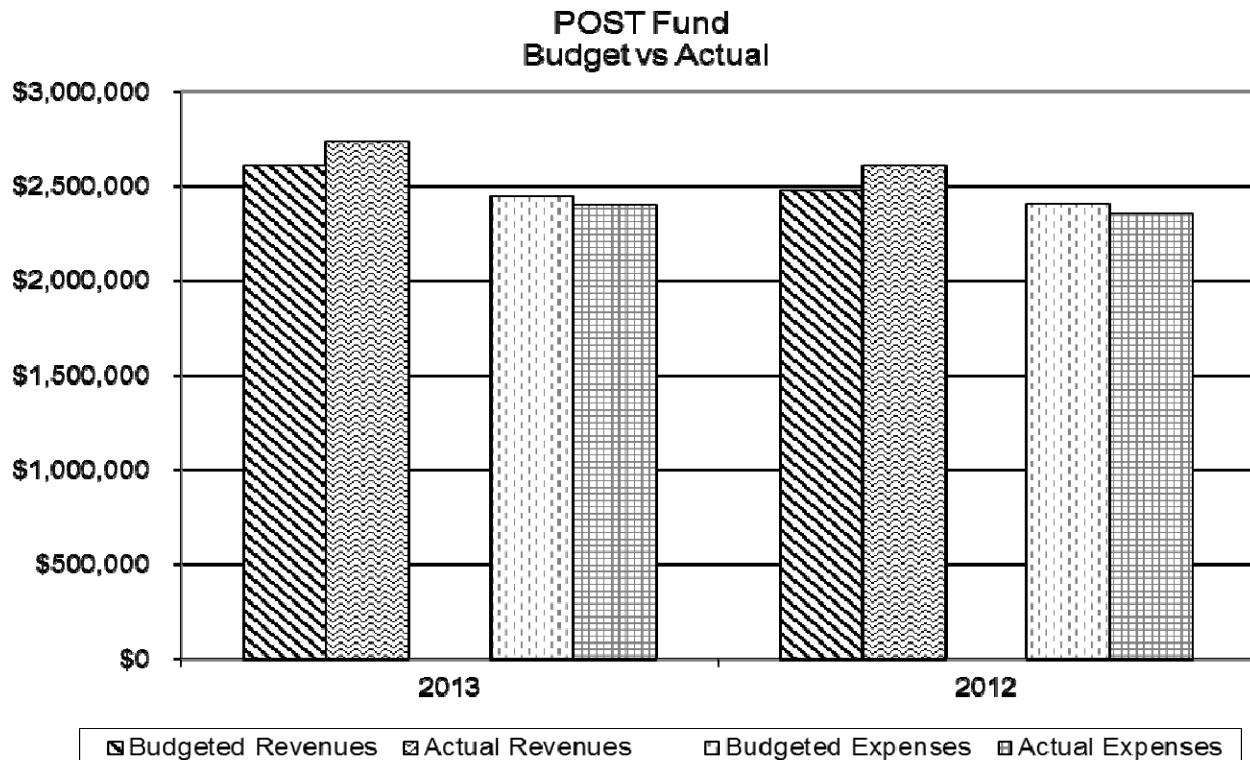
- On a year-to-date basis, across the top 25 shopping centers, total sales and use tax receipts are up 1.0% from the prior year.
- Sales tax receipts from the top 50 Sales Taxpayers, representing about 63.0% of all collections, are up 4.6% for the month.
- Urban renewal areas make up 40.5% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 85.4% of this money is being retained for General Fund use.



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

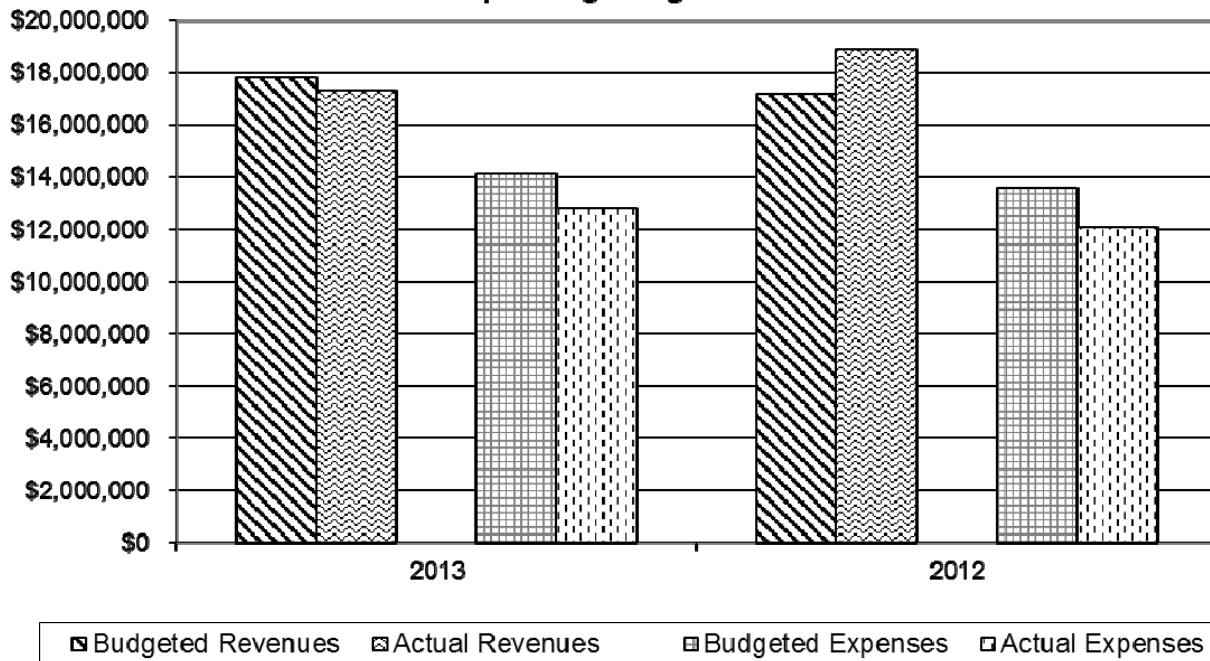


The Parks Open Space and Trails Fund revenues exceed expenditures by \$332,520.



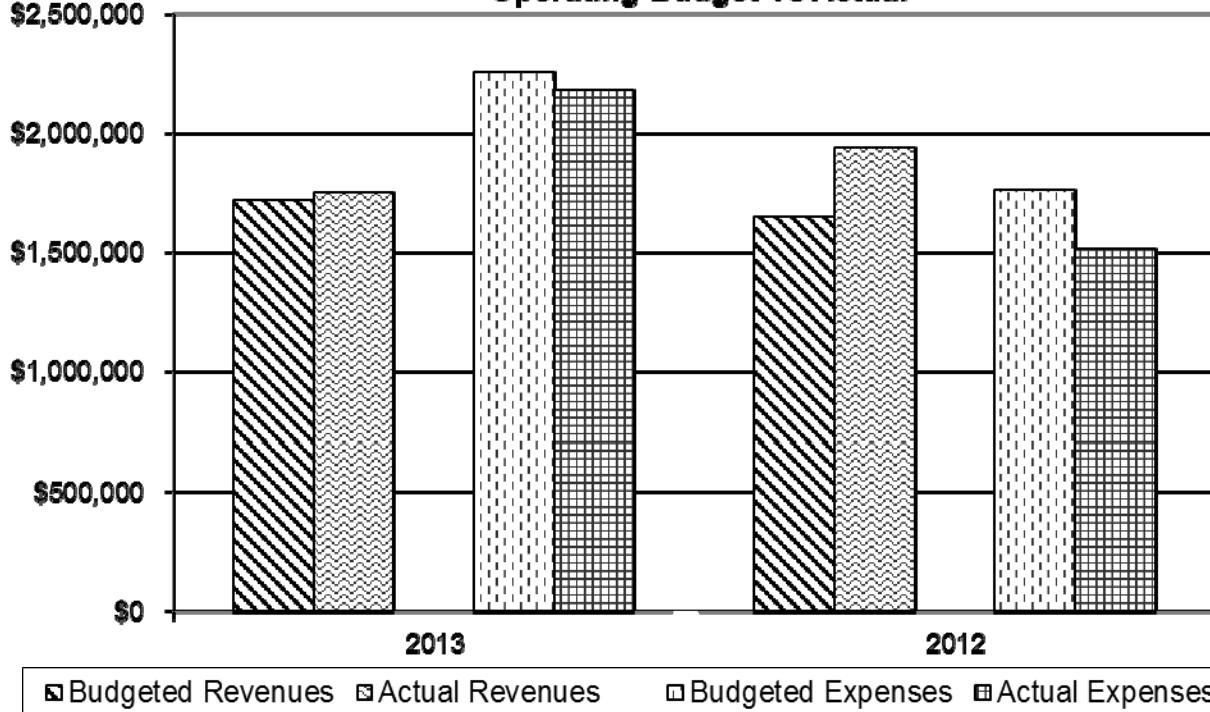
The combined Water & Wastewater Fund revenues exceed expenditures by \$4,975,378. Operating revenues exceed operating expenditures by \$4,532,311. \$14,984,540 is budgeted for capital projects and reserves.

Combined Water and Wastewater Funds Operating Budget vs Actual



The combined Golf Course Fund revenues exceed expenditures by \$54,653.

Golf Course Enterprise Operating Budget vs Actual



At this time in 2012, green fees, cart rental, driving range fees, property tax receipts, and transfers were greater. The snowy spring decreased the number of rounds played in 2013. 2013 expenditures exceed those of 2012 due to the purchase of new golf carts and utility vehicles at both courses.

Policy Issue

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

Alternative

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

Background Information

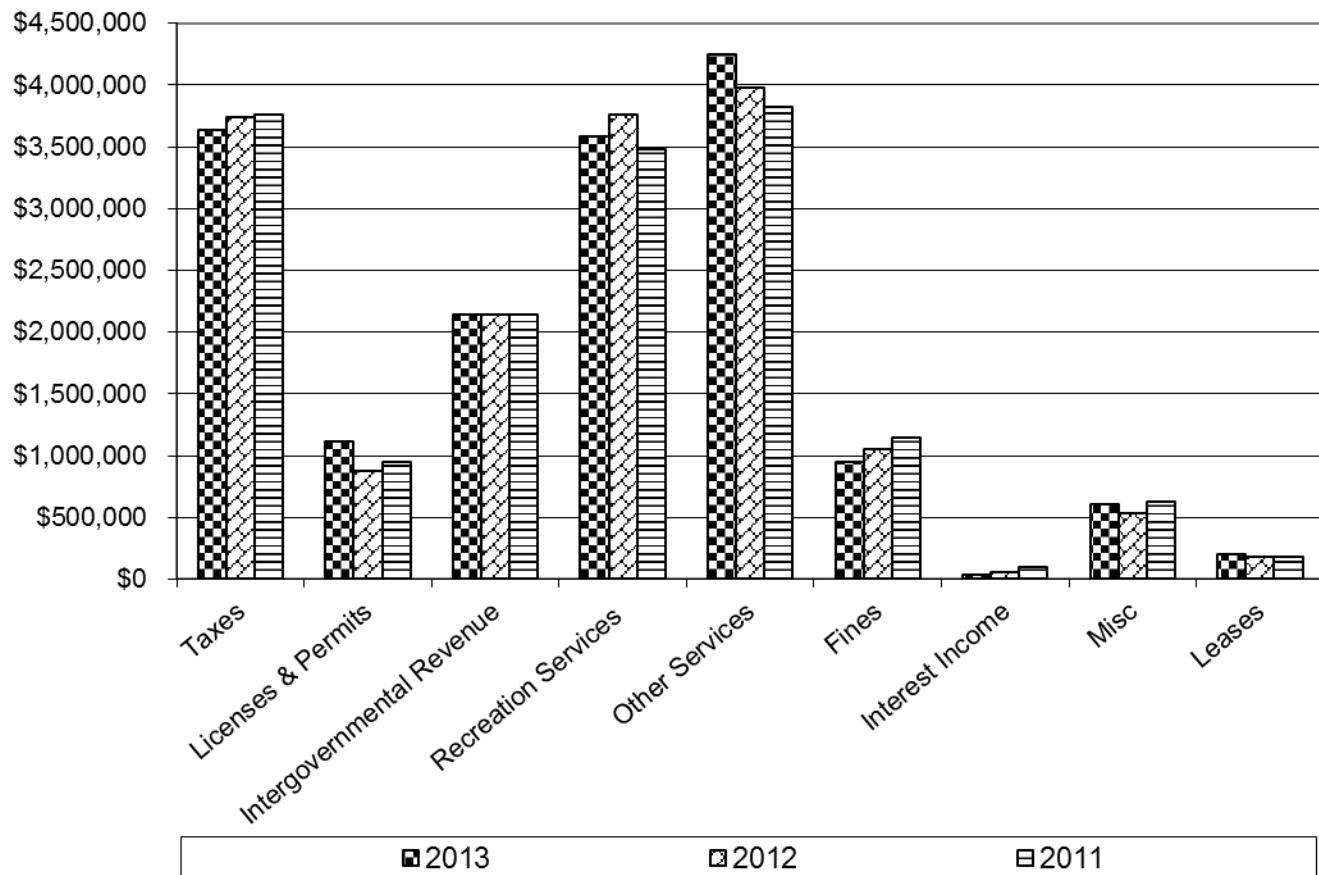
This section includes a discussion of highlights of each fund presented.

General Fund

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

The following chart represents the trend in actual revenues from 2011-2013 year-to-date.

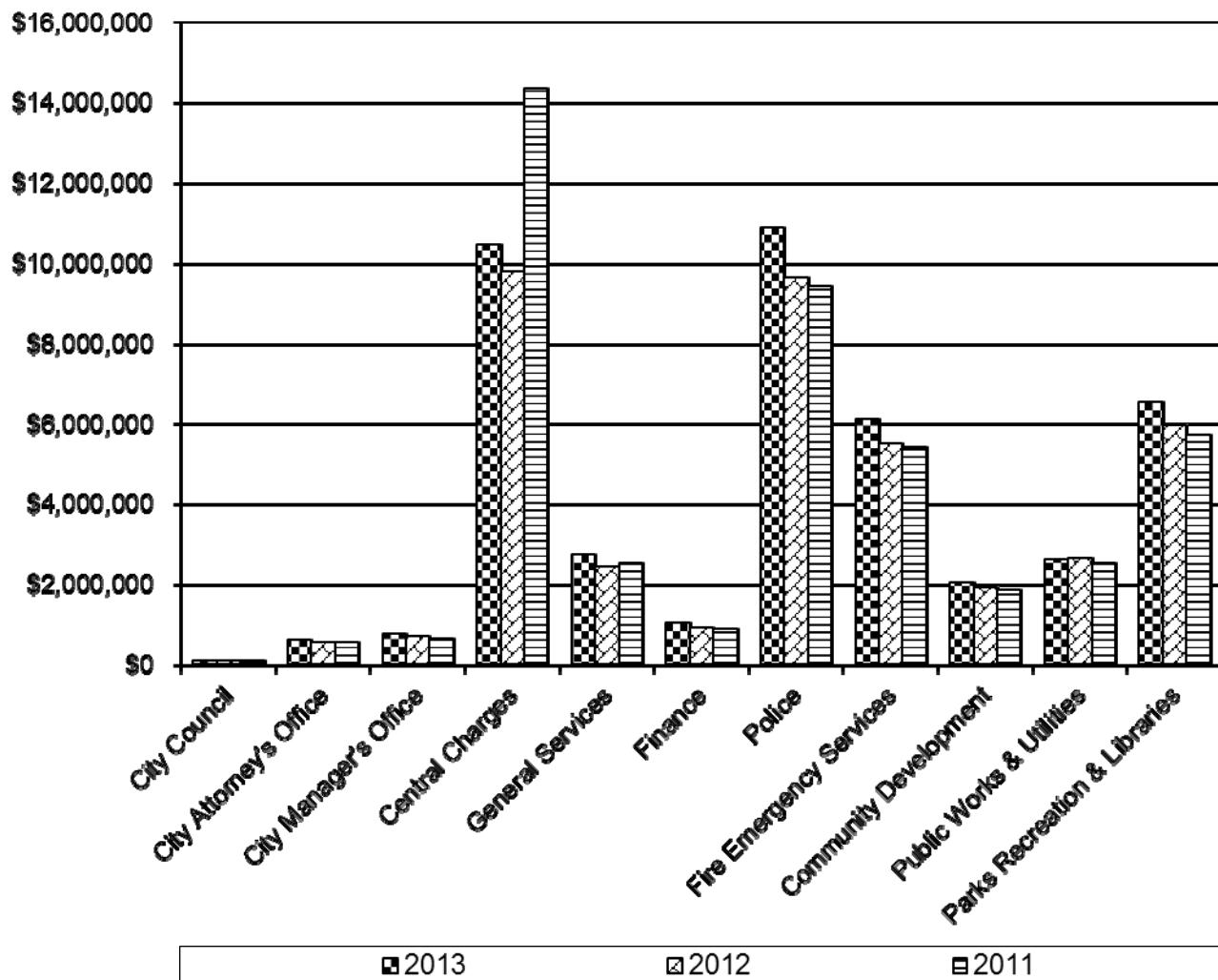
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources
2011-2013**



- The Licenses and Permits revenue variance between years is attributable to several large building permits issued for development near Park Centre Drive.
- The Other Services revenue variance between years is primarily attributable to Franchise Fees and Emergency Medical Service Fees.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2011-2013.

**General Fund Expenditures by Function, less Other Financing Uses
2011-2013**

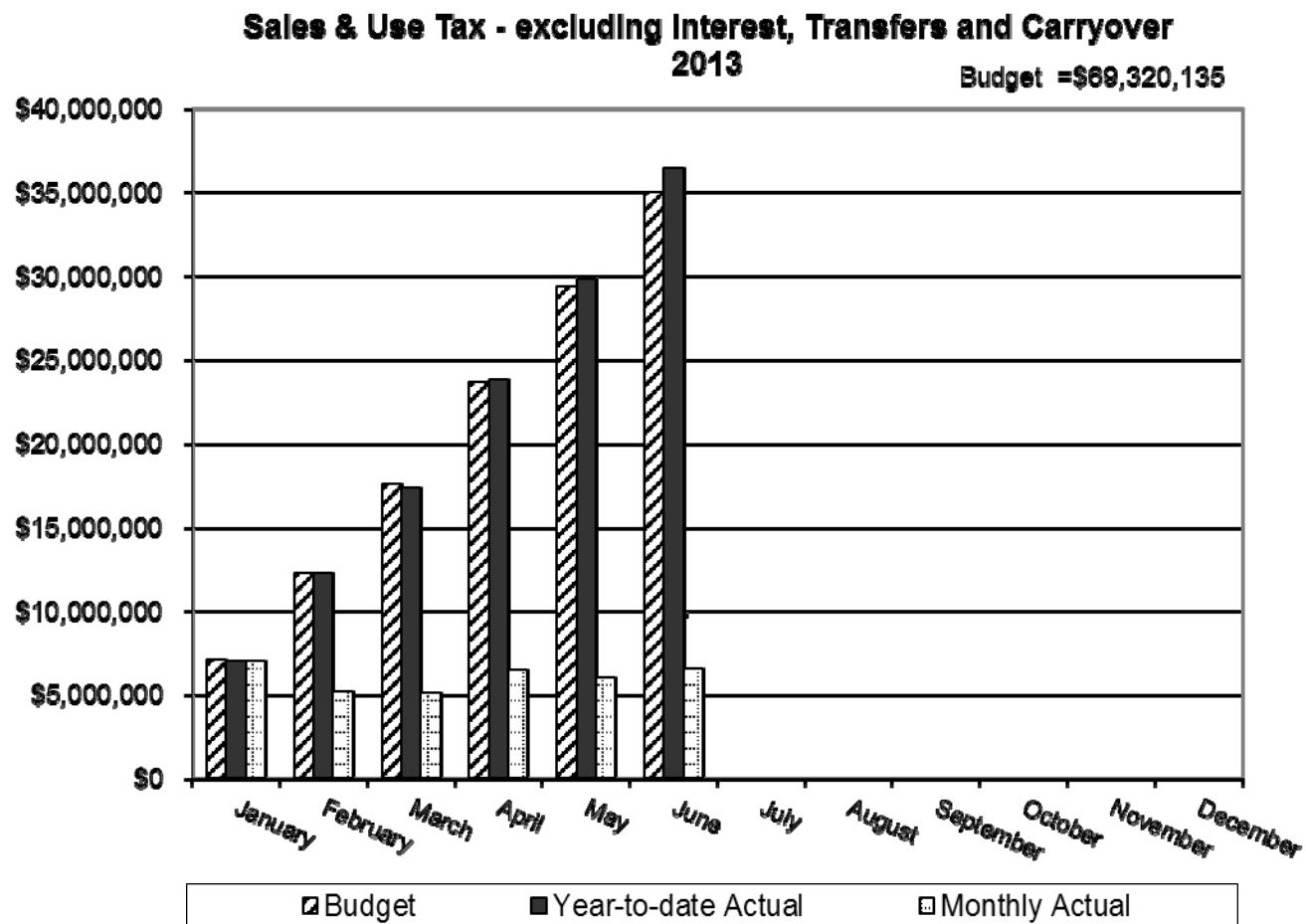


Central Charges expenditures is higher in 2011 primarily due to a transfer to WEDA of \$5.1 million. The Police expenditure variance between years is primarily due to an increase in contract services and equipment replacement fees. The increase in Parks, Recreation and Libraries is mostly due to personnel services expenditures.

Sales and Use Tax Funds (Sales & Use Tax Fund and Parks, Open Space and Trails Sales & Use Tax Fund)

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

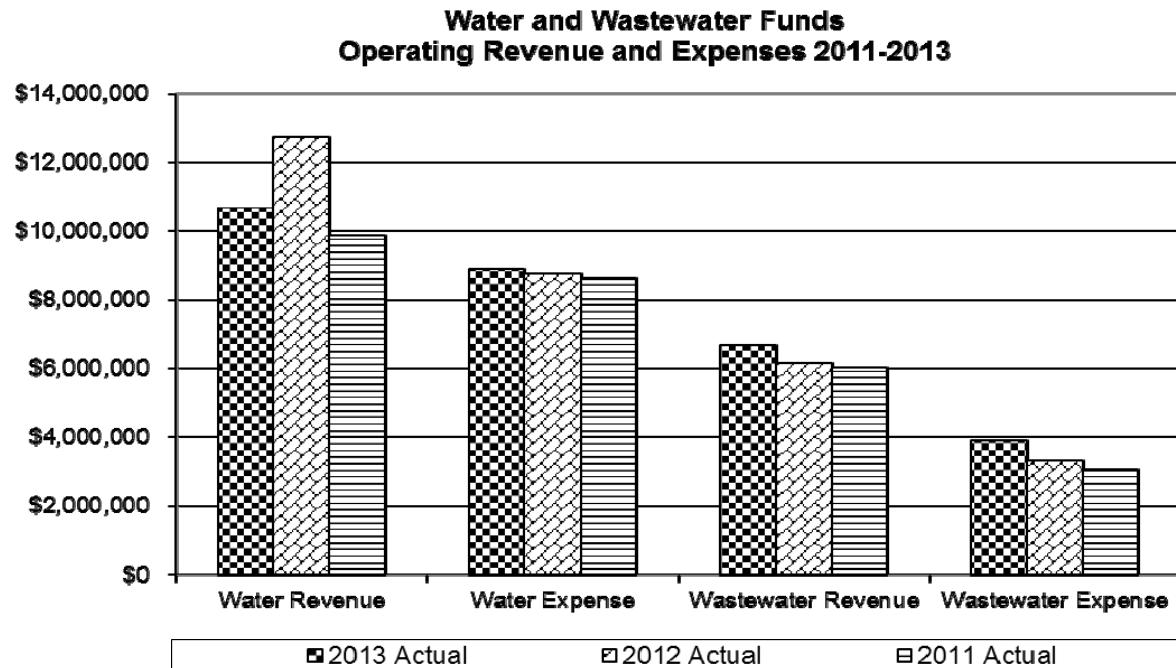
This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Parks, Open Space, and Trails Sales & Use Tax.



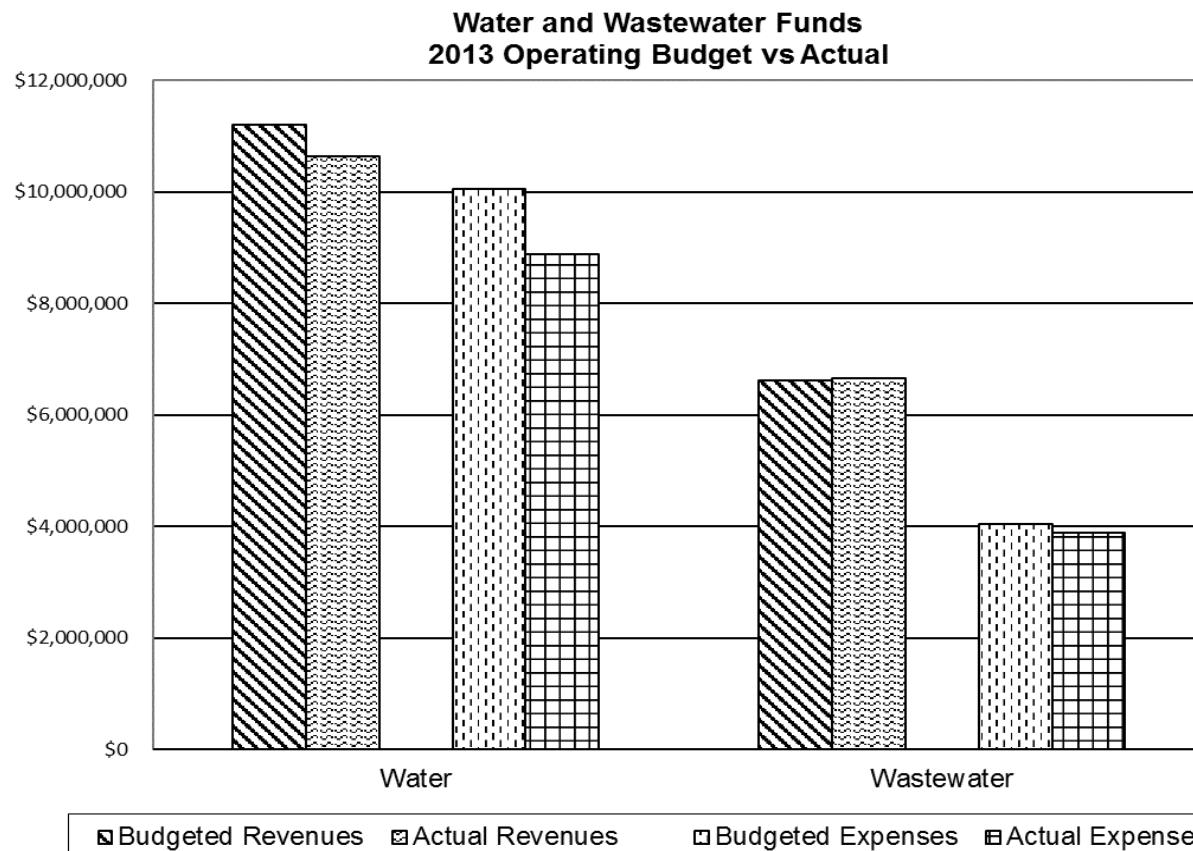
Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)

This fund reflects the operating results of the City's water, wastewater and storm water systems. It is important to note that net revenues are used to fund capital projects and reserves.

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



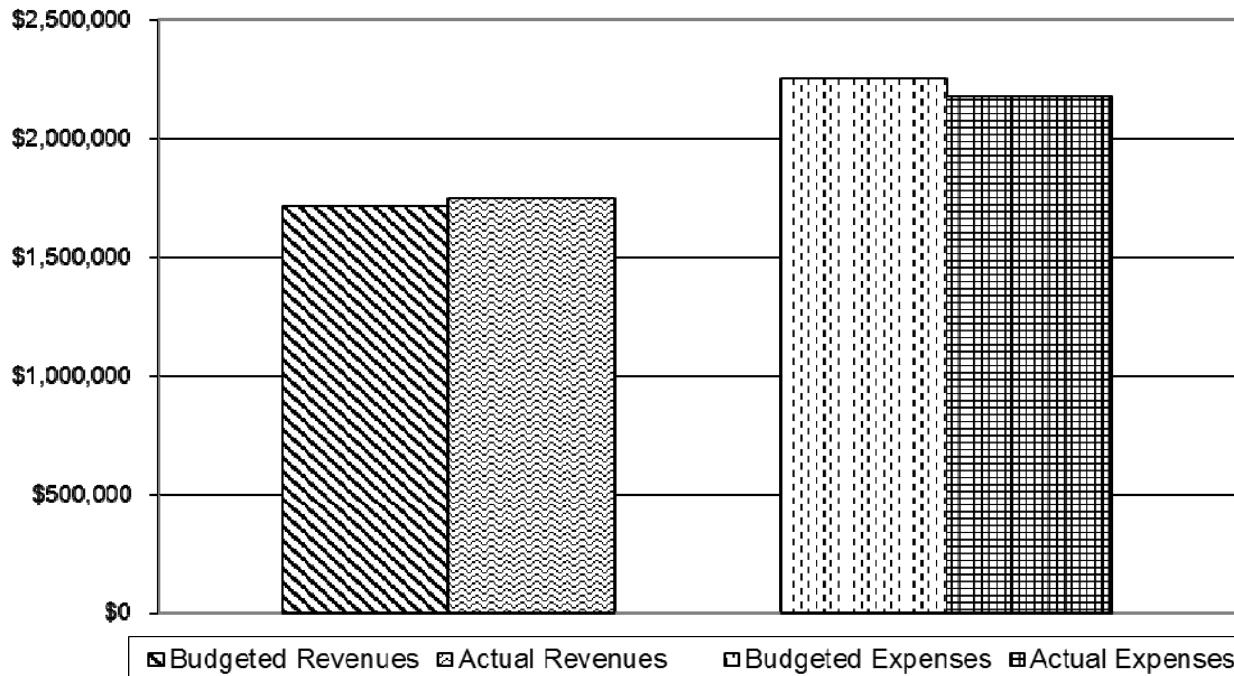
The Water Fund revenue variance is due to the effect of climatic variations on water consumption as well as changes in billing rates. 2013 Wastewater revenues are also up due to changes in billing rates. 2013 Wastewater expenses exceed prior years due to capital purchases for field operations.



