



**WESTMINSTER**  

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**COLORADO**

**AGENDA**

**SPECIAL CITY COUNCIL MEETING**

**MONDAY, AUGUST 30, 2004**

**AT 7:00 P.M.**

**1. Pledge of Allegiance**

**2. Roll Call**

**3. Purpose of Special Council Meeting**

- A. Councillor's Bill No. 60 re Creating the 144<sup>th</sup> Avenue General Improvement District
- B. Public Hearing re 144<sup>th</sup> Avenue Special District
- C. Resolution No. 52 re Service Plan for 144<sup>th</sup> Avenue Metro District

**4. Adjournment**



W E S T M I N S T E R

City of Westminster

August 25, 2004

Office of the Mayor

4800 West 92<sup>nd</sup> Avenue  
Westminster, Colorado  
80031-6387

Michele Kelley, City Clerk  
City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, CO 80031

303-430-2400

FAX 303-428-4564

Dear Michele:

Please call a special meeting of the City Council for Monday, August 30, 2004 at 7:00 P.M. to be held at City Hall in the City Council Chambers, located at 4800 West 92<sup>nd</sup> Avenue, for the following purpose:

Councillor's Bill No. 60 re Creating the 144<sup>th</sup>  
Avenue General Improvement District Emergency  
Ordinance

Public Hearing re 144<sup>th</sup> Avenue Metropolitan  
District Service District

Resolution No. 52 adopting the 144<sup>th</sup> Avenue  
Metropolitan District Service Plan.

Sincerely,

Nancy McNally  
Mayor



## WESTMINSTER

City of Westminster  
General Services  
Department

August 26, 2004

City Clerk's Office

4800 West 92<sup>nd</sup> Avenue  
Westminster, Colorado  
80031-6387

303-430-2400  
FAX 303-428-4564

To All Members of City Council:

A special meeting of the City Council has been set for Monday, August 30, 2004 at 7:00 P.M. to be held at City Hall Council Chambers, located at 4800 West 92<sup>nd</sup> Avenue, for the following purpose:

Councillor's Bill No. 60 re Creating the 144<sup>th</sup> Avenue General Improvement District Emergency Ordinance

Public Hearing re 144<sup>th</sup> Avenue Metropolitan District Service District

Resolution No. 52 adopting the 144<sup>th</sup> Avenue Metropolitan District Service Plan.

Sincerely,

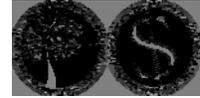
Michele Kelley  
City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

Special City Council Meeting  
August 30, 2004



**SUBJECT:** Councillor’s Bill No. 60 re Creating the 144<sup>th</sup> Avenue General Improvement District

**Prepared by:** Alan Miller, Special Projects Director  
Mary Ann Parrot, Finance Director

**Recommended City Council Action**

Adopt Councillor’s Bill No. 60 as an emergency ordinance creating the City of Westminster 144<sup>th</sup> Avenue General Improvement District.

**Summary Statement**

Tonight’s action is another step in the continuing effort by the City to accomplish the development of the project at 144<sup>th</sup> Avenue and Huron Streets in northern Westminster. The project currently is on schedule.

During discussions with City Council regarding the Forest City retail development, Staff addressed the policy issues surrounding the formation of a General Improvement District co-terminus with the Urban Renewal Area. These were covered in the discussions regarding the RFP for redevelopment and as a way to cover some costs without added burden on the tax increment financing. The GID provides for:

- Ability to raise property taxes in this area to facilitate additional public improvements
- Agreement by Forest City development to the formation of this district
- Ability of this area to remain competitive regarding tax levies

Staff was directed by Council to establish a General Improvement District (GID) to assure that property benefiting from the construction of the development would participate in paying the debt incurred by the WEDA Bond issue. The first step in the creation of a GID is for petitioners to file a Petition for the Organization of a General Improvement District with the City Clerk. The petition must meet all legal requirements as set forth in the appropriate sections of the Colorado Revised Statutes. The required petition to form a GID has been properly filed with the City Clerk by the petitioners (copy attached). The petition attached is not yet signed, but will be executed on Aug 27 and filed in City Council packets for the August 30 meeting. The next procedural step requires that the City Council adopt an ordinance creating the GID. If the GID is created, the Council will become the ex-officio Board of the GID. To comply with deadlines set forth in State law, appropriate ballot questions for the GID debt issue have been prepared. If the action above is approved by City Council, the ballot language approval is presented for the GID Board’s (City Council will sit as the Board) consideration under separate cover on tonight’s agenda.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should City Council approve the formation of the 144<sup>th</sup> Avenue General Improvement District?

**Alternatives**

1. Do not form the GID. This is not recommended for the following reasons:
  - a. The GID is a revenue generating district, which revenues will be used to help defray the debt service on the WEDA bonds.
  - b. The City's research and the developer's market research shows the GID tax levy can be implemented at 20 mills and the overlapping tax levels will still remain competitive for this type of commercial development.
  - c. The City and Forest City Development have agreed to this strategy, as reviewed with City Council during several past discussions.
  - d. The GID is a part of the feasibility and covenants with the letter of credit bank and is an integral part of the financing documents, which will be approved by WEDA and City Council. Not approving a GID could constitute an event of default in the negotiations with the letter of credit bank and could jeopardize the financing of the entire project.
  
2. Delay the formation of the GID. This is not recommended for the following reasons:
  - a. The release of bond funds from escrow to construct some of the necessary public improvements needed for this development may require the formation of the GID and the adoption of a mill levy of 20 mills.
  - b. These public improvements are planned for construction between January 2005 and October 2006. Delaying the formation of the GID delays the adoption of the mill levy to November 2006 and this is not favorable to the completion of the public improvements and the opening of the stores in Fall 2005. The public improvements need to be completed prior to November 2006.

**Background**

The 144<sup>th</sup> Avenue project has been underway for approximately two years. Actions to date include the following:

- On April 2003 the WEDA Board of Directors approved the selection of Forest City Enterprises as the preferred developer for 144<sup>th</sup> Avenue project.
- On January 26, 2004, City Council approved the formation of the North Huron Urban Renewal District for the northern part of the City of Westminster.
- On April 12, 2004, the City and WEDA approved and Preliminary Development Agreement with Forest City Enterprises.
- On April 12, 2004, WEDA approved the borrowing of \$9 million to purchase the White property, an 80-acre parcel on the northeast corner of 144<sup>th</sup> Avenue and Huron. This loan is to be refinanced when the WEDA Bonds are sold in December, 2004.
- On April 12, 2004, the City Council approved a moral obligation pledge to secure the \$9 million WEDA borrowing for the acquisition of the White Property.

The balance of the schedule is as follows:

<u>Event</u>	<u>Date</u>
City Council review of Forest City Draft MSD Service Plan	Aug 30, 2004
Signing of the Final Development Agreement (FC, City, WEDA).	Nov 2004
Forest City purchases land from City and closes on the land.	Mid-Dec, 2004
Forest City closes on their bank construction loan.	Mid-Dec, 2004
Forest City supplies WEDA with letters of intent from their anchors	Mid-Dec, 2004
WEDA issue bonds, City issue COPs (for 1/2 the interchange)	Mid-Dec, 2004
Construction of Phase I commences	Jan 2005
Construction of Interchange at 144 <sup>th</sup> Avenue commences	Spring 2005
Interchange open (partial opening)	Fall 2006
Opening Phase I shops	Spring-Fall 2006

Staff has evaluated the competitiveness of this additional tax. The results of the other commercial taxing districts in the area are shown in the table below. Forest City has agreed to a mill levy cap of 20 mills, and an on-going mill levy. The overall burden is still competitive at 110 to 140 mills total mill levy.

The proposed district would levy a property tax of 20 mills, which would be assessed in addition to the ad valorem property taxes levied by other taxing districts, effective with the first year of partial property assessment, with taxes to be collected the following year. The proceeds would be used to fund public improvements in the Forest City project. The GID will have a bond authorization but no bonds will be issued in the near future (5-10 years), as there is no assessed valuation to allow the debt service to be paid. The City wants to reserve the right, however, to issue bonds in the long run, in case they want to debt finance some additional improvements.

Staff will be present at the City Council meeting on Monday, August 30 to answer questions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **3146**

COUNCILLOR'S BILL NO. **60**

SERIES OF 2004

INTRODUCED BY COUNCILLORS  
**Hicks - Dittman**

A BILL

FOR AN ORDINANCE CREATING THE CITY OF WESTMINSTER  
144TH AVENUE GENERAL IMPROVEMENT DISTRICT;  
PROVIDING OTHER DETAILS RELATING THERETO; AND  
DECLARING AN EMERGENCY.

WHEREAS, a Petition for the Organization of a General Improvement District in the City of Westminster, Colorado (the "Petition"), has been filed in the office of the City Clerk of the City of Westminster (the "City"); and

WHEREAS, the Petition has been reviewed by the City Clerk; and

WHEREAS, the Petition states that it has been signed by one hundred percent of the owners of taxable real property to be included within the proposed district and contains a request, pursuant to Section 31-25-607 (3.5), C.R.S. and 31-25-607(4)(c), C.R.S., for waiver of all requirements for notice, publication, and a hearing set forth in Sections 31-25-606 and 31-25-607, C.R.S., and of the requirement for filing an organizational bond set forth in Section 31-25-605, C.R.S.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Short Title. This Ordinance shall be known and may be cited by the short title "City of Westminster 144th Avenue General Improvement District Creation Ordinance."