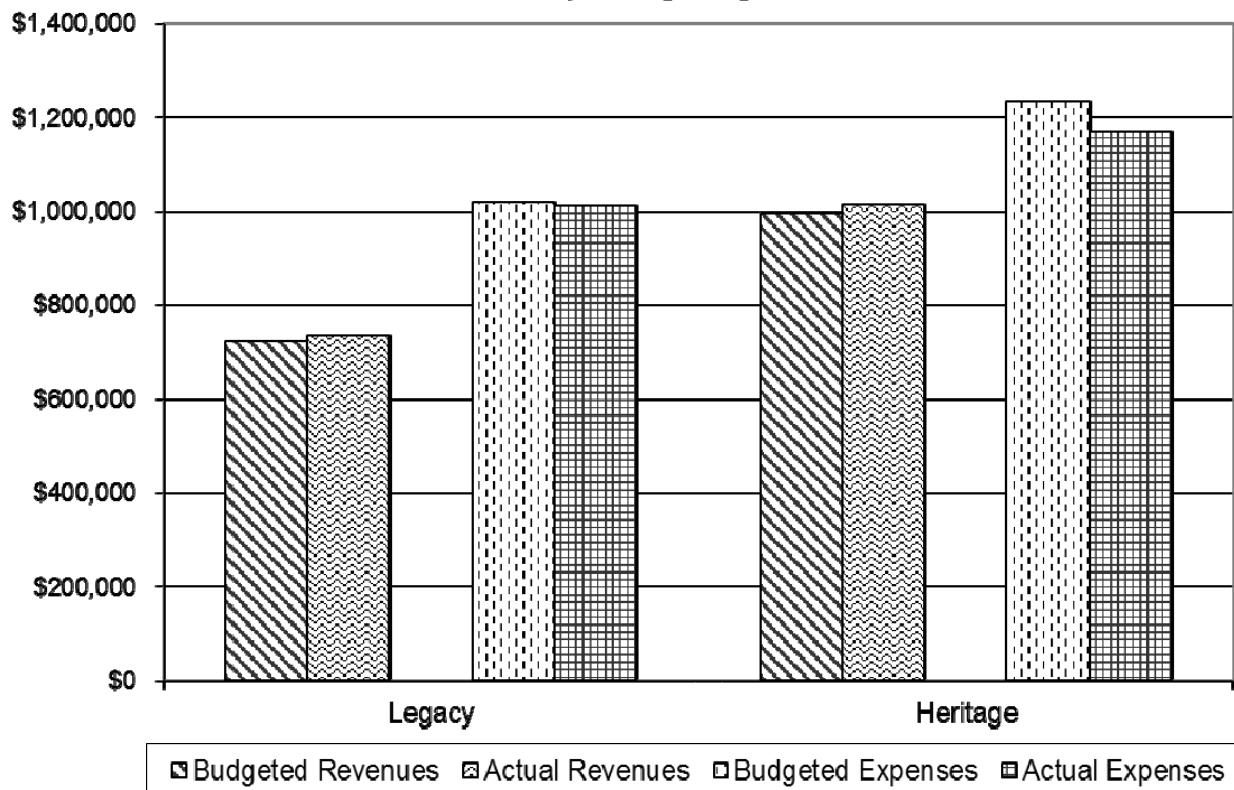
Golf Course Enterprise (Legacy and Heritage Golf Courses)

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

**Combined Golf Courses
2013 Operating Budget vs Actual**

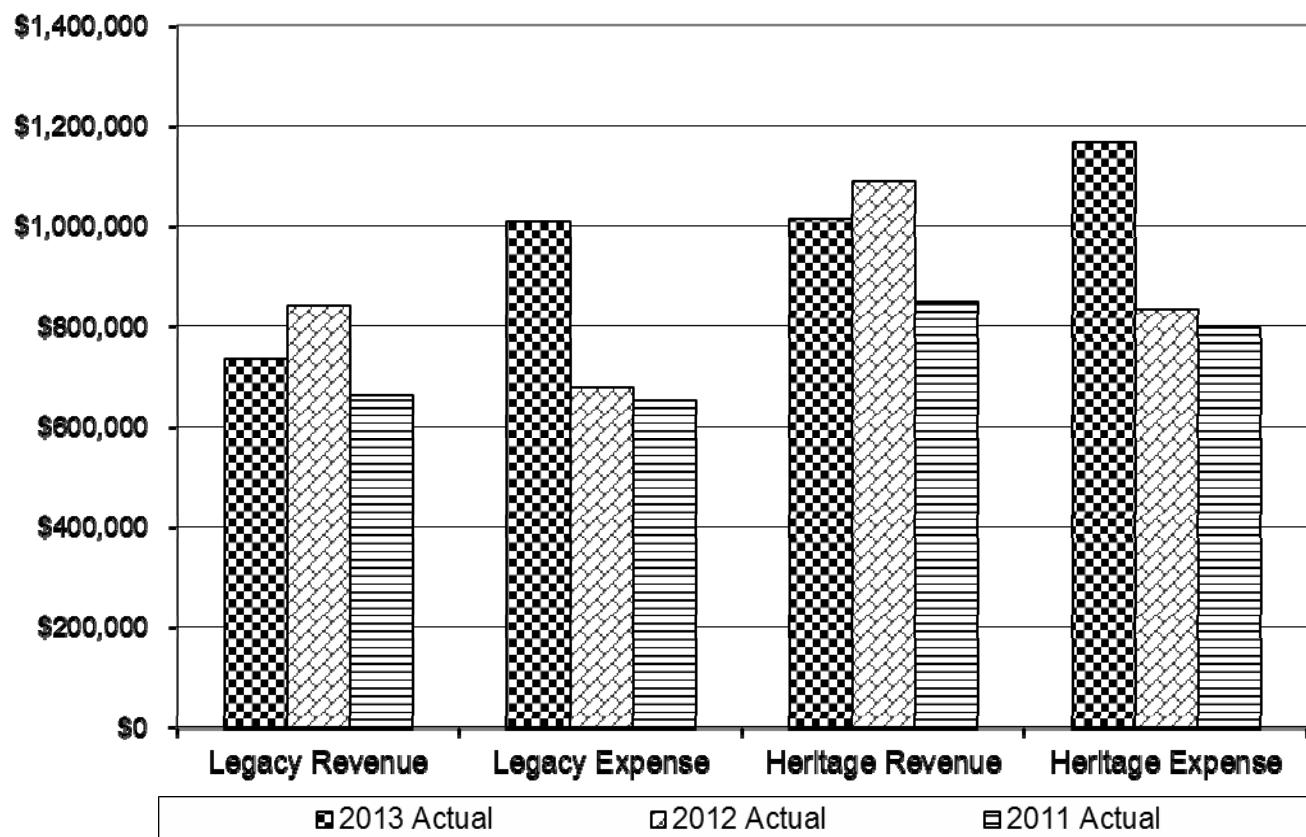


**Legacy and Heritage Golf Courses
2013 Operating Budget vs Actual**



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

**Legacy and Heritage Golf Courses
Operating Revenue and Expenses 2011-2013**



The 2012 revenue variance at both courses is due primarily to charges for services, including driving range and green fees. Transfer revenue decreased in 2011 as a result of savings from refunding of the Heritage at Westmoor revenue bonds.

The 2013 expenditure variance for both courses is due primarily to the purchase of golf carts and utility equipment.

This financial report supports City Council's Strategic Plan Goal of Financially Sustainable City Government Providing Exceptional Services by communicating timely information on the results of City operations and to assist with critical decision making.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Financial Statements
- Shopping Center Report

**City of Westminster
Financial Report
For Six Months Ending June 30, 2013**

Description General Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Taxes	5,729,500	3,745,501		3,633,661	(111,840)	97.0%
Licenses & Permits	1,619,750	773,646		1,113,310	339,664	143.9%
Intergovernmental Revenue	5,044,926	1,895,749		2,139,887	244,138	112.9%
Charges for Services						
Recreation Services	6,710,438	3,543,721		3,586,549	42,828	101.2%
Other Services	9,879,422	4,142,821		4,246,406	103,585	102.5%
Fines	2,260,000	1,138,890		951,194	(187,696)	83.5%
Interest Income	125,000	54,258		37,958	(16,300)	70.0%
Miscellaneous	1,658,634	570,200		602,745	32,545	105.7%
Leases	401,779	199,636		199,636	0	100.0%
Interfund Transfers	64,049,819	32,024,910		32,024,910	0	100.0%
Other Financing Sources	12,262,165	12,262,165		12,262,165	0	100.0%
Total Revenues	<u>109,741,433</u>	<u>60,351,497</u>		<u>60,798,421</u>	<u>446,924</u>	<u>100.7%</u>
Expenditures						
City Council	254,094	127,099		101,653	(25,446)	80.0%
City Attorney's Office	1,256,450	625,722		617,447	(8,275)	98.7%
City Manager's Office	1,567,013	766,602		766,410	(192)	100.0%
Central Charges	37,785,276	22,694,638		22,715,046	20,408	100.1%
General Services	5,997,953	2,908,902		2,737,915	(170,987)	94.1%
Finance	2,110,661	1,042,813		1,051,246	8,433	100.8%
Police	21,330,429	10,644,899		10,887,078	242,179	102.3%
Fire Emergency Services	12,525,053	6,190,042		6,113,129	(76,913)	98.8%
Community Development	4,202,436	2,073,689		2,058,247	(15,442)	99.3%
Public Works & Utilities	8,039,715	2,711,261		2,608,846	(102,415)	96.2%
Parks, Recreation & Libraries	14,672,353	6,704,158		6,531,657	(172,501)	97.4%
Total Expenditures	<u>109,741,433</u>	<u>56,489,825</u>		<u>56,188,674</u>	<u>(301,151)</u>	<u>99.5%</u>
Revenues Over(Under) Expenditures	0	3,861,672		4,609,747	748,075	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Sales and Use Tax Fund						
Revenues						
Sales Tax						
Sales Tax Returns	47,601,952	24,420,776		24,669,708	248,932	101.0%
Sales Tx Audit Revenues	724,000	362,000		276,450	(85,550)	76.4%
S-T Rev. STX	<u>48,325,952</u>	<u>24,782,776</u>		<u>24,946,158</u>	<u>163,382</u>	<u>100.7%</u>
Use Tax						
Use Tax Returns	8,017,000	3,655,944		4,225,212	569,268	115.6%
Use Tax Audit Revenues	785,000	392,500		752,664	360,164	191.8%
S-T Rev. UTX	<u>8,802,000</u>	<u>4,048,444</u>		<u>4,977,876</u>	<u>929,432</u>	<u>123.0%</u>
Total STX and UTX	<u>57,127,952</u>	<u>28,831,220</u>		<u>29,924,034</u>	<u>1,092,814</u>	<u>103.8%</u>
Public Safety Tax						
PST Tax Returns	11,883,683	5,978,709		6,287,877	309,168	105.2%
PST Audit Revenues	308,500	154,250		205,743	51,493	133.4%
Total Rev. PST	<u>12,192,183</u>	<u>6,132,959</u>		<u>6,493,620</u>	<u>360,661</u>	<u>105.9%</u>
Interest Income	85,000	42,500		30,706	(11,794)	72.2%
Interfund Transfers	265,458	132,729		132,729	0	100.0%
Total Revenues	<u>69,670,593</u>	<u>35,139,408</u>		<u>36,581,089</u>	<u>1,441,681</u>	<u>104.1%</u>
Expenditures						
Central Charges	<u>69,670,593</u>	<u>34,835,297</u>		<u>34,835,297</u>	<u>0</u>	
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>304,111</u>		<u>1,745,792</u>	<u>1,441,681</u>	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Revenues						
Sales & Use Tax	5,085,325	2,551,235		2,704,984	153,749	106.0%
Interest Income	10,000	5,000		8,225	3,225	164.5%
Miscellaneous	87,130	43,565		8,540	(35,025)	19.6%
Interfund Transfers	19,542	9,771		9,771	0	100.0%
Total Revenues	<u>5,201,997</u>	<u>2,609,571</u>		<u>2,731,520</u>	<u>121,949</u>	<u>104.7%</u>
Expenditures						
Central Charges	4,871,181	2,316,699		2,271,340	(45,359)	98.0%
Park Services	330,816	128,236		127,660	(576)	99.6%
Total Expenditures	<u>5,201,997</u>	<u>2,444,935</u>		<u>2,399,000</u>	<u>(45,935)</u>	<u>98.1%</u>
Revenues Over(Under) Expenditures	0	164,636		332,520	167,884	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Water and Wastewater Funds - Combined						
Operating Revenues						
License & Permits	75,000	37,500		51,470	13,970	137.3%
Intergovernmental Revenue	0	0		272,564	272,564	
Rates and Charges	45,315,766	17,558,818		16,814,503	(744,315)	95.8%
Miscellaneous	435,000	217,500		167,078	(50,422)	76.8%
Total Operating Revenues	<u>45,825,766</u>	<u>17,813,818</u>		<u>17,305,615</u>	<u>(508,203)</u>	97.1%
Operating Expenditures						
Central Charges	6,032,672	3,016,337		3,018,823	2,486	100.1%
Finance	646,064	310,111		260,409	(49,702)	84.0%
Public Works & Utilities	21,378,120	9,344,355		8,099,734	(1,244,621)	86.7%
Parks, Recreation & Libraries	152,415	57,918		56,772	(1,146)	98.0%
Information Technology	2,868,928	1,382,823		1,337,566	(45,257)	96.7%
Total Operating Expenditures	<u>31,078,199</u>	<u>14,111,544</u>		<u>12,773,304</u>	<u>(1,338,240)</u>	90.5%
Operating Income (Loss)	<u>14,747,567</u>	<u>3,702,274</u>		<u>4,532,311</u>	<u>830,037</u>	
Other Revenue and Expenditures						
Tap Fees	4,560,000	2,309,210		2,034,941	(274,269)	88.1%
Interest Income	365,000	182,500		163,969	(18,531)	89.8%
Interfund Transfers	2,533,172	1,266,586		1,266,586	0	100.0%
Sale of Assets	0	0		22,558	22,558	
Debt Service	(7,221,199)	(3,044,987)		(3,044,987)	0	100.0%
Total Other Revenue (Expenditures)	<u>236,973</u>	<u>713,309</u>		<u>443,067</u>	<u>(270,242)</u>	
Revenues Over(Under) Expenditures	<u>14,984,540</u>	<u>4,415,583</u>		<u>4,975,378</u>	<u>559,795</u>	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Pro-rated for Seasonal Flows			(Under) Over Budget	% Budget
	Budget	Notes	Actual		
Water Fund					
Operating Revenues					
License & Permits	75,000	37,500	51,470	13,970	137.3%
Intergovernmental Revenue	0	0	272,564	272,564	
Rates and Charges	32,100,766	10,951,318	10,161,772	(789,546)	92.8%
Miscellaneous	425,000	212,500	160,403	(52,097)	75.5%
Total Operating Revenues	<u>32,600,766</u>	<u>11,201,318</u>	<u>10,646,209</u>	<u>(555,109)</u>	95.0%
Operating Expenditures					
Central Charges	4,253,473	2,126,737	2,115,922	(10,815)	99.5%
Finance	646,064	310,111	260,409	(49,702)	84.0%
Public Works & Utilities	14,419,655	6,187,842	5,109,417	(1,078,425)	82.6%
PR&L Standley Lake	152,415	57,918	56,772	(1,146)	98.0%
Information Technology	2,868,928	1,382,823	1,337,566	(45,257)	96.7%
Total Operating Expenditures	<u>22,340,535</u>	<u>10,065,431</u>	<u>8,880,086</u>	<u>(1,185,345)</u>	88.2%
Operating Income (Loss)	<u>10,260,231</u>	<u>1,135,887</u>	<u>1,766,123</u>	<u>630,236</u>	
Other Revenue and (Expenditures)					
Tap Fees	3,500,000	1,768,000	1,568,404	(199,596)	88.7%
Interest Income	250,000	125,000	113,332	(11,668)	90.7%
Interfund Transfers	2,097,065	1,048,532	1,048,532	0	100.0%
Sale of Assets	0	0	22,558	22,558	
Debt Service	(5,714,756)	(2,466,478)	(2,466,478)	0	100.0%
Total Other Revenues (Expenditures)	<u>132,309</u>	<u>475,054</u>	<u>286,348</u>	<u>(188,706)</u>	
Revenues Over(Under) Expenditures	<u>10,392,540</u>	<u>1,610,941</u>	<u>2,052,471</u>	<u>441,530</u>	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Pro-rated for Seasonal Flows			(Under) Over Budget	% Budget
	Budget	Notes	Actual		
Wastewater Fund					
Operating Revenues					
Rates and Charges	13,215,000	6,607,500	6,652,731	45,231	100.7%
Miscellaneous	10,000	5,000	6,675	1,675	133.5%
Total Operating Revenues	<u>13,225,000</u>	<u>6,612,500</u>	<u>6,659,406</u>	<u>46,906</u>	<u>100.7%</u>
Operating Expenditures					
Central Charges	1,779,199	889,600	902,901	13,301	101.5%
Public Works & Utilities	6,958,465	3,156,513	2,990,317	(166,196)	94.7%
Total Operating Expenditures	<u>8,737,664</u>	<u>4,046,113</u>	<u>3,893,218</u>	<u>(152,895)</u>	<u>96.2%</u>
Operating Income (Loss)	<u>4,487,336</u>	<u>2,566,387</u>	<u>2,766,188</u>	<u>199,801</u>	
Other Revenue and Expenditures					
Tap Fees	1,060,000	541,210	466,537	(74,673)	86.2%
Interest Income	115,000	57,500	50,637	(6,863)	88.1%
Interfund Transfers	436,107	218,054	218,054	0	100.0%
Debt Service	(1,506,443)	(578,509)	(578,509)	0	100.0%
Total Other Revenues (Expenditures)	<u>104,664</u>	<u>238,255</u>	<u>156,719</u>	<u>(81,536)</u>	
Revenues Over(Under) Expenditures	<u>4,592,000</u>	<u>2,804,642</u>	<u>2,922,907</u>	<u>118,265</u>	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Pro-rated for Seasonal Flows			(Under) Over Budget	% Budget
	Budget	Notes	Actual		
Storm Drainage Fund					
Revenues					
Charges for Services	2,082,000	1,041,000	1,006,922	(34,078)	96.7%
Interest Income	50,000	25,000	17,748	(7,252)	71.0%
Miscellaneous	0	0	17	17	
Total Revenues	2,132,000	1,066,000	1,024,687	(41,313)	96.1%
Expenditures					
General Services	86,200	30,429	20,332	(10,097)	66.8%
Community Development	174,090	82,867	85,125	2,258	102.7%
PR&L Park Services	200,000	42,200	21,616	(20,584)	51.2%
Public Works & Utilities	322,710	98,749	70,765	(27,984)	71.7%
Total Expenditures	783,000	254,245	197,838	(56,407)	77.8%
Revenues Over(Under) Expenditures	1,349,000	811,755	826,849	15,094	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Pro-rated for Seasonal Flows			(Under) Over Budget	% Budget
	Budget	Notes	Actual		
Golf Course Funds - Combined					
Operating Revenues					
Charges for Services	2,967,608	1,390,831	1,420,890	30,059	102.2%
Interest Income	0	0	1,610	1,610	
Interfund Transfers	617,771	326,699	326,699	0	100.0%
Total Revenues	<u>3,585,379</u>	<u>1,717,530</u>	<u>1,749,199</u>	<u>31,669</u>	101.8%
Operating Expenditures					
Central Charges	253,063	126,370	129,254	2,884	102.3%
Recreation Facilities	<u>3,816,599</u>	<u>2,126,615</u>	<u>2,049,575</u>	<u>(77,040)</u>	96.4%
Total Expenditures	<u>4,069,662</u>	<u>2,252,985</u>	<u>2,178,829</u>	<u>(74,156)</u>	96.7%
Operating Income (Loss)	(484,283)	(535,455)	(429,630)	105,825	
Other Revenues and Expenditures					
Other Financing Sources	<u>484,283</u>	<u>484,283</u>	<u>484,283</u>	<u>0</u>	100.0%
Revenues Over(Under) Expenditures	<u>0</u>	<u>(51,172)</u>	<u>54,653</u>	<u>105,825</u>	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Pro-rated for Seasonal Flows			(Under) Over Budget	% Budget
	Budget	Notes	Actual		
Legacy Ridge Fund					
Operating Revenues					
Charges for Services	1,582,258	723,092	732,827	9,735	101.3%
Interest Income	0	0	2,230	2,230	
Total Revenues	<u>1,582,258</u>	<u>723,092</u>	<u>735,057</u>	<u>11,965</u>	101.7%
Operating Expenditures					
Central Charges	149,287	74,793	83,026	8,233	111.0%
Recreation Facilities	<u>1,675,113</u>	<u>944,298</u>	<u>927,555</u>	<u>(16,743)</u>	98.2%
Total Expenditures	<u>1,824,400</u>	<u>1,019,091</u>	<u>1,010,581</u>	<u>(8,510)</u>	99.2%
Operating Income (Loss)	(242,142)	(295,999)	(275,524)	20,475	
Other Revenues and Expenditures					
Other Financing Sources	<u>242,142</u>	<u>242,142</u>	<u>240,539</u>	<u>(1,603)</u>	99.3%
Revenues Over(Under) Expenditures	<u>0</u>	<u>(53,857)</u>	<u>(34,985)</u>	<u>20,475</u>	

City of Westminster
Financial Report
For Six Months Ending June 30, 2013

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
Heritage at Westmoor Fund						
Operating Revenues						
Charges for Services	1,385,350	667,739		688,063	20,324	103.0%
Interest Income	0	0		(620)	(620)	
Interfund Transfers	617,771	326,699		326,699	0	100.0%
Total Revenues	<u>2,003,121</u>	<u>994,438</u>		<u>1,014,142</u>	<u>19,704</u>	102.0%
Operating Expenses						
Central Charges	103,776	51,577		46,228	(5,349)	89.6%
Recreation Facilities	<u>2,141,486</u>	<u>1,182,317</u>		<u>1,122,020</u>	<u>(60,297)</u>	94.9%
Total Expenses	<u>2,245,262</u>	<u>1,233,894</u>		<u>1,168,248</u>	<u>(65,646)</u>	94.7%
Operating Income (Loss)	(242,141)	(239,456)		(154,106)	85,350	
Other Revenues and Expenses						
Other Financing Sources	<u>242,141</u>	<u>242,141</u>		<u>243,744</u>	<u>1,603</u>	100.7%
Revenues Over(Under) Expenditures	<u>0</u>	<u>2,685</u>		<u>89,638</u>	<u>86,953</u>	

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF JUNE 2013

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Center Location Major Tenant	Current Month			Last Year			%Change ---		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use Total		
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	394,727	17,495	412,222	370,860	15,099	385,959	6	16	7
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	316,764	684	317,447	325,371	906	326,277	-3	-25	-3
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	239,268	1,053	240,321	199,962	1,037	200,998	20	2	20
SHOPS AT WALNUT CREEK 104TH & REED TARGET	237,752	1,435	239,186	220,996	1,290	222,286	8	11	8
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	222,483	225	222,708	209,327	426	209,753	6	-47	6
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	148,860	27,340	176,199	133,309	26,551	159,860	12	3	10
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	174,109	328	174,437	192,020	379	192,400	-9	-14	-9
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	171,124	2,285	173,410	166,041	665	166,706	3	243	4
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	167,314	469	167,783	164,701	565	165,266	2	-17	2
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	100,919	23,317	124,236	80,717	128	80,845	25	18146	54
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	120,648	726	121,374	112,242	123	112,365	7	490	8
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	101,349	242	101,591	112,654	392	113,046	-10	-38	-10
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	90,970	996	91,966	77,020	247	77,267	18	304	19
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	82,294	198	82,493	76,123	204	76,328	8	-3	8
LUCENT/KAIser CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	10,584	56,017	66,601	14,198	74,051	88,249	-25	-24	-25

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
MONTH OF JUNE 2013

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Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use Total		
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	64,435	1,828	66,263	60,577	204	60,781	6	795	9
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	61,417	1,595	63,012	53,727	226	53,953	14	605	17
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	56,907	572	57,479	53,095	311	53,406	7	84	8
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	46,474	6,961	53,434	44,419	9,215	53,634	5	-24	0
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	33,012	18,162	51,174	26,705	757	27,462	24	2298	86
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	20,805	28,363	49,168	20,774	134	20,908	0	21062	135
STANLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	43,580	131	43,710	42,732	5,592	48,323	2	-98	-10
VALLE VISTA NW CORNER 104TH & FEDERAL BRIGHT SMILE	12,952	27,904	40,856	13,549	8	13,557	-4	59028	201
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	33,669	54	33,723	29,979	28	30,007	12	91	12
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	30,554	769	31,323	28,173	467	28,640	8	64	9
	2,982,968	219,148	3,202,116	2,829,271	139,005	2,968,276	5	58	8

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
JUNE 2013 YEAR-TO-DATE

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Center Location Major Tenant	YTD 2013			YTD 2012			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	2,615,187	89,817	2,705,004	2,391,939	89,169	2,481,107	9	1	9
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	2,040,400	6,029	2,046,429	2,107,874	16,813	2,124,687	-3	-64	-4
SHOPS AT WALNUT CREEK 104TH & REED TARGET	1,534,883	22,818	1,557,700	1,418,724	11,600	1,430,324	8	97	9
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	1,333,268	3,461	1,336,729	1,447,890	3,710	1,451,600	-8	-7	-8
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	1,268,268	9,314	1,277,582	1,139,701	10,979	1,150,680	11	-15	11
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	1,057,808	5,047	1,062,855	1,178,650	2,804	1,181,455	-10	80	-10
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	1,048,044	4,710	1,052,754	1,010,296	10,502	1,020,798	4	-55	3
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	998,465	12,424	1,010,890	982,038	3,332	985,370	2	273	3
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	842,783	106,584	949,367	774,928	106,612	881,540	9	0	8
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	816,598	9,029	825,628	746,671	4,556	751,226	9	98	10
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	682,609	11,971	694,580	736,009	5,114	741,123	-7	134	-6
STANLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	542,456	3,100	545,556	502,086	1,486	503,572	8	109	8
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	457,860	2,457	460,317	465,697	5,394	471,090	-2	-54	-2
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	378,782	24,577	403,360	377,842	4,343	382,185	0	466	6
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	376,599	3,332	379,931	371,390	1,191	372,581	1	180	2

CITY OF WESTMINSTER
GENERAL RECEIPTS BY CENTER
JUNE 2013 YEAR-TO-DATE

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Center Location Major Tenant	/----- YTD 2013 -----/			/----- YTD 2012 -----/			%Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	326,260	4,095	330,355	322,332	5,894	328,226	1	-31	1
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	279,753	15,001	294,754	255,205	11,946	267,151	10	26	10
STANLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	266,168	1,028	267,196	262,352	6,386	268,738	1	-84	-1
WESTMINSTER MALL 88TH & SHERIDAN JC PENNEY	263,160	4,565	267,725	569,143	13,097	582,240	-54	-65	-54
WILLOW RUN 128TH & ZUNI SAFEWAY	183,874	1,681	185,555	200,960	2,308	203,268	-9	-27	-9
BOULEVARD SHOPS 94TH & WADSWORTH CORRIDOR AMERICAN FURNITURE WAREHOUSE	176,540	3,314	179,854	167,726	1,287	169,013	5	157	6
BROOKHILL IV E SIDE WADS 90TH-92ND MURDOCH'S	173,205	4,489	177,694	168,988	694	169,682	3	547	5
NORTHVIEW 92ND AVE YATES TO SHERIDAN SALTGRASS	157,754	20,208	177,962	145,948	3,427	149,376	8	490	19
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	152,538	5,519	158,057	174,099	3,720	177,819	-12	48	-11
STANLEY PLAZA SW CORNER 88TH & WADS WALGREENS	152,117	3,115	155,232	149,561	7,021	156,582	2	-56	-1
	-----	-----	-----	-----	-----	-----	0	13	1
	18,125,378	377,685	18,503,063	18,068,051	333,384	18,401,435			
	=====	=====	=====	=====	=====	=====			



Agenda Item 8 B

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: General Capital Improvement Fund Transfer

Prepared By: Tammy Hitchens, Finance Director
Robert Byerhof, Treasury Manager
Gary Newcomb, Accountant

Recommended City Council Action

Authorize the transfer of \$2,268,000 from the General Capital Improvement Fund to the Westminster Economic Development Authority to be utilized to pay off the note to Vectra Bank that was obtained to purchase the Sears' property.

Summary Statement

- The City is interested in furthering the efforts of the Westminster Economic Development Authority (WEDA) in the redevelopment of the Westminster Center Urban Reinvestment Project (WURP).
- In July 2012, the City funded \$1,500,000, initially from carryover, a contingency that would be available should the City need to complete payment on the Sears note. While the plan was to have a developer on board assuming the note by the time the note was due, City Staff felt it was prudent to establish the contingency for unforeseen delays. The Capital Project Reserve was established in the General Capital Improvement Fund for this purpose.
- In accordance with a contractual agreement with the Westminster Center East Subarea Urban Renewal Area (URA), the City billed WEDA in 2012 for \$268,000 for advances made and for improvements benefitting the URA. In December 2012, Council approved appropriating these funds to the General Fund Capital Project Reserve account.
- As part of the initial 2013 budget process and the 2013 1st quarter supplemental, an additional \$500,000 was appropriated to the General Fund Capital Project Reserve as a result of a 2013 billing in accordance with the agreement with the Westminster Center URA.
- The cumulative amount of these budgeted dollars of \$2,268,000 is requested to be transferred to WEDA.

Expenditure Required: \$2,268,000

Source of Funds: General Capital Improvement Fund – Capital Project Reserve

Policy Issue

Does City Council support assisting WEDA with costs related to the Westminster Center Urban Reinvestment Project?

Alternative

The alternative would be not to assist WEDA with costs related to WURP. Staff does not recommend this alternative as the Council has identified this project as a priority.

Background Information

In July 2012, the City funded, initially from carryover, a contingency that would be available should the City need to complete payment on the Sears note. While the plan was to have a developer on board assuming the note by the time the note was due, City Staff felt it was prudent to establish the contingency for unforeseen delays.

Through a contractual agreement dated June 27, 2010, the City may bill the Westminster Economic Development Authority - Westminster Center East Subarea URA for advances made or for improvements benefitting the URA and/or services rendered by City staff in implementing the Urban Renewal Plan. In 2012, the City billed WEDA for \$268,000. Staff requested that these funds be appropriated to the General Fund - Capital Project Reserve. As part of the 2013 WEDA budget, an additional \$500,000 was budgeted to pay the City in accordance with the agreement. Council, through the City's regular 2013 budget adopted on October 8, 2012 and through the 1st quarter supplemental appropriation approved on June 10, 2013, appropriated \$500,000 to the General Fund - Capital Project Reserve. The cumulative amount available in the project is \$2,268,000.

Total appropriations of the GCIF do not change; however, a reallocation of budget between expenditure accounts in the fund is shown below for information purposes:

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Capital Project Reserve CMO	81275005186.80400.8888	\$2,268,000	(\$2,268,000)	\$0
Transfers to WEDA	75010900.79800.0680	0	<u>2,268,000</u>	2,268,000
			\$0	

These adjustments will bring the City's accounting records up-to-date to reflect the various detailed transactions.

This recommended action supports the strategic objectives of a Financially Sustainable City Government Providing Exceptional Services, a Strong, Balanced Local Economy and Vibrant Neighborhoods in one livable community. It does so by utilizing one-time funds to promote the redevelopment of the former Mall property.

Respectfully submitted,

J. Brent McFall
City Manager



W E S T M I N S T E R

Agenda Item 8 C

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Special Legal Services for Retirement Plan Review

Prepared By: Tammy Hitchens, Finance Director
Kim McDaniel, Retirement Administrator

Recommended City Council Action

Authorize the City Manager to enter into the attached contract with Brownstein Hyatt Farber Schreck, LLP for special legal services in connection with amending and reviewing the Pension Plan documents, providing advice and recommendations pertaining to the plan document and other retirement plan related legal issues.

Summary Statement

- Periodically, Congress passes legislation that affects tax-qualified retirement plans. Any employers that maintain a tax-qualified retirement plan must have it restated to comply with legislative and regulatory changes.
- The Pension Plans must be restated every five years and submitted to the IRS to maintain qualification as a pre-tax plan.
- Staff recommends the City hire the firm of Brownstein Hyatt Farber Schreck, LLP as special legal counsel to provide legal services. This firm has served as special legal counsel previously to the City when plan documents needed to be amended and submitted to the IRS for determination letter. They also provided the lowest of three quotes.
- City Charter Section 4.13(f) requires Council approval of all special legal counsel.

Expenditure Required: Not to exceed \$20,000

Source of Funds: Pension Budget and/or General Fund Central Charges Pension Account

Policy Issue

Should the City hire Brownstein Hyatt Farber Schreck, LLP to review, prepare, and submit legal documents to the IRS to amend the pension plan documents to comply with laws passed and provide other services on retirement plan related issues?

Alternatives

1. Not hire outside legal counsel and proceed without the benefit of a legal opinion. This alternative is not recommended as it is important that the City verify the legal basis of its pension plans in order to avoid plan disqualification.
2. Seek other legal assistance or opinions in lieu of hiring Brownstein Hyatt Farber Schreck, LLP. Brownstein is a widely recognized expert on the topic of pension and staff is very confident in recommending them for this work. In addition, staff obtained three quotes and Brownstein Hyatt Farber Schreck, LLP was the lowest bid.