Section 2. Findings and Determinations. The City Council hereby accepts the Petition for the Organization of a General Improvement District in the City of Westminster, Colorado, which requests the formation of a general improvement district to be known as "City of Westminster 144th Avenue General Improvement District." The Council hereby finds and determines as follows:

a. that the Petition is signed by one hundred percent of the owners of taxable real property to be included within the proposed district;

b. that the Petition contains a request for waiver of all requirements for notice, publication, and a hearing set forth in Sections 31-25-606 and 31-26-607, C.R.S., and of the organizational bond set forth in Section 31-25-605, C.R.S.;

c. that the Petition is signed by not less than thirty percent or two hundred (whichever is less) of the electors of the proposed district in compliance with Section 31-25-604(1), C.R.S.;

d. that the signatures on the Petition are genuine;

e. that a review of the tax rolls, the last official registration list of Adams County, and from such other available evidence, shows that the total number of electors of the proposed district is 1 and the estimated total valuation for assessment of the real and personal property within the proposed district is approximately \$4,929.97;

f. that the proposed district is located entirely within the City's boundaries in Adams County, Colorado;

g. that the proposed district will not provide the same improvements or service as those provided by an existing special district within the territory of such existing special district;

h. that the proposed district's improvements to be acquired, constructed, installed, operated, or maintained:

(1) are improvements that the City is authorized to provide under the City's home rule charter (the "Charter"); and

(2) do not duplicate or interfere with any municipal improvement already constructed or planned to be constructed within the limits of the proposed district;

- i. that the costs of the improvements will not be excessive as compared with the value of the property in the proposed district;
- j. that the creation of the proposed district and proposed improvements therein will confer a general benefit on the proposed district;
- k. that the organization of the proposed general improvement district will serve a public use and will promote the health, prosperity, security and general welfare of the inhabitants of the City and the proposed district;
- l. that the request for waiver is hereby granted; and
- m. that the proposed general improvement district should be established.

These findings and determinations of the Council are final and conclusive on all parties in interest, whether appearing or not.

Section 3. Establishment of District. It appearing that the Petition has been duly signed and presented in conformity with Colorado law and that the allegations of the Petition are true, the Council, by this ordinance, hereby finds that it has full jurisdiction under the law to adopt this ordinance, that the proposed district for which the Petition has been filed is hereby declared organized and shall be known as "City of Westminster 144th Avenue General Improvement District" (the "District"), by which, in all proceedings, it shall hereafter be known. The District shall be a public or quasi-municipal subdivision of the State of Colorado and a body corporate with the limited proprietary powers set forth in Part 6, Article 25, Title 31, C.R.S.

Section 4. District Boundaries. The District lies within the City of Westminster, County of Adams, State of Colorado and its boundaries are attached hereto as Exhibit I.

Section 5. District Improvements and Services.

a. A general description of the improvements to be acquired, constructed, installed, operated, or maintained within the District is as follows: The public roadways, including road and pedestrian underpasses, site grading, sidewalks, parking improvements, water and sewer lines, landscaping, irrigation, site and traffic lighting, drainage improvements, site amenities such as benches, fountains, required signage, and relocating businesses and such other improvements that the City is authorized to provide.

b. A general description of the proposed services to be provided is as follows: police and fire protection, municipal and building code enforcement, professional services including but not limited to planning, engineering, building and construction inspection, financial, administration and legal services, and any other service that the City is authorized to provide.

Section 6. Recording of Ordinance. Within thirty days after Council action on this ordinance, the City Clerk shall transmit to the County Clerk and Recorder of Adams County a copy of this ordinance for recording.

Section 7. Ordinance Conclusive. This ordinance shall finally and conclusively establish the regular organization of the District against all persons unless an action attacking the validity of the organization is commenced in a court of competent jurisdiction within thirty days after the adoption of this ordinance. Thereafter, any such action shall be perpetually barred.

Section 8. Repealer. All bylaws, orders, resolutions and ordinances of the City, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the City, or part thereof, heretofore repealed. All rules of the City Council, if any, which might prevent the final passage and adoption of this ordinance as an emergency measure at this meeting of the City Council be, and the same hereby are, suspended.

Section 9. Severability. If any section, subsection, paragraph, clause or other provision of this ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this ordinance, the intent being that the same are severable.

Section 10. Declaration of Emergency. In order to create the District pursuant to Section 31-25-607 (3.5), C.R.S., in time to schedule an election on the question of levying taxes and issuing bonds at the general election on November 2, 2004, it is hereby declared that an emergency exists

and that this ordinance is immediately necessary for the preservation of the public peace, health, safety and financial well-being of the City.

Section 11. Effective Date, Recording and Authentication. This ordinance shall be in full force and effect immediately upon its adoption and passage. This ordinance shall be recorded in "The Ordinance Book" of the City kept for that purpose, and shall be authenticated by the signatures of the Mayor and City Clerk, and published in accordance with Section 8.4 of the Charter.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE on August 30, 2004.

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Mayor

(SEAL)

ATTESTED:

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City Clerk

EXHIBIT I

(LEGAL DESCRIPTION FOR PROPOSED DISTRICT)

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHENCE THE NORTHWEST CORNER OF SAID SECTION 15, BEARS N38°31'26"W, A DISTANCE OF 1703.07 FEET;  
SAID POINT BEING ON THE NORTH LINE OF THE SOUTH ½ OF SAID NORTHWEST QUARTER OF SECTION 15;  
THENCE S89°30'07"E ALONG SAID NORTH LINE, A DISTANCE OF 622.30 FEET;  
THENCE S00°29'53"W, A DISTANCE OF 70.00 FEET;  
THENCE N89°30'07"W, A DISTANCE OF 622.30 FEET;  
THENCE N00°29'53"E, A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 43,561 SQUARE FEET, (1.00 ACRES) MORE OR LESS.

THE BASIS OF BEARINGS IS THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 68 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN WHICH BEARS N00°17'27"W. THE NORTHWEST CORNER OF SAID SECTION 15 IS A 3.25" ALUMINUM CAP IN A RANGE BOX, "PLS 23904" AND THE EAST QUARTER CORNER OF SECTION 15 IS A 3.25" ILLEGIBLE ALUMINUM CAP IN A RANGE BOX.

STATE OF COLORADO )  
 )  
 COUNTIES OF ADAMS ) SS.  
 AND JEFFERSON )  
 )  
 CITY OF WESTMINSTER )

I, Michele Kelley, the duly appointed, qualified and acting City Clerk of the City of Westminster, Colorado (the "City") do hereby certify:

1. That the foregoing pages are a true, correct, and complete copy of an ordinance adopted by the City Council (the "Council") of the City at a special meeting of the Council held at the City Hall on August 30, 2004. A quorum of the Council was in attendance at said meeting.

2. The passage of the Ordinance as an emergency was duly moved and seconded and the Ordinance was approved by a vote of seven to zero of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
David Davia	X			
Chris Dittman	X			
Samantha Dixon	X			
Elmer "Butch" Hicks	X			
Tim Kauffman	X			
Nancy McNally	X			
Jo Anne Price	X			

3. That the Ordinance has been authenticated by the Mayor, sealed with the corporate seal of the City, attested by me as City Clerk, and duly recorded in "The Ordinance Book" of the City; and that the same remains of record in "The Ordinance Book" of the City.

4. That notice of the meeting of August 30, 2004, in the form, attached hereto as Exhibit A, was duly given to the Council members and was posted in a designated public place within the boundaries of the City no less than twenty-four hours prior to the meeting as required by law.

5. That the ordinance was published in full within 10 days after its enactment in Westminster Window, a newspaper of general circulation within the City on September 9, 2004. The affidavit of publication is attached hereto as Exhibit B. The Westminster Window is a newspaper which meets the requirements of Section 17.5 of the City's Charter, and I have received the affidavit and such other evidence as I deem necessary from the publisher thereof that said newspaper meets the circulation requirements of said Section 17.5.

6. On September 2, 2004, I transmitted a copy of the Ordinance to the Adams County Clerk and Recorder for recording.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 31<sup>st</sup> day of August, 2004.

(SEAL)

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

**EXHIBIT A**

**(Attach Notice of Meeting )**



**WESTMINSTER**

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**COLORADO**

**SPECIAL CITY COUNCIL MEETING**

**MONDAY, AUGUST 30, 2004**

**AT 7:00 P.M.**

**1. Pledge of Allegiance**

**2. Roll Call**

**3. Purpose of Special Council Meeting**

A. Councillor's Bill No. 60 re Creating the 144<sup>th</sup> Avenue General Improvement District

B. Public Hearing re 144<sup>th</sup> Avenue Special District

C. Resolution No. 52 re Service Plan for 144<sup>th</sup> Avenue Metro District

**4. Adjournment**

**EXHIBIT B**

**(Attach Affidavit of Publication)**

PETITION

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FOR THE ORGANIZATION OF A GENERAL IMPROVEMENT DISTRICT  
IN CITY OF WESTMINSTER, COLORADO

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WESTMINSTER 144<sup>TH</sup> AVENUE, LLC (the "Petitioner"), the undersigned, hereby petitions the City Council (the "Council") of City of Westminster, Colorado (the "City") for the organization of a general improvement district within the City, pursuant to Part 6, Article 25, Title 31, Colorado Revised Statutes. In support of this petition, the Petitioner states as follows:

3. The proposed general improvement district shall be located within the City, and the name of the proposed general improvement district is "City of Westminster 144th Avenue General Improvement District" (the "District").

4. A general description of the improvements to be acquired, constructed, operated, maintained or installed by the district is as follows: public roadways, including road and pedestrian underpasses, site grading, sidewalks, parking improvements, water and sewer lines, landscaping, irrigation, site and traffic lighting, drainage improvements, site amenities such as benches, fountains, required signage, and relocating businesses.

5. A general description of the proposed services to be provided are as follows: police and fire protection, municipal and building code enforcement, professional services including but not limited to planning, engineering, building and construction inspection, financial, administration and legal services, and any other service that the City is authorized to provide.

6. The estimated cost of the proposed improvements is \$20,000,000 and the estimated annual cost of providing the proposed services is \$1,000,000.

7. The proposed general improvement district encompasses approximately 1 acre within the City. The proposed district includes property, which is generally located in the Caldwell Parcel at the northeast corner of 144<sup>th</sup> Avenue and Huron Street in Northeast Westminster. The legal description of the boundaries of the proposed district is attached hereto as Exhibit 1 and a map of the boundaries of the district is attached hereto as Exhibit 2.

8. The Petitioner hereby names the following three persons to represent it in the organization of the District and to enter into agreements relating to the organization of the District (which agreements shall be binding on the district, if created):

- (a) Thomas D. Howes
- (b) John S. Lehigh
- (c) Todd L. Bloom

9. The petition is signed by one hundred percent of the owners of taxable real property to be included in the proposed District.

10. The Petitioner is not a natural person but owns 100% of the taxable real property located in the proposed District. The Petitioner hereby authorizes and designates the elector who signed the signature page of this petition as the person designated, pursuant to Section 31-25-602(2)(b), Colorado Revised Statutes, to vote for the undersigned Petitioner.

WHEREFORE, we request that the above-described City of Westminster, 144th Avenue General Improvement District be organized in accordance with Part 6, Article 25, Title 31, Colorado Revised Statutes, and all other statutes and laws of the State of Colorado amendatory thereof or supplemental thereto, and ask the City Council to take all steps and procedures required by law for the organization of said district; and request that, pursuant to Section 31-25-607(3.5), Colorado Revised Statutes, the City Council waive all the requirements for notice, publication and a hearing set forth in Sections 31-25-606 and 31-25-607, Colorado Revised Statutes, and for the organizational bond set forth in Section 31-25-605, Colorado Revised Statutes, and adopt an ordinance declaring the district organized.

WESTMINSTER 144<sup>TH</sup> AVENUE, LLC  
A COLORADO LIMITED LIABILITY  
CORPORATION

By: Forest City Residential Group, Inc., an Ohio corporation

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

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

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

Address of Property Owner:  
50 Public Square, 1160 Terminal Tower  
Cleveland, Ohio 44113-2267

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

Thomas D. Howes  
Appointed Elector

*Note "Elector of a district" means a person who, at the designated time or event, is qualified to register to vote in general elections in this state and:*

*(a) Has been a resident of the district or of the area to be included in the district for not less than thirty days; or*

*(b) Owns, or whose spouse owns, taxable real or personal property within the district or within the area to be included within the district, whether the person resides within the district or not.*

*Where the owner of taxable real or personal property specified above is not a natural person, an "elector of the district" shall include a natural person designated by such owner to vote for such person. Such designation shall be in writing and filed with the clerk of the City.*

EXHIBIT I

LEGAL DESCRIPTION

City of Westminster 144th Avenue General Improvement District

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHENCE THE NORTHWEST CORNER OF SAID SECTION 15, BEARS N38°31'26"W, A DISTANCE OF 1703.07 FEET;  
SAID POINT BEING ON THE NORTH LINE OF THE SOUTH ½ OF SAID NORTHWEST QUARTER OF SECTION 15;  
THENCE S89°30'07"E ALONG SAID NORTH LINE, A DISTANCE OF 622.30 FEET;  
THENCE S00°29'53"W, A DISTANCE OF 70.00 FEET;  
THENCE N89°30'07"W, A DISTANCE OF 622.30 FEET;  
THENCE N00°29'53"E, A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 43,561 SQUARE FEET, (1.00 ACRES) MORE OR LESS.

THE BASIS OF BEARINGS IS THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 68 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN WHICH BEARS N00°17'27"W. THE NORTHWEST CORNER OF SAID SECTION 15 IS A 3.25" ALUMINUM CAP IN A RANGE BOX, "PLS 23904" AND THE EAST QUARTER CORNER OF SECTION 15 IS A 3.25" ILLEGIBLE ALUMINUM CAP IN A RANGE BOX.

EXHIBIT II

(Attach map of boundaries for proposed

City of Westminster 144th Avenue

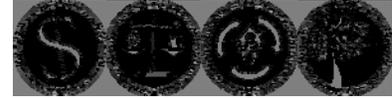
General Improvement District)





**WESTMINSTER**  
**COLORADO**

Special City Council Meeting  
August 30, 2004



**SUBJECT:** Public Hearing and Resolution No. 52 re 144<sup>th</sup> Avenue Metropolitan Special District Service Plan

**Prepared By:** Mary Ann Parrot, Finance Director  
John Carpenter, Community Development Director

**Recommended City Council Action**

Conduct a public hearing to receive comments on the formation of the 144<sup>th</sup> Avenue Metropolitan Special District (“MSD”).

Adopt Resolution No. 52 approving the organization of and the Service Plan for the 144<sup>th</sup> Avenue Metropolitan District.

**Summary Statement**

On August 16, City Council directed Staff to prepare documents for City Council consideration to approve the organization of the 144<sup>th</sup> Avenue Metropolitan District and its proposed Service Plan.

- This action is a part of the North I-25 major retail center and a residential mixed-use project at 144<sup>th</sup> Avenue and Huron Street.
- The developer and Staff have discussed the formation of a special district to fund a portion of the public improvements needed for the residential portion of this project. It is proposed that the developer will build approximately 400 homes and the related infrastructure, to be connected to the retail portion of the project on the south portion of the project. Plans are underway for this design and will be reviewed during the development review process the City has in place.
- The Service Plan attached is a “skeletal” service plan, to be amended in mid-year 2005 when development review and financing details are available. In this way, the developer can form the district in time for the required November elections, but cannot levy taxes or issue bonds until the 1<sup>st</sup> Amended Service Plan is reviewed and approved by City Council mid-year 2005.
- The residential MSD will issue bonds to build the infrastructure (streets, sidewalks, curbs, gutter, underground utilities), and levy a tax to pay the bond debt service over a period of time to be determined in the 1<sup>st</sup> Amended Service Plan.
- City Council has stated it desires to weigh the benefits of MSD’s to the City on a case by case basis. Because of the integral nature of this residential section to the project, and because of the importance of this project to the City, and the regional nature of this project, Staff recommends that City Council consider and approve the formation of this district.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issues**

- Does City Council desire to approve the formation of a metropolitan special district to finance infrastructure improvements for the residential development at the Forest City proposed development at 144<sup>th</sup> Avenue and Huron Street? City Council has previously stated it desires to weigh the benefits of MSDs to the City on a case by case basis.
- Does City Council desire to approve the Service Plan in skeletal form, and allow the developer to return mid-year 2005 with a 1<sup>st</sup> Amended Service Plan, to include compliance with the City's development review and financial review processes?

**Alternatives**

1. Reject the skeletal service plan. This is not recommended for several reasons:
  - a. The approval states that the developer will return mid-year 2005 to submit a 1<sup>st</sup> Amended Service Plan in compliance with the City's requirements resulting from development and financial review policies.
  - b. The City is protected due to the developer having to return for a second review by City Council when plans are completed.
2. Approve the skeletal plan conditionally. This alternative is also not recommended, as it will delay the project from moving forward in a timely fashion. Granting approval of the skeletal service plan will allow the developer to move the project forward. Delaying approval of the service plan to 2005 will delay funding for construction of infrastructure and thus delay the delivery of units.

**Background Information**

As part of the overall negotiations with Forest City on the project at the northeast corner of 144<sup>th</sup> Avenue and Huron Street, the financing consists of several elements that have been used in other similar development. They are as follows:

- Urban Renewal Authority (WEDA) to capture property and sales tax increments to finance street and other infrastructure improvements such as the interchange at 144<sup>th</sup> Avenue and I-25, widening Huron Street, widening a portion of 144<sup>th</sup> Avenue west of Huron Street, and other on-site improvements negotiated with the developer.
- 144<sup>th</sup> Avenue General Improvement District (GID), a City-controlled district on the retail southern portion of the project. This district will levy a fixed mill levy of 20 mills, to provide additional tax levies to support the construction and maintenance of the improvements on the project: streets, curbs, sidewalks, landscaping, etc.
- The 144<sup>th</sup> Avenue Metro Special District (MSD) a developer-controlled district on the residential northern portion of the project. This district will levy a fixed mill levy of 25-35 mills to be determined upon further negotiations with the developer, when the development plan is more definitive and the costs of infrastructure and the revenues needed and progress of sale of the units is further defined. This mill levy will be used to pay for the construction and maintenance of the improvements in this residential portion of the project: streets, curbs, sidewalks, landscaping, etc.