Background Information

The IRS code is often changed and updated following the passage of new laws by Congress. The IRS requires pension plans to update their plan documents in accordance with the legal changes related to pension plans and submit applications to the IRS for approval of the required amendments to the plan documents. Further, the IRS requires pension plans to submit plan amendments by a certain time. Those plans that do not submit proper amendments within the required time can potentially lose their status as “tax-qualified” meaning that contributions to the plan would become taxable.

The firm of Brownstein Hyatt Farber Schreck, LLP has extensive experience with pension law and working with the IRS. Staff requests their services be employed to review the Plan documents, assist with providing legal consultation regarding various legal issues that may arise for the retirement plans, and submit the plan restatements.

It is extremely important the tax-qualified status of the City’s retirement plan be maintained. If our plans were to become “disqualified,” there would be significant adverse tax consequences to all participants, as well as to the plan sponsor.

The City’s Pension Plans are an attractive employee benefit that directly impacts the ability to meet the City’s Strategic Goal of a Financially Sustainable City Government Providing Exceptional Services. The review of the City’s Pension Plans by legal counsel who specialize in pension law provides an opportunity to maintain quality pre-tax retirement plans for employees.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Contract

CONTRACT FOR LEGAL SERVICES

THIS AGREEMENT is made this 23 day of July, 2013, by and between BROWNSTEIN HYATT FARBER SCHRECK, LLP, Attorneys-at-Law (the "Firm"), and the CITY OF WESTMINSTER, COLORADO (the "City").

RECITALS

1. The City is desirous of contracting with the Firm for legal services.
2. The Firm and its attorneys are authorized to practice law in the State of Colorado.

AGREEMENT

1. The Firm shall furnish the following special legal services to the City (the "Services"): see Exhibit "A". Exhibit "A" is incorporated into this Contract by reference and is considered to be a part of this Contract.
2. Nancy A. Strelau of the Firm shall be principally responsible for the Services.
3. The Firm is acting as an independent contractor; therefore, the City will not be responsible for FICA taxes, health or life insurance, vacation, or other employment benefits.
4. The City shall pay for the Services at the rates set forth in Exhibit "A."
5. This Contract may be terminated by the City with or without cause.
6. No payments to the Firm shall be made prior to the approval of this Contract by the Westminster City Council.
7. Payments pursuant to this Contract shall not exceed \$20,000.00 without further written authorization by the City.
8. The Westminster City Council authorized this contract on _____.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: Nancy Strelau
Signature

NANCY A. STRELAU
Print Name

CITY OF WESTMINSTER, COLORADO

By: _____
Signature

Print Name

Approved as-to-legal form:

By: Leslie Annand
City Attorney's Office
Leslie Annand
Print Name

EXHIBIT "A"

Nancy A. Strelau
Attorney at Law
303.223.1151 tel
303.223.0951 fax
nstrelau@bhfs.com

June 25, 2013

VIA E-MAIL: kmcdanie@ci.westminster.co.us

Ms. Kim McDaniel
Pension Administrator, Finance Department
City of Westminster
4800 W. 92nd Avenue
Westminster, CO 80031

RE: Fee Agreement for Representation

Dear Kim:

On behalf of Brownstein Hyatt Farber Schreck, LLP (the "Firm"), I want to thank you for the opportunity to represent the City of Westminster, Colorado (the "City").

In connection with this representation, we believe it is important to briefly set forth some of the important aspects of our attorney-client relationship. Accordingly, the purpose of this letter is to confirm the terms and conditions of the Firm's representation of the City interests.

Engagement. The Firm's representation of the City shall be to render legal advice and services to the City as its legal counsel with respect to the matters for which the City has engaged the Firm and which we agree to undertake. In addition, while we will provide the City with our recommendation as to the courses of action available to the City, the final decision on any issue is entirely the City's to make.

As we discussed, our assignment will be to review the two qualified pension plans for current compliance with applicable federal income tax law. We have estimated that it would take between 4 to 7 hours to review both of these plans. We propose to charge the City a flat fee of \$2,500 for this review.

You also asked for a fee estimate related to our filing the two plans with the Internal Revenue Service for letters of favorable determination by the January 31, 2014 deadline. Based on our past experience, we estimate that it will cost about \$5,000 (excluding the IRS filing fees) to secure favorable determination letters for both plans. However, knowing that negotiating with the IRS can be surprisingly time-consuming, if we have to spend more than two hours negotiating with the IRS, we would have to bill those hours at our hourly rate (see below for these rates).

Clearance of Conflicts. The Firm's representation of the City is subject to clearance of the representation through the Firm's conflicts of interest check.

In areas other than employee benefits, the Firm currently represents, and may represent in the future, entities whose interests could be adverse to the City's interests. The Firm only will be able to represent the

Ms. Kim McDaniel, City of Westminster
June 25, 2013
Page 2

City in areas where potential conflicts of interest can be avoided. The Firm currently represents clients in a wide variety of legal matters where a conflict, or an appearance of a conflict, with the City's interests may arise, such matters including, but not limited to, the areas of water law, public finance law, engineering construction and development law, environmental law, housing finance law, land use law, real estate, regulatory and administrative law, and general governmental relations. By signing this letter, the City recognizes the Firm's representation of clients in these areas and agrees that the City's agreement to waivers in these instances should not be problematic. Accordingly, when the Firm deems necessary, the City and the other Firm client will be asked to sign waivers of such conflicts.

In addition, lawyers in the Firm frequently represent clients to assist in obtaining permits, development approvals, rezoning and in other city administrative proceedings. By signing this letter, the City is agreeing without our determination that such representation does not create a conflict of interest. We appreciate your willingness to be accommodating on these issues.

Fees; Staffing. Our fees are based primarily on the actual amount of time spent by our attorneys, legal assistants and law clerks in performing services for the City, including telephone calls, conferences, travel, court appearances, research and investigation and preparing letters, pleadings, briefs, agreements and other documents. These fees may be adjusted over time. We generally account for time in one-tenth hour increments. Although our bills will be based on the time actually incurred, they will be subject to adjustment by the Firm based on other relevant factors, including time limitations imposed on us, extraordinary effort by members of the Firm, or special expertise we may have with respect to the matter. Services rendered prior to the execution of this letter agreement are subject to the terms of this letter.

As we agreed, the City's initial matter will be handled primarily by me with assistance by one or more of the following member's of the Firm's Employee Benefits practice group. For your information, below are the hourly rates and contact information for these team members:

Name	Title	2013 Hourly Rate	Direct Telephone	Email
Nancy A. Strelau	Shareholder	\$505	303.223.1151	nstrelau@bhfs.com
David M. Spaulding	Of Counsel	\$495	303.223.1241	dspaulding@bhfs.com
Cynthia J. Walls	Senior Benefit Analyst	\$285	303.223.1399	cwalls@bhfs.com

We may assign other lawyers in the Firm to represent you if, in our judgment, that becomes necessary or desirable. We also may assign lawyers who are independent contractors to the Firm and whose hourly billing rate will be passed on to the City with a factor for the Firm's overhead and profit.

Out-of-Pocket Costs. In addition to charging fees for legal work, we also charge for certain out-of-pocket costs incurred by us in representing the City. Charges for long distance telephone calls (domestic only), telecopy charges (domestic only), in-office copying, ordinary postage (under \$10), and deliveries made by in-house staff are covered by an administrative fee, currently equal to 2.5% percent of the legal fees charged. This administrative fee is in lieu of itemizing those expenses and may be adjusted over time. If there are other fees, such as filing fees, service of process fees, transcript and deposition fees, computer-assisted legal research fees, overnight delivery service charges, travel, meals, hotel accommodations, expert witnesses or investigative fees, those will be billed separately. We may require that the City pay the party providing those services directly or that the City advance to us the estimated amount for such items prior to our incurring those expenses on the City's behalf.

June 25, 2013

Page 3

Billing and Payment. We bill for our services rendered and out-of-pocket costs on a monthly basis. All bills are due and payable within 30 days of the City's receipt of a statement. We reserve the right to suspend performing services and to promptly move to withdraw from any litigation matter upon a failure to timely pay a bill. The City will be responsible for any costs of collection incurred by the Firm, including reasonable attorneys' fees. If the City fails to make a payment when due, we may, at our option, charge a late fee on past due amounts at 18% per annum.

Concurrent Representation. You are aware that the nature of the Firm's practice is such that the Firm, from time to time, may concurrently represent one client in a particular case or matter and an adversary of that client in the matter if, in the Firm's professional judgment, the Firm can undertake the concurrent representation impartially and without any adverse effect on the other responsibilities the Firm has to either client. The Firm also represents clients in competing or similar businesses. By signing this letter, you on behalf of the City acknowledge that the City does not consider such concurrent representation, in unrelated matters, to be inappropriate and consent to any such current or future concurrent representations.

Client Cooperation. In any legal matter, it may be necessary for the client to expend time and effort to provide counsel with accurate information, documents and witnesses necessary to permit counsel to competently represent the client. You on behalf of the City agree to provide such cooperation as is necessary for us to provide competent representation to the City.

Files; Record Retention. You on behalf of the City also agree that the work product of our attorneys and staff, including notes, research and documents which we prepare, is the property of the Firm. It is our policy to destroy all client files (including all documents and materials therein) eight years after we close such files upon completion of each matter. This file destruction procedure is automatic and you will not receive further notice prior to the destruction of these files. Accordingly, we advise you that the City should maintain its own files relating to the matters which we are handling.

Client Lists. We are very pleased and privileged to work with the City. Occasionally, we may provide lists of representative clients to legal or other publications and may use your company name in marketing materials. Unless you instruct us to the contrary, you hereby consent that such use is acceptable.

No Third-Party Beneficiaries. This Agreement is between the City and the Firm, and neither this letter nor the performance of the services described in this letter shall create any rights in any other person. There are no third-party beneficiaries to this letter agreement.

Termination. The City shall at all times have the right to terminate the Firm's services upon written notice. The Firm shall at all times have the right to terminate our representation of the City upon written notice, if the City does not pay our fees, or if we determine that our continued representation of the City would be unethical or inappropriate, or if we have another reasonable basis for termination consistent with our professional duties to the City.

Entire Agreement; Amendment. This letter contains the entire agreement between the City and the Firm regarding the professional legal representation described herein. The terms and conditions of our agreement as to the Firm's representation of the City, as outlined in this letter, may be amended only in writing signed by both parties.

Questions. If you ever have any questions concerning fees, charges, costs, services rendered, or any other matter relating to the Firm's provision of services to the City, please do not hesitate to contact me.

Ms. Kim McDaniel, City of Westminster

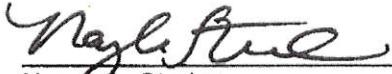
June 25, 2013

Page 4

If this engagement agreement is acceptable to you, please sign this engagement letter on the line provided for your signature and return an original signed copy of the letter to me. You should keep a copy of the fully executed letter for the City's files.

Sincerely,

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: 
Nancy A. Strelau

ACCEPTED AND AGREED TO:

CITY OF WESTMINSTER, COLORADO

By: _____

Name: _____

Title: _____

Date: _____

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W E S T M I N S T E R

Agenda Item

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Quarterly Insurance Claims Report – April through June 2013

Prepared By: Martee Erichson, Risk Manager

Recommended City Council Action

Accept the Second Quarter 2013 Insurance Claims Report.

Summary Statement

- The attached report provides detailed information on each insurance claim made to the City including the City's claim number, date of loss, claimant's name and address, a summary of the claim, and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office on litigated claims to make sure the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Manager, acting as the City Manager's designee, has the authority to settle claims of less than \$30,000. However, under the City's contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjustor and settlement of claims proceed with the concurrence of both CIRSA and the Risk Manager. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

None identified

Alternative

None identified

Background Information

Information on the status of each claim received during the 2nd quarter of 2013 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee representatives and department heads. Follow-up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the second quarter of 2013, Staff has noted the following summary information:

- Six of the eight claims reported in the second quarter of 2013 are closed at this time.
- Total claims for the quarter and year-to-date are broken down by department as follows:

Department	2nd Qtr 2013			YTD
	Total Claims	Open	Closed	Total
General Services (GS) - Building Operations & Maintenance	0	0	0	1
Parks, Recreation and Libraries (PRL)	3	0	3	3
Police (PD)	2	1	1	5
Public Works and Utilities (PWU) - Street Maintenance	1	0	1	2
Public Works and Utilities (PWU) - Utilities Planning & Engineering	0	0	0	1
Public Works and Utilities (PWU) - Utility Field Operations	2	1	1	2
TOTAL	8	2	6	14

Risk Management supports Council's Strategic Plan goals of a Financially Sustainable City Government and Safe and Secure Community by working to mitigate the cost of claims to the City and maintaining a loss control program that strives to keep City streets and facilities safe for the general public.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – Quarterly Insurance Report

Quarterly Insurance Claims Report – April through June 2013

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2013-108	4/13/2013	PRL	Charles North	8842 Quigley St, Westminster CO 80031	Claimant alleges his dog was injured due to poor maintenance of a City park.	\$ -	Closed	Claim denied based on the fact the investigation found no evidence of negligence on the part of the City.
2013-106	4/17/2013	PD	James Murphy	6102 W 92nd Pl, Westminster CO 80031	Claimant states Westminster police officers damaged a door to his residence while looking for an escapee allegedly reported to be at the address.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2013-140	5/23/2013	PD	Kenneth Eaton(owner) Kendra Eaton (driver)	2595 Stephens Rd, Boulder CO 80305	Claimant's vehicle was damaged when Westminster police detectives arrested a suspect on a bicycle and the bicycle was knocked into the claimant's vehicle during the arrest.	\$ -	Open	Claim denied based on Colorado Governmental Immunity Act; however, claimant has been offered payment under the City's "good neighbor" settlement program.
2013-145	5/24/2013	Fire	Yolanda Maccagnan	860 W 132nd Ave Lot #130, Westminster CO 80234	Claimant alleges Westminster paramedics broke her husband's tempurpedic bed while giving medical care.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2013-143	5/28/2013	PWU - Util	Mike Fay	10542 W 106th Ct, Westminster CO	Claimant alleges he was injured when he fell into meter pit on his property.	\$ -	Open	CIRSA investigating
2013-144	5/28/2013	PWU - Util	Dave Tafoya	10590 W 100th Pl, Westminster CO 80021	Claimant alleges water main replacement project near his house caused damaged his sprinkler line.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
2013-152	5/31/2013	PRL	Rachel Harlow-Schalk	9095 W 80th Dr, Arvada CO 80005	Claimant alleges her car was damaged when Parks crews were mowing medians at City Hall.	\$ 234.53	Closed	Claim denied based on Colorado Governmental Immunity Act; however, claimant was paid under the City's "good neighbor" settlement program.

Quarterly Insurance Claims Report – April through June 2013

2013-204	6/28/2013	PRL	Penny Sena (Gold)	10944 W 102nd Cr, Westminster CO 80021	Claimant was hit in the head by a table umbrella when a wind microburst came through the deck area at the Heritage golf course and picked up umbrella.	\$ -	Closed	Claim denied based on Colorado Governmental Immunity Act and investigation found no evidence of negligence on the part of the City.
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CLAIMS SUBMITTED RECENTLY WITH OCCURRENCE DATE PRIOR TO 2nd QUARTER 2013:

2013-073	3/9/2013	PWU - Streets	Delectable Edibles Vending	245 Fair Pl, Boulder CO 80302	Claimant's insurance company alleges a Street employee driving a snow plow and in the process of plowing the street, caused their insured to hit the City vehicle from the rear.	\$ -	Closed	Claim denied based on the fact the investigation found no evidence of negligence on the part of the City.
TOTAL					\$ 234.53			



Agenda Item 8 E

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Preliminary Technical Energy Audits and Solar Photovoltaic Development

Prepared By: Thomas Ochterski, Energy and CIP Coordinator

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 a contract in the amount of \$79,789 with Ameresco, Inc., for the Preliminary Technical Energy Audit and for the investigation of Solar Photovoltaic installations at sites across the City.

Summary

- After a competitive RFP process and interview, a committee represented by General Services, Public Works and Utilities, Finance, and City Manager's Office selected Ameresco to provide energy services for Phase III Performance Contract.
- The Technical Energy Audit (or energy audit) identifies Energy Conservation Measures that will financially pay for themselves within a reasonable amount of time, based on their energy and cost savings. If implemented, these projects may be completed through an Energy Performance Contract.
- There are two portions of this Preliminary Technical Energy Audit (TEA). The Other City Facility TEA will investigate energy and cost savings opportunities at fourteen other City facilities. The Utility Fund TEA will investigate energy and cost saving opportunities at the water and wastewater treatment facilities.
- In addition to the TEAs, a third portion of this contract will investigate solar photovoltaic (PV) arrays at suitable sites around the City.

Expenditure Required: \$79,789

Source of Funds: Utility Fund Capital Improvements - Lift Station Improvements (\$50,000)
Water Utility Capital Improvements - Big Dry Creek Wastewater Treatment Facility Capacity Analysis (\$3,885)
General Capital Improvement Fund - Building, Operations and Maintenance Major Maintenance (\$25,904)

Policy Issue

Should Council authorize the Preliminary TEA Contract and Solar PV development with Ameresco, Inc.?

Alternative

Council could choose not to authorize the execution of the contract for TEA and Solar PV development. This is not recommended because these contracts are an important step toward a possible future Energy Performance Contract to increase the City's energy efficiency and operational cost savings.

Background Information

In 2007 and again in 2009, City Council authorized Energy Performance Contracts (EPCs) with Siemens Industries, Inc. These EPCs resulted in significant energy and maintenance cost savings in facilities and parks across the City. Phase I included significant indoor lighting retrofits, replacement of rooftop units, interlocks for overhead door and heaters at the fire stations, pool boiler replacement and other projects resulting in an estimated \$189,000 in annual savings. Phase II is in the Measurement and Verification process that follows the completion of the work to insure that the energy savings guarantee is being met. This will continue for two more years. Phase II included exterior lighting retrofits, boiler replacements (6), the added automation at City Hall and the Public Safety Center, liquid pool cover, utility tracking systems, golf cart recharging station timers, and other projects resulting in an estimated \$318,000 in annual savings. The major focus of both of these performance contracts was on the projects, such as lighting upgrades, that offer quick returns on investments. Any new performance contracting will require going deeper and making retrofits that take longer to repay, but cost less than we are currently paying in utility bills.

On January 22, 2013, City staff released an RFP to five Energy Services Companies who had been pre-qualified by the Colorado Energy Office to perform energy performance contracting. Of those five, three ultimately proposed, two were interviewed by the committee, and Ameresco was selected to take the next steps to move forward a Phase III Energy Performance Contract (EPC). The first portion of the EPC process is to conduct Preliminary Technical Energy Audits on facilities to determine what Energy Conservation Measures (ECMs) may result in energy and maintenance cost savings if implemented in an Energy Performance Contract. Then, the Final TEA continues this process with the projects that are most likely to be viable from a financing perspective. When completed, the Final TEAs will have fully engineered Contract Documents, complete construction cost estimates, and the energy cost savings associated with implementing the projects.

The EPC has been selected as the method to deliver energy and maintenance savings projects at these facilities for several reasons. First, it combines the known capital improvement projects with as yet undetermined energy efficiency opportunities to provide better value than each of these tasks separately. Second, this method creates measurable savings results with pointed responsibility on the part of the Energy Services Company through guaranteed energy savings. Third, performance contracting requires that the energy and maintenance cost savings be cash flow positive upon completion of the projects. This means that the City is consistently paying less for operating its facilities than it was paying. Fourth, performance contracting brings together experts from various fields to insure the right individuals are designing and engineering these solutions in collaboration with City operating staff. Fifth, interest rates continue to be very low and the City is able to take advantage of these low rates and reserve capital for other City projects.

The current Phase III project will review the Utility Fund water treatment facilities and related systems that had not had energy audits in the past. In addition, this project will re-look at several other facilities for deeper energy efficiency retrofits. Finally, the audit will look at Solar Photovoltaic opportunities city-wide for further energy cost savings.

Utility Fund Technical Energy Audit

The Utility Fund TEA will investigate energy savings opportunities at the four water, wastewater and reclaimed water treatment plants. There are several energy conservation measures that the audit will focus on. These are based on regulatory changes that are expected in upcoming years, on-going maintenance and operational challenges, expected capital improvement projects, and energy saving measures. The expectation is that these projects, if implemented, will result in energy and maintenance cost savings that exceeds annual debt service to finance the implemented projects.

The Utility Fund TEA is split into two phases: Preliminary TEA and Final TEA. This was done to allow the greatest number of measures to be reviewed for their feasibility, and then refined down to completing the audit only on the projects that are expected to pay for themselves through savings. It is important to note that costs for the Final TEA, including engineering and design, will be folded into the financing package for those projects that are selected for implementation.

Other City Facility Technical Energy Audit

Similar to the Utility Fund, the Other City Facility Technical Energy Audit (TEA) will focus primarily on buildings that use the most energy across the City that are operated by Building Operations and Maintenance Division. Again, the audit will focus on portions of the building that are operations and maintenance challenges, planned capital improvement projects, and energy efficiency opportunities. Also, similar to the Utility Fund TEA, the Other City Facility TEA is split into two phases, Preliminary TEA and Final TEA. This creates the opportunity to broadly review these facilities first, then refine the list of potential projects down to only those that will reasonably pay for themselves over time. The types of projects and estimated return on investment will be determined in the preliminary phase. The design and engineering, final cost estimates, and financing options will be determined in the Final TEA for only the projects that are deemed viable and feasible. Again, the costs for the Preliminary and Final TEA will be folded into the financing package for those projects that are implemented, and the annual savings generated from the selected projects will exceed the annual financing payments. There will be some expenses incurred for projects that are reviewed preliminarily and ultimately eliminated from further investigation.

Solar Photovoltaic Opportunities TEA (Solar PV)

In general, because of the consistency and intensity of sunlight in Colorado, solar photovoltaic (PV) arrays make sense; but not in every situation. There are physical constraints (site orientation, space availability, nearby energy consumption, shading, infrastructure, aesthetics, etc.) and financial constraints (cost of energy, cost of PV panels, utility incentives, tax incentives, financing, etc.) that will eliminate some sites viability. In order to determine whether or not Solar PV makes sense for the City at a particular location, it takes a good deal of site selection, engineering, cost estimating, and calculations of energy production. In order to determine where Solar PV makes the most sense for the City, a Technical Energy Audit (TEA) is planned. This TEA will review all potential sites across the City, determine which locations fit within the physical and financial constraints, and develop the financing options for the City to review and potentially implement.

City staff is investigating three methods of financing these potential Solar PV sites: municipal lease, Power Purchase Agreement, and Community Solar Gardens. The municipal lease is a lease with tax exempt status and is a very low-cost method of financing the acquisition of equipment. The Power Purchase Agreement is a financing method whereby a solar developer leases property from an owner for a solar photovoltaic array, and the owner purchases electricity from the solar array. The Solar Garden is a newer financing method whereby solar garden “members” purchase shares of the solar array, and in return, receive utility bill credits from the sale of the electricity to the Utility. Each of these financing methods has advantages and disadvantages in terms of overall cost, capital investment, community benefit, complexity, and their ability to be combined with an Energy Performance Contract.

The City has four existing Solar PV systems. These systems are financed through a Power Purchase Agreement (PPA) with Main Street Power Company. In the Power Purchase Agreement, the City agreed to allow Main Street Power to install, operate and maintain Solar PV on the rooftops of city-owned facilities. In return, the City buys the energy generated by the panels at a reduced price when compared to Xcel Energy's prices. These systems will be five years old in 2014, which triggers a "fair market-value" buy-out opportunity. The City is not obligated to buy the systems, but it may be advantageous to do so for the energy cost savings it generates. One portion of the Solar PV TEA will investigate and recommend the best value of the three buy-out options: buying the systems, maintaining the existing PPA, or have a third party acquire the system to incorporate the new possible systems.

The Energy Services Company, Ameresco that is being recommended to undertake the other two TEAs will be conducting the Solar TEA as well. By including a Solar TEA in the scope of work of the Phase III EPC, this affords an opportunity to leverage the energy cost savings of the Solar PV installations into the energy cost savings for the other projects. This increases the cost savings potential, and therefore, increases the number and/or scope of projects that can be implemented in the traditional EPC model for all City facilities. Like the other TEAs, there is no up-front cost to the City for projects that are implemented. The costs for this TEA will be folded into the financing package for the Solar PV sites that are implemented. There will be some costs for Solar PV projects that are deemed to be both physically and financially feasible, but are not selected for implementation by the City.

The Technical Energy Audits for the Utility Fund facilities, other facilities, and Solar PV, are the first step toward potential additional Energy Performance Contracting projects. After the Preliminary TEAs are complete, the City will have the opportunity to select projects, including Solar PV arrays for further design in the Final TEA. These TEAs and the work that results from them, further City Council's goals to have Financially Sustainable City Government Providing Exceptional Services and a Beautiful and Environmentally Sensitive City.

Respectfully submitted,

J. Brent McFall
City Manager

**Agenda Memorandum**

City Council Meeting
July 22, 2013



SUBJECT: 98th Avenue Construction Contract

Prepared By: Dave Downing, City Engineer

Recommended City Council Action

Authorize the City Manager to execute a contract with the low bidder, Noraa Concrete Construction Corporation, in the amount of \$969,653 for the construction of 98th Avenue between Sheridan Boulevard and Westminster Boulevard; authorize a construction contingency in the amount of \$96,965; authorize change orders to the previously approved engineering services contract with NV5, Inc. in the total amount of \$14,200; and authorize a construction services contingency in the amount of \$5,000, thus yielding a total project construction budget of \$1,085,818.

Summary Statement

- In 2007, McStain Homes subdivided the entire Hyland Village development, located west of Sheridan Boulevard and south of the 98th Avenue alignment. In accordance with the Municipal Code, McStain's bonding company provided surety for the installation of public improvements required for the development of that subdivided area.
- In 2009, McStain filed for bankruptcy, and City staff negotiated a cash settlement with the bonding company to pay for the uncompleted public improvements. One of those improvements is the completion of 98th Avenue from its current terminus located a few hundred feet west of Sheridan Boulevard to Westminster Boulevard.
- Staff advertised for bids for the construction of 98th Avenue, and on July 2, 2013 those bids were publicly opened. The low bid of \$986,935 was submitted by Noraa Concrete Construction. Since the date of the opening, staff has evaluated the alternates that were added to the base bid and has determined that it would be more economically feasible to eliminate materials testing from the contractor's proposal. Instead, this testing will be contracted with the engineering consultant. Therefore, Noraa's contract amount is reduced to a total of \$969,653.
- Due to the above-mentioned revision in the manner in which materials testing services will be contracted, a change order in the amount of \$11,200 to the previously approved \$73,277 engineering services contract with NV5, Inc. will be necessary. Staff previously administratively approved a \$3,000 change order to the NV5 contract for street lighting design.
- The costs of this project will be paid from the proceeds of the negotiated settlement with McStain's bonding company. That money was previously appropriated into the Hyland Village Public/Private Improvements Capital Improvement Project.

Expenditure Required: \$1,085,818

Source of Funds: Hyland Village Public/Private Improvements CIP

Policy Issue

Should the City enter into a contract with Noraa Concrete Construction Corporation for the construction of 98th Avenue between Sheridan Boulevard and Westminster Boulevard?

Alternatives

Council could choose to not authorize the execution of the contract with this contractor. City staff recommends approval due to the strong desire to provide a convenient east-west street connection between Sheridan Boulevard and Westminster Boulevard for the benefit of the future residents of Hyland Village Subdivision as well as the motoring public, in general. Furthermore, this construction would be an appropriate use of the funds that were collected from the bonding company for the former developer of Hyland Village.

Background Information

The construction of the 98th Avenue roadway connection between Sheridan Boulevard and Westminster Boulevard has been contemplated by City staff ever since Westminster Boulevard was constructed well over a decade ago. The desire to provide an alternative route between the residential areas served by the northern reach of Sheridan Boulevard and the Westminster City Center was keen during the 1990s when intense traffic congestion – particularly during the holiday shopping season – was commonplace at the intersections of 92nd Avenue/Sheridan Boulevard and 88th Avenue/Sheridan Boulevard. In 2007, it appeared that this street connection would finally become a reality with the development of Hyland Village Subdivision by McStain Homes. While the filing of bankruptcy by that developer further delayed the 98th Avenue construction, staff was successful in negotiating with McStain's bonding company a fair settlement that included sufficient funds to build the roadway. Over the past several months, staff and the City's engineering consultant have made preparations for the construction of this street.

The Request For Bids package was advertised between June 11th and July 2nd, at which time the bids were publicly opened. Four contractors submitted bids as follows:

<u>Contractor</u>	<u>Proposed Bid</u>
Noraa Concrete Construction	\$986,935
New Design Construction	\$1,120,107
Harrison Western Construction	\$1,225,065
Silva Construction	\$1,498,237

The engineer's estimate for this work was \$997,276. City staff is familiar with Noraa Concrete Construction and has observed favorable results from their previous work in the City. Most recently, Noraa Concrete installed a short roadway connection between Lexington Subdivision and Huntington Trails Subdivision under contract with the City in 2011. As mentioned earlier within this Agenda Memorandum, Noraa's contract with the City will be reduced to \$969,653 due to staff's decision to remove materials testing services from their scope of work and, instead, contract this item through NV5, Inc. This action will save approximately \$6,082 in the cost of this testing.

City Council action on this item meets elements of the City's Strategic Plan goal to provide Vibrant Neighborhoods in One Livable Community.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 8 G

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Strasburg Farm Irrigation Wells Replacement Design/Build Contract

Prepared By: Mike Wong, Senior Engineer, Utilities Planning and Engineering
Stephen Grooters, Senior Projects Engineer, Utilities Planning and Engineering

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 a sole-source design/build contract with the Hemenway Groundwater Engineering/Canfield Drilling team in the amount of \$325,381 for the Strasburg Irrigation Wells Replacement Project, authorize a 10 percent contingency of \$32,538 for a total project budget of \$357,919, and authorize the transfer of \$357,919 from the England Water Treatment Facility Decommissioning and Meadowlark Water Line Replacement Capital Improvement Accounts into a new Strasburg Irrigation Wells Replacement Account.

Summary Statement

- This project involves replacement of three City-owned and operated irrigation wells at the Strasburg Natural Resources Farm (SNRF) (see attached map).
- Repair to some of the walls was previously contemplated. Detailed inspections of the wells indicated that all of the wells have reached the end of their useful life and require replacement. Funds are available through savings from other projects to fund this increase in scope.
- Staff sent a Request for Proposals to four design/build teams who specialize in this type of work. However, no proposals were received due to the high demand on well drillers in what was predicted to be a dry year and the City's relatively stringent contract requirements.
- Of these teams, only the Hemenway Groundwater Engineering (HGE) and Canfield Drilling team was available to perform the work in the timeframe necessary to meet the City's needs. As such, Staff negotiated with HGE/Canfield Drilling for agreeable contract terms and a competitive sole source design/build scope and fee.
- Staff recommends awarding the sole source design/build contract to the HGE/Canfield Drilling team based on their ability to meet the City's required project schedule, competitive pricing and the experience of its proposed project team.
- Design is expected to be completed by September, construction to begin in October and well replacement completed by end of 2013.
- Staff requests the transfer of funds in the amount of \$357,919 from savings in the England Water Treatment Facility Decommissioning and Meadowlark Water Line Replacement capital accounts towards the SNRF Well Replacement Design/Build account to fund the full scope of the project.

Expenditure Required: \$357,919

Source of Funds: Utility Fund Capital Improvement – England Water Treatment Facility Decommissioning Project (\$247,767)
Utility Fund Capital Improvement – Meadowlark Water Line Replacement Project (\$110,152)

Policy Issues

1. Should the City execute a sole-source contract with the Hemenway Groundwater Engineering/Canfield Drilling team for the design/build of the SNRF Irrigation Wells Replacement Project?
2. Should City Council authorize the transfer of funding from the England Water Treatment Facility Decommissioning and Meadowlark Water Line Replacement project accounts to cover the costs of this project?