The URA (WEDA) and the 144<sup>th</sup> Avenue GID were addressed in earlier actions by City Council. This agenda memo addresses the last of these special districts that the City Council is reviewing. Staff recommends approving the developer's residential MSD.

Mandatory Disclosure

Forest City and City Staff are working diligently to undertake a review of the development proposed and financial considerations included therein. The MSD is intended to allow the developer to sell bonds to pay for infrastructure, to be re-paid using the property tax levy that is paid for by the residents on their yearly tax bills.

In considering approval of this special taxing district to finance the infrastructure improvements, one of the issues addressed by City Council is the fact that residential taxpayers often do not “shop” or analyze property tax values in developments. This can and has resulted in a delayed negative reaction toward the City, when the homeowners’ tax bills come due. In order to cure this to the largest extent possible, Forest City has agreed to include specific and early disclosure of the tax levels, which will be assessed, in their promotional and contract literature. The language in the service plan will be similar to the following:

“DISCLOSURE. The petitioners for organization of the Districts shall cause the developers of the property located within the Districts to provide adequate written notice to initial and subsequent purchasers of land in the Districts regarding the existence of and additional taxes, charges, or assessments that may be imposed in connection with the Districts, a copy of which shall be recorded in the real estate records of Adams County. This disclosure shall occur at the commencement of negotiations or the execution of a reservation of a lot whichever shall first occur. In either event, the disclosure shall be a part of the home buying decision. The directors of the Districts shall notify homebuilders as to the existence of the District, present tax levy, average expected tax levy, maximum expected tax levy, and maximum allowed tax levy, and shall require such homebuilders to provide such information to home purchasers as early in the home buying process as possible (emphasis added).”

#### Summary Characteristics and Financing Plan

The intent at this time is to ask for City Council approval of a skeletal service plan, then return mid-year 2005 with a 1<sup>st</sup> Amended Service Plan. The reasons for this approach are as follows:

- The development would be comprised of two special districts.
- Operating District (District 1), which will finance, construct, operate and maintain improvements in the district, and
- Taxing District (District 2), which will levy taxes (also known as Control District) to pay off the bonds for the maintenance of the improvements.
- This arrangement allows the residents to govern the Operating District in the long run and oversee contracts and maintenance issues, but not reduce taxes, as that would jeopardize the payment of the bonds that the developer has issued in order to finance the infrastructure. When the debt is paid off, the debt portion of the mill levy disappears.

The residential portion of the project is in the northerly portion of the 215-acre site at the northeast corner of 144<sup>th</sup> and Huron Streets. The developer is currently proposing 400 units for sale of various kinds (single-family detached and attached), thus providing a mixed-use type of lifestyle for the residents in this area, with shopping, dining and entertainment just to the south. Additional characteristics include:

- The size of the area is defined broadly in the “skeletal” Service Plan as attached. This legal description will be revised with the 1<sup>st</sup> Amendment, as the precise residential area is not known at this time. The process of definition will occur as a result of the research conducted by the developer and the review by the City Economic Development staff. The property to be excluded and included in the amended Service Plan will be reviewed by the City prior to the finalization of the amended Service Plan.
- Required notice provisions to be given to prospective property owners are included in the “skeletal” Plan, and will be confirmed in the Amended Service Plan.
- Development review will be completed as these concepts are solidified: densities and layout, streets, fire and police access, etc. These development issues will be resolved through the development review process over the next 10-12 months. This information, along with the maintenance responsibilities for the improvements, will be clarified in the Amended Service Plan.

- Financial review will be completed also in the next 10-12 months to include the developer's projected sales of homes, property tax income, size of bond issue and financing provisions. The overall financing plan will be presented in the Amended Service Plan.
- The developer is currently proposing a mill levy cap of up to 35 mills. The mill levy will be discussed and approved during the review of the financial feasibility of the project.

Although the plan is "skeletal" in nature, the developer, the City, and the plan document provide that the City retains control of the district taxing authority until such time as the 1<sup>st</sup> Amended Service Plan is reviewed and approved by the City Council, expected in May 2005. This will ensure that prospective residents will receive adequate notice of tax levies will receive a quality product, and one that is reasonably financed.

Staff will attend the August 30th City Council meeting to answer Councillor questions.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **52**

INTRODUCED BY COUNCILLORS

SERIES OF 2004

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WHEREAS, pursuant to the provisions of Title 32, Article 1, Part 2, C.R.S., as amended, and specifically Section 32-1-204.5 thereof, the City Council of the City of Westminster, Colorado, considered the Consolidated Service Plan of the proposed 144<sup>th</sup> Metropolitan District Nos. 1 and 2 on the 30<sup>th</sup> day of August, 2004; and

WHEREAS, it appears that the Service Plan should be approved, as permitted by Section 32-1-203(1) of the Colorado Revised Statutes;

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

Section 1. That the City Council of the City of Westminster, Colorado, does hereby determine that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, relating to the filing of a Service Plan for the proposed 144<sup>th</sup> Metropolitan District Nos. 1 and 2 have been fulfilled.

Section 2. That the City Council does hereby find and determine that:

(a) There is sufficient existing and projected need for organized service in the area to be served by the proposed Districts;

(b) The existing service in the area to be served by the proposed Districts is not adequate for present and projected needs;

(c) The proposed special Districts are capable of providing economic and sufficient service to the area within their proposed boundaries;

(d) The area to be included in the proposed Districts has, or will have the financial ability to discharge the proposed indebtedness on a reasonable basis;

Section 3. That a certified copy of this Resolution be filed in the records of the City and submitted to the Petitioners for the purpose of filing in the District Court of Adams County.

ADOPTED AND APPROVED this 30<sup>th</sup> day of August, 2004.

ATTEST:

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City Clerk

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Mayor

**CONSOLIDATED SERVICE PLAN**

**FOR**

**144<sup>th</sup> AVENUE METROPOLITAN DISTRICT Nos. 1 and 2**

City of Westminster, Colorado

Prepared by

White, Bear & Ankele Professional Corporation  
1805 Shea Center Drive, Suite 100  
Highlands Ranch, Colorado 80129

AUGUST 25, 2004

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## EXHIBITS

Exhibit A Legal Description of Initial Boundaries of Districts

Exhibit B Boundary Map of Initial Boundaries of Districts

Exhibit C Form of Petition for Organization

## I. INTRODUCTION

A. General Overview. This consolidated service plan (“Service Plan”) for 144th Avenue Metropolitan District Nos. 1 and 2 (hereinafter collectively referred to as the “Districts”) constitutes a combined service plan for two special districts proposed to be organized to serve the needs of a new community (the “Project”). 144th Avenue Metropolitan District No. 1 shall hereinafter be known as “the Operating District,” and 144th Avenue Metropolitan District No. 2 shall hereinafter be known as “the Taxing District.” The Districts are located entirely within the boundaries of the City. Boundary maps of the Districts are contained in Exhibits A and B to this Service Plan, respectively.

In general, the Taxing District will serve to provide funding to the Operating District for construction, operation and maintenance of the facilities and improvements described herein. The Operating District will manage the financing, construction, operation and maintenance of such facilities and improvements. Agreements between the Districts will identify the timing, purposes and scope of issuance of bonds by the Taxing District to fund those activities. The "Financing Plan" discussed herein shall be a consolidated financial plan for the Districts as a result of the inherent financial ties which the Districts will have to each other for the provision of Public Improvements for the project and for the payment of Debt.

The use of a consolidated Service Plan for the proposed Districts will help ensure proper coordination of the powers and authorities of the Districts, and will help avoid confusion regarding the separate but coordinated purposes of the Districts which could arise if separate service plans were used. Unless otherwise specifically noted herein, the general provisions of this Service Plan apply to the Districts collectively. Where necessary, however, specific reference is made to an individual District to help distinguish the powers and authorities of each District.

The purpose of the Districts will be to finance the Public Improvements for the benefit of its inhabitants and taxpayers, the majority of which may be dedicated to City, its designee, or other entities as provided herein or as City otherwise requires. Certain other improvements may be dedicated to other service districts or retained by the Operating District for continued operation and maintenance. The improvements to be furnished by the Districts as well as a demonstration of how the Districts will best provide the necessary Public Improvements in a cost effective manner, from available resources, and by coordination with surrounding service providers, are described herein.

This Service Plan is submitted in accordance with Part 2 of the Special District Act, Section 32-1-201, *et seq.*, C.R.S. It defines the powers and authorities of the Districts and describes the limitations and restrictions placed thereon. In addition to the powers and authorities enumerated herein, the Districts may engage in other activities, with the City’s approval. The information provided herein is preliminary in nature and is subject to change as development within the Project evolves. As plans for development are refined and finalized, the Districts shall be required to provide additional information regarding the construction and financing of the Public Improvements contemplated herein. The requirements and limitations applicable to said additional information are defined herein below.

B. Contents of Service Plan. Numerous items are included in this Service Plan in order to satisfy the requirements of law for the formation of a special district. It is the Districts’ contention that this Service Plan meets each of those requirements as well as any and all relevant requirements of the City Code. The assumptions contained herein were derived from a variety of sources. Legal advice in the preparation of this Service Plan was provided by the law firm of White, Bear & Ankele Professional Corporation, general counsel to the District, which represents numerous special districts. Because of the early stage of the development plans for the Districts, this Service Plan is to be considered strictly preliminary in nature. Upon approval of this Service Plan, the proponents of the Districts shall be entitled to seek a court order permitting organization of the Districts pursuant to state law. Following entry of

court orders formally decreeing the Districts organized, and continuing until an “Amended Service Plan” (as defined herein) is approved by the City, the Districts shall have no authority under state law or this Service Plan to undertake any activity except minimal administrative or ministerial activities required by state law to maintain the Districts as lawfully existing political subdivisions of the state.