Alternatives

The City could choose the following alternatives:

1. City Council could decline to approve the design/build contract and place the project on hold. However, the existing wells are reaching the end of their useful design life. Delaying the project is not recommended as well failures would impact to the farming operations and biosolids disposal operations on the SNRF.
2. City Council could choose to rebid the project; however, this is not recommended as Staff believes that the negotiated design/build contract with the Hemenway Groundwater Engineering/Canfield Drilling team provides the best value for this project. Furthermore, contracting with this team allows the project to proceed on the desired construction timeline to avoid conflicts with farming operations.
3. City Council could choose not to authorize the transfer of funds to finance the design/build project. However, transfer funds are available from savings associated with other completed projects and this project is the highest priority use for the funds.

Staff does not recommend any of these alternatives.

Background Information

The City owns and operates three irrigation wells at the Strasburg Natural Resources Farm. The wells are located on the southwestern portion of the farm and are used by the City as part of the biosolids disposal program. These wells are used to grow crops that “mine” nutrients from the soil. This allows sustainable biosolids application/disposal year after year by keeping soil nutrients within regulated limits. The attached map shows the location of the farm. The north and middle wells were built in 1965 and the south well was constructed in 1935. Repairs to the wells were budgeted for, but detailed inspections of the wells indicated that all of the wells have reached the end of their useful design life and need to be replaced. In addition, the south well power supply needs to be upgraded from diesel motor to electrical power and some diesel soil contamination must be remediated.

Replacement of the wells must be completed in fall and early winter to avoid impacts to farming operations and disposal of biosolids. Staff has been coordinating well replacement for some time and sent a Request for Proposals (RFP) to four design/build teams who specialize in this type of work. Unfortunately, the City received no responses. The two reasons cited were that area drillers have a large backlog of work with farmers interested in overcoming the predicted dry weather patterns for this season and the City’s contract requirements were relatively stringent compared to other available business opportunities.

After additional follow up with all four teams, Staff began follow-up negotiations with the Hemenway Groundwater Engineering (HGE) and Canfield Drilling team to for the following reasons: 1) They had agreeable modifications to the City's contract terms, 2) They were the only team available to perform the work within the timeframe necessary to meet the City's needs, and 3) They performed the preliminary inspection services for the well replacement and have in-depth knowledge about the project and the City's goals. A sole source design/build scope and fee with the HGE/Canfield team was negotiated and their fee of \$357,919 was in-line with previous estimates they provided during preliminary inspections indicating it is competitive for the required scope of work. Overall, Staff feels that retaining them for this project is in the best interest of the City and will result in a good end product. With Council approval of the contract, design is anticipated to be completed in September with construction completion by November 2013.

Funding required for the project is available through savings from previously completed projects in the England Water Treatment Facility Decommissioning and Meadowlark Water Line Replacement Project accounts. Staff requests the transfer of these monies into the SNRF Well Replacement Design/Build account to fund the project.

The Strasburg Irrigation Wells Replacement Project helps achieve the City Council's Strategic Plan Goals of "Financially Sustainable City Government Providing Exceptional Services" by contributing to the objectives of well-maintained City infrastructure.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Strasburg Farm Irrigation Well Replacement Project Location Map

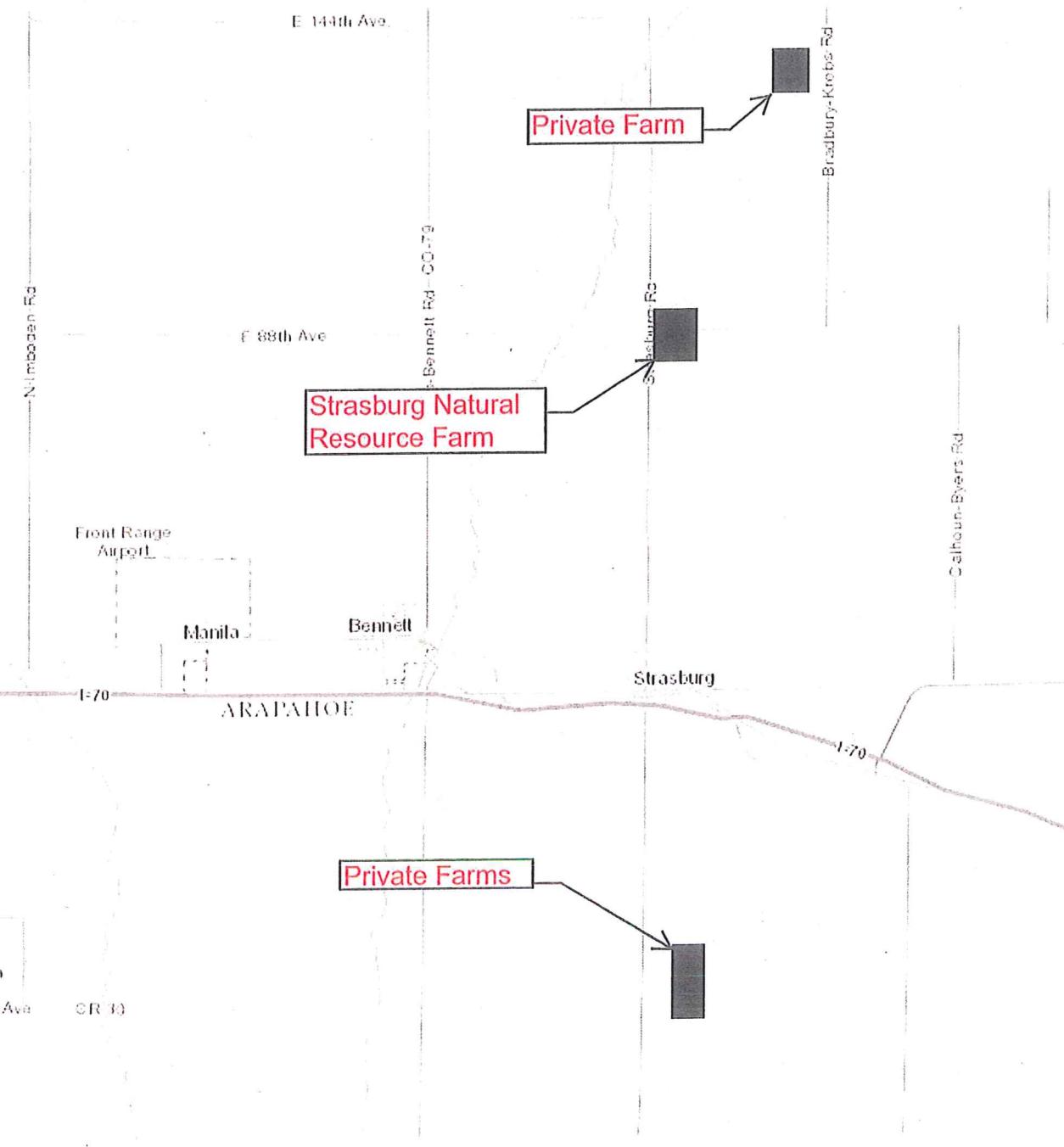
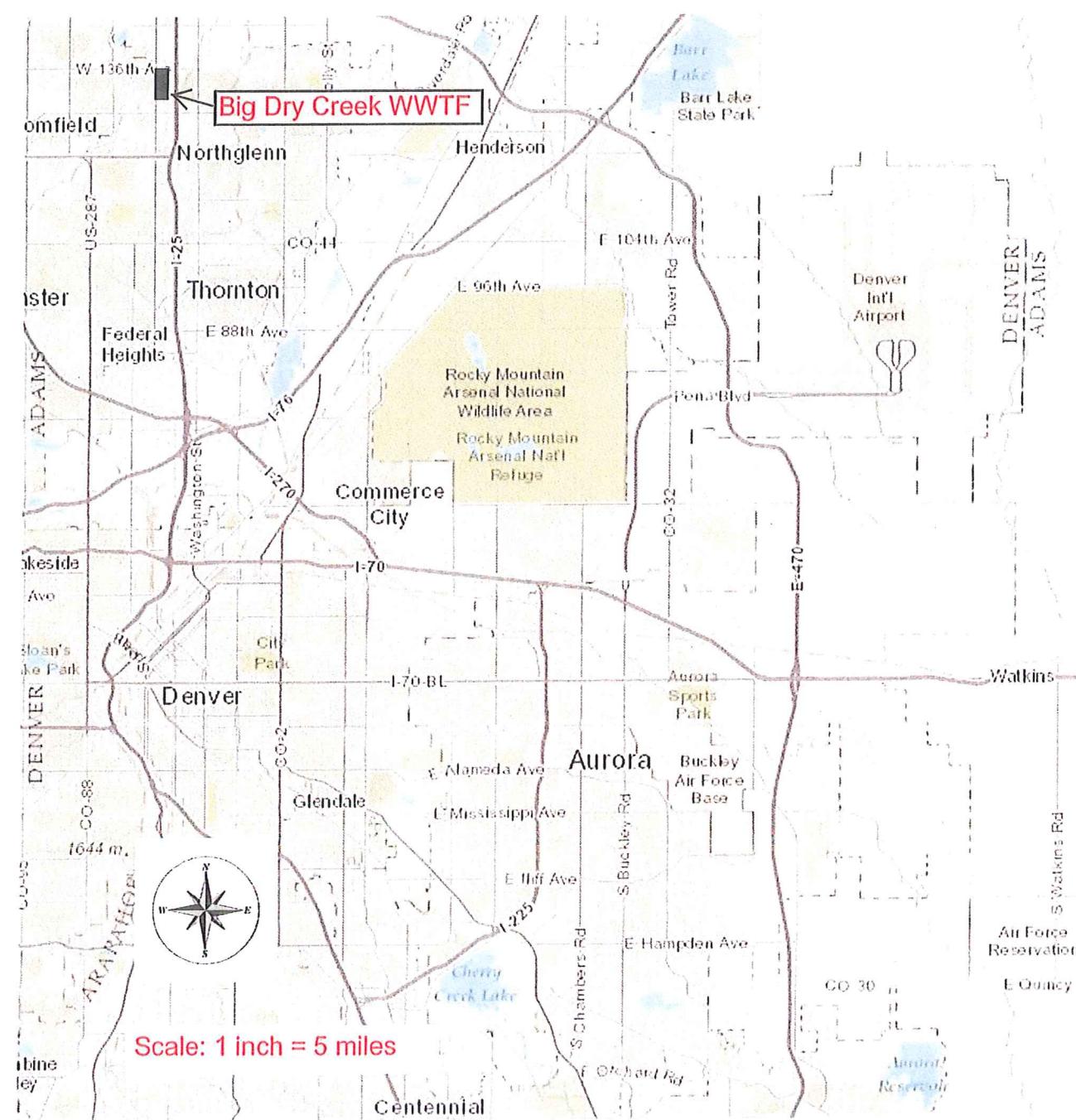


Figure 1 – Project Location Map

Strasburg Natural Resources Farm Well Replacement



Agenda Item 8 H

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Emergency Pump Repair Cumulative Expenses Over \$50,000 in 2013

Prepared By: Stephen Gay, Utilities Operations Manager
Tom Settle, Water Treatment Superintendent

Recommended City Council Action

Based on the report and recommendation of the City Manager, determine that the public interest will be best served by ratifying past expenses and approving expenses with Eaton Corporation for emergency electrical repairs and replacement of pump electrical control equipment, not to exceed \$80,000.

Summary Statement

- The Westminster Municipal Code requires that all purchases over \$50,000 be brought to the City Council. Staff has taken a conservative approach in interpreting this requirement to include transactions where the cumulative total purchases of similar commodities or services from one vendor in a calendar year exceeds \$50,000.
- During 2013, three replacement variable frequency drives have been purchased from Eaton Corporation. One at Northridge Pump Station, one at Countryside Pump Stations and one at Silo Pump Station. The cost for these replacements total \$24,181. It should be noted, that of the three installations only one, Northridge, was due to planned maintenance.
- Most recently, on June 28, 2013, two variable frequency drives for pump #1 and #2 at the Zone 5 Pump Station failed during a routine generator back-up test. The two failed pumps represent approximately 55% of the pump station capacity and 30% of the overall pumping capacity for the Zone 5 area, which includes the Westmoor and Ball Corporation business areas.
- Eaton Corporations variable frequency drive equipment is the current standard for the city's water and wastewater systems. This standardization enhances operational efficiencies by streamlining parts inventory and staff training requirements.
- Staff located two drives that were immediately available from Eaton Corporation, negotiated a competitive price, and proceeded with installation to assure that adequate water pressure was maintained in Zone 5. Note, there is normally an 8-12 week lead time for this type of equipment.
- Funds were authorized in the 2013 Pump Station Electrical/Instrumentation Repair and Replacement account for unanticipated repairs and are sufficient to cover these expenses. No new funds are requested at this time.

Expenditure Required: Not to exceed \$80,000

Source of Funds: Utility Fund – Pump Station Electrical/Instrumentation R&R CIP account

Policy Issue

Should Council ratify and approve the cumulative expenditures with Eaton Corporation, for unanticipated repairs to the pump stations that total over \$50,000 in 2013?

Alternatives

Council could choose to not approve the expenditures as recommended; however, in this instance, Staff has already proceeded with expenditures that exceed \$50,000 in order to address the critical pump system failures that occurred.

Background Information

Zone 5 of the city's water distribution system services residential and commercial properties located in the Countryside Subdivision and Westmoor Business Park. The system pressures within this zone are maintained by two pump stations simultaneously, Countryside and Zone 5. The zone has no potable water storage or adjoining pressure zones capable of maintaining system pressures in the event of a catastrophic failure of either pump station.

Maintenance staff inspects and operates the emergency backup power systems at each of the city's pumping stations on a weekly schedule. During a scheduled test at the Zone 5 Pump Station, an unexpected power surge damaged electronic control boards in two of the stations five pump drives. The two failed drives reduced the pump stations capacity by approximately 55% and reduced the overall pumping capacity for the service area by 30%. While attempting to repair and/or replace the failed drives, staff learned that the drive manufacturer, Robicon, was purchased by Siemens Corporation in 2006 and the product line was discontinued. Although the drive units are just over 15 years old, there are no replacement boards available.

Over the past 10 years, the Public Works and Utilities Division has standardized on the use of Cutler Hammer motor control center equipment, manufactured by Eaton Corporation. This standardization enhances operational efficiencies by streamlining parts inventory and staff training requirements. This year alone staff has replaced three motor controls with Cutler Hammer equipment for a total cost of \$24,181. When staff realized that the failed Zone 5 pumps were obsolete, they contacted Eaton Corporation to determine the availability of replacement drive equipment. Eaton was able to locate two drives that were immediately available for shipping and had staff available for installation. Eaton provided a quote to remove the old drives, modify the motor control center cabinets and install the two new drives for \$34,570. This pricing is comparable to recent planned replacement of a similar drive at the Northridge Pump Station. [It should be noted that normally this type of equipment is manufactured when ordered and requires an eight to twelve week lead time for delivery.](#)

Funds were authorized by City Council in the 2013 Pump Station Electrical/Instrumentation Repair and Replacement capital improvement account to fund unanticipated water pump station control system repairs. No new funds are requested at this time.

Zone 5 Pump Station electrical repairs help achieve the City Council's Strategic Plan goals of "Financially Sustainable City Government Providing Exceptional Services" and "Vibrant Neighborhoods In One Livable Community" by contributing to the objectives of well-maintained City infrastructure and facilities.

Respectfully submitted,

J. Brent McFall
City Manager



W E S T M I N S T E R

Agenda Item 8 I

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Tank-Trailer Purchase for Big Dry Creek Wastewater Treatment Plant

Prepared By: Jeffery H. Bowman, Fleet Manager

Recommended City Council Action

Award the bid for one stainless steel, insulated, deep-drop, tank-trailer for the amount of \$74,798 to Kersten Trailer Sales Inc.

Summary Statement

- City Council action is requested to award the purchase of one stainless steel, insulated, deep-drop, tank-trailer based on the City of Westminster bid by Kersten Trailer Sales. The replacement is a 1984 Polar AMR tank-trailer. The replacement cost, including contingency, is within the amount authorized by City Council in the 2013 Utility Operations budget.

Expenditure Required: \$74,798

Source of Funds: Utility Fund – Utilities Operations Budget

Policy Issue

Should the City approve the use of the City of Westminster bid for the purchase of one stainless steel, insulated, deep-drop, tank-trailer outlined in this agenda memorandum?

Alternative

Reject the City of Westminster bid and instruct Staff to re-bid this trailer. This alternative is not recommended because this formal bid was mailed directly to four vendors that specialize in the construction of tank-trailers.

Background Information

As part of the 2013 Utility Replacement Fund budget, City Council approved the purchase of one insulated, deep-drop, tank-trailer for Public Works and Utilities. The trailer identified for replacement was Unit 9291, a 1984 Polar AMR tank-trailer. Age warranted the replacement. Tank-trailers that are designed to be top or bottom loaded are lined with five inches of fiberglass insulation between the inner and outer tank surface. The insulation keeps the material from freezing during transport. All BDC WWTP tank trailers can be unloaded via gravity, or as more commonly used, vacuum. The new trailer has a deep drop center to decrease unload time when no vacuum is available, but is built to withstand vacuum during unloading in the field. Vacuum is the only option when unloading in the field. The replacement tank-trailer has a safety feature that allows the driver to open a top vent while standing on the ground, rather than climbing to the top of the trailer for every delivery in the field. This feature is especially important because the drivers are often working alone and not climbing to open a vent reduces the risk of falling. To further enhance operator safety, a full length catwalk along the tank side has been added that includes a guardrail. The tank-trailer meets all Department of Transportation requirements. That is important as the transport of material includes traveling on Interstate 70.

City of Westminster formal bid RFB F 4 -30 -0 -2013 was mailed directly to the following vendors:

Kersten Trailer Sales (Polar Trailers)
8999 E 96th Ave, Henderson, CO 80640

Paragon Trailers (Mac & Brenner Trailers)
Paragon Trailer Center LLC
PO Box 200277 2111 US Hwy 411 NE Cartersville, Georgia 30120

Walker Trailers
Walker Transport
625 W State St, New Lisbon, WI 53950-1014

Kersten Trailer Sales, was the only one of the three vendors who had bids mailed directly to them that responded with a quote. Considering the longevity of the 1984 Polar Trailer; Unit 9291, and after researching the company product advances and safety improvements, it was decided the single bid received was competitive and meets the City's needs.

The replacement of this trailer supports Council's Strategic Plan goal of Financially Sustainable City Government by maintaining a cost effective, dependable fleet of vehicles and trailers.

Respectfully submitted,

J. Brent McFall
City Manager



Agenda Item 10 A

Agenda Memorandum

City Council Meeting

July 22, 2013



SUBJECT: Resolution No. 20 re Fall 2013 Adams County Open Space Grant Applications

Prepared By: Heather Cronenberg, Open Space Coordinator
Dave Loseman, Senior Projects Engineer

Recommended City Council Action

Adopt Resolution No. 20 authorizing the Department of Community Development to pursue two grants from the Adams County Open Space grant program during the 2013 fall cycle in the amount of \$276,000 for the acquisition of the 1.53-acre 75th and Sheridan Buffer property located at 7490 Sheridan Boulevard for open space and for \$585,000 for an underpass at 120th Avenue along Ranch Creek and for trail improvements near the intersection of 120th Avenue and Federal Parkway.

Summary Statement

- Staff is recommending that a grant be pursued from the Adams County Open Space grant program for funding assistance with the acquisition of the 1.53-acre 75th and Sheridan Buffer property, which is adjacent to the Little Dry Creek open space area at 7490 Sheridan Boulevard. An appraisal, commissioned by the City in 2013, values the property at \$460,000 or \$6.91 per square foot. Staff has negotiated a purchase price of \$460,000 based on the appraisal that will be contingent upon the approval of Council and the award of an Adams County grant. Staff recommends requesting up to \$276,000 for the acquisition that represents a 60% request.
 - Staff would also like to pursue a second grant from the Adams County Open Space grant program in the amount of \$585,000 for assistance with the construction of an underpass under 120th Avenue east of Federal Parkway, improvements to the box culvert under Federal Parkway, a trail along Ranch Creek, and trail connections to the Big Dry Creek trail, Country Club Village retail center, Longsview Apartments, Country Club Highlands, and the Ranch Country Club golf course. The City will use funds in the amount of \$390,000 that are already allocated to construct the underpass at 120th Avenue for matching funds.

Expenditure Required:	Grant request for 75 th and Sheridan acquisition: \$276,000 Matching funds: \$184,000
	Grant request for Ranch Creek improvements: \$585,000 Matching funds: \$390,000

Source of Funds: POST Carryover Funds
Stormwater Utility Fund

Policy Issue

Should the City attempt to seek assistance with the acquisition of the 75th and Sheridan Buffer property and for improvements to Ranch Creek from the Adams County Open Space Grant Program?

Alternative

Council could choose not to pursue additional funding for the acquisition and Ranch Creek project. This is not recommended because the City does not have the funds to purchase the 75th and Sheridan Buffer property and to construct improvements to Ranch Creek without funding assistance from the Adams County Open Space program.

Background Information

The City has been successful in applying for and receiving grants from a variety of sources in the past. In recent years, the City has received grant money from the Adams County Open Space grant program for park and trail development projects as well as open space acquisitions. The City has developed a strong partnership with Adams County in its successful use of these grant funds. Since 2003, the City has been awarded more than \$6.4 million for open space acquisitions from Adams County.

The Department of Community Development wishes to pursue a grant from the Adams County Open Space grant program for funding assistance with the acquisition of approximately 1.53 acres from 75th and Sheridan Holdings LLC. The property is located just west of Little Dry Creek at the southeast corner of 75th Avenue and Sheridan Boulevard. The City currently owns the creek and the surrounding land to the south and east. This acquisition would complete the City's ownership of the Little Dry Creek valley in this area and would protect the view corridor for motorists traveling south on Sheridan Boulevard. This acquisition will also allow for the future construction of a detached sidewalk on the east side of Sheridan Boulevard between 75th Avenue and just north of 73rd Avenue. This would complete the construction of a sidewalk along the east side of Sheridan Boulevard between 69th Avenue and 105th Avenue.

The City was approached about a possible purchase of this property by the owner. The property has been approved for office development, however the owner has not been able to sell or lease any of the space to other users. This property is currently on the City's open space wish list as a number one priority acquisition. Staff commissioned an appraisal that values the property at \$460,000. Staff proposes using \$184,000 in POST carryover funds from 2012 as match for the grant request if this use is approved by Council. This grant application is due by August 1, 2013 so staff is bringing this request prior to review and final approval of use of carryover funds. Staff will come back to Council with a request to approve this purchase if the use of carryover funds is approved. The purchase will be contingent upon a grant award from Adams County and City Council approval.

The Department of Community Development would also like to pursue a second grant from the Adams County Open Space grant program for assistance with the construction of a pedestrian/bicycle underpass under 120th Avenue east of Federal Parkway, improvements to the box culvert to serve as a pedestrian/bicycle underpass under Federal Parkway, a trail along Ranch Creek, and trail connections to the Big Dry Creek trail, Country Club Village retail center, Longsview Apartments, Country Club Highlands, and the Ranch Country Club golf course. The underpass at 120th Avenue would provide a safe, grade-separated crossing of a major highway and would allow citizens, especially those living south of 120th Avenue in the Ranch Subdivision, to access to the Big Dry Creek Trail system, Metzger Farm Open Space, and the businesses north of 120th Avenue. A secondary benefit of this underpass is that it will pass residual 100-year storm water flows that cannot be passed through the existing Ranch Creek box culvert without causing the overtopping of 120th Avenue.

This project would also modify the existing but not yet opened pedestrian/bicycle underpass under Federal Boulevard north of 120th Avenue and will provide a low water crossing of Ranch Creek. There is an existing sidewalk along Federal Parkway which extends from the Country Club Village development to Zuni Street. The new Longsview Apartment project will extend the sidewalk along Federal Parkway north to 123rd Avenue where the sidewalk will connect to the Big Dry Creek trail. This proposed grant project would extend the sidewalk up to where the sidewalk currently ends and would connect the Country Club Highlands residential area to the City trail system and would also complete a trail loop with the Big Dry Creek trail.

The City is working with the Colorado Department of Transportation (CDOT) on the design of future 120th Avenue and Federal Boulevard intersection improvements. This project is scheduled for construction in 2015. This project does not include the underpass under 120th Avenue or any of the improvements listed above. Due to the construction schedule for the 120th Avenue/Federal Boulevard improvements, it is important to construct this proposed underpass in 2014 prior to the intersection improvements project to avoid damage to future road improvements.

The City proposes using as matching funds Storm Water Utility Funds in the amount of \$390,000. These funds are already allocated to construct the underpass at 120th Avenue.

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

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Resolution
- Site Map for 75th and Sheridan Holdings Acquisition
- Site Map for Improvements to Ranch Creek

RESOLUTION

RESOLUTION NO. 20

INTRODUCED BY COUNCILLORS

SERIES OF 2013

**A RESOLUTION
TO PURSUE TWO GRANT REQUESTS FROM THE
FALL 2013 ADAMS COUNTY OPEN SPACE GRANT PROGRAM
FOR THE 75th AND SHERIDAN BUFFER ACQUISITION AND
FOR IMPROVEMENTS TO RANCH CREEK**

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

WHEREAS, the City of Westminster considers the acquisition of the 75th and Sheridan Buffer property a high priority and has secured matching funds; and

WHEREAS, the City of Westminster considers improvements to Ranch Creek and construction of an underpass under 120th Avenue a high priority and has secured matching funds; and

WHEREAS, grant money received from Adams County will assist the City in securing this property for its open space and recreation programs and constructing improvements around Ranch Creek.

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

That Staff shall submit a grant application to the Adams County Open Space Grant program for the fall funding cycle of 2013, requesting funding not to exceed \$184,000 towards the purchase of the 75th and Sheridan Buffer property. Staff will also submit a second grant application to the Adams County Open Space Grant program for the same funding cycle, requesting funding not to exceed \$585,000 towards the construction of an underpass under 120th Avenue and for improvements to the Ranch Creek area.

PASSED AND ADOPTED this 22nd day of July, 2013.

Mayor Pro Tem

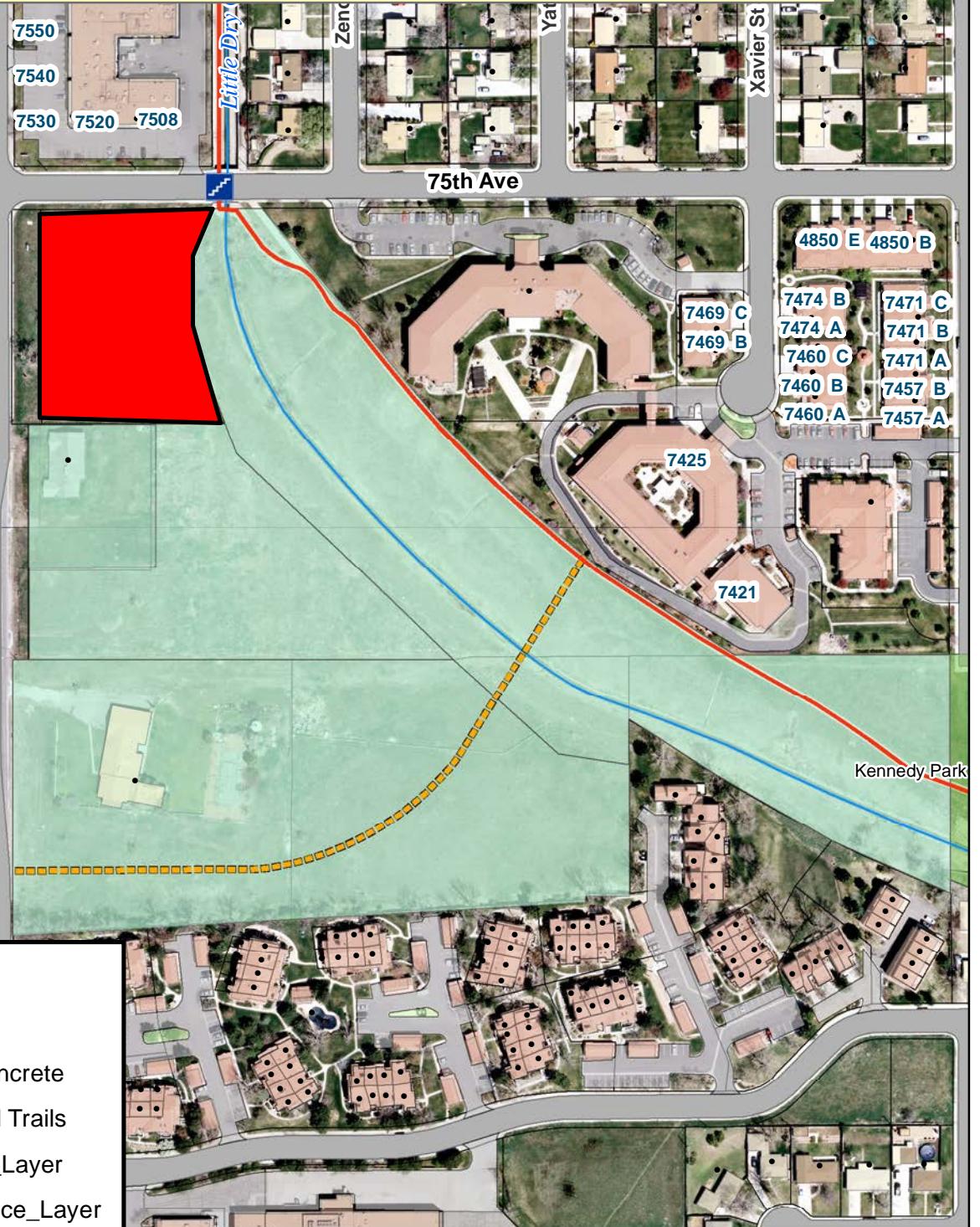
ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

By: _____
Office of the City Attorney

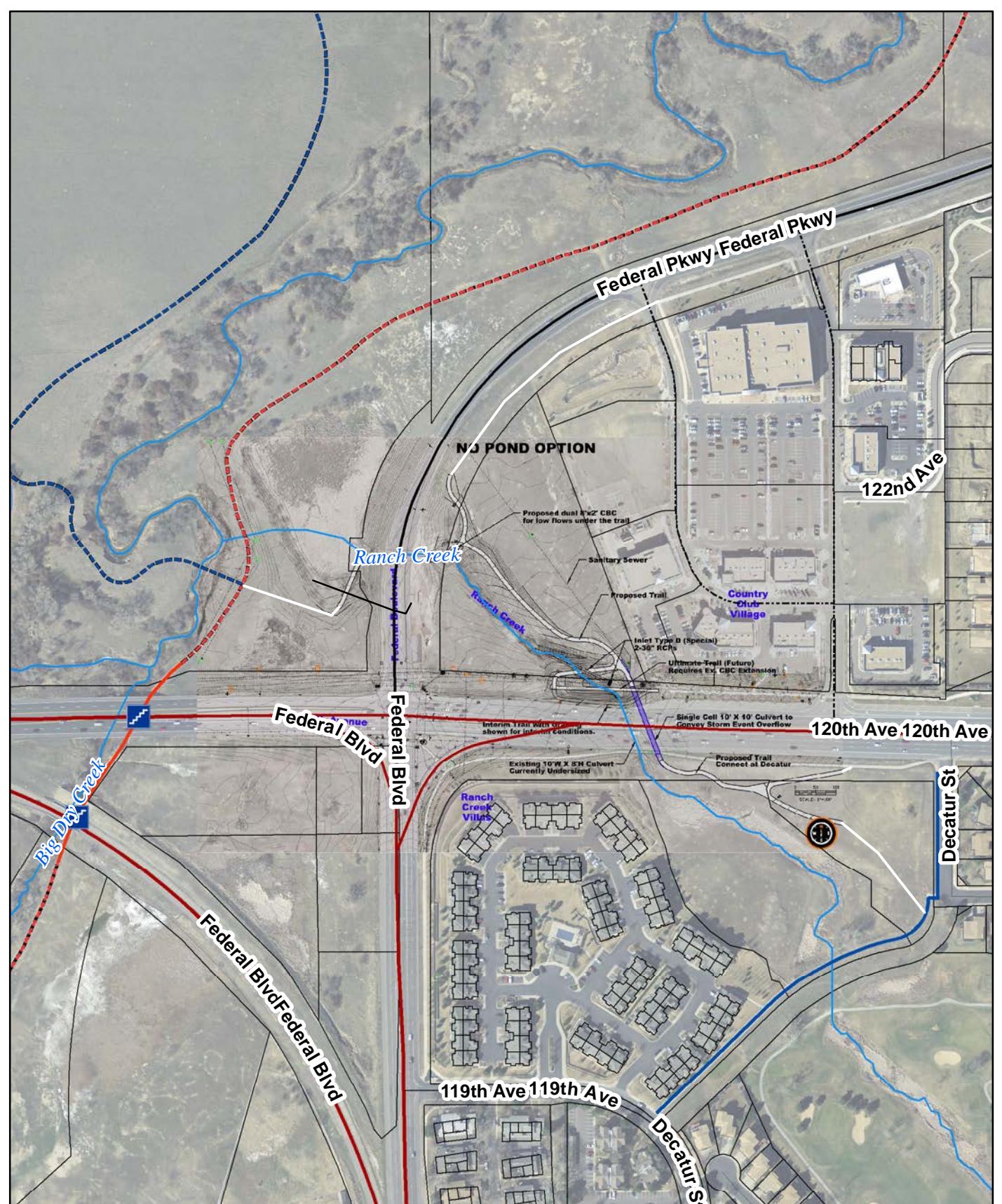
City of Westminster Proposed 75th and Sheridan Buffer Open Space Acquisition



**City of Westminster
Parks, Open Space and Golf Courses**

0





City of Westminster Ranch Creek Trail

IGIS-APPS\GIS-Apps\West\GIS\DepartmentProjects\CommDev\Openspace\RanchCreekProject



0 100 200 300 400 500 600 700 800
Feet

1 inch = 331 feet





W E S T M I N S T E R

Agenda Item 10 B

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Councillor's Bill No. 25 re Lease of Open Space Property

Prepared By: Heather Cronenberg, Open Space Coordinator

Recommended City Council Action

Pass Councillor's Bill No. 25 on first reading authorizing the execution of two lease agreements in substantially the same form as the attached agreements for the Bonnie Stewart property located at 8370 and 8390 W. 108th Avenue, Westminster, CO 80021.