C. Existing Services and Districts. There are currently no other entities in existence located in the surrounding area which have the ability and/or desire to undertake the design, financing and construction of the Public Improvements. It is also the Districts’ understanding that the City does not consider it feasible or practicable to provide the Public Improvements. Consequently, the powers and authorities requested under this Service Plan are deemed necessary. The level of the Public Improvements makes organization of the Districts critical so that both the construction and financing costs may be undertaken at acceptable levels.

In order to minimize the proliferation of new governmental structures and personnel, the Districts intend to utilize existing entities as much as possible to operate and maintain the Public Improvements it provides. In order to avoid double taxation in this regard, the Districts will undertake the necessary capital financing by issuing Debt and those entities furnishing daily operations and maintenance will impose service charges and operating levies pursuant to their standard operating procedures.

## II. DEFINITIONS

In this Service Plan, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Amended Service Plan: means a complete amendment and restatement of this Service Plan which shall be considered for approval after a public hearing by the City, and containing such provisions, terms and conditions as are acceptable to the Districts and the City. If approval of an Amended Service Plan is obtained, the Districts shall operate and exist solely pursuant to said Amended Service Plan.

Approved Development Plan: means the City’s ODP/PDP, as approved, deriving from its development review process, or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development for property within the Districts as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time.

Boards: means the board of directors of the Districts.

Bond, Bonds or Debt: means bonds or other obligations for the payment of which the Financing District has promised to impose an *ad valorem* property tax mill levy.

City: means the City of Westminster, Colorado.

City Code: means the City Code of the City of Westminster, Colorado.

City Council: means the City Council of the City of Westminster, Colorado.

Developer: means Westminster 144<sup>th</sup> Avenue, LLC.

Financial Plan: means the Financial Plan described in Section VII which describes (a) how the Public Improvements are to be financed; (b) how the Debt is expected to be incurred; and (c) the estimated operating revenue derived from property taxes for the first budget year.

Financing District: means 144th Avenue Metropolitan District No. 2.

Material Modification: means such changes as are described in the Amended Service Plan and any changes thereafter that may be deemed to constitute material modifications pursuant to C.R.S. 32-1-207.

Maximum Mill Levy: means the maximum mill levy the Districts are permitted to impose for payment of Debt as set forth in Section VI below.

Maximum Mill Levy Imposition Term: means the maximum term for imposition of a mill levy on a particular property developed for residential uses as set forth in Section VI below.

Operating District: means 144th Avenue Metropolitan District No. 1.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the Special District Act, except as specifically limited by this Service Plan, as amended to serve the future taxpayers and inhabitants of the Districts as determined by the Board of one or more of the Districts.

Public Improvements Matrix: means the exhibit to be contained in the Amended Service Plan which addresses the entity responsible for financing, construction, ownership, operation and maintenance of each Public Improvement contemplated herein.

Service Plan: means this service plan for the Districts as approved by City Council.

Service Plan Amendment: means an amendment to the Service Plan approved by City Council in accordance with the City's ordinance and the applicable state law.

Special District Act: means Section 32-1-101, et seq., of the Colorado Revised Statutes, as amended from time to time.

State: means the State of Colorado.

### III. PURPOSE OF AND NEED FOR THE DISTRICTS AND GENERAL POWERS

A. Purpose and Intent. The purpose of the Districts will be to finance the Public Improvements for the benefit of their taxpayers. It is not the Districts' intent to provide ongoing services other than as specifically set forth herein, or as might be authorized by the City from time to time. The Districts acknowledge the need to cooperate with the City in order to properly serve and promote the health, safety and welfare of its inhabitants and it hereby expresses its intention to do so.

B. General Powers. The Districts will ensure that the proposed Public Improvements are designed and constructed in accordance with applicable facility and service standards and specifications of the City, other governmental entities having proper jurisdiction, and of those special districts that qualify as "interested parties" under Section 32-1-204 (1), C.R.S. The Districts will obtain the City's

approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work. The Districts shall have the power and authority to provide the Public Improvements and related operation and maintenance services within and without the boundaries of the Districts as such power and authority is described in the Special District Act, and other applicable statutes, common law and the Constitution, subject to the limitations set forth in this Service Plan, as amended. Such authorization includes, but is not necessarily limited to the following:

1. Water. The design, acquisition, installation and construction of a complete water and irrigation water system, including but not limited to transmission and distribution systems for domestic and other public or private purposes, together with all necessary and proper facilities, equipment and appurtenances incident thereto which may include, but shall not be limited to, transmission lines, distribution mains and laterals, storage facilities, land and easements, as well as any and all extensions of and improvements made thereto. The Districts shall not be authorized to design, acquire, install or construct water treatment plants without the express prior written approval of the City.

2. Streets. The design, acquisition, installation, construction, operation, and/or maintenance of street and roadway improvements, exclusive of water or sewer improvements, including, but not limited to: curbs, gutters, culverts, storm sewers and other natural or man-made drainage facilities, detention ponds, retaining walls, sidewalks, bridges, parking facilities, paving, lighting, grading, landscaping, tunnels and/or other street improvements, together with all necessary, incidental, and appurtenant facilities, land and easements, as well as any and all extensions of and improvements made thereto.

3. Traffic and Safety Controls. The design, acquisition, installation and construction of traffic and safety protection facilities and services through traffic and safety controls and devices on streets and highways, environmental monitoring, as well as other facilities and improvements including but not limited to, main entry buildings, access gates, signalization at intersections, traffic signs, area identification signs, directional assistance, and driver information signs, together with all necessary, incidental, and appurtenant facilities, land easements, as well as any and all extensions of and improvements made thereto.

4. Sanitation. The design, acquisition, installation and construction of sanitary sewers, lift stations and force mains, and all necessary or proper equipment and appurtenances incident thereto, together with all necessary, incidental and appurtenant facilities, land, and easements and all necessary extensions of and improvements to said facilities or systems.

5. Drainage and Stormwater Quality. The design, acquisition, installation and construction of storm sewers, flood and surface drainage, channels, culverts, storm sewers and other drainage facilities, detention ponds, fishing ponds, water quality control facilities, retaining walls, erosion control structures and appurtenances, and all necessary or proper equipment or appurtenances incident thereto, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

6. Parks and Recreation. The design, acquisition, installation, construction, operation and maintenance of public park and recreation facilities or programs including, but not limited to, swimming pools and spas, tennis courts, exercise facilities, museums, cultural and community facilities, bike paths, hiking trails, pedestrian trails, pedestrian bridges, pedestrian malls, plaza areas and amenities, public fountains and sculpture, art, botanical gardens, equestrian trails and centers, picnic areas, skating areas and facilities, urban village greenscapes, common area landscaping and weed control, outdoor lighting of all types, community events, and other facilities, together with all necessary,

incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

7. Transportation. The design, acquisition, installation, construction, operation and maintenance of public transportation system improvements, including transportation equipment, park and ride facilities and parking lots, parking structures, roofs, covers, and related facilities together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems. The foregoing shall include, but not be limited to, public facilities for commercial structures consisting of restrooms, buses, automobiles, and other means of conveyance, as well as structures relating to the repair, operations and maintenance of the same.

8. Television Relay and Translator. The design, acquisition, construction, completion, installation and/or operation and maintenance of television relay and translator facilities including, but not limited to, cable television and communication facilities, satellite television facilities, Internet and other telecommunication facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements made thereto.

9. Mosquito and Pest Control. The design, acquisition, installation, construction, operation, and/or maintenance of systems and methods for the elimination and control of mosquitoes, rodents and other pests.

10. Legal Powers. The powers of the Districts will be exercised by their respective Boards to the extent necessary to provide the Public Improvements. Said services, facilities and improvements will be carried out pursuant to, and in accordance with, the procedures and conditions contained in the Special District Act, other applicable Colorado statutes, and this Service Plan, as any or all of the same may be amended from time to time.

11. Other. In addition to the powers enumerated above, the Districts' Boards shall also have the following authority:

a. To amend this Service Plan as contemplated herein and in the manner provided herein as well as pursuant to Sections 32-1-101, *et seq.*, C.R.S., and the City Code; and

b. To forego, reschedule, or restructure the financing and construction of certain improvements and facilities in order to better accommodate the pace of growth, resource availability and potential inclusions of property within the Districts and to determine if some or all of the improvements and facilities contemplated herein would best be performed by another entity; and

c. To provide all such additional services and exercise all such powers as are expressly or impliedly granted by Colorado law, and which special districts are required to provide or exercise or, in their discretion, choose to provide or exercise; and

d. To exercise all necessary and implied powers under Title 32, C.R.S., in the reasonable discretion of the Districts' Boards.

12. Dedication to the City. Except as may otherwise be provided in this Service Plan, as amended or by separate agreement with the City, once construction and/or installation is complete, the Districts shall dedicate all public water and wastewater improvements, public streets and streets dedicated by plat, public drainage facilities, and public sidewalks to the City, together with all necessary rights-of-way and easements for access thereto. Nothing herein shall be deemed or construed as obligating the City to accept any public improvement that may be constructed by the Districts. The

City specifically reserves the right to refuse to accept for operation and maintenance any public improvement that may be constructed by the Districts, in the City's sole discretion. Once construction and/or installation is complete and the Public Improvements in questions are to be dedicated, the City will issue an "Initial Acceptance" letter to the Districts specifying that the Public Improvements shall be under warranty for one calendar year from the date of dedication. At the completion of such warranty period, the City shall issue a "Final Acceptance" letter to the Districts accepting ownership and control over such improvements, provided that the Public Improvements in question conform to the specifications and standards of the City.

13. Ownership/Operation by the District. The Districts are expected to undertake all ownership, operation and maintenance responsibilities for any and all improvements not dedicated to or accepted by the City, and may elect to do so either itself or by contract with a property owners' association, or similar entity.

14. Acquisition of Land. The Districts agree to acquire, by easement or plat dedication and at no cost to the City, all land necessary for construction of the Public Improvements and/or facilities contemplated herein.

15. Offsite Improvements. Except as set forth herein, the Districts shall not be authorized to participate in the funding of any offsite public infrastructure improvements, unless the same is approved by the City by and through a formal amendment to this Service Plan.

C. Preliminary Engineering Plan. The Districts shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance and financing of the Public Improvements within and without the boundaries of the District, all in accordance with and as specifically defined in an Approved Development Plan and any and all additional applicable City requirements. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property within the Districts and is in excess of \$1,000,000. The Districts shall be permitted to allocate costs among such categories of the Public Improvements as deemed necessary in their discretion.

All of the Public Improvements authorized hereunder will be designed in such a way as to assure that the Public Improvements standards will be in conformance with those of the City and shall be in accordance with the requirements of the Approved Development Plan. All descriptions of the Public Improvements to be constructed, and their related costs, are estimates only and are subject to modification as engineering, development plans, economics, the City's requirements, and construction scheduling may require. Upon approval of this Service Plan, the Districts will continue to develop and refine cost estimates contained herein and prepare for issuance of Debt. All cost estimates will be inflated to then-current dollars at the time of the issuance of Debt and construction. All construction cost estimates assume construction to applicable local, State or Federal requirements.

The estimated cost of acquiring land, engineering services, legal services and administrative services together with the estimated costs of the Districts' organization and initial operations are anticipated to be in excess of \$100,000 which will be eligible for reimbursement from Debt proceeds.

#### IV. BOUNDARIES, POPULATION AND ASSESSED VALUATION ESTIMATES

A. Boundary Changes. The Districts will ultimately contain all of the acreage of the residential portion of the Project divided into phases planned for residential development. The Districts

will not contain office, commercial or retail uses, or any other non-residential uses. The boundaries of the District will initially be comprised of that real property set forth in Exhibits A and B. Upon the Developer taking title to the property and further defining the areas to be developed as residential properties, the Districts may approve boundary adjustments without further approval of the City that either include residential property owned by the Developer and within the area approved for residential development under the applicable Development Plans for the Project (the "Inclusion Area"), or exclude non-residential property owned by the Developer. Notwithstanding, notification of the same shall be given to the City prior to the Districts holding a public hearing thereon. The improvements described in this Service Plan are necessary and applicable for the entirety of the Project and the Service Plan specifically contemplates inclusion of the residential portion of the Project into the boundaries of the Districts and construction of necessary improvements thereon. The Districts must obtain written approval from the City prior to seeking a change in their boundaries which would result in an inclusion of property not within the Inclusion Area or exclusion of residential property within the Inclusion Area.

B. Population and Assessed Valuation Estimates. An estimate of projected and assessed valuations within the Districts will be set forth in the Financial Plan submitted as part of the Service Plan Amendment, as the same is contemplated herein. The current population of the Districts is zero persons; at build-out, its population is estimated only for purposes of this Service Plan to be 1,500 persons and the assessed valuation of the real property contained within the Districts' boundaries is estimated only for purposes of this Service Plan to be zero dollars (\$0).

## V. PROPOSED AGREEMENTS

To the extent practicable, the Districts may enter into intergovernmental and/or private agreements in order to ensure long-term provision of the improvements and services contemplated herein, and to provide effective management therefor. Said agreements may include, but are not limited to, agreements with property owner associations, governments and/or service providers. Agreements of this nature are authorized by Section 18(2)(a) of Article XIV of the Constitution of the State of Colorado Sections 29-1-201, *et seq.*, Colorado Revised Statutes.

## VI. FINANCIAL PLAN

A. General. As described hereinabove, the Districts shall not have the authority, power, or consent to issue debt of any type or amount, certify any mill levy, or undertake any construction activities until such time as the Service Plan Amendment is filed with and approved by the City. However, and notwithstanding the foregoing, upon obtaining approval for organization from the City and the District Court, the Districts shall be expressly permitted to obtain the necessary voted authorization for increases in debt and taxes as contemplated by the TABOR Amendment, Section 20 of Article X of the Constitution of the State of Colorado. Further, the Districts shall be expressly authorized to enact or adopt resolutions and/or to enter into agreements with private entities authorizing the repayment of operating advances, immediately upon the organization of the Districts. Said agreements may be entered into and said voter authorizations may be obtained without submittal or approval of the Service Plan Amendment contemplated herein, but the Districts shall not utilize any such voted authorization or issue any debt or bonds until the Service Plan Amendment is approved.

The Districts shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from revenues generated by the Financing District and by and through the proceeds of Debt to be issued by the Districts. The Financial Plan for the Districts shall be to issue such Debt as the Districts can reasonably pay within the Maximum

Mill Levy Imposition Term from revenues derived from the Maximum Mill Levy and other legally available revenues. The total Debt that the Districts shall be permitted to issue shall not exceed \$50,000,000 and shall be permitted to be issued on a schedule and in such year or years as the Districts determine shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All bonds and other Debt issued by the Districts may be payable from any and all legally available revenues of the Districts, including general ad valorem taxes to be imposed upon all taxable property within the Financing District. The Districts may also rely upon various other revenue sources authorized by law. These will include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time. The Financing Plan shall be approved as part of the Amended Service Plan and the Districts shall be subject to the provisions and limitations contained within the scope thereof.

B. Maximum Voted Interest Rate and Maximum Underwriting Discount. The interest rate on any Debt is expected to be the market rate at the time the Debt is issued. In the event of a default, the proposed maximum interest rate on any Debt is not expected to exceed 18%. The proposed maximum underwriting discount will be 5%. Debt, when issued, will comply with all relevant requirements of this Service Plan, as amended, State law and Federal law as then applicable to the issuance of public securities.

C. Maximum Mill Levy. The “Maximum Mill Levy” shall be the maximum mill levy the Financing District is permitted to impose upon the taxable property within the Financing District for payment of Debt and operations and maintenance expenses, and shall be determined as follows:

The Maximum Mill Levy shall be a mill levy that does not exceed a level to be established in the Amended Service Plan; provided that if, on or after January 1, 2005, there are changes in the method of calculating assessed valuation or any constitutionally mandated tax credit, cut or abatement; the mill levy limitation applicable to such Debt may be increased or decreased to reflect such changes, such increases or decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by the mill levy, as adjusted for changes occurring after January 1, 2005, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation shall be deemed to be a change in the method of calculating assessed valuation.

Subject to the Amended Service Plan, the Maximum Mill Levy may be eliminated when the amount of all outstanding Debt does not exceed fifty percent (50%) of the assessed valuation of the Financing District on conditions to be established in the Amended Service Plan.

For purposes of the foregoing, at the time at which the Financing District is entitled to pledge to its payment an unlimited ad valorem mill levy, such District may provide that such Debt shall remain secured by such unlimited mill levy, notwithstanding any subsequent change in the Financing District’s Debt to assessed ratio. All Debt issued by the Districts must be issued in compliance with the requirements of Section 32-1-1101, C.R.S. and all other requirements of State law.

D. Maximum Mill Levy Imposition Term. The Districts shall not impose a levy for repayment of any and all Debt (or use the proceeds of any mill levy for repayment of Debt) which exceeds a term to be established in the Amended Service from the date of issuance.

E. Refunding. The Districts shall not authorize any refunding of outstanding bonds which could extend the maturity of such bonds, or increase the total debt service thereon, without the prior approval of the City Council. Notwithstanding the foregoing, such prior approval need not be obtained

where the refunding or restructuring of outstanding debt of the Districts is being undertaken for the purpose of preventing or averting a default or terminating a condition of default on the bonds.

F. Debt Repayment Sources. The Financing District may impose a mill levy on taxable property within its boundaries as a primary source of revenue for repayment of debt service and for operations and maintenance. The Districts may also rely upon various other revenue sources authorized by law. At the Districts' discretion and with prior administrative approval of the City, additional revenue sources may include the power to assess fees, rates, tolls, penalties, or charges as provided in Section 32-1-1001(1), C.R.S., as amended from time to time. In no event shall the mill levy in the Financing District exceed the Maximum Mill Levy or the Maximum Mill Levy Imposition Term.

G. Security for Debt. The Districts shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Service Plan. Approval of this Service Plan shall not be construed as a guarantee by the City of payment of any of the Districts' obligations; nor shall anything in the Service Plan be construed so as to create any responsibility or liability on the part of the City in the event of default by the Districts in the payment of any such obligation.