Summary Statement

- The City purchased the Bonnie Stewart property on December 12, 2012 for open space. As part of the agreement to purchase the property, the City agreed to rent out the two tenant houses on site for a period of up to two years from the purchase.
- The City recently contracted out the management of the rental properties to Pro Real Estate Services Inc. One tenant was previously renting one of the houses prior to the City's purchase on a month to month lease and is paying \$800 per month. Staff plans to continue leasing to this tenant on these terms and to lease out the second residence at a rate of \$875 for a one year term that will continue on a month to month basis after the term expires.
- The form of lease for both houses has been approved by the City Attorney's Office and by the tenants.

Expenditure Required: \$ 0

Source of Funds: N/A

Policy Issue

Does City Council wish to authorize the execution of two lease agreements for rental of the two tenant houses on the Bonnie Stewart property?

Alternative

City Council could reject this lease approval request. This alternative is not recommended as the City agreed to rent out the tenant houses for up to two years as part of the acquisition of this property. Staff also prefers to have the houses occupied until such time as the City can remove the structures.

Background Information

The City purchased the 29-acre Bonnie Stewart property on December 12, 2012 for open space. The Seller negotiated as part of the purchase that the City lease out the two tenant houses located on the property for up to 2 years. The City recently contracted out management of the tenant houses to Pro Real Estate Services, Inc. One tenant previously rented one of the houses prior to the City's purchase. The City inherited the prior lease and wishes to use attached form of lease instead. This lease is a month-to-month lease that can be terminated with 30 days written notice. The second tenant is currently renting out a property that the City will be demolishing as part of the Lowell Plaza redevelopment site. The house located at 7249 ½ Lowell Boulevard will be removed to prepare the site for future development. Federal funds were used for this project so the City is assisting in relocating the renter. The renter is interested in renting the second tenant house on the Bonnie Stewart property. This lease has a one-year term that can be continued on a month-to-month basis after the term expires. During the term of the lease, the public will not have access to this area (approximately 2 acres of the 30-acre site) of the site. However, the City will be receiving a total of \$1,675 per month for the lease term that will be deposited into the Open Space fund. The City will also be sharing 20% of this revenue with Jefferson County under the grant agreement that was received to assist with the purchase of this property.

The City Charter requires that leases be approved by City Council by ordinance.

City Council action on this item addresses two Strategic Plan Goals: Financially Sustainable City Government Providing Exceptional Services; and Beautiful and Environmentally Sensitive City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance
- Mannon Lease
- Slusher Lease

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2013

COUNCILLOR'S BILL NO. 25
INTRODUCED BY COUNCILLORS

**A BILL
FOR AN ORDINANCE APPROVING TWO LEASE AGREEMENTS FOR LEASE OF THE
PROPERTIES LOCATED AT 8370 AND 8390 W. 108th AVENUE, WESTMINSTER, CO 80021.**

WHEREAS, the City of Westminster purchased the property located at 8370 and 8390 W. 108th Avenue, Westminster, CO 80021 (also known as the Bonnie Stewart property); and

WHEREAS, as part of the purchase, the City agreed to lease the two tenant houses located on the property for up to two years. One agreement provides for a month-to-month lease with the ability to terminate the lease with thirty (30) days' notice. The other lease has a one-year term with the ability to continue the lease on a month-to-month basis at the end of the term; and

WHEREAS, the tenants have both been screened and determined to be suitable for the property;
and

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

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

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Lease Agreements between Cherlyn Penny Mannon and the City and Daniel Slusher and the City for the properties located at 8390 and 8370 W. 108th Avenue, Westminster, CO 80021, in substantially the same forms attached to this Ordinance, are approved.

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of July, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of August, 2013.

Mayor Pro Tem

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office

**THIS LEASE HAS IMPORTANT LEGAL CONSEQUENCES.
THE PARTIES SHOULD CONSULT LEGAL COUNSEL BEFORE SIGNING.**

RESIDENCE LEASE

This Residence Lease (the "Lease") is made on July 10, 2013 (date) and is entered into by and between Landlord (as defined below) and Tenant (as defined below). In consideration of the payment of the Rent (as defined below), other monies due the Landlord ("Additional Rent"), and the performance of the promises by Tenant set forth below, Landlord leases to Tenant, and Tenant accepts, the Premises described below, subject to the terms and provisions set forth in the Lease. This Lease shall be deemed to be a Rental Agreement as such term is employed in the Colorado Revised Statutes (the "Rental Agreement.")

PARTIES, PREMISES, AND DEFINED TERMS

1. **Landlord:** Pro Real Estate Services In. (Agent for City of westminster),
a(n) Corporation [Individual, Company or Type of Entity], (the "Landlord").

2. **Tenants/Occupancy:** 1) Cherlyn Penny Mannon; 2) _____;
3) _____; and 4) _____;
[identify all occupants of the Premises over the age of 18] are persons entitled under to occupy the Dwelling Unit to the exclusion of others (collectively referred to in the Lease as the "Tenant"). A maximum of 2 people shall occupy the Premises.

3. **Premises:** The following described property situated in City of Westminster, County of Jefferson,
_____, [insert city and county] State of Colorado, with the address of
8390 W. 108th. Ave. Westminster, CO 80021-2617 [insert street address] described as follows:
Lot _____, Block _____, _____ (the "Premises").

The Lease includes excludes parking, specifically: Parking/Garage Space _____ (the "Parking Space").

4. **Term:** Landlord leases the Premises to Tenant from twelve o'clock noon on the 1st day of August 1, 20 13, and until 11:59 p.m. on the 31st day of August, 20 13 (the "Term"). Subject to Tenant's performance of all obligations under the Lease, including without limitation, payment of Rent and other amounts, Tenant shall enjoy quiet possession of the Premises.

5. **Rent:** Rental for the entire Term is Eight Hundred and 00/100 Dollars (\$800.00) and shall be paid in monthly installments of Eight Hundred and 00/100 Dollars (\$800.00) payable in advance, on or before twelve o'clock noon on the first day of each calendar month during the term of the Lease at the location set forth below, without notice (the "Rent"). Unless otherwise provided in the Lease, all payments must be mailed or delivered to Landlord (or Landlord's property management company, as the case may be) at the following address:

11941 W. 48th. Ave. #100 Wheat Ridge, COLORADO 80021.

If the Term does not begin on the first day of the month, the Rent will be prorated accordingly.

6. **Security Deposit:** Before occupying the Premises, Tenant must deposit with Landlord a security, cleaning and damage deposit in the amount of Not part of this agreement and NA/100 Dollars (\$NA) (including Pet Damage Deposit, if applicable, as defined below) as security for the return of the Premises at the expiration of the Term in as good condition as when Tenant entered the Premises, normal wear and tear excepted, as well as the faithful, timely and complete performance of all other terms, conditions and covenants of the Lease (the "Security Deposit").



7. **Colorado Revised Statutes Definitions:** The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S., contains the following definitions which may be applicable in conjunction with certain rights and responsibilities imposed by the law: Dwelling Unit is the structure, or the part of the structure, that is used as the home, residence, or sleeping place by Tenant (the “**Dwelling Unit**”). Common areas are the facilities and appurtenances to a Residential Premises, including the grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to Tenant (the “**Common Areas**”). Residential Premises means the Dwelling Unit, the structure of which the unit is a part and the Common Areas (the “**Residential Premises**”).

8. **Utilities:** Tenant shall be responsible for paying the following utilities, which charges shall be deemed Additional Rent: Electric Gas Water Sewer Phone Cable/Satellite T.V. Internet Access Refuse Disposal Other _____.

If the Premises shares meter facilities for utilities, the charges will be allocated to each by Landlord based on a reasonable basis and shall be considered Additional Rent. If Tenant fails to timely pay any of the above charges, it shall be deemed a Default by Tenant. If separate arrangements are made for Tenant to provide its own utilities directly from the respective service provider, then Landlord shall have no liability therefore. Landlord shall be responsible for any remaining utilities not specifically designated to be paid by Tenant.

9. **Late Payments:** If any rental installment or other payment is received later than 5 days after the date when due, the parties agree that Additional Rent in the amount of \$ 50.00 or percent (5 %) of the outstanding sums, shall also be due and payable. The foregoing items shall be deemed Additional Rent.

10. **Repairs and Maintenance of the Premises:** The Tenant shall be responsible for maintenance of the Premises as described further in the Lease. The Landlord shall be responsible for maintenance and repair of the Premises as described further in the Lease. However, in the event that the parties agree that Tenant shall be responsible for some or all of the repairs and/or some or all of the maintenance beyond that set forth in the Lease, then the parties shall execute a separate writing consistent with the requirements of The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S indicating such agreement. Such separate writing may be appended to this Lease as an addendum.

11. **Pets:** Pets are are not permitted on the Premises. If pets are permitted, they are limited to (number and type of pets) 4 Dogs, and Tenant must deposit an additional Pet Damage Deposit of \$ NA with Landlord before arrival of pet.

PREMISES

12. **Common Areas/Governing Documents:** If the Premises includes any common areas with any other properties that are subject to any declarations, covenants, conditions, or restrictions by any governing documents (the “**Governing Documents**”) pertaining to the Premises, Tenant is granted a license to use those areas on the terms and conditions contained in such governing documents. All use of the Common Areas is at the sole risk of Tenant and Landlord will not be held liable for any damages or injuries occasioned by such use.

13. **Parking:** If parking is available and included on or adjacent to the Premises, the parties understand and agree that the Lease establishes a license to use the Premises for parking for Tenant’s motor vehicles. All motor vehicles must be properly licensed and insured. No inoperative, stored, or “junked” motor vehicles are permitted. Landlord may cause removal of all motor vehicles or personal property not authorized or permitted, including those left on the Premises or designated Common Areas after expiration or termination of the Lease or Term. Tenant agrees to comply with any parking requirements and restrictions specified in any Governing Documents or rules and regulations governing the Premises.

14. **Check-In Inspection, Condition of Premises and Representations:** Landlord and Tenant may conduct an inspection of the Premises at the time of possession. A check-in inspection sheet may be completed at that time and the information contained in it will be sufficient and satisfactory proof of the condition of the Premises at the time of possession should a subsequent dispute arise. All systems and appliances on the Premises, including refrigerators, stoves, microwaves, dishwashers, washers, dryers, etc., will be in working condition at the commencement of the Term, unless specifically noted to the contrary on the check-in inspection sheet. As of the commencement of the Lease, Tenant acknowledges that Tenant has examined the Premises and is satisfied with the

condition of the Premises, including all systems and appliances on the Premises. Taking possession of the Premises is conclusive evidence to the fact that the Premises are in good order and satisfactory condition.

15. Use of Premises: Where used in this Paragraph 15, Premises includes any Common Areas and Tenant includes Tenant's licensees and invitees.

a. **Occupancy of Premises:** Tenant represents and warrants that Tenant has identified all of the individuals over the age of 18 who will occupy the Premises in Paragraph 2 of the Lease and that the Premises are to be used only as a private residence for those individuals. Landlord must approve any change to those listed as Tenants in the Lease. If Tenant desires any change or increase to those shown as Tenants in the Lease, and provided any increase is not in violation of applicable occupancy codes, those individuals desiring tenancy must complete any application and approval process required by Landlord, in advance of any change, and after Landlord's approval must execute a new Lease. If Tenant fails to obtain Landlord's approval in advance of any change in occupancy, Tenant understands that this failure constitutes a Default as described in the Lease. Landlord represents and warrants that it has obtained any rental licenses as may be required in the city or county in which the Premises are located.

b. **Legal Compliance:** Tenant is liable for the actions of Tenant's licensees and invitees. Tenant agrees to comply with and abide by all federal, state, county and municipal laws and ordinances, and any Governing Documents, if applicable, in connection with the occupancy and use of the Premises. No alcoholic beverages shall be possessed or consumed by Tenant, or Tenant's licensees or invitees, unless the person possessing or consuming alcohol is of legal age. No illegal drugs or controlled substances (unless specifically prescribed by a physician for a specific person residing or present on the Premises) are permitted on the Premises. Tenant agrees to refrain from using the Premises in any way that may result in an increase of the rate or cost of insurance on the Premises. No hazardous or dangerous activities are permitted on the Premises.

c. **Rules and Regulations:** Landlord shall provide Tenant with a copy of all rules and regulations, if any, affecting the Premises, to which Tenant agrees to abide.

d. **Safety:** Tenant must not use the Premises in a manner that may endanger the person or property of Landlord, co-tenants, or any person living on or near the Premises. Tenant agrees to limit use of the Premises to those consistent with the Premises' clean, safe, sanitary, and habitable condition.

e. **Nuisance Prohibited:** Neither Tenant nor Tenant's licensees or invitees shall be a nuisance or act in any manner that would interfere with the quiet enjoyment by adjacent property owners or other tenants (or their invitees) of their premises. This prohibition includes, but is not limited to, loud noises, loud music, noxious or unpleasant odors, and disruptive behavior or actions.

16. Check-Out Procedure: The parties may, at their discretion, conduct a check-out/walk-through of the Premises when, or immediately before, Tenant re-delivers the Premises at the end of the Term.

17. Surrender of Premises: Tenant will return the Premises to Landlord at the expiration of the Term in as good condition as when Tenant took possession of the Premises, normal wear and tear excepted. Any deterioration or damage caused by accident, abuse, carelessness, or negligence shall not be considered normal wear and tear. If Tenant fails to re-deliver the Premises in appropriate condition, Landlord may restore the Premises to appropriate condition, including repair, replacement and cleaning. The cost of any work necessitated will be deducted from the Security Deposit, and if the Security Deposit is insufficient to cover work performed, Tenant will be obliged to pay the additional balance.

18. Subletting or Assignment: Tenant shall neither sublet any part of the Premises nor assign the Lease, nor any interest in the Lease, without Landlord's prior written consent. Consent to a sublease or assignment shall be in the sole and absolute discretion of Landlord.

PAYMENTS

19. Payments/Dishonored Checks: Payments shall be deemed received when actually delivered to, and received by, Landlord at the payment location. Dishonored checks and any checks received late in the mail will be treated as late payments. Any additional bank and handling charges that are assessed in the event of a dishonored check shall be deemed Additional Rent. Landlord may require Tenant to replace any dishonored check with a money order, cashier's check, or other good funds. Landlord may further require that all subsequent payments after a dishonored check be paid with a money order, cashier's check, or other good funds.

20. Partial Payment: Any partial payment made by Tenant will be allocated first to the payment of Additional Rent, including, without limitation, utilities (if applicable) and other expenses, and second to unpaid Rent. Landlord's acceptance of any partial payment does not waive Landlord's right to require immediate payment of the unpaid balance of Rent, or waive or affect Landlord's rights to institute legal proceedings including, without limitation, an eviction action.

21. No Offset: No assent, express or implied, to any Default of any one or more of the agreements in the Lease will be deemed or taken to be a waiver of any succeeding or other Default. The covenants set forth in the Lease are independent. Tenant shall have no right to withhold or set off any Rent due Landlord.

22. Joint and Several Obligations of Tenant: If more than one person comprises Tenant, it is expressly understood and agreed that each person comprising Tenant is jointly and severally liable for any and all obligations of Tenant in the Lease. This means that each and every person comprising Tenant are each, together and separately, responsible for all of Tenant's obligations. Landlord may, at its option, determine who to hold responsible.

SECURITY DEPOSIT

23. Retention or Return of Security Deposit: Landlord shall abide by any applicable laws or ordinances requiring interest to be paid on the Security Deposit. Landlord may retain the Security Deposit for nonpayment of Rent or Additional Rent, repair of the Premises or Common Areas, replacement of damaged or missing items on the Premises or Common Areas, and/or cleaning of the Premises or Common Areas beyond normal wear and tear incurred during the Term. Tenant may not elect to apply the Security Deposit as last month's rent. Any amount remaining from the Security Deposit, together with a written accounting for any portion retained, will be returned by mail to Tenant not more than sixty (60) days after expiration of the Term. Landlord shall mail the return or accounting to Tenant's last known address. If Tenant consists of more than one person, Tenant agrees that Landlord may provide, at Landlord's discretion, the return or accounting to one representative of Tenant or pro-rata refunds to each person.

24. Restoration of Balance of Security Deposit: Landlord has the right at any time, but not the obligation, to apply all or any part of the Security Deposit toward curing any Default of Tenant during the Term. If Landlord does so apply the Security Deposit, Tenant must immediately deposit with Landlord an amount equal to the amount applied so that Tenant will at all times have on deposit with Landlord the entire Security Deposit.

REPAIRS AND MAINTENANCE

25. Tenant's Maintenance of the Premises: In addition to the duties imposed upon Tenant by this Lease, The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S., requires the following: Tenant has a duty to use that portion of the Premises within Tenant's control in a reasonably clean and safe manner. Tenant fails to maintain the Premises in a reasonably clean and safe manner when the Tenant substantially fails to:

- a. Comply with obligations imposed upon Tenant by applicable provisions of building, health, and housing codes materially affecting health and safety;
- b. Keep the Dwelling Unit reasonably clean, safe, and sanitary as permitted by the conditions of the unit;
- c. Dispose of ashes, garbage, rubbish, and other waste from the Dwelling Unit in a clean, safe, sanitary, and legally compliant manner;
- d. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, elevators, and other facilities and appliances in the Dwelling Unit;
- e. Conduct himself or herself and require other persons in the Residential Premises within the Tenant's control to conduct themselves in a manner that does not disturb their neighbors' peaceful enjoyment of the neighbors' Dwelling Unit; or
- f. Promptly notify Landlord if the Residential Premises is uninhabitable as defined in the Colorado Revised Statutes or if there is a condition that could result in the Premises becoming uninhabitable if not remedied.

In addition to the duties set forth in the above paragraph, Tenant shall not knowingly, intentionally, deliberately, or negligently destroy, deface, damage, impair, or remove any part of the Residential Premises or knowingly permit any person within Tenant's control to do so. Nothing in the above paragraph shall be construed to authorize a

modification of Landlord's obligations under the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S.

26. Tenant's Notification, Restrictions, and Additional Responsibilities: Except as may otherwise be permitted by applicable law, Tenant shall not perform or contract with third parties to perform any repairs of any kind on the Premises or structure on which the Premises are located without the written consent of Landlord. If any repair which is the responsibility of either Tenant or Landlord becomes necessary, Tenant must notify Landlord, in writing, as soon as possible and allow reasonable time for the work to be completed. Any unauthorized work performed or contracted for by Tenant will be at Tenant's sole expense and no deductions or offsets in Rent or Additional Rent shall be permitted except to the extent explicitly permitted by the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S.

a. **Painting/Decorating:** Tenant shall not paint the Premises or Common Areas without Landlord's prior written consent. Tenant shall not otherwise decorate or deface the Premises or Common Areas in a manner that causes damage or alteration to the Premises or Common Areas.

b. **Plumbing/Building Systems:** Tenant shall be responsible for any and all damage to the plumbing, HVAC and electrical systems caused by Tenant's intentional, reckless or negligent use, misconduct or abuse. Such actions include, without limitation, clogging and backing up of plumbing not attributable to ordinary wear and tear of the plumbing system, and plumbing system freeze-ups occasioned by Tenant's negligence.

c. **Keys/Locks:** Tenant shall not place any additional locks on the Premises, including, but not limited to, exterior and interior doors. Tenant shall not cause any of the locks or cylinders in the locks to be changed or re-keyed in any manner.

d. **Cleanliness of Premises:** Tenant must keep the Premises and the real property surrounding the Premises free and clear of all debris, garbage and rubbish.

27. Landlord's Maintenance and Repair of the Premises: Landlord shall be responsible for the maintenance and repair of all structural components, interior and exterior walls, floors, ceiling, roofs, sewer connections, plumbing, wiring, appliances and glass used in connection with the Premises. More specifically, (i) any repairs, replacements, restorations, or maintenance that have been necessitated by reason of ordinary wear and tear; (ii) any repairs, replacements, restorations, or maintenance that have been necessitated by sudden natural forces or acts of God, or by fire not caused by Tenant; and (iii) any repairs, improvements or maintenance that are required by applicable state and municipal rental housing codes that govern the area in which the Premises are located, including, *inter alia*, the Colorado Warranty of Habitability as set forth in § 38-12-501 *et seq.*, C.R.S. Notwithstanding the foregoing provisions of the Lease, if repairs, replacements, restorations, or maintenance have been necessitated by any other reason including, without limitation, Tenant's intentional, reckless or negligent use, misconduct or abuse of the Premises, improvements or systems then Tenant shall be responsible for the cost and expense for repairs, improvements or maintenance occasioned by such acts or omissions. In the event the parties agree in a separate writing to the contrary as specified herein for the Tenant to be responsible for certain repairs and maintenance beyond those articulated to be the Tenant's responsibility in the paragraph above, then the responsibilities of the Landlord, as set forth in this paragraph, shall be modified accordingly.

DEFAULT, NOTICE AND REMEDIES

28. Default: If Tenant is in arrears in the payment of any installment of Rent, any Additional Rent, or in violation of any other covenants or agreements set forth in the Lease (a "Default") and the Default remains uncorrected for a period of three (3) days after Landlord has given written notice of the Default to Tenant pursuant to applicable law, then Landlord may, at Landlord's option, undertake any of the following remedies without limitation: (i) declare the Term of the Lease ended; (ii) terminate Tenant's right to possession of the Premises and re-enter and repossess the Premises pursuant to applicable provisions of the Colorado Forcible Entry and Unlawful Detainer statute; (iii) recover all present and future damages, costs and other relief to which Landlord is entitled; (iv) pursue Landlord's lien remedies; (v) pursue breach of contract remedies; and/or (vi) pursue any and all available remedies in law or equity. If possession is terminated by reason of a Default before the Term expires, Tenant shall still be responsible for the Rent and Additional Rent occurring for the remainder of the Term, subject to Landlord's duty to mitigate such damages. Pursuant to §§ 13-40-104 (d.5) and (e.5), and 13-40-107.5, C.R.S., hereby incorporated by reference, if repeated or substantial Default(s) occur under the Lease, Landlord may

terminate Tenant's possession upon a written Notice to Quit, without a right to cure. Upon such termination, Landlord shall have available any and all of the above-listed remedies.

29. **Abandonment:** If Tenant abandons the Premises, then Landlord may, without being obligated to do so and without terminating the Lease, retake possession of the Premises and exercise any of the remedies contained in Paragraph 30 below.

30. **Re-Entry:** If Landlord re-enters the Premises as a result of abandonment or a Default by Tenant:

a. Tenant shall be liable for damages to Landlord for all loss sustained, including, without limitation, the balance of the Rent and Additional Rent, court costs and reasonable attorneys' fees; and

b. Tenant's personal property and the personal property of any guest, invitee, licensee or occupant may be removed from the Premises and left on the street or alley or, at Landlord's option, it may be removed and stored or disposed of at Landlord's sole discretion. Any expense related to storage of Tenant's personal property is the sole responsibility of Tenant. Landlord shall not be deemed a bailee of the removed property, and Landlord shall not be held liable for either civil or criminal action as a result of the removal. Tenant shall indemnify Landlord for any expense in defending against any claim by Tenant or third-party and for any legal expense, cost, fine or judgment awarded to any third-party as a result of Landlord's action under the term of the Lease; and

c. Landlord may attempt to re-let the Premises for such rent and under such terms as Landlord believes appropriate; and

d. Landlord may enter the Premises, clean and make repairs and charge Tenant accordingly; and

e. any money that Landlord receives from Tenant shall be applied first to Rent, Additional Rent, and other payments due; and

f. Tenant will surrender all keys and peacefully surrender and deliver up possession of the Premises.

31. **Breach of Warranty of Habitability:** In the event of a breach of the Warranty of Habitability (as further defined in Paragraph 49 of this Lease) the parties are advised to refer with the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S. for further requirements, responsibilities and remedies.

ADDITIONAL PROVISIONS

32. **Liability Indemnification/Waiver:** Tenant shall save Landlord harmless and indemnified from all injury, loss, claim or damage to any person or property while on the Premises, or arising in any way out of Tenant's use of the Premises. Landlord and Landlord's agents, contractors, and employees shall not be liable for, and Tenant waives all claims for, damage to person or property sustained by Tenant, resulting from any accident or occurrence in or on the Premises, including, but not limited to, claims for damage resulting from: (i) any equipment or appurtenances becoming out of repair; (ii) Landlord's failure to keep the Premises in repair; (iii) injury done or occasioned by wind, water, or other natural element; (iv) any defect in, or failure of, plumbing, heating or air-conditioning equipment (including wood stoves), electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings or walks; (v) broken glass; (vi) the backing-up of any sewer pipe or downspout; (vii) the bursting, leaking or running of any tank, tub, sink, sprinkler system, water closet, waste pipe, drain or any other pipe or tank in, on or about the Premises; (viii) the escape of steam or hot water; (ix) water, snow, or ice being on or coming through the roof, skylight, doors, stairs, walks, or any other place on or near the Premises; (x) the falling of any fixtures, plaster or stucco; (xi) fire or other casualty; (xii) any act, omission or negligence of co-tenants or of other persons or occupants of the Premises; and (xiii) any hazardous materials or conditions on the Premises. Where used in this Paragraph: (a) Premises includes any Common Areas, structures on any Common Areas, and any adjacent property; (b) Landlord includes Landlord's agents, respective successors and assigns, contractors, and employees; and (c) Tenant includes Tenant's invitees, licensees, or any other person claiming through Tenant. Nothing contained herein shall be deemed to constitute a waiver of any rights, responsibilities or remedies as may be explicitly imposed by the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S.

33. **Insurance:** Landlord, in its sole discretion and for its sole benefit, shall cause the Premises to be insured as it deems appropriate. Tenant shall have no right or claim to any insurance or insurance proceeds. Tenant understands and agrees that Landlord has no obligation to obtain insurance for Tenant including, but not limited to, liability, hazard, or contents insurance. If Tenant desires insurance, Tenant is advised to obtain renter's insurance at Tenant's sole cost and expense, and for Tenant's sole benefit.

34. Destruction or Condemnation of Premises: Landlord's and Tenant's duties and responsibilities are as follows when destruction or condemnation of the Premises occurs:

a. **Partial Destruction of the Premises:** In case of partial destruction to the Premises by fire, the elements, or other casualty, Landlord, at its discretion, may repair the Premises with reasonable dispatch after notice of the partial destruction. Tenant shall still be responsible for payment of Rent. If Landlord determines that the partial destruction may not be repaired, Subparagraph (d) of this Paragraph shall be effective.

b. **Premises Untenable:** If the Premises are made totally untenable by fire, the elements or other casualty, or if the building in which the Premises are located is partially destroyed to the point where Landlord, within a reasonable time, decides not to rebuild or repair, then Subparagraph (d) of this Paragraph shall be effective.

c. **Condemnation:** If the whole or part of the Premises rented under the Lease are taken by any authority for any public or quasi-public use or purpose, then Subparagraph (d) of this Paragraph shall be effective. All damages and compensation awarded for any taking shall be the sole property of Landlord.

d. **Termination of Term:** Tenant agrees that if Landlord decides not to repair or rebuild the Premises where the destruction has occurred as described in Subparagraphs (a) and (b) of this Paragraph, the Term granted by the Lease will cease and the Rent and Additional Rent will be prorated and payable up to the time of the cessation of the Term. A refund will be given for the balance of any Rent paid in advance for which Tenant did not have use of the Premises due to the cessation of the Term under the conditions of this clause. Where the Premises have been taken due to condemnation as described in Subparagraph (c) of this Paragraph, the Term of the Lease will cease and terminate on the date that possession of the Premises is taken by the authority. Rent and Additional Rent will be prorated and payable up to the time of the cessation of the Term. Tenant shall not hold Landlord liable for any damages as a result of any of the acts or events described in this Subparagraph.

35. Holdover: Tenant must vacate the Premises and remove all of Tenant's personal property from the Premises before 11:59 p.m. on the date the Term expires. Landlord may immediately commence eviction proceedings at its sole discretion. If, after the Lease expires, Tenant remains in possession of the Premises and continues to pay Rent without a written agreement as to possession, then the tenancy will be regarded as a month-to-month tenancy, at a monthly rental, payable in advance, equivalent to the last month's Rent paid under the Lease, and subject to all the terms and conditions of the Lease.

36. Entry by Landlord: Landlord may enter the Premises at reasonable hours for reasonable purposes (such as repairs, inspections or re-letting to prospective new tenants), after giving reasonable notice to Tenant. Landlord may also enter the Premises in the event of an emergency, without notice, or in the event of vacancy of the Premises, as described in Paragraph 30.

37. Guarantor: If the Lease is guaranteed, the person(s) guaranteeing the Lease ("Guarantor") absolutely guarantees Tenant's obligations and performance under the Lease. Guarantor further agrees to be bound by the same covenants and conditions of the Lease and makes the same warranties and representations as Tenant under the Lease. If Tenant defaults in the performance of Tenant's obligations under the Lease, Guarantor will perform Tenant's obligations.

38. Subordination: The Lease is subordinate to all existing and future mortgages, deeds of trust and other security interests on the Premises.

39. Notices: All notices required to be sent under the Lease must be in writing and either be: (i) delivered as provided by applicable law, including *inter alia*, §§ 13-40-101, C.R.S., *et seq.* [Colorado Forcible Entry and Unlawful Detainer statute]; (ii) personally delivered, with proper proof of service; or (iii) sent via U.S. first class mail, postage prepaid. All notices required to be sent to Landlord must be sent or delivered to the address where the Rent is to be paid, and all notices required to be sent to Tenant must be sent or delivered to the Premises, unless otherwise specified. Notwithstanding the foregoing, all notices involving or concerning §§ 13-40-101 *et seq.*, C.R.S., and § 38-12-501 *et seq.*, C.R.S. must be delivered as provided in this law.

40. Attorney Fees: If either party fails to perform any of its obligations under the Lease, or if a dispute arises concerning the meaning or interpretation of any provision of the Lease, then the defaulting party or the party not prevailing in the dispute, as the case may be, must pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under the Lease, including, without limitation, court costs and reasonable attorney fees as per §13-40-123, C.R.S.