H. TABOR Compliance. The Districts will comply with the provisions of TABOR. In the discretion of the Board, the Districts may set up other qualifying entities to manage, fund, construct and operate facilities, services, and programs. To the extent allowed by law, any entity created by the Districts will remain under the control of the Districts' Boards.

I. Districts' Operating Costs. In addition to the capital costs of the Public Improvements, the Districts will require operating funds for administration and to plan and cause the Public Improvements to be constructed and maintained. The first year's operating budget is estimated to be \$100,000 which is anticipated to be derived from property taxes and other revenues.

## VII. GENERAL MATTERS

A. Elections. Following the approval of this Service Plan by the City, and after the issuance of orders calling an election from the Adams County District Court, an election will be held which will allow the electorate of the Districts to vote on questions regarding organizational issues relating to the District. This election is currently planned for November 2, 2004, but may be held on any legally permissible date. This organizational election, as well as all future elections, will be conducted as provided in the Uniform Election Code of 1992, the Special District Act, and the TABOR Amendment to the Colorado Constitution. The ballot for said organizational election may deal with the following topics (in several questions, but not necessarily using the exact divisions shown here):

1. Whether to organize the Districts;
2. Membership and terms of the initial boards of directors;
3. Approval of new taxes;
4. Approval of mill levies;
5. Approval of bond limits;
6. Approval of limits on other forms of indebtedness;
7. Approval of an initial property tax revenue limit;
8. Approval of an initial total revenue limit; and
9. Approval of an initial fiscal year spending limit

B. Dissolution of the Districts. If proceedings for a Service Plan Amendment, as contemplated hereinabove, have not been initiated on or before January 1, 2007, the City may opt to

pursue the remedies available to it under Section 32-1-701(3) C.R.S., in order to compel the Districts to dissolve in a prompt and orderly manner. In such an event: 1) the authorized purposes and powers of the Districts shall automatically truncate and be expressly limited to taking only those actions that are reasonably necessary to dissolve; 2) the Districts' boards of directors will be deemed to have agreed with the City regarding its dissolution without an election pursuant to §32-1-704(3)(b), C.R.S.; and 3) the Districts shall take no action to contest or impede the dissolution of the Districts and shall affirmatively and diligently cooperate in securing the final dissolution of the Districts, and 4) the Districts shall thereupon dissolve.

C. Annual Report; Requests for Information. The Districts shall be responsible for submitting an annual report to the City on or before July 1 for the preceding fiscal year. For purposes of this section, a "fiscal year" shall begin on January 1 and end on December 31 of each year. The annual report shall contain the following information as it pertains to each fiscal year:

1. Boundary changes made or proposed;
2. Intergovernmental Agreements with other governmental entities entered into or proposed;
3. Changes or proposed changes in the Districts' policies;
4. Changes or proposed changes in the Districts' operations;
5. Summary of litigation and/or notices of claim which involve the Districts;
6. Proposed construction plans for the year immediately following the report year;
7. Current status of construction of public improvements;
8. A current copy of the Districts' budgets; and
9. A schedule of all fees, charges and assessments imposed in the report year and proposed to be imposed in the following year as well as a summary of the revenues raised or proposed to be raised therefrom.

The annual report shall be signed by either the Districts' legal counsel or by the Districts' President, provided that the latter is attested by the Districts' Secretary. The City reserves the right to request reports from the Districts beyond the mandatory statutory five-year reporting period, per Section 32-1-207(3)(c), C.R.S. In addition to the foregoing, the Districts shall permit the City to inspect all Public Improvements and facilities as well as all of the Districts' books and accounting records.

D. Consolidation. The Districts shall not file a request with the Adams County District Court to consolidate with any other special district without first obtaining written approval from the City.

E. Modification of Service Plan. The Districts must obtain approval from the City Council before making any changes of any kind to this Service Plan.

F. Failure to Comply with Service Plan. In accordance with the authority contained within the City Code, and in the event the Districts take any action constituting a change of any kind to this Service Plan without first obtaining the required approval, the City may utilize any and all remedies available to it at law or in equity to seek to enjoin the actions of the District.

G. Disclosure. The Districts shall undertake best efforts to provide or cause to be provided adequate written notice to all purchasers of land in the Districts regarding the existence of any and all additional taxes, charges, fees or assessments which may be imposed in connection with the District. Prior to the sale of any property within the Districts to a third party homeowner, a copy of said written notice must also be recorded in the real estate records of Adams County after approval of the content thereof by the attorney for the City. This disclosure shall be a part of the home buying decision and process and must be made as early in the process as possible. Further, the Districts' boards of directors

shall notify all commercial and home builders as to its existence, the present tax levy, the average expected tax levy, the maximum expected tax levy, and the maximum tax levy allowable under the Service Plan Amendment. The board of directors shall further require such builders to provide such information to home purchasers as early in the home buying process as possible.

H. Conservation Trust Fund Participation. The Districts shall claim no entitlement to funds from the Conservation Trust Fund or like funds which are derived from lottery proceeds. The Districts shall remit to the City any and all such conservation trust funds which they receive.

I. Form of Petition for Organization. Attached hereto as Exhibit C is a form of Petition for Organization of the Districts.

### VIII. CONCLUSIONS

It is submitted that this Service Plan for 144th Avenue Metropolitan District Nos. 1 and 2 has established that the following requirements of Section 32-1-203(2), C.R.S. have been met:

1. There is sufficient existing and projected need for organized service in the area to be served by the Districts;
2. Existing services in said area to be served are inadequate for present and projected needs;
3. The Districts are capable of providing economical and sufficient service to the area within their boundaries; and
4. The area included in the Districts has, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

It is therefore respectfully requested that the City Counsel, which has jurisdiction to approve this Service Plan by virtue of §32-1-207, C.R.S., *et seq.*, adopt a resolution approving this Service Plan as submitted.

Respectfully submitted,

WHITE, BEAR & ANKELE  
Professional Corporation

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Gary R. White  
Counsel to the Districts

**EXHIBIT A**

**Legal Description of Initial Boundary of Districts**

**LEGAL DESCRIPTION**

**MSD DISTRICT BOUNDARY**

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHENCE THE NORTHWEST CORNER OF SAID SECTION 15, BEARS N18°17'04"W, A DISTANCE OF 1397.55 FEET;  
SAID POINT BEING ON THE NORTH LINE OF THE SOUTH ½ OF SAID NORTHWEST QUARTER OF SECTION 15;  
THENCE S89°30'07"E ALONG SAID NORTH LINE, A DISTANCE OF 622.30 FEET;  
THENCE S00°29'53"W, A DISTANCE OF 70.00 FEET;  
THENCE N89°30'07"W, A DISTANCE OF 622.30 FEET;  
THENCE N00°29'53"E, A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 43,561 SQUARE FEET, (1.00 ACRES) MORE OR LESS.

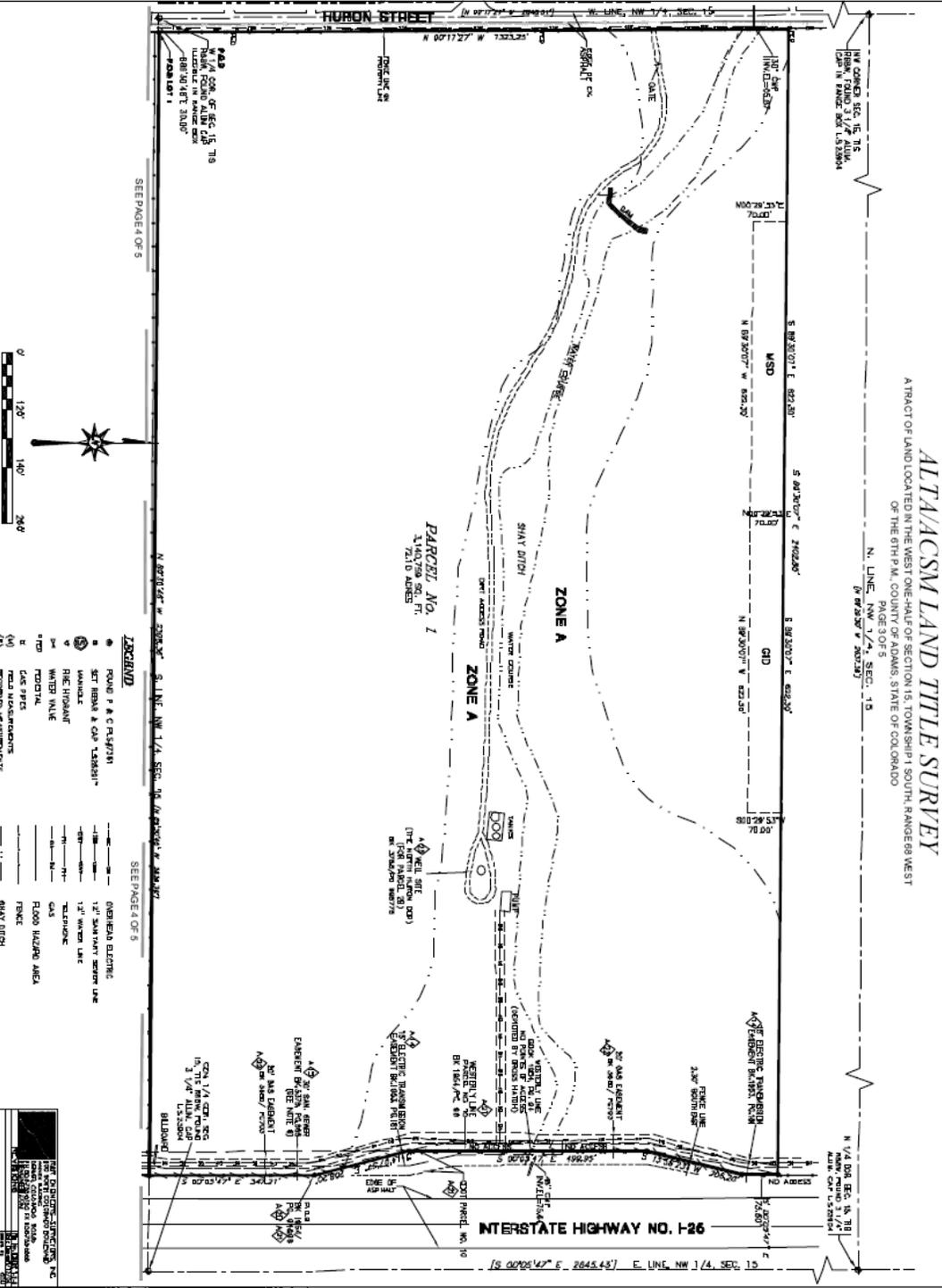
THE BASIS OF BEARINGS IS THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 1 SOUTH, RANGE 68 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN WHICH BEARS N00°17'27"W. THE NORTHWEST CORNER OF SAID SECTION 15 IS A 3.25" ALUMINUM CAP IN A RANGE BOX, "PLS 23904" AND THE EAST QUARTER CORNER OF SECTION 15 IS A 3.25" ILLEGIBLE ALUMINUM CAP IN A RANGE BOX.