41. **Governing Law:** The Lease is governed by and construed in accordance with the laws of the State of Colorado. Venue is proper in the county in which the Premises are located.

42. **Amendments and Termination:** Unless otherwise provided in the Lease, the Lease may be amended, modified, or terminated only by a written instrument executed by Landlord and Tenant.

43. **Captions:** The Paragraph titles or captions in the Lease are for convenience only and shall not be deemed to be part of the Lease.

44. **Pronouns; Joint and Several Use of Certain Terms:** Whenever the terms referred to in the Lease are singular, the same shall be deemed to mean the plural, as the context indicates, and vice versa. All references to the "Landlord" mean Landlord and/or its authorized agents, contractors, or employees as may be required by the specific context. All references to "Tenant" mean each and every person comprising Tenant or an individual person or combination of persons comprising Tenant as may be required by the specific context.

45. **Waivers:** No right under the Lease may be waived except by written instrument executed by the party who is waiving that right. No waiver of any breach of any provision contained in the Lease shall be deemed a waiver of any preceding or succeeding breach of that provision or of any other provision contained in the Lease. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

46. **Severability:** If any term, covenant, condition, or provision of the Lease or the application thereof to any person or circumstance is found, at any time or to any extent, to be invalid or unenforceable, the remainder of the Lease, or the application of that term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of the Lease shall be valid and shall be enforced to the fullest extent permitted by law.

47. **Lead-Based Paint Disclosure Rule:** Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenant must also receive a federally approved pamphlet on lead poisoning prevention. If the Premises were constructed before 1978, Landlord must comply with the Lead-Based Paint Disclosure Rule, 42 U.S.C. § 4852(d).

48. **Other Applicable Laws:** Federal, state, county and/or municipal laws and ordinances, which are not specifically addressed in the Lease, may affect the Premises, the Lease and the Landlord/Tenant relationship. The Colorado Warranty of Habitability statute, codified at § 38-12-501 *et seq.*, C.R.S., contains explicit responsibilities and remedies for both the Landlord and Tenant concerning use, condition and occupancy of the Premises. Landlord and Tenant should consult legal counsel before executing the Lease to ascertain such information.

COLORADO WARRANTY OF HABITABILITY

49. **Colorado Warranty of Habitability Statute:** The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S (the "Warranty of Habitability") imposes certain statutory obligations as to the condition of the Premises. As such, the Landlord hereby represents and warrants in this Lease, that the Residential Premises is fit for human habitation. Landlord shall be deemed to breach the aforementioned Warranty of Habitability in the event that:

- a. The Residential Premises is uninhabitable as described in § 38-12-505, C.R.S., or otherwise unfit for human habitation; and
- b. The Residential Premises is in a condition that is materially dangerous or hazardous to the Tenant's life, health, or safety; and
- c. The Landlord has received written notice of the condition described in above and has failed to cure the problem within a reasonable time.

50. **Uninhabitable Residential Premises:** Section 38-12-505(1), C.R.S., provides that the Residential Premises is deemed uninhabitable if it substantially lacks any of the following characteristics:

- a. Waterproofing and weather protection of roof and exterior walls maintained in good working order, including unbroken windows and doors;

- b. Plumbing or gas facilities that conformed to applicable law in effect at the time of installation and that are maintained in good working order;
- c. Running water and reasonable amounts of hot water at all times furnished to appropriate fixtures and connected to a sewage disposal system approved under applicable law;
- d. Functioning heating facilities that conformed to applicable law at the time of installation and that are maintained in good working order;
- e. Electrical lighting, with wiring and electrical equipment that conformed to applicable law at the time of installation, maintained in good working order;
- f. Common areas and areas under the control of the Landlord that are kept reasonably clean, sanitary, and free from all accumulations of debris, filth, rubbish, and garbage and that have appropriate extermination in response to the infestation of rodents or vermin;
- g. Appropriate extermination in response to the infestation of rodents or vermin throughout the Residential Premises;
- h. An adequate number of appropriate exterior receptacles for garbage and rubbish, in good repair;
- i. Floors, stairways, and railings maintained in good repair;
- j. Locks on all exterior doors and locks or security devices on windows designed to be opened that are maintained in good working order; or
- k. Compliance with all applicable building, housing, and health codes, which, if violated, would constitute a condition that is dangerous or hazardous to Tenant's life, health, or safety.

It is further understood that no deficiency in the Common Area shall render the Residential Premises uninhabitable as set forth in the Warranty of Habitability, unless it materially and substantially limits the Tenant's use of his or her Dwelling Unit. Notwithstanding the foregoing, when any condition described above is caused by misconduct of the Tenant, a member of the Tenant's household, a guest or invitee of the Tenant, or a person under the Tenant's direction or control, the condition shall not constitute a breach of the Warranty of Habitability. It shall not be misconduct by a victim of domestic violence or domestic abuse under § 38-12-503(3), C.R.S., if the condition is the result of domestic violence or domestic abuse and the Landlord has been given written notice and evidence of domestic violence or domestic abuse as described in § 38-12-402 (2) (a), C.R.S.

51. Opt-Out: If the Dwelling Unit is contained within a mobile home park, or if the Dwelling Unit is contained in a structure where there are four or fewer dwelling units sharing common walls and are located on the same parcel of property and are owned by the same owner, or if the Dwelling Unit is a single-family residential premises, and the opt-out is not inconsistent with any obligations imposed upon the Landlord by a governmental entity for the receipt of a subsidy for the Premises, then the Warranty of Habitability Law provides that the parties may opt-out of certain maintenance obligations of the Landlord and provide that the Tenant shall undertake such maintenance obligations. Provided that the Dwelling Unit is located in a type of residential premises qualifying for such opt-out provisions, the parties hereby opt-out of the following items, which have been checked, and agree that the Tenant shall be responsible for same. In the event that no items are checked, then this opt-out provision shall not be applicable. The Tenant shall be responsible for maintenance of the following: Common areas and areas under the control of the Landlord that are kept reasonably clean, sanitary, and free from all accumulations of debris, filth, rubbish, and garbage and that have appropriate extermination in response to the infestation of rodents or vermin; Appropriate extermination in response to the infestation of rodents or vermin throughout the Residential Premises; and/or An adequate number of appropriate exterior receptacles for garbage and rubbish, in good repair.

52. Additional Provisions: If there are any additional agreements between the parties or provisions with respect to the Premises, an Addendum may be attached to the Lease, which will be incorporated by this reference as a part of the Lease. An Addendum containing additional provisions is not attached.

This agreement shall continue month to month until such time that a 30 day notice is given by either party to terminate this agreement.

**THE PARTIES SHOULD INITIAL EACH PAGE OF THE LEASE AND SIGN BELOW. EACH PARTY
SHOULD RECEIVE A SIGNED COPY OF THE LEASE AND ANY ADDENDA.**

TENANT:

Signature

Cherlyin Penny Mannon

Print Name

Date: _____

LANDLORD:

AN ENTITY:

, a(n)

Type of Entity

Signature

Print Name

Date: _____

By: _____
Signature

Print Name

Its: _____

Date: _____

Signature

Print Name

Date: _____

Or AN INDIVIDUAL:

Signature

Signature

Print Name

Date: _____

Print Name

Date: _____

GUARANTOR (if applicable):

Signature

Print Name

Date: _____

**THIS LEASE HAS IMPORTANT LEGAL CONSEQUENCES.
THE PARTIES SHOULD CONSULT LEGAL COUNSEL BEFORE SIGNING.**

RESIDENCE LEASE

This Residence Lease (the “Lease”) is made on July 10th, 2013 (date) and is entered into by and between Landlord (as defined below) and Tenant (as defined below). In consideration of the payment of the Rent (as defined below), other monies due the Landlord (“**Additional Rent**”), and the performance of the promises by Tenant set forth below, Landlord leases to Tenant, and Tenant accepts, the Premises described below, subject to the terms and provisions set forth in the Lease. This Lease shall be deemed to be a Rental Agreement as such term is employed in the Colorado Revised Statutes (the “**Rental Agreement**.”)

PARTIES, PREMISES, AND DEFINED TERMS

1. **Landlord:** Pro Real Estate Services In. (Agent for City of westminster),
a(n) Corporation [*Individual, Company or Type of Entity*], (the “**Landlord**”).
2. **Tenants/Occupancy:** 1) Daniel W. Slusher; 2) _____;
3) _____; and 4) _____.
[identify all occupants of the Premises over the age of 18] are persons entitled under to occupy the Dwelling Unit to the exclusion of others (collectively referred to in the Lease as the “**Tenant**”). A maximum of 2 people shall occupy the Premises.
3. **Premises:** The following described property situated in City of Westminster, County of Jefferson,
[insert city and county] State of Colorado, with the address of
8370 W. 108th. Ave. Westminster, CO 80021-2617 [insert street address] described as follows:
Lot _____, Block _____, _____ (the “**Premises**”).
The Lease includes excludes parking, specifically: Parking/Garage Space _____ (the “**Parking Space**”).
4. **Term:** Landlord leases the Premises to Tenant from twelve o’clock noon on the 1st day of August, 2013, and until 11:59 p.m. on the 1st day of August, 2014 (the “**Term**”). Subject to Tenant’s performance of all obligations under the Lease, including without limitation, payment of Rent and other amounts, Tenant shall enjoy quiet possession of the Premises.
5. **Rent:** Rental for the entire Term is Eight Hundred and 00/100 Dollars (\$875.00) and shall be paid in monthly installments of Eight Hundred and 00/100 Dollars (\$875.00) payable in advance, on or before twelve o’clock noon on the first day of each calendar month during the term of the Lease at the location set forth below, without notice (the “**Rent**”). Unless otherwise provided in the Lease, all payments must be mailed or delivered to Landlord (or Landlord’s property management company, as the case may be) at the following address:
11941 W. 48th. Ave. #100 Wheat Ridge, COLORADO 80021.
- If the Term does not begin on the first day of the month, the Rent will be prorated accordingly.
6. **Security Deposit:** Before occupying the Premises, Tenant must deposit with Landlord a security, cleaning and damage deposit in the amount of Eight Hundred Seventy Five and NA/100 Dollars (\$875.00) (including Pet Damage Deposit, if applicable, as defined below) as security for the return of the Premises at the expiration of the Term in as good condition as when Tenant entered the Premises, normal wear and tear excepted, as well as the faithful, timely and complete performance of all other terms, conditions and covenants of the Lease (the “**Security Deposit**”).

7. **Colorado Revised Statutes Definitions:** The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S., contains the following definitions which may be applicable in conjunction with certain rights and responsibilities imposed by the law: Dwelling Unit is the structure, or the part of the structure, that is used as the home, residence, or sleeping place by Tenant (the “**Dwelling Unit**”). Common areas are the facilities and appurtenances to a Residential Premises, including the grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to Tenant (the “**Common Areas**”). Residential Premises means the Dwelling Unit, the structure of which the unit is a part and the Common Areas (the “**Residential Premises**”).

8. **Utilities:** Tenant shall be responsible for paying the following utilities, which charges shall be deemed Additional Rent: Electric Gas Water Sewer Phone Cable/Satellite T.V. Internet Access Refuse Disposal Other _____ . If the Premises shares meter facilities for utilities, the charges will be allocated to each by Landlord based on a reasonable basis and shall be considered Additional Rent. If Tenant fails to timely pay any of the above charges, it shall be deemed a Default by Tenant. If separate arrangements are made for Tenant to provide its own utilities directly from the respective service provider, then Landlord shall have no liability therefore. Landlord shall be responsible for any remaining utilities not specifically designated to be paid by Tenant.

9. **Late Payments:** If any rental installment or other payment is received later than 5 days after the date when due, the parties agree that Additional Rent in the amount of \$ 50.00 or percent (5 %) of the outstanding sums, shall also be due and payable. The foregoing items shall be deemed Additional Rent.

10. **Repairs and Maintenance of the Premises:** The Tenant shall be responsible for maintenance of the Premises as described further in the Lease. The Landlord shall be responsible for maintenance and repair of the Premises as described further in the Lease. However, in the event that the parties agree that Tenant shall be responsible for some or all of the repairs and/or some or all of the maintenance beyond that set forth in the Lease, then the parties shall execute a separate writing consistent with the requirements of The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S indicating such agreement. Such separate writing may be appended to this Lease as an addendum.

11. **Pets:** Pets are are not permitted on the Premises. If pets are permitted, they are limited to (number and type of pets) NO PETS, and Tenant must deposit an additional Pet Damage Deposit of \$ NA with Landlord before arrival of pet.

PREMISES

12. **Common Areas/Governing Documents:** If the Premises includes any common areas with any other properties that are subject to any declarations, covenants, conditions, or restrictions by any governing documents (the “**Governing Documents**”) pertaining to the Premises, Tenant is granted a license to use those areas on the terms and conditions contained in such governing documents. All use of the Common Areas is at the sole risk of Tenant and Landlord will not be held liable for any damages or injuries occasioned by such use.

13. **Parking:** If parking is available and included on or adjacent to the Premises, the parties understand and agree that the Lease establishes a license to use the Premises for parking for Tenant’s motor vehicles. All motor vehicles must be properly licensed and insured. No inoperative, stored, or “junked” motor vehicles are permitted. Landlord may cause removal of all motor vehicles or personal property not authorized or permitted, including those left on the Premises or designated Common Areas after expiration or termination of the Lease or Term. Tenant agrees to comply with any parking requirements and restrictions specified in any Governing Documents or rules and regulations governing the Premises.

14. **Check-In Inspection, Condition of Premises and Representations:** Landlord and Tenant may conduct an inspection of the Premises at the time of possession. A check-in inspection sheet may be completed at that time and the information contained in it will be sufficient and satisfactory proof of the condition of the Premises at the time of possession should a subsequent dispute arise. All systems and appliances on the Premises, including refrigerators, stoves, microwaves, dishwashers, washers, dryers, etc., will be in working condition at the commencement of the Term, unless specifically noted to the contrary on the check-in inspection sheet. As of the commencement of the Lease, Tenant acknowledges that Tenant has examined the Premises and is satisfied with the

condition of the Premises, including all systems and appliances on the Premises. Taking possession of the Premises is conclusive evidence to the fact that the Premises are in good order and satisfactory condition.

15. Use of Premises: Where used in this Paragraph 15, Premises includes any Common Areas and Tenant includes Tenant's licensees and invitees.

a. **Occupancy of Premises:** Tenant represents and warrants that Tenant has identified all of the individuals over the age of 18 who will occupy the Premises in Paragraph 2 of the Lease and that the Premises are to be used only as a private residence for those individuals. Landlord must approve any change to those listed as Tenants in the Lease. If Tenant desires any change or increase to those shown as Tenants in the Lease, and provided any increase is not in violation of applicable occupancy codes, those individuals desiring tenancy must complete any application and approval process required by Landlord, in advance of any change, and after Landlord's approval must execute a new Lease. If Tenant fails to obtain Landlord's approval in advance of any change in occupancy, Tenant understands that this failure constitutes a Default as described in the Lease. Landlord represents and warrants that it has obtained any rental licenses as may be required in the city or county in which the Premises are located.

b. **Legal Compliance:** Tenant is liable for the actions of Tenant's licensees and invitees. Tenant agrees to comply with and abide by all federal, state, county and municipal laws and ordinances, and any Governing Documents, if applicable, in connection with the occupancy and use of the Premises. No alcoholic beverages shall be possessed or consumed by Tenant, or Tenant's licensees or invitees, unless the person possessing or consuming alcohol is of legal age. No illegal drugs or controlled substances (unless specifically prescribed by a physician for a specific person residing or present on the Premises) are permitted on the Premises. Tenant agrees to refrain from using the Premises in any way that may result in an increase of the rate or cost of insurance on the Premises. No hazardous or dangerous activities are permitted on the Premises.

c. **Rules and Regulations:** Landlord shall provide Tenant with a copy of all rules and regulations, if any, affecting the Premises, to which Tenant agrees to abide.

d. **Safety:** Tenant must not use the Premises in a manner that may endanger the person or property of Landlord, co-tenants, or any person living on or near the Premises. Tenant agrees to limit use of the Premises to those consistent with the Premises' clean, safe, sanitary, and habitable condition.

e. **Nuisance Prohibited:** Neither Tenant nor Tenant's licensees or invitees shall be a nuisance or act in any manner that would interfere with the quiet enjoyment by adjacent property owners or other tenants (or their invitees) of their premises. This prohibition includes, but is not limited to, loud noises, loud music, noxious or unpleasant odors, and disruptive behavior or actions.

16. Check-Out Procedure: The parties may, at their discretion, conduct a check-out/walk-through of the Premises when, or immediately before, Tenant re-delivers the Premises at the end of the Term.

17. Surrender of Premises: Tenant will return the Premises to Landlord at the expiration of the Term in as good condition as when Tenant took possession of the Premises, normal wear and tear excepted. Any deterioration or damage caused by accident, abuse, carelessness, or negligence shall not be considered normal wear and tear. If Tenant fails to re-deliver the Premises in appropriate condition, Landlord may restore the Premises to appropriate condition, including repair, replacement and cleaning. The cost of any work necessitated will be deducted from the Security Deposit, and if the Security Deposit is insufficient to cover work performed, Tenant will be obliged to pay the additional balance.

18. Subletting or Assignment: Tenant shall neither sublet any part of the Premises nor assign the Lease, nor any interest in the Lease, without Landlord's prior written consent. Consent to a sublease or assignment shall be in the sole and absolute discretion of Landlord.

PAYMENTS

19. Payments/Dishonored Checks: Payments shall be deemed received when actually delivered to, and received by, Landlord at the payment location. Dishonored checks and any checks received late in the mail will be treated as late payments. Any additional bank and handling charges that are assessed in the event of a dishonored check shall be deemed Additional Rent. Landlord may require Tenant to replace any dishonored check with a money order, cashier's check, or other good funds. Landlord may further require that all subsequent payments after a dishonored check be paid with a money order, cashier's check, or other good funds.

20. Partial Payment: Any partial payment made by Tenant will be allocated first to the payment of Additional Rent, including, without limitation, utilities (if applicable) and other expenses, and second to unpaid Rent. Landlord's acceptance of any partial payment does not waive Landlord's right to require immediate payment of the unpaid balance of Rent, or waive or affect Landlord's rights to institute legal proceedings including, without limitation, an eviction action.

21. No Offset: No assent, express or implied, to any Default of any one or more of the agreements in the Lease will be deemed or taken to be a waiver of any succeeding or other Default. The covenants set forth in the Lease are independent. Tenant shall have no right to withhold or set off any Rent due Landlord.

22. Joint and Several Obligations of Tenant: If more than one person comprises Tenant, it is expressly understood and agreed that each person comprising Tenant is jointly and severally liable for any and all obligations of Tenant in the Lease. This means that each and every person comprising Tenant are each, together and separately, responsible for all of Tenant's obligations. Landlord may, at its option, determine who to hold responsible.

SECURITY DEPOSIT

23. Retention or Return of Security Deposit: Landlord shall abide by any applicable laws or ordinances requiring interest to be paid on the Security Deposit. Landlord may retain the Security Deposit for nonpayment of Rent or Additional Rent, repair of the Premises or Common Areas, replacement of damaged or missing items on the Premises or Common Areas, and/or cleaning of the Premises or Common Areas beyond normal wear and tear incurred during the Term. Tenant may not elect to apply the Security Deposit as last month's rent. Any amount remaining from the Security Deposit, together with a written accounting for any portion retained, will be returned by mail to Tenant not more than sixty (60) days after expiration of the Term. Landlord shall mail the return or accounting to Tenant's last known address. If Tenant consists of more than one person, Tenant agrees that Landlord may provide, at Landlord's discretion, the return or accounting to one representative of Tenant or pro-rata refunds to each person.

24. Restoration of Balance of Security Deposit: Landlord has the right at any time, but not the obligation, to apply all or any part of the Security Deposit toward curing any Default of Tenant during the Term. If Landlord does so apply the Security Deposit, Tenant must immediately deposit with Landlord an amount equal to the amount applied so that Tenant will at all times have on deposit with Landlord the entire Security Deposit.

REPAIRS AND MAINTENANCE

25. Tenant's Maintenance of the Premises: In addition to the duties imposed upon Tenant by this Lease, The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S., requires the following: Tenant has a duty to use that portion of the Premises within Tenant's control in a reasonably clean and safe manner. Tenant fails to maintain the Premises in a reasonably clean and safe manner when the Tenant substantially fails to:

- a. Comply with obligations imposed upon Tenant by applicable provisions of building, health, and housing codes materially affecting health and safety;
- b. Keep the Dwelling Unit reasonably clean, safe, and sanitary as permitted by the conditions of the unit;
- c. Dispose of ashes, garbage, rubbish, and other waste from the Dwelling Unit in a clean, safe, sanitary, and legally compliant manner;
- d. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, elevators, and other facilities and appliances in the Dwelling Unit;
- e. Conduct himself or herself and require other persons in the Residential Premises within the Tenant's control to conduct themselves in a manner that does not disturb their neighbors' peaceful enjoyment of the neighbors' Dwelling Unit; or
- f. Promptly notify Landlord if the Residential Premises is uninhabitable as defined in the Colorado Revised Statutes or if there is a condition that could result in the Premises becoming uninhabitable if not remedied.

In addition to the duties set forth in the above paragraph, Tenant shall not knowingly, intentionally, deliberately, or negligently destroy, deface, damage, impair, or remove any part of the Residential Premises or knowingly permit any person within Tenant's control to do so. Nothing in the above paragraph shall be construed to authorize a

modification of Landlord's obligations under the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S.

26. Tenant's Notification, Restrictions, and Additional Responsibilities: Except as may otherwise be permitted by applicable law, Tenant shall not perform or contract with third parties to perform any repairs of any kind on the Premises or structure on which the Premises are located without the written consent of Landlord. If any repair which is the responsibility of either Tenant or Landlord becomes necessary, Tenant must notify Landlord, in writing, as soon as possible and allow reasonable time for the work to be completed. Any unauthorized work performed or contracted for by Tenant will be at Tenant's sole expense and no deductions or offsets in Rent or Additional Rent shall be permitted except to the extent explicitly permitted by the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S.

a. **Painting/Decorating:** Tenant shall not paint the Premises or Common Areas without Landlord's prior written consent. Tenant shall not otherwise decorate or deface the Premises or Common Areas in a manner that causes damage or alteration to the Premises or Common Areas.

b. **Plumbing/Building Systems:** Tenant shall be responsible for any and all damage to the plumbing, HVAC and electrical systems caused by Tenant's intentional, reckless or negligent use, misconduct or abuse. Such actions include, without limitation, clogging and backing up of plumbing not attributable to ordinary wear and tear of the plumbing system, and plumbing system freeze-ups occasioned by Tenant's negligence.

c. **Keys/Locks:** Tenant shall not place any additional locks on the Premises, including, but not limited to, exterior and interior doors. Tenant shall not cause any of the locks or cylinders in the locks to be changed or re-keyed in any manner.

d. **Cleanliness of Premises:** Tenant must keep the Premises and the real property surrounding the Premises free and clear of all debris, garbage and rubbish.

27. Landlord's Maintenance and Repair of the Premises: Landlord shall be responsible for the maintenance and repair of all structural components, interior and exterior walls, floors, ceiling, roofs, sewer connections, plumbing, wiring, appliances and glass used in connection with the Premises. More specifically, (i) any repairs, replacements, restorations, or maintenance that have been necessitated by reason of ordinary wear and tear; (ii) any repairs, replacements, restorations, or maintenance that have been necessitated by sudden natural forces or acts of God, or by fire not caused by Tenant; and (iii) any repairs, improvements or maintenance that are required by applicable state and municipal rental housing codes that govern the area in which the Premises are located, including, *inter alia*, the Colorado Warranty of Habitability as set forth in § 38-12-501 *et seq.*, C.R.S. Notwithstanding the foregoing provisions of the Lease, if repairs, replacements, restorations, or maintenance have been necessitated by any other reason including, without limitation, Tenant's intentional, reckless or negligent use, misconduct or abuse of the Premises, improvements or systems then Tenant shall be responsible for the cost and expense for repairs, improvements or maintenance occasioned by such acts or omissions. In the event the parties agree in a separate writing to the contrary as specified herein for the Tenant to be responsible for certain repairs and maintenance beyond those articulated to be the Tenant's responsibility in the paragraph above, then the responsibilities of the Landlord, as set forth in this paragraph, shall be modified accordingly.

DEFAULT, NOTICE AND REMEDIES

28. Default: If Tenant is in arrears in the payment of any installment of Rent, any Additional Rent, or in violation of any other covenants or agreements set forth in the Lease (a "Default") and the Default remains uncorrected for a period of three (3) days after Landlord has given written notice of the Default to Tenant pursuant to applicable law, then Landlord may, at Landlord's option, undertake any of the following remedies without limitation: (i) declare the Term of the Lease ended; (ii) terminate Tenant's right to possession of the Premises and re-enter and repossess the Premises pursuant to applicable provisions of the Colorado Forcible Entry and Unlawful Detainer statute; (iii) recover all present and future damages, costs and other relief to which Landlord is entitled; (iv) pursue Landlord's lien remedies; (v) pursue breach of contract remedies; and/or (vi) pursue any and all available remedies in law or equity. If possession is terminated by reason of a Default before the Term expires, Tenant shall still be responsible for the Rent and Additional Rent occurring for the remainder of the Term, subject to Landlord's duty to mitigate such damages. Pursuant to §§ 13-40-104 (d.5) and (e.5), and 13-40-107.5, C.R.S., hereby incorporated by reference, if repeated or substantial Default(s) occur under the Lease, Landlord may

terminate Tenant's possession upon a written Notice to Quit, without a right to cure. Upon such termination, Landlord shall have available any and all of the above-listed remedies.

29. Abandonment: If Tenant abandons the Premises, then Landlord may, without being obligated to do so and without terminating the Lease, retake possession of the Premises and exercise any of the remedies contained in Paragraph 30 below.

30. Re-Entry: If Landlord re-enters the Premises as a result of abandonment or a Default by Tenant:

a. Tenant shall be liable for damages to Landlord for all loss sustained, including, without limitation, the balance of the Rent and Additional Rent, court costs and reasonable attorneys' fees; and

b. Tenant's personal property and the personal property of any guest, invitee, licensee or occupant may be removed from the Premises and left on the street or alley or, at Landlord's option, it may be removed and stored or disposed of at Landlord's sole discretion. Any expense related to storage of Tenant's personal property is the sole responsibility of Tenant. Landlord shall not be deemed a bailee of the removed property, and Landlord shall not be held liable for either civil or criminal action as a result of the removal. Tenant shall indemnify Landlord for any expense in defending against any claim by Tenant or third-party and for any legal expense, cost, fine or judgment awarded to any third-party as a result of Landlord's action under the term of the Lease; and

c. Landlord may attempt to re-let the Premises for such rent and under such terms as Landlord believes appropriate; and

d. Landlord may enter the Premises, clean and make repairs and charge Tenant accordingly; and

e. any money that Landlord receives from Tenant shall be applied first to Rent, Additional Rent, and other payments due; and

f. Tenant will surrender all keys and peacefully surrender and deliver up possession of the Premises.

31. Breach of Warranty of Habitability: In the event of a breach of the Warranty of Habitability (as further defined in Paragraph 49 of this Lease) the parties are advised to refer with the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S. for further requirements, responsibilities and remedies.

ADDITIONAL PROVISIONS

32. Liability Indemnification/Waiver: Tenant shall save Landlord harmless and indemnified from all injury, loss, claim or damage to any person or property while on the Premises, or arising in any way out of Tenant's use of the Premises. Landlord and Landlord's agents, contractors, and employees shall not be liable for, and Tenant waives all claims for, damage to person or property sustained by Tenant, resulting from any accident or occurrence in or on the Premises, including, but not limited to, claims for damage resulting from: (i) any equipment or appurtenances becoming out of repair; (ii) Landlord's failure to keep the Premises in repair; (iii) injury done or occasioned by wind, water, or other natural element; (iv) any defect in, or failure of, plumbing, heating or air-conditioning equipment (including wood stoves), electric wiring or installation thereof, gas, water and steam pipes, stairs, porches, railings or walks; (v) broken glass; (vi) the backing-up of any sewer pipe or downspout; (vii) the bursting, leaking or running of any tank, tub, sink, sprinkler system, water closet, waste pipe, drain or any other pipe or tank in, on or about the Premises; (viii) the escape of steam or hot water; (ix) water, snow, or ice being on or coming through the roof, skylight, doors, stairs, walks, or any other place on or near the Premises; (x) the falling of any fixtures, plaster or stucco; (xi) fire or other casualty; (xii) any act, omission or negligence of co-tenants or of other persons or occupants of the Premises; and (xiii) any hazardous materials or conditions on the Premises. Where used in this Paragraph: (a) Premises includes any Common Areas, structures on any Common Areas, and any adjacent property; (b) Landlord includes Landlord's agents, respective successors and assigns, contractors, and employees; and (c) Tenant includes Tenant's invitees, licensees, or any other person claiming through Tenant. Nothing contained herein shall be deemed to constitute a waiver of any rights, responsibilities or remedies as may be explicitly imposed by the Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S.

33. Insurance: Landlord, in its sole discretion and for its sole benefit, shall cause the Premises to be insured as it deems appropriate. Tenant shall have no right or claim to any insurance or insurance proceeds. Tenant understands and agrees that Landlord has no obligation to obtain insurance for Tenant including, but not limited to, liability, hazard, or contents insurance. If Tenant desires insurance, Tenant is advised to obtain renter's insurance at Tenant's sole cost and expense, and for Tenant's sole benefit.

34. Destruction or Condemnation of Premises: Landlord's and Tenant's duties and responsibilities are as follows when destruction or condemnation of the Premises occurs:

a. **Partial Destruction of the Premises:** In case of partial destruction to the Premises by fire, the elements, or other casualty, Landlord, at its discretion, may repair the Premises with reasonable dispatch after notice of the partial destruction. Tenant shall still be responsible for payment of Rent. If Landlord determines that the partial destruction may not be repaired, Subparagraph (d) of this Paragraph shall be effective.

b. **Premises Untenable:** If the Premises are made totally untenable by fire, the elements or other casualty, or if the building in which the Premises are located is partially destroyed to the point where Landlord, within a reasonable time, decides not to rebuild or repair, then Subparagraph (d) of this Paragraph shall be effective.

c. **Condemnation:** If the whole or part of the Premises rented under the Lease are taken by any authority for any public or quasi-public use or purpose, then Subparagraph (d) of this Paragraph shall be effective. All damages and compensation awarded for any taking shall be the sole property of Landlord.

d. **Termination of Term:** Tenant agrees that if Landlord decides not to repair or rebuild the Premises where the destruction has occurred as described in Subparagraphs (a) and (b) of this Paragraph, the Term granted by the Lease will cease and the Rent and Additional Rent will be prorated and payable up to the time of the cessation of the Term. A refund will be given for the balance of any Rent paid in advance for which Tenant did not have use of the Premises due to the cessation of the Term under the conditions of this clause. Where the Premises have been taken due to condemnation as described in Subparagraph (c) of this Paragraph, the Term of the Lease will cease and terminate on the date that possession of the Premises is taken by the authority. Rent and Additional Rent will be prorated and payable up to the time of the cessation of the Term. Tenant shall not hold Landlord liable for any damages as a result of any of the acts or events described in this Subparagraph.

35. Holdover: Tenant must vacate the Premises and remove all of Tenant's personal property from the Premises before 11:59 p.m. on the date the Term expires. Landlord may immediately commence eviction proceedings at its sole discretion. If, after the Lease expires, Tenant remains in possession of the Premises and continues to pay Rent without a written agreement as to possession, then the tenancy will be regarded as a month-to-month tenancy, at a monthly rental, payable in advance, equivalent to the last month's Rent paid under the Lease, and subject to all the terms and conditions of the Lease.

36. Entry by Landlord: Landlord may enter the Premises at reasonable hours for reasonable purposes (such as repairs, inspections or re-letting to prospective new tenants), after giving reasonable notice to Tenant. Landlord may also enter the Premises in the event of an emergency, without notice, or in the event of vacancy of the Premises, as described in Paragraph 30.

37. Guarantor: If the Lease is guaranteed, the person(s) guaranteeing the Lease ("Guarantor") absolutely guarantees Tenant's obligations and performance under the Lease. Guarantor further agrees to be bound by the same covenants and conditions of the Lease and makes the same warranties and representations as Tenant under the Lease. If Tenant defaults in the performance of Tenant's obligations under the Lease, Guarantor will perform Tenant's obligations.

38. Subordination: The Lease is subordinate to all existing and future mortgages, deeds of trust and other security interests on the Premises.

39. Notices: All notices required to be sent under the Lease must be in writing and either be: (i) delivered as provided by applicable law, including *inter alia*, §§ 13-40-101, C.R.S., *et seq.* [Colorado Forcible Entry and Unlawful Detainer statute]; (ii) personally delivered, with proper proof of service; or (iii) sent via U.S. first class mail, postage prepaid. All notices required to be sent to Landlord must be sent or delivered to the address where the Rent is to be paid, and all notices required to be sent to Tenant must be sent or delivered to the Premises, unless otherwise specified. Notwithstanding the foregoing, all notices involving or concerning §§ 13-40-101 *et seq.*, C.R.S., and § 38-12-501 *et seq.*, C.R.S. must be delivered as provided in this law.

40. Attorney Fees: If either party fails to perform any of its obligations under the Lease, or if a dispute arises concerning the meaning or interpretation of any provision of the Lease, then the defaulting party or the party not prevailing in the dispute, as the case may be, must pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under the Lease, including, without limitation, court costs and reasonable attorney fees as per §13-40-123, C.R.S.

41. **Governing Law:** The Lease is governed by and construed in accordance with the laws of the State of Colorado. Venue is proper in the county in which the Premises are located.

42. **Amendments and Termination:** Unless otherwise provided in the Lease, the Lease may be amended, modified, or terminated only by a written instrument executed by Landlord and Tenant.

43. **Captions:** The Paragraph titles or captions in the Lease are for convenience only and shall not be deemed to be part of the Lease.

44. **Pronouns; Joint and Several Use of Certain Terms:** Whenever the terms referred to in the Lease are singular, the same shall be deemed to mean the plural, as the context indicates, and vice versa. All references to the "Landlord" mean Landlord and/or its authorized agents, contractors, or employees as may be required by the specific context. All references to "Tenant" mean each and every person comprising Tenant or an individual person or combination of persons comprising Tenant as may be required by the specific context.

45. **Waivers:** No right under the Lease may be waived except by written instrument executed by the party who is waiving that right. No waiver of any breach of any provision contained in the Lease shall be deemed a waiver of any preceding or succeeding breach of that provision or of any other provision contained in the Lease. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

46. **Severability:** If any term, covenant, condition, or provision of the Lease or the application thereof to any person or circumstance is found, at any time or to any extent, to be invalid or unenforceable, the remainder of the Lease, or the application of that term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of the Lease shall be valid and shall be enforced to the fullest extent permitted by law.

47. **Lead-Based Paint Disclosure Rule:** Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenant must also receive a federally approved pamphlet on lead poisoning prevention. If the Premises were constructed before 1978, Landlord must comply with the Lead-Based Paint Disclosure Rule, 42 U.S.C. § 4852(d).

48. **Other Applicable Laws:** Federal, state, county and/or municipal laws and ordinances, which are not specifically addressed in the Lease, may affect the Premises, the Lease and the Landlord/Tenant relationship. The Colorado Warranty of Habitability statute, codified at § 38-12-501 *et seq.*, C.R.S., contains explicit responsibilities and remedies for both the Landlord and Tenant concerning use, condition and occupancy of the Premises. Landlord and Tenant should consult legal counsel before executing the Lease to ascertain such information.

COLORADO WARRANTY OF HABITABILITY

49. **Colorado Warranty of Habitability Statute:** The Colorado Warranty of Habitability Law, codified at § 38-12-501 *et seq.*, C.R.S (the "Warranty of Habitability") imposes certain statutory obligations as to the condition of the Premises. As such, the Landlord hereby represents and warrants in this Lease, that the Residential Premises is fit for human habitation. Landlord shall be deemed to breach the aforementioned Warranty of Habitability in the event that:

a. The Residential Premises is uninhabitable as described in § 38-12-505, C.R.S., or otherwise unfit for human habitation; and

b. The Residential Premises is in a condition that is materially dangerous or hazardous to the Tenant's life, health, or safety; and

c. The Landlord has received written notice of the condition described in above and has failed to cure the problem within a reasonable time.

50. **Uninhabitable Residential Premises:** Section 38-12-505(1), C.R.S., provides that the Residential Premises is deemed uninhabitable if it substantially lacks any of the following characteristics:

a. Waterproofing and weather protection of roof and exterior walls maintained in good working order, including unbroken windows and doors;

- b. Plumbing or gas facilities that conformed to applicable law in effect at the time of installation and that are maintained in good working order;
- c. Running water and reasonable amounts of hot water at all times furnished to appropriate fixtures and connected to a sewage disposal system approved under applicable law;
- d. Functioning heating facilities that conformed to applicable law at the time of installation and that are maintained in good working order;
- e. Electrical lighting, with wiring and electrical equipment that conformed to applicable law at the time of installation, maintained in good working order;
- f. Common areas and areas under the control of the Landlord that are kept reasonably clean, sanitary, and free from all accumulations of debris, filth, rubbish, and garbage and that have appropriate extermination in response to the infestation of rodents or vermin;
- g. Appropriate extermination in response to the infestation of rodents or vermin throughout the Residential Premises;
- h. An adequate number of appropriate exterior receptacles for garbage and rubbish, in good repair;
- i. Floors, stairways, and railings maintained in good repair;
- j. Locks on all exterior doors and locks or security devices on windows designed to be opened that are maintained in good working order; or
- k. Compliance with all applicable building, housing, and health codes, which, if violated, would constitute a condition that is dangerous or hazardous to Tenant's life, health, or safety.

It is further understood that no deficiency in the Common Area shall render the Residential Premises uninhabitable as set forth in the Warranty of Habitability, unless it materially and substantially limits the Tenant's use of his or her Dwelling Unit. Notwithstanding the foregoing, when any condition described above is caused by misconduct of the Tenant, a member of the Tenant's household, a guest or invitee of the Tenant, or a person under the Tenant's direction or control, the condition shall not constitute a breach of the Warranty of Habitability. It shall not be misconduct by a victim of domestic violence or domestic abuse under § 38-12-503(3), C.R.S., if the condition is the result of domestic violence or domestic abuse and the Landlord has been given written notice and evidence of domestic violence or domestic abuse as described in § 38-12-402 (2) (a), C.R.S.

51. Opt-Out: If the Dwelling Unit is contained within a mobile home park, or if the Dwelling Unit is contained in a structure where there are four or fewer dwelling units sharing common walls and are located on the same parcel of property and are owned by the same owner, or if the Dwelling Unit is a single-family residential premises, and the opt-out is not inconsistent with any obligations imposed upon the Landlord by a governmental entity for the receipt of a subsidy for the Premises, then the Warranty of Habitability Law provides that the parties may opt-out of certain maintenance obligations of the Landlord and provide that the Tenant shall undertake such maintenance obligations. Provided that the Dwelling Unit is located in a type of residential premises qualifying for such opt-out provisions, the parties hereby opt-out of the following items, which have been checked, and agree that the Tenant shall be responsible for same. In the event that no items are checked, then this opt-out provision shall not be applicable. The Tenant shall be responsible for maintenance of the following: Common areas and areas under the control of the Landlord that are kept reasonably clean, sanitary, and free from all accumulations of debris, filth, rubbish, and garbage and that have appropriate extermination in response to the infestation of rodents or vermin; Appropriate extermination in response to the infestation of rodents or vermin throughout the Residential Premises; and/or An adequate number of appropriate exterior receptacles for garbage and rubbish, in good repair.

52. Additional Provisions: If there are any additional agreements between the parties or provisions with respect to the Premises, an Addendum may be attached to the Lease, which will be incorporated by this reference as a part of the Lease. An Addendum containing additional provisions is not attached.

After the term of the lease expires, the agreement shall continue month to month until such time that a 30 day notice is given by either party to terminate this agreement.

1- Paint and paint materials necessary to paint the interior of the property will be provided by landlord within 3 days upon execution of lease.

2-Carpet stretching will be performed at landlord expense within 3 days upon execution of lease.

**THE PARTIES SHOULD INITIAL EACH PAGE OF THE LEASE AND SIGN BELOW. EACH PARTY
SHOULD RECEIVE A SIGNED COPY OF THE LEASE AND ANY ADDENDA.**

TENANT:

Signature

Daniel W. Slusher

Print Name

Date: _____

LANDLORD:

AN ENTITY:

, a(n)

Signature

Print Name

Date: _____

By: _____
Signature

Print Name

Its: _____

Date: _____

Signature

Or AN INDIVIDUAL:

Print Name

Date: _____

Signature

Signature

Print Name

Date: _____

Print Name

Date: _____

GUARANTOR (if applicable):

Signature

Print Name

Date: _____



W E S T M I N S T E R

Agenda Item 10 C

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Councillor's Bill No. 26 re Tanglewood Creek Trail Construction
Supplemental Appropriation

Prepared By: Sarah Washburn, Landscape Architect II
Richard Dahl, Park Services Manager

Recommended City Council Action

Pass Councillor's Bill No. 26 on first reading authorizing a supplemental appropriation in the amount of \$517,592, reflecting the City's receipt of an Adams County Open Space Grant for \$434,000 for construction of Tanglewood Creek Trail, and transfer of \$83,592 from the Adams County School District 12 School Land Dedication Fee account to be used for Tanglewood Creek Trail construction.

Summary Statement

- In January 2013, Staff received City Council approval to submit a request of \$434,000 to Adams County for construction of Tanglewood Creek Trail. Staff submitted this grant request in February 2013, and received support for full funding from the Adams County Open Space Advisory Board on March 27, 2013. The Adams County Board of County Commissioners awarded the full request of \$434,000 to construct the trail on May 20, 2013.
- A portion of the City's matching funds for the grant received are allocated from the Adams County School District 12 School Land Dedication Fee fund. This account is intended to fund the acquisition of school sites and public improvements adjacent to Adams County School District 12 facilities. The City has an Intergovernmental Agreement (IGA) with District 12 related to Mountain Range High School that calls for the City to construct a trail along Tanglewood Creek south of 128th Avenue. The Tanglewood Creek Trail project specifically addresses and meets the commitments made within the IGA for these funds.
- This project will include grading, construction of a 10-foot wide concrete regional trail extending from 123rd Avenue to 128th Avenue, creek crossings and stabilization, and revegetation of disturbed areas.
- Staff will bring the recommended construction bid to City Council for approval later this year. Construction will be complete in the summer of 2014.

Expenditure Required: \$517,592

Source of Funds: Adams County Open Space Grant - \$434,000
Adams County District 12 School Land Dedication Fees - \$83,592

Policy Issues

Does City Council wish to continue to pursue the use of grant funds to help fund construction of Tanglewood Creek Trail? Does City Council want to utilize Adams County School District 12 Land Dedication fees to fund a portion of the match for this grant?

Alternative

City Council could choose not to appropriate these grant funds. However, this is not recommended because the City and residents will greatly benefit from these additional funds by allowing the construction of over 0.8 mile of concrete regional trail with multijurisdictional connections. The City has successfully used grant funds from Adams County Open Space for similar projects in the past. Without appropriation of these Grant and School Land Dedication Fee funds, it is unlikely the City would have adequate finances to construct this portion of regional trail within the next 3 years or longer, depending on expenditure of existing and accruing funds on other trail projects.

Background Information

The City acquired Tanglewood Creek Open Space in 2007 with financial assistance from Adams County Open Space to preserve the creek corridor and provide a location for a future trail. Utilizing this site as a gateway, Staff developed plans for connections to Big Dry Creek Regional Trail and other trails. At the time 128th Avenue was improved, an underpass was added for the purpose of this future connectivity. Subsequently, Adams County designated the Tanglewood Creek Trail as a linkage of "High Importance" within their Parks, Open Space and Trails Master Plan (2012).

In the Spring 2013 Adams County Open Space Grant Cycle, Staff identified a cash match for the grant of \$83,592 from the City's Adams County School District 12 School Land Dedication Fee Funds. The remainder necessary for construction will be sourced from POST Trails Development Funds. Adams County approved the grant request of \$434,000 in full. Staff will bring the recommended construction bid for City Council approval later this year.

This project supports the City's Strategic Plan Goals of "Sustainable City Government Providing Exceptional Services" and "Beautiful and Environmentally Sensitive City" by increasing revenues that support defined City projects and by providing the City with improved access to trails and open space.

These appropriations will amend General Capital Improvement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Adams County OS Grant	7501.40630.0010	\$0	\$434,000	\$434,000
General	7501.43060.0000	\$0	\$83,592	\$83,592
Total Change to Revenues			\$517,592	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Tanglewood Creek Trail	81375050059.80400.8888	\$0	<u>\$517,592</u>	\$517,592
Total Change to Expenses			<u>\$517,592</u>	

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

- Ordinance
- Map -Trail Alignment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **26**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE 2013 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2013 ESTIMATED REVENUES IN THE FUNDS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2013 appropriation for the General Capital Improvement Fund, initially appropriated by Ordinance No. 3655 is hereby increased by \$517,592. This appropriation is due to the receipt of an Adams County grant and School Land Dedication Fees.

Section 2. The \$517,592 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item 10 C dated July 22, 2013 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	\$517,592
Total	<u>\$517,592</u>

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

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

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

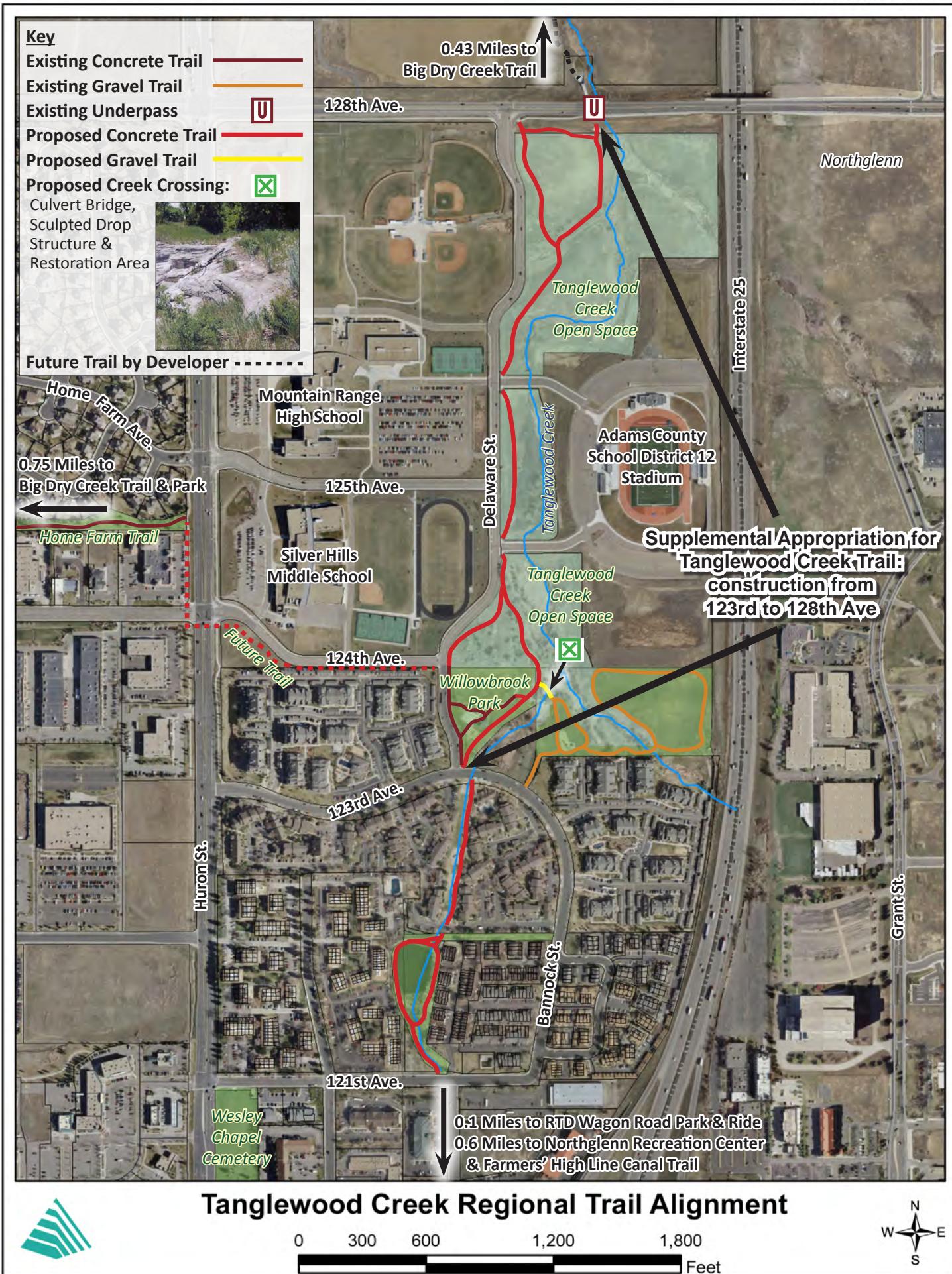
INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 22nd day of July, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 12th day of August, 2013.

ATTEST:

Mayor

City Clerk





Agenda Item 10 D

Agenda Memorandum

City Council Meeting
July 22, 2013



SUBJECT: Councillor's Bill No. 27 re FY2012 Carryover Appropriation into FY2013

Prepared By: Barbara Opie, Assistant City Manager
Steve Smithers, Deputy City Manager

Recommended City Council Action

Pass Councillor's Bill No. 27 on first reading, appropriating FY2012 carryover funds into the FY2013 budgets of the budgets of the General, General Fund Stabilization Reserve, General Capital Improvement, Utility, Utility Reserve, Storm Drainage, General Capital Outlay Replacement, Golf Course, and POST Funds.

Summary Statement

- The City Council annually reviews and appropriates carryover funds from the previous year's budget into the current year budget for the following:
 - those items and services included in the previous year's budget but not received or provided until the current year's budget;
 - new items and services not included in the previous year's budget or funds that were identified as available for these new priorities in late 2012, but the items or services were not received or provided until the current year's budget; and
 - existing or new capital projects and key operating priorities for which funds are needed and carryover funds are available.
- Total funding of \$15,577,208 to be appropriated for the items recommended in this Agenda Memorandum comes from unrestricted revenues and unexpended 2012 funds in the various amounts identified.
- Staff is requesting that City Council authorize the proposed carryover items included within this Agenda Memorandum and appropriate FY2012 carryover funds into the FY2013 budgets of the General, General Fund Stabilization Reserve, General Capital Improvement, Utility, Utility Reserve, Storm Drainage, General Capital Outlay Replacement, Golf Course, and POST Funds.
- One of the high priority carryover recommendations is to allocate \$350,000 to the General Fund Stabilization Reserve and \$204,000 to the General Reserve Fund. This continues City Council's policy of maintaining a healthy reserve to address future economic downturns.
- The carryover appropriation takes place annually once the audit is completed for the prior year and carryover amounts are finalized.

Expenditure Required: \$15,577,208

Source of Funds: FY2012 Carryover from the General, Utility, Storm Drainage, Sales & Use Tax, General Capital Improvement, General Capital Outlay Replacement, Golf Course, and POST Funds

Policy Issue

Should the City appropriate carryover funds as proposed?

Alternatives

1. City Council could decide not to appropriate any of these funds at this time. This is not recommended as many of the carryover requests are for items and services that have already received City Council approval during the FY2012 Budget process as priority expenditures for the City.
2. City Council could choose to approve the carryover appropriation for only previously appropriated operating items. Staff recommends utilizing the carryover funds for the previously appropriated operating items as well as the new operating and capital improvement projects noted in this memorandum to maximize the use of these funds in providing services to residents and businesses.

Background Information

The annual financial audit was completed last month. Upon completion of the annual audit, the City Council reviews and appropriates carryover funds from the previous year's budget into the current year budget for the following:

- o those items and services included in the previous year's budget but not received or provided until the current year's budget;
- o new items and services not included in the previous year's budget or funds that were identified as available for these new priorities in late 2012, but the items or services were not received or provided until the current year's budget; and
- o existing or new capital projects and key operating priorities for which funds are needed and carryover funds are available.

As noted in the June 24 Staff Report on Service Analyses, Staff is conducting an analysis of the City's Capital Improvement Program (CIP) on a variety of levels – ongoing staff oversight and management, long-term funding needs of the General Capital Improvement Fund (GCIF), and carryover impacts annually on the entire CIP. Staff has conducted some preliminary analysis and is discussing potential alternatives for funding, budgeting and prioritizing of the GCIF with an eye on financial sustainability in a "built-out" city. Staff will return to City Council for further, broader discussions in the future, but at this time Staff is focusing on how the City appropriates carryover to the CIP as a whole.

Under current practices, all carryover, including the CIP funding, is typically appropriated at the same time in July or August annually. However, since carryover is such a substantial and critical funding component of the City's CIP, particularly in the GCIF, Staff recommends continuing to appropriate carryover for operating budgets annually in July or August but only appropriating funds for critical capital projects at that same time; the remaining funds would be incorporated into the biennial budget development or mid-year budget review process. "Critical" is defined as having an immediate need for the execution of a contract or key purchase of equipment necessary to keep a project moving forward. Non-critical capital project funding from carryover will be incorporated into the following year's CIP plan and reviewed more comprehensively through the normal budget process. This will cause the five-year CIP plan to look larger in the first two years with "actual" carryover built in and lower in the out years with estimated carryover built in as Staff will continue its practice of conservative budgeting. Staff believes by incorporating the carryover into the next year's budget process that greater transparency of available funding is possible as well as helping truly line up Council priorities in one comprehensive CIP document. This modified approach for carryover is incorporated in the recommendations contained in this Agenda Memorandum; the remaining carryover (\$3,580,122) will be incorporated into the 2014 CIP budget that City Council will consider in September with the mid-year budget review. A substantial amount of the recommended 2012 Utility Fund carryover is proposed to be appropriated at this time to the Utility Fund's Rate Stabilization Reserve (RSR) and Capital Project Reserve (CPR) pursuant to the Utility Fund Fiscal Policy adopted in January 2011.

PROPOSED RE-APPROPRIATION OF OPERATING ITEMS PREVIOUSLY APPROVED IN 2012

Certain items were budgeted and ordered in 2012 but were not received until 2013. In addition, certain services, authorized in 2012, were not fully performed by the end of the year. Under standard accounting procedures, these remaining funds should be re-appropriated in the new year to complete the desired purchase or service. Staff recommends the funds described below be re-appropriated in 2013.

GENERAL FUND

City Manager's Office – One item totaling \$6,000 to complete updates to the web and marketing information related specifically to economic development. These items were not completed during 2012 due to additional meetings with Atlas Advertising required in order to encompass a new brand and marketing message.

Fire Department – One item totaling \$16,919 from the annual Emergency Management Performance Grant (EMPG) used for emergency management operations in 2013. The City receives quarterly reimbursement from the Colorado Division of Emergency Management. Due to Congressional appropriation delays, the City received first, second, third, and fourth quarter payments at the end of November 2012 totaling \$45,860.52. The amount requested for carryover is what remains unexpended and will be spent on Emergency Management Operations in 2013.

Parks, Recreation & Libraries – One item totaling \$6,397 in scholarship funds, received in 2012 from citizens and recreation program participants, for the Westminster Youth Scholarship Fund. These funds are intended to supplement registration fees for City-sponsored recreation programs for individuals needing financial assistance. These funds will be available for scholarships in 2013.

UTILITY FUND

Public Works & Utilities – One item totaling \$100,606 for the purchase and installation of a dump body and snow removal equipment to the newly purchased tandem axle cab and chassis truck per the City's specifications for the Utilities Operation Division in the Public Works and Utilities Department. City Council approved the purchase in May 2012. The order was placed with O.J. Watson in July 2012; however, due to delays on O.J. Watson's part, the delivery was delayed until January 2013.

PROPOSED APPROPRIATION OF NEW OPERATING ITEMS

Staff recommends utilizing some of the General and Utility Funds' carryover moneys available to help address new high priority spending needs in the funds identified below. The items listed below are intended to be proactive measures to help minimize the impact on future budgets for needed items.

GENERAL FUND

Central Charges – Six items totaling \$1,323,000 as follows:

1. \$100,000 for General Leave Buyback. This program allows employees to receive payment for unused general leave up to 24 hours at a 75% rate. This program was an annual budgeted item eliminated in 2002 due to the City's tight financial status and has been funded periodically since then through carryover funds; it was last funded in 2008 with 2007 carryover. This program helps reduce the City's unfunded liability of general leave at today's dollars instead of an increasing pay rate in the future. An additional \$67,000 is requested in the Utility Fund for this program (total = \$167,000).
2. \$169,000 for miscellaneous studies and projects unanticipated in 2013. A total of \$121,428 was budgeted in the professional services account in 2013. These funds represent savings in the Central Charges 2012 operating budget and are proposed to offset additional costs associated with special projects, PW&U Director recruitment, facilitation services, federal lobbyist services, hoarder cleanup and special studies that might arise per City Council and Staff requests. Included in this amount are funds proposed for succession management (\$50,000) efforts. As more tenured staff commence their transition to retirement, the City is greatly concerned about the transfer of important operations knowledge. These funds are proposed to be utilized, on a case by case basis where appropriate, to allow for overlap with new staff, contract services as needed or other opportunities that will ease the transition and allow for appropriate transfer of knowledge.

3. \$200,000 for South Westminster Urban Renewal Area (URA). For 2013, it is anticipated that the cash available in South Westminster URA will not be sufficient to cover all of the obligations for the URA. Obligations include debt service, economic development agreement payments and interfund loan payments. In order to have sufficient cash to fulfill the listed obligations for 2013, Staff proposes that the General Fund transfer these funds to the Westminster Economic Development Authority Fund for the South Westminster URA and assist with these obligations.
4. \$350,000 to the General Fund Stabilization Reserve (GFSR) created in 2009. The current balance is \$4,027,016 according to the 2012 audit. Per the Adopted 2013 Budget, an additional \$250,000 will be added to the GFSR from the Sales & Use Tax Fund plus projected interest earning of \$41,555. Per City Council adopted policy, the GFSR target range is between 5% and 10% of the total Sales and Use Tax Fund revenues budgeted for the year, as funding allows. For 2013, the Sales and Use Tax Fund revenues budgeted totals \$69,670,593; therefore, the target range for 2013 is between \$3,483,530 (5%) to \$6,967,059 (10%). The current GFSR balance is 5.8% of the 2013 Sales and Use Tax Fund total. The funds proposed through carryover, added to the 2013 budgeted amount, will bring the total GFSR balance to \$4,668,571 or 6.7%.
5. \$204,000 to the General Reserve Fund. The current balance is \$9,535,384 according to the 2012 audit. Per the Adopted 2013 Budget, an additional \$109,291 will be added to the General Reserve from projected interest earnings, which will bring the balance to 10% as anticipated through the Adopted 2013 Budget (as of 12/31/2013). Per City practice, the City retains 10% of the General Fund budget as the General Reserve Fund target. For 2013, the General Fund, excluding contingency, adopted budget totals \$96,461,094; therefore, the 10% target for 2013 is \$9,646,109. The current General Reserve Fund balance is 9.9% as of 1/1/2013 of the 2013 General Fund. The funds proposed through carryover, added to the 2013 budgeted amount, will bring the total General Fund balance to \$9,848,675 or 10.2%.
6. \$300,000 to transfer to the Property Liability Fund. Senate Bill 13-023 was signed into law during the 2013 State Legislative Session. This new law increases the damages cap under Colorado Governmental Immunity Act from \$150,000 to one person in a single occurrence and \$600,000 for an injury for 2 or more persons in any single occurrence to \$350,000 to one person and \$990,000 for an injury to 2 or more persons. City Council officially opposed this legislation. Staff is uncertain of the full impact of this legislation but believes it is wise to increase the Property Liability Reserve in anticipation of potentially larger claims. The Property Liability Fund balance is \$3,646,978 as of 12/31/2012 per the audit. A total of \$500,000 is proposed, which includes \$300,000 in the General Fund and \$200,000 in the Utility Fund.

Fire Department – Two items totaling \$27,950 as follows:

1. \$9,950 for the purchase of Advanced Life Support Training Simulators to implement and sustain a new fire station-based training program that allows responders to be available in their districts while receiving training. Currently Staff must attend training outside of their fire station districts for any hands-on emergency medical training. Two training devices are proposed for purchase. Adult Airway Management Trainer Torsos allow for a variety of trainings and essential in improving overall intubation success rates by emergency responders; Staff is requesting to purchase five simulators for a total of \$5,900. In addition, six cardiac simulators are proposed for purchase for a total of \$4,050 that will present a variety of heart rhythms to personnel through an actual cardiac monitor requiring the provider to appropriately interpret the data so the correct patient care can be provided.
2. \$18,000 is proposed for consultants, trainers, and additional career development in the Fire Department. These funds will allow for follow-up consultations on the Fire Department (FD) Strategic Plan that was initiated in 2011 and finalized in 2012. In addition, funds are requested to bring a nationally recognized speaker on organization leadership, team building and strategic leadership to facilitate discussions for a FD Organizational Leadership Training. Finally, funds are requested to support FD efforts for additional trainings offered outside of the City's Training program and potentially bring in a nationally recognized expert on EMS delivery systems in an urban/suburban environment for EMS system quality assurance.

General Services – One item totaling \$12,000 for final contract work by Tami Cannon for codification and quality control of the Westminster Municipal Code. Work commenced on this effort in 2012 and funds are requested to complete this project in 2013, which includes drafting ordinances and preparing them for City Council consideration.

Community Development – One item totaling \$24,375 in temporary salaries to hire a temporary Planner II to assist with the significant increase in workload, both in volume and complexity, within the Planning Division. There are a number of important projects underway and pending in the very near future, including master planning the WURP site, completing the update to the Comprehensive Land Use Plan (CLUP), updating the Westminster transit-oriented development plan for the commuter rail station, etc.

Public Works & Utilities – One item totaling \$6,000 for the Street Division to improve a small segment of sidewalk along 112th Avenue, roughly between Sheridan Boulevard and Westminster Boulevard, where Xcel Energy placed a transformer in the middle of the concrete sidewalk, forcing pedestrians and bicyclists to take a small path made from asphalt around the transformer. This fix will install a concrete sidewalk in lieu of the asphalt path around the transformer and include reflective signage sheeting on the transformer to help alert pedestrians/bicyclists of the shift in sidewalk route. This amount will be added to the City's annual concrete replacement contract.

Parks, Recreation & Libraries – One item totaling \$70,000 for the development of a Strategic Plan for the Parks, Recreation & Libraries Department. This initiative involves the completion of a citizen survey specific to PR&L operations. This effort will enable the department to be more strategic with the implementation and delivery of services moving forward.

UTILITY FUND

Central Charges – Two items totaling \$267,000 as follows:

1. \$67,000 for General Leave Buyback. Staff is recommending that a total of \$167,000 from carryover (\$100,000 from the General Fund and \$67,000 from the Utility Fund) be allocated to this program to reduce the City's liability of general leave at today's dollars instead of an increasing pay rate in the future. This amount is attributable to the Utility Fund.
2. \$200,000 to transfer to the Property Liability Fund. Staff is recommending that a total of \$500,000 from carryover (\$300,000 from the General Fund and \$200,000 from the Utility Fund) be allocated to the Property Liability Fund due to the passage Senate Bill 13-023, which increases the damages cap under Colorado Governmental Immunity Act.

UTILITY RESERVE FUND – WATER AND WASTEWATER

Staff proposes appropriating a total of \$28,510 to the Wastewater Rate Stabilization Reserve (RSR) and \$5,913,467 to the Capital Project Reserve (CPR). In addition, Staff proposes reallocating \$342,116 from the Water RSR to the Water CPR pursuant to the Utility Fund Fiscal Policy as noted below.

1. Rate Stabilization Reserve – The RSR was established and funded to meet a specific risk such as revenue loss related to a certain level of water demand curtailment. The reserve is designed to minimize or mitigate service cuts and/or rate impacts. Impacts to the rate stabilization reserves are determined by the annual performance of rates versus the budgeted rate revenue. The target level for this reserve is set at 25% of budgeted revenues for the Water Fund and 10% of budgeted revenues for the Wastewater Fund. The RSR has an upper limit of 140% of the target and a lower limit of 70% of the target. Staff recommends appropriating \$28,510 in carryover for the RSR for the Wastewater Fund to keep the Wastewater balance within the upper portion of the reserve balance target range and reallocating \$342,116 from the Water RSR to the Water CPR to keep the Water balance within the reserve balance target range. The current Water RSR balance is \$11,154,365 and the Wastewater RSR balance is \$1,688,100 per the 2012 audit. The current Water RSR balance exceeds the 140% upper limit of \$10,812,249 by \$342,116 and pursuant to the City Council adopted Utility Fund Fiscal Policy, these funds should be reallocated to the CPR.

2. Capital Project Reserve – This reserve was created to establish and maintain a Capital Improvement Program capable of sustaining long-term utility capital requirements. The City established the CPR to accumulate funds in excess of near-term needs. This policy is intended to foster timely system reinvestment, while providing resources for periodic increases in outlays without undue rate burden. Staff recommends appropriating \$4,777,768 in carryover to the CPR in the Water Fund plus the \$342,116 reallocation from the Water RSR and appropriating \$1,135,699 to the CPR in the Wastewater Fund. The current Water balance is \$19,983,591 and the Wastewater balance is \$2,772,259 per the 2012 audit.

GOLF COURSE FUND

One item totaling \$450,000 transferring cash funds from Legacy Ridge Golf Course to The Heritage Golf Course to address the yearend negative cash situation. As City Council will recall, at the conclusion of each year, The Heritage Golf Course has been in a negative cash situation due to the normal cash flow of operations at the golf course. This has been the case for many years and has been remedied each year in a variety of ways – a short term inter-fund loan at yearend, a short term loan between golf courses at yearend, etc. Per the 2012 annual audit, the Golf Course Fund ended the year in a positive cash situation overall of \$522,228; however, this balance reflects Legacy Ridge covering the negative yearend cash situation of The Heritage. Based on the overall cash balance between the funds, Staff recommends reallocating carryover cash balance from Legacy Ridge to The Heritage in attempts to address the negative cash balance situation by resetting the base for The Heritage (i.e., so it does not automatically start the year in a negative cash situation). This will cover The Heritage's yearend 2012 negative cash balance of \$350,749 as well as position the golf course to start the year with a positive cash balance of \$99,251. Legacy Ridge will retain a healthy cash balance (approximately \$422,000) despite reallocating funds to The Heritage. Additional funds are available for carryover consideration for capital projects but will be submitted to City Council for consideration with the mid-year budget review in September.

STORM DRAINAGE FUND

Public Works & Utilities – One item totaling \$35,880 for the annual street sweeping contract for 2013 managed by the Street Division. After a second request for bids returned more reasonable pricing than the original request provided in late 2012 for the 2013 season, the bid amount plus contingency was still over the budgeted amount. These funds address the overage for the 2013 street sweeping contract.

PARKS, OPEN SPACE & TRAILS (POST) FUND

Community Development – Two items totaling \$1,266,139 as follows:

1. \$841,139 for the purchase of open space land. The majority of this amount reflects the open space funds that were received in 2012 for grants received in prior years for land purchases that will be available towards land purchases for open space in 2013.
2. \$425,000 to repay the Utility Fund for a promissory note issued in December 2010 for the purchase of 20.5 Church Ditch inches when the City acquired the 47-acre Lower Church Lake and 9.2-acre Loon Lake from the Carlson family. The original terms of the purchase were interest only annual payments of \$21,250 (5% interest) for seven years and a balloon payment of \$425,000 due in 2017; the promissory note was secured by the City's Utility Enterprise Fund. Since funds are available within the POST Fund, Staff recommends paying off the note at this time, freeing up \$21,250/year. If City Council approves these funds and the note is paid off in August 2013, this would save approximately \$70,833 from September 2013 through 2016 in interest payments.

PROPOSED APPROPRIATION FOR EXISTING OR NEW CAPITAL PROJECTS

Staff has completed a review of potential capital improvement projects for the balance of carryover funds. However, as noted, Staff is recommending that carryover funds be appropriated only for the critical Capital Improvement Program (CIP) projects listed below at this time; these are projects with an immediate need to execute a contract or complete an equipment purchase to keep a project moving forward prior to yearend. Non-critical capital project funding from carryover (\$3,580,122) will be

incorporated into the 2014 mid-year budget amendment process with City Council in September. Higher than anticipated revenues and better than anticipated expenditure savings in the General, Utility, Sales & Use Tax, General Capital Improvement, GCORF, and POST Funds are proposed to be utilized for these projects.

GENERAL CAPITAL IMPROVEMENT FUND

A total of \$1,947,814 for capital projects is proposed to be appropriated into the General Capital Improvement Fund (GCIF) as follows:

1. \$15,000 for the JD Edwards (JDE) System Upgrade project. Staff commenced a software development project during 2012 but was unable to be completed due to staff turnover. The project is 75% complete and involves integrating the Training Administration program into JDE. The consolidation of two separate databases will reduce administration data entry time and errors in employee training records and registration. These funds will allow the hiring of a consultant to complete the work.
2. \$49,240 for the Laserfiche Upgrades project. This new ongoing capital project will be utilized for Laserfiche license purchases, software support and upgrades, and consulting services as needed and function like the other various software replacement/upgrade capital projects. With the hiring of an Information/Records Administrator in early 2013, the ongoing maintenance and associated upgrades for this records management software was identified as needing additional attention. This project will allow for key upgrades to occur in 2013; future funding needs will be reviewed and evaluated with the mid-year 2014 budget.
3. \$282,227 for the Microsoft Software Replacement/Upgrades project. Through the year-end close out process, this project was closed in error prior to moving the funds into the new account and therefore rolled into available carryover funds. Staff is requesting the funds be reallocated back into this project for the original intended purpose, which is the future upgrade of the Microsoft software. The same is being requested in the Utility Fund (\$98,961) associated with the Utility Fund's share of the cost for future upgrades.
4. \$35,000 for the Computer Aided Dispatch project. Through the year-end close out process, this project was closed in error prior to moving the funds into the new account and therefore rolled into available carryover funds. Staff requests the funds be reallocated back into this project for the original intended purpose, which is the future upgrade or replacement of the Computer Aided Dispatch system utilized by the Police and Fire Departments.
5. \$10,000 is proposed for a new project to commence the replacement and updating of cubicle furniture within City Hall. The current cubicle system was acquired in 1988 and has been adapted over the last 25 years to meet current needs. Staff has been challenged over the last several years to match existing fabrics and cubicle configurations within the current cubicle system, which is slowly being phased out. As City Hall is the "corporate headquarters" of City operations, Staff believes it is important to retain the appearance standards adopted when this facility was opened. These funds are simply to commence the selection process for a potential new cubicle system. Funding for future replacement will need to occur over multiple years and will be incorporated into future five-year CIP budgets as funding allows.
6. \$400,000 for the Arterial Roadway Grinding/Resurfacing project. As City Council is aware, the ongoing funding for arterial roadway maintenance and improvements is a growing concern. Staff is recommending that funds be added to this year's capital project that, weather permitting, will allow the following additional roadways to be repaired in 2013: (a) Wadsworth Boulevard: 90th Place to 103rd; (b) 94th Avenue: Larkbunting to Independence Street; (c) 76th Avenue: Knox Court to Sheridan Boulevard; and (d) 128th Avenue: Huron Street to I-25 Bridge. Staff is pursuing reimbursement from Jefferson County for the segment of Wadsworth Boulevard that is within the unincorporated area. Any work that is not completed this year will be included within the 2014 program.
7. \$400,000 is proposed for bridge enhancements associated with the Colorado Department of Transportation's (CDOT) replacement of the Federal Boulevard Bridge over the Burlington Northern/Santa Fe railroad tracks in south Westminster. Staff has been working with CDOT's design team to identify potential upgrades that will help improve the southern entrance to the City and help

highlight the significant investments the City is making in this area. These funds are proposed now as CDOT will be advertising their project in January 2014. Any enhancements to the bridge the City desires will need to have a formal intergovernmental agreement completed this fall, obligating funding, to have them included within CDOT's request for proposals.

8. \$500,000 for the Westminster Center Urban Reinvestment Project (WURP) Master Planning efforts that will be undertaken as the City and the Westminster Economic Development Authority (WEDA) become the master developers for the former Westminster Mall site. These funds will be transferred to WEDA for the planning and architectural services contract with Torti Gallas and Partners and other consulting contracts necessary related to the WURP.
9. \$114,000 is proposed to be appropriated into The Heritage Golf Course Back Nine Land Acquisition capital project from Jefferson County open space attributable share revenues. These funds will be utilized towards purchasing the land associated with the back nine holes owned by and leased from the Rocky Mountain Metropolitan Airport. Through previous Council actions, \$2.186 million has been accumulated towards the purchase price of \$2.3 million; the amount proposed from carryover will close the remaining gap in funding needed. Approval has been received from the Federal Aviation Administration for the sale; final approval from the Jefferson County Commissioners is needed to complete the transaction.
10. \$67,347 is proposed to be appropriated into Community Enhancement-Travel Ways capital project from accommodations tax revenues. These funds will be utilized towards the amount owed to CDOT for the enhancements to the US 36 and Sheridan Boulevard landscaping project.
11. \$75,000 for consulting services to develop a comprehensive Open Space Management Plan as discussed with City Council at the June 24 Post Council meeting concerning Service Analyses. This is the proposed first step in realigning POST funds for open space maintenance and management. Commencing the master planning efforts in the fall of 2013 will allow for better resource allocation with the development of the 2015/2016 budget next summer. These funds are proposed from the POST revenues transferred into the GCIF.

UTILITY FUND

A total of \$2,748,961 for capital projects is proposed to be appropriated into the Utility Fund as follows:

1. \$98,961 for the Microsoft Software Replacement/Upgrades project. As noted in the GCIF, these funds were previously appropriated into the Major Software Upgrades project in the Utility Fund. Staff is requesting the funds be reallocated back into this project for the original intended purpose, which is the future upgrade of the Microsoft software. These funds are in addition to the amount included within the GCIF for future upgrades.
2. \$300,000 for design work associated with the Hydropillar Water Tank. As City Council is aware, repair of the City's water tanks is a high priority for utility operations. Staff is proposing to move this project forward from 2015 as originally approved within the adopted Five-Year CIP Plan. Staff would like to commence design this year to allow mid-2014 construction; this is contingent upon City Council moving funding forward from the 2015 budget to 2014 through the mid-year budget review. This tank has become a higher priority for repair.
3. \$1,500,000 for the Northwest Water Treatment Facility Storage Tank Major R&R project. This project is currently included within the adopted Five-Year CIP Plan in the Adopted 2014 Budget. Moving the funds forward to 2013 will allow for construction to occur before the 2014 high water demand season.
4. \$850,000 for the creation of two capital projects in the Utility Fund that would function like the General Capital Outlay Replacement Fund (GCORF) for vehicle and copier replacements. Since the GCORF was created in 2002, Staff has discussed the creation of a similar mechanism to help smooth the costs associated with large equipment replacement purchases in the Utility Fund. Staff is currently working on a 15 year vehicle replacement plan to better gauge large equipment costs looming in the near future and to level those costs out as smoothly as possible based on needs, priorities and operating considerations. Establishing a Water Capital Outlay Replacement project (proposed initial balance \$500,000) and a Wastewater Capital Outlay Replacement project (proposed initial balance \$350,000) will help address the ebbs and flows of equipment replacement costs and

allow any savings achieved during the purchase process to be retained within these accounts to help offset future years' expenses. If City Council concurs with this strategy, any Utility Fund vehicle and copier replacements scheduled for 2014 would be moved to these accounts through the mid-year 2014 budget amendment process and future replacements would be budgeted here accordingly. This will result in a decrease in Public Works & Utilities operating budgets and an associated increase in the Utility Fund CIP budget since the funds will be included there.

STORM DRAINAGE FUND

One project totaling \$8,256 for the Big Dry Creek Wetland Mitigation at the Wastewater Treatment Facility. This project was closed as part of the year-end close out process prior to final invoices being received and processed. As such, these final payments for mitigation were processed and should be charged to this project. These funds are requested to cover these final payments and the project can be closed.

GENERAL CAPITAL OUTLAY REPLACEMENT FUND (GCORF)

A total of \$975,818 is proposed to be distributed as follows:

1. \$143,639 into the Citywide Copier Replacement account. These funds will be added to the current balance within this account originally established as the City Hall Copier Replacement account (Staff recommends renaming the project account to Citywide Copier Replacements). Funds will be authorized for use by City Council during future years when revenues impact the City's ability to fund replacement copiers. As City Council may recall, Staff commenced a pilot program with City Hall only copiers in the 2013 budget and have found that through a variety of issues, primarily stemming from complications in lease-purchasing copier machines, copier replacements are recommended to be programmed on a citywide basis for cash purchases through GCORF, and through the new capital outlay replacement accounts proposed in the Utility Fund. These funds are the result of 2012 vehicle auction proceeds and interest earnings in GCORF. Normally these funds are recommended to be allocated into the general or public safety tax vehicle replacement accounts in GCORF, but since both have approximately \$1 million in fund balance, Staff recommends this one-time appropriation to help build up a balance for future copier replacements.
2. \$832,179 for radio purchases associated with the radio system replacement project. City Council authorized in January 2013 the purchase of a new radio system with a P-25 digital interoperable simulcast capabilities. The City's current system is 20 years old is approaching end-of-life status. The radio system replacement project replaces major radio system components and dispatch equipment; it also requires the replacement of all existing radios with radios compatible with the new P-25 system. The cost of the radio replacements will total between \$1.2 million and \$1.4 million and was not part of the base radio system replacement project budget City Council approved in January. The Police Department was awarded an Urban Area Security Initiatives Grant in the amount of \$275,000 and the Fire Department was awarded an Assistance to Firefighters Grant in the amount of \$144,604; these funds have not been appropriated. With the grants and the proposed carryover funds, the amount available for radio replacements will total \$1,251,783. Should additional funds be needed for radio replacements, funds from the GCORF general or public safety tax vehicle accounts may be recommended to cover any shortfall. As such, these funds for replacement radios are proposed to be appropriated into the GCORF to allow the project to proceed in a timely manner.

These proposed carryover items support all five of the City's Strategic Plan Goals: Strong Balanced Local Economy; Financially Sustainable City Government Providing Exceptional Services; Safe and Secure Community; Vibrant Neighborhoods in One Livable Community; and Beautiful and Environmentally Sensitive City.

REVENUE/EXPENDITURE DETAIL BY FUND

Total funding of \$15,577,208 is recommended to be appropriated for the items listed in this agenda memorandum comes from unrestricted revenues and unexpended 2012 funds in the various amounts identified. The attached ordinance reflects a total increase of \$17,858,627; this amount differs from the \$15,577,208 noted in the Expenditure Required on the front of this agenda memorandum due to the accounting of transfers required to properly reflect the transactions on the City's books.

These appropriations will amend the General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	1000.40020.0000	\$0	<u>\$1,492,641</u>	\$1,492,641
Total Change to Revenues			<u>\$1,492,641</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contractual Services	10005340.67800.0000	\$15,974	\$6,000	\$21,974
General Leave Buy Back	10010900.62400.0000	0	100,000	100,000
Prof Services	10010900.65100.0000	121,428	169,000	290,428
Transfers Reserve Fund	10010900.79800.0110	0	204,000	204,000
Transfers Stabilization Fund	10010900.79800.0120	0	350,000	350,000
Transfers Prop/Liab Self Ins	10010900.79800.0460	745,307	300,000	1,045,307
Transfers WEDA	10010900.79800.0680	0	200,000	200,000
Contract Services	10012070.67800.0000	12,000	12,000	24,000
Career Dev	10025260.61800.0000	33,976	18,000	51,976
Contract Services (EM Grant)	10025260.67800.0545	0	16,919	16,919
Other Equip EMS	10025260.76000.0546	46,825	9,950	56,775
Salaries Temp	10030360.60600.0000	0	24,375	24,375
Maint/Rep - Street Rehabilitation	10035450.66200.0232	2,820,777	6,000	2,826,777
Contract Services	10050050.67800.0000	43,099	70,000	113,099
Spec Prom Yth Scholarship	10050760.67600.0528	0	6,397	6,397
Total Change to Expenses			<u>\$1,492,641</u>	

These appropriations will amend the Water Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2000.40020.0000	\$0	<u>\$7,451,335</u>	\$7,451,335
Total Change to Revenues			<u>\$7,451,335</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
General Leave Buy Back	20010900.62400.0000	\$0	\$44,000	\$44,000
Transfers Capital Reserve	20010900.79800.0207	0	4,777,768	4,777,768
Transfers Prop/Liab Self Ins	20010900.79800.0460	318,318	130,000	448,318
Vehicles-Wtrln Rep	20035470.75600.0497	0	100,606	100,606
Wtr Cap Outlay Replacement	81320010063.80400.8888	0	500,000	500,000
Hydropillar Tank R&R	81320035066.80400.8888	0	300,000	300,000
Microsoft Software Replacement	81320060014.80400.8888	0	98,961	98,961
NWTF Storage Tank Major	81420035054.80400.8888	0	<u>1,500,000</u>	1,500,000
Total Change to Expenses			<u>\$7,451,335</u>	

These appropriations will amend the Utility Rate Stabilization Reserve Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2050.40020.0000	\$128,973	\$342,116	\$471,089
Total Change to Revenues			<u>\$342,116</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers Utility CPR	20510900.79800.0207	\$0	<u>\$342,116</u>	\$342,116
Total Change to Expenses			<u>\$342,116</u>	

These appropriations will amend the Waste Water Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2100.40020.0000	\$0	<u>\$1,607,209</u>	\$1,607,209
Total Change to Revenues			<u>\$1,607,209</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
General Leave Buy Back	21010900.62400.0000	\$0	\$23,000	\$23,000
Transfers Rate Reserve	21010900.79800.0205	945,208	28,510	973,718
Transfers Capital Reserve	21010900.79800.0207	0	1,135,699	1,135,699
Transfers Prop/Liab Self Ins	21010900.79800.0460	171,672	70,000	241,672
WW Cap Outlay Replacement	81321010062.80400.8888	0	<u>350,000</u>	350,000
Total Change to Expenses			<u>\$1,607,209</u>	

These appropriations will amend the Legacy Ridge Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2200.40020.0000	\$0	\$450,000	\$450,000
Total Change to Revenues			<u>\$450,000</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers Heritage	22010900.79800.0230	\$35,628	\$450,000	\$485,628
Total Change to Expenses			<u>\$450,000</u>	

These appropriations will amend the Storm Drainage Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	2500.40020.0000	\$0	\$44,136	\$44,136
Total Change to Revenues			<u>\$44,136</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Contract Svcs	25035450.67800.0000	\$310,710	\$35,880	\$346,590
BDC Wetland Mitigation at WWTP	81025030890.80400.8888	0	<u>8,256</u>	8,256
Total Change to Expenses			<u>\$44,136</u>	

These appropriations will amend the GCORF revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	4500.40020.0000	\$0	\$143,639	\$143,639
TRF Sales & Use Tax	4500.45000.0530	0	633,223	633,223
TRF GCIF	4500.45000.0750	0	198,956	198,956
Total Change to Revenues			<u>\$975,818</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Capital Outlay - PST	80645010911.80400.8888	\$1,375,082	\$832,179	\$2,207,261
City Hall Copier Replacement	81245005995.80400.8888	8,416	143,639	152,055
Total Change to Expenses			<u>\$975,818</u>	

These appropriations will amend the Sales & Use Tax Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	5300.40020.0000	\$0	<u>\$2,007,463</u>	\$2,007,463
Total Change to Revenues			<u>\$2,007,463</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers GCORF	53010900.79800.0450	\$0	\$633,223	\$633,223
Transfers GCIF	53010900.79800.0750	4,252,351	<u>1,374,240</u>	5,626,591
Total Change to Expenses			<u>\$2,007,463</u>	

These appropriations will amend the POST Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	5400.40020.0000	\$0	<u>\$1,341,139</u>	\$1,341,139
Total Change to Revenues			<u>\$1,341,139</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Land Purchases	54010900.76600.0000	\$0	\$841,139	\$841,139
Principal	54010900.78200.0000	0	425,000	425,000
Transfers GCIF	54010900.79800.0750	534,679	<u>75,000</u>	609,679
Total Change to Expenses			<u>\$1,341,139</u>	

These appropriations will amend the General Capital Improvement Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
Carryover	7500.40020.0000	\$0	\$516,183	\$516,183
TRF Sales & Use Tax	7500.45000.0530	4,252,351	1,374,240	5,626,591
Carryover	7501.40020.0000	81,796	181,347	263,143
TRF Open Space	7501.45000.0540	532,579	75,000	607,579
Total Change to Revenues			<u>\$2,146,770</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
Transfers GCORF	75010900.79800.0450	\$0	\$198,956	\$198,956
Arterial Roadway Improvements	80475035602.80400.8888	0	400,000	400,000
City Center Redevelopment	80675005040.80400.8888	0	500,000	500,000
Heritage Back 9 Land Acq-JCOS	81175050324.80400.8888	374,548	114,000	488,548
City Hall Furniture Replacement	81375005061.80400.8888	0	10,000	10,000
Laserfiche Upgrades	81375012064.80400.8888	0	49,240	49,240
Fed Blvd/BNSF Bridge Enh	81375030060.80400.8888	0	400,000	400,000
CEP - Travel Ways	81375050017.80400.8888	385,097	67,347	452,444
POST Master Plan	81375050065.80400.8888	0	75,000	75,000
JD Edwards System Upgrade	81375060013.80400.8888	19,000	15,000	34,000
Microsoft Software Replacement	81375060014.80400.8888	0	282,227	282,227
CAD/RMS Solftware Upgrade	81475060042.80400.8888	0	<u>35,000</u>	35,000
Total Change to Expenses			<u>\$2,146,770</u>	

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - Ordinance

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **27**

SERIES OF 2013

INTRODUCED BY COUNCILLORS

A BILL

**FOR AN ORDINANCE INCREASING THE 2013 BUDGET OF THE GENERAL, WATER,
UTILITY RATE STABILIZATION RESERVE, WASTEWATER, LEGACY RIDGE, STORM
DRAINAGE, GENERAL CAPITAL OUTLAY REPLACEMENT, SALES & USE TAX, PARKS
OPEN SPACE & TRAILS, AND GENERAL CAPITAL IMPROVEMENT AND AUTHORIZING
A SUPPLEMENTAL APPROPRIATION FROM THE 2013 ESTIMATED REVENUES IN
THESE FUNDS.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2013 appropriation for the General, Water, Utility Rate Stabilization Reserve, Wastewater, Legacy Ridge, Storm Drainage, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails, and General Capital Improvement Funds, initially appropriated by Ordinance No. 3655 is hereby increased by \$17,858,627. This appropriation is due to the appropriation of 2012 carryover.

Section 2. The \$17,858,627 increase in the General, Water, Utility Rate Stabilization Reserve, Wastewater, Legacy Ridge, Storm Drainage, General Capital Outlay Replacement, Sales & Use Tax, Parks Open Space & Trails, and General Capital Improvement funds shall be allocated to City revenue and expense accounts as described in the City Council Agenda Item 10 D dated July 22, 2013 (a copy of which may be obtained from the City Clerk) amending City fund budgets as follows:

General Fund	\$1,492,641
Water Fund	7,451,335
Utility Rate Stabilization Reserve Fund	342,116
Wastewater Fund	1,607,209
Legacy Ridge Fund	450,000
Storm Drainage Fund	44,136
General Capital Outlay Replacement Fund	975,818
Sales & Use Tax Fund	2,007,463
Parks, Open Space & Trails Fund	1,341,139
General Capital Improvement Fund	2,146,770
Total	<u>\$17,858,627</u>

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

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

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

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED
PUBLISHED this 22nd day of July, 2013.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED
this 12th day of August, 2013.

ATTEST:

Mayor Pro Tem

AGENDA

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING

MONDAY, July 15, 2013

AT 7:00 P.M.

1. Roll Call

2. Minutes of Previous Meeting (July 8, 2013)

3. Public Hearings and New Business

- A. Public Hearing regarding a 2013 WEDA Budget Amendment
- B. Resolution No. 150 authorizing a Supplemental Appropriation to the 2013 WEDA Budget
- C. Prepayment of WEDA's Loan for the Sears' Property Acquisition

4. Old Business

- A. Sale of Holly Park Parcel (Tabled 6-24-13)

5. Adjournment

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, JULY 8, 2012, AT 7:57 P.M.

ROLL CALL

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

APPROVAL OF MINUTES

Board Member Kaiser moved, seconded by Briggs, to approve the minutes of the meeting of June 24, 2013, as written. The motion carried unanimously.

WURP MASTER PLANNING PROFESSIONAL SERVICES CONTRACT WITH TORTI GALLAS

Upon a motion by Vice Chairperson Winter, seconded by Major, and based on a report of the Executive Director, the Board voted unanimously to find that the public interest was best served by entering into a negotiated contract with Torti Gallas and Partners for planning and architectural services and to authorize the Executive Director to execute a contract with Torti Gallas in an amount not to exceed \$375,000 for planning, architecture, transportation/traffic analysis related to the development of the Westminster Center Urban Reinvestment Project site.

AUTHORIZATION TO CONTRACT WITH CONSULTANTS FOR WORK RELATED TO WURP

It was moved by Vice Chairperson Winter, seconded by Major, to authorize the Executive Director to enter into such other contracts as necessary with other consultants for work related to the Westminster Center Urban Reinvestment Project in an amount not to exceed \$125,000. The motion carried unanimously.

ADJOURNMENT

There was no further business for the Authority's consideration, and following a motion by Briggs, seconded by Major, the Chairperson adjourned the meeting at 8:00 p.m.

Vice Chairperson

ATTEST:

Secretary

WEDA Agenda Item 3 A-C

Agenda Memorandum

Westminster Economic Development Authority Meeting
July 22, 2013



SUBJECT: Public Hearing and Resolution No. 150 re Westminster Economic Development Authority Supplemental Appropriation to 2013 Budget and Prepayment of Westminster Economic Development Authority's Loan for the Sears' Property Acquisition

Prepared By: Tammy Hitchens, Finance Director
Robert Byerhof, Treasury Manager
Gary Newcomb, Accountant

Recommended Board Action

1. Hold a Public Hearing on the budget amendment for the Westminster Economic Development Authority.
2. Adopt Resolution No. 150 authorizing a supplemental appropriation to the 2013 Westminster Economic Development Authority budget.
3. Authorize the Westminster Economic Development Authority's Executive Director to prepay the outstanding loan with Vectra Bank that was executed to purchase the Sears' Property.

Summary Statement

- The Board approved the purchase and financing of the Sears' property on January 23, 2012.
- On February 29, 2012, the Westminster Economic Development Authority (WEDA) executed a loan agreement in the amount of \$4,200,000 with Vectra Bank (Bank) to purchase the Sears' Property.
- Interest was set aside in an account at the Bank and has already been appropriated.
- The loan matures on February 28, 2014; however, it may be prepaid with 30 days' notice to the Vectra Bank without incurring any prepayment penalty fees.
- In 2012, the City funded, initially from Carryover, a contingency that would be available should the City need to complete payment on the Sears note. While the plan was to have a developer on board assuming the note by the time the note was due, City Staff felt it was prudent to establish the contingency for unforeseen delays. Given the recent development with regard to the site, Staff has now determined it is fiscally prudent to prepay the note.
- Typically City Staff prepares a resolution quarterly to appropriate unanticipated revenues and adjust the budget side of transactions that occur during the year in the WEDA Fund; however, in order to have sufficient funds available to pay the Bank this appropriation is currently necessary.

Expenditure Required: Not to exceed \$4,200,000

Source of Funds: Transfers in and WEDA's Westminster Center Urban Reinvestment Project

Policy Issues

1. Should the WEDA Board appropriate funds as set forth in the attached Resolution?
2. Should WEDA authorize the prepayment of the Vectra Bank loan?

Alternatives

1. The Board could decide not to appropriate funds. This is not recommended as the revenue (transfers in from General Capital Improvement Fund) was transferred to WEDA for the specific use of paying off the Vectra Bank loan.
2. The Board could decide not to prepay the loan. This alternative is not recommended. By paying the loan off early, WEDA will save approximately \$72,865 in interest costs.

Background Information

On February 27, 2012 the WEDA Board authorized the financing of the Sears' property purchase with the Bank in an amount not to exceed \$4,300,000. On February 29, 2012 a loan agreement with the Bank was executed in the amount of \$4,200,000. The terms of the loan included a 2-year interest only payment structure with a balloon principal payment due on February 28, 2014.

Funds are currently available to prepay the outstanding loan and Staff reviewed the loan agreement for the prepayment provisions. With 30 days' notice to the Bank, WEDA may prepay the loan without incurring any penalty. Prepaying the outstanding loan is advantageous to WEDA given the low interest earnings' environment. WEDA currently earns 0.95% in pooled interest earnings versus the paying the interest cost on the loan at 2.96%. Assuming an August 1, 2013 prepayment date, WEDA will save \$72,865 in interest costs versus waiting until February 28, 2014 to pay off the loan.

In 2012, the City funded, initially from carryover, a contingency that would be available should the City need to complete payment on the Sears note. While the plan was to have a developer on board assuming the note by the time the note was due, City Staff felt it was prudent to establish the contingency for unforeseen delays. Since the time that the initial contingency was established, additional funds were added to the CMO capital project reserve account in the General Capital Improvement Fund. To-date the reserve totals \$2,268,000. This reserve together with WEDA project funds on hand are sufficient to prepay the loan.

Staff is requesting that a supplemental appropriation from a transfer in from the General Capital Improvement Fund (GCIF) in the amount of \$2,268,000 be approved to complete the prepayment transaction. The amendments listed in the attached resolution will bring WEDA's accounting records up-to-date to reflect the various detailed transactions.

This recommended action supports the strategic objectives of a Financially Sustainable City Government Providing Exceptional Services, a Strong, Balanced Local Economy and Vibrant Neighborhoods in One Livable Community. It does so by taking advantage of WEDA's ability to prepay a loan with funds that are currently available and reducing interest costs on the loan.

Respectfully submitted,

J. Brent McFall
Executive Director

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **150**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2013

**2013 WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY BUDGET
SUPPLEMENTAL APPROPRIATION**

WHEREAS, the Westminster Economic Development Authority (WEDA) initially adopted the 2013 budget on October 8, 2012 and

WHEREAS, proper notice for this amendment was published on July 18, 2013, pursuant to the requirements of Section 29-1-106 Colorado Revised Statutes; and

WHEREAS, a public hearing for this amendment was held on July 22, 2013, pursuant to the requirements of Section 29-1-108 Colorado Revised Statutes; and

WHEREAS, as necessary a resolution to make adjustments to the budget is presented to the Board; and

WHEREAS, there are adjustments to be made to the 2013 budget; and

WHEREAS, the revenue adjustments consist of an increase of \$2,268,000; and

WHEREAS, the expense adjustments consist of an increase of \$2,268,000.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Westminster Economic Development Authority:

Section 1. The \$2,268,000 increase shall be allocated to WEDA Revenue and Expenditure accounts as described below:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
TRF Gen Capital Improve	6800.45000.0750	\$0	<u>\$2,268,000</u>	\$2,268,000
Total Change to Revenues			<u>\$2,268,000</u>	

EXPENDITURES

Description	Account Number	Current Budget	Amendment	Revised Budget
WURP City Participation	80968005952.80400.8888	\$3,378,528	\$2,268,000	\$5,646,528
Total Change to Expenses				
			<u>\$2,268,000</u>	

Section 2. The resolution shall be in full force and effect upon its passage and approval.

PASSED AND ADOPTED 22nd day of July, 2013.

ATTEST:

Vice Chairperson

Secretary