Prepared by: Robert B. Taylor, PLS  
Job No. LC03022  
For and on behalf of:  
R&R Engineers-Surveyors, Inc.  
1190 S. Colorado Blvd., Annex Bldg.  
Denver, CO 80246

EXHIBIT B

Boundary Map of Initial Boundaries of Districts

S:\WORK01\EC03022\SURVEY\EC03022 LOT 1-2-3-EASEMENT.dwg, 8/19/2004 3:07:11



**EXHIBIT C**

**Form of Petition for Organization**

DISTRICT COURT, ADAMS COUNTY, COLORADO  Court Address: 1100 Judicial Center Drive, Brighton, CO 80601	<p align="center"><b>σCOURT USE ONLYσ</b></p>
<p><b>In Re the Organization of 144<sup>TH</sup> AVENUE Metropolitan District NOS. 1 AND 2, CITY OF WESTMINSTER, ADAMS County, Colorado</b></p>	
Attorney Name : Joseph M. Sellars, Esq. Address: WHITE, BEAR & ANKELE Professional Corporation 1805 Shea Center Drive, Suite 100 Highlands Ranch, CO 80129  Phone Number: (303) 858-1800 Fax Number: (303) 858-1801 Atty. Reg. #: 035512	Case No:    Div:            Ctrm:

**PETITION**

We, the undersigned, constituting at least thirty percent (30%) of the taxpaying electors of the proposed 144<sup>th</sup> Avenue Metropolitan District Nos. 1 and 2 hereinafter described, present this Petition for the organization of a special district, pursuant to and in accordance with Part 3 of Article 1 of Title 32, Colorado Revised Statutes, and in support of the Petition state:

1. The name of the proposed special district is “144th Avenue Metropolitan District Nos. 1 and 2,” in the City of Westminster, Adams County, Colorado.

2. The proposed 144<sup>th</sup> Avenue Metropolitan District Nos. 1 and 2 (the “District”) will serve to provide funding for construction, operation and maintenance of facilities and improvements described in the Service Plan for North Valley Metropolitan District and generally described as follows:

- a) Water
- b) Streets
- c) Traffic and Safety Controls
- d) Parks and Recreation
- e) Sanitation and Drainage

3. A general description of the facilities and improvements for which funding will be provided by the proposed District are:

a. Water. The design, acquisition, installation and construction of a complete water and irrigation water system, including but not limited to transmission and distribution systems for domestic and other public or private purposes, together with all necessary and proper facilities, equipment and appurtenances incident thereto which may include, but shall not be limited to, transmission lines, distribution mains and laterals, land and easements, together with extensions of and improvements to said systems.

b. Streets. The design, acquisition, installation construction, operation and maintenance of arterial street and roadway improvements, including but not limited to curbs, gutters, culverts, storm sewers and other drainage facilities, detention ponds, retaining walls and appurtenances and entry monumentation, as well as sidewalks, bridges, parking facilities, paving, lighting, sleeving, grading, landscaping, under-grounding of public utilities, snow removal equipment, tunnels and other street improvements, together with all necessary, incidental, and appurtenant facilities, land and easements, together with extensions of and improvements to said facilities.

c. Traffic and Safety Controls. The design, acquisition, installation and construction, operation, and maintenance of traffic and safety protection facilities and services through traffic and safety controls and devices on arterial streets and highways, as well as other facilities and improvements including but not limited signalization at intersections, traffic signs, area identification signs, directional assistance, and driver information signs, together with all necessary, incidental, and appurtenant facilities, land easements, together with extensions of and improvements to said facilities.

d. Parks and Recreation. The design, acquisition, installation, construction, operation and maintenance of public park and recreation facilities or programs including, but not limited to, grading, soil preparation, sprinkler systems, playgrounds, playfields, swimming pools, bike paths, hiking trails, pedestrian trails, pedestrian bridges, picnic areas, common area landscaping and weed control, outdoor lighting of all types, community events, a recreation center and other facilities, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

e. Sanitation. The design, acquisition, installation and construction of sanitary sewer lines and all necessary or proper equipment and appurtenances incident thereto, together with all necessary, incidental and appurtenant facilities, land and easements, and all necessary extensions of and improvements to said facilities or systems.

4. The proposed District lies wholly or partly within the following special districts or municipalities:

a) City of Westminster

5. The estimated cost of the proposed facilities and improvements is approximately \$\_\_\_\_\_.

6. The estimated property tax revenues for the proposed District's first budget year are \$0.

7. The proposed District is generally located in the City of Westminster, more specifically \_\_\_\_\_ . The proposed District is more particularly described in Exhibit A attached hereto.

8. The Service Plan of the proposed District and a resolution in the form adopted by the Westminster City Council, on **August 30, 2004**, approving the Service Plan of the proposed District as

required by Sections 32-1-205(1) and 301(3), C.R.S., are attached hereto as Exhibits B and C respectively.

9. The bond of petitioners required by Section 32-1-302, C.R.S. is filed herewith.

WHEREFORE, Petitioners pray this Honorable Court to enter such orders and decrees as may be necessary or proper for the organization of said District, including an order for an election by the eligible electors of the District to be held on the organization of the District, certain debt and tax authorization and election of its initial Board of Directors; and

Petitioners further pray that, in accordance with Sections 32-1-301(2)(h), C.R.S. and 32-1-803.5, C.R.S., this Honorable Court will enter such orders and decrees as may be necessary or proper for the submission to the electors of the District, at such organizational election, of any questions permitted to be submitted at such election, or any question or questions necessary to implement the provisions of Article X, Section 20 of the Colorado Constitution. Pursuant to 32-1-803.5, the order of the Court shall make the determinations required by Sections 32-1-1101(2) and (3)(a), C.R.S., and shall require the Clerk of the Court to conduct and otherwise cause the election to be conducted in accordance with Article X, Section 20 of the Colorado Constitution.

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**WARNING**

DO NOT SIGN THIS PETITION UNLESS YOU ARE A TAXPAYING ELECTOR OF THE PROPOSED NORTH VALLEY METROPOLITAN DISTRICT:

TO BE A QUALIFIED TAXPAYING ELECTOR, YOU MUST, AT THE TIME YOU SIGN THIS PETITION:

- (1) Be registered to vote in the State of Colorado pursuant to the Uniform Election Code of 1992;  
AND
- (2) You, or your spouse, must own taxable real or personal property within the proposed District, whether or not you or your spouse resides within the District. A person who is obligated to pay taxes under a contract to purchase taxable property situated within the area to be included within the special district shall be considered an owner for this purpose.

Do not sign this Petition unless you have read or had read to you the Petition in its entirety and understand its meaning.

---

**By signing this Petition, I hereby certify that I am a qualified taxpaying elector.**

**NAME**

**ADDRESS**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

---

(Signature)

---

(Print Name)

144AVENUE\ORGZ\JMS1410082504

DISTRICT COURT, ADAMS COUNTY, COLORADO Court Address: 1100 Judicial Center Drive, Brighton, CO 80601	<b>σCOURT USE ONLYσ</b>
<b>In Re the Organization of 144<sup>TH</sup> AVENUE Metropolitan District NOS. 1 AND 2, CITY OF WESTMINSTER, ADAMS County, Colorado</b>	
Attorney Name : Joseph M. Sellars, Esq. Address: WHITE, BEAR & ANKELE Professional Corporation 1805 Shea Center Drive, Suite 100 Highlands Ranch, CO 80129 Phone Number: (303) 858-1800 Fax Number: (303) 858-1801 Atty. Reg. #: 035512	Case No: CV    Div: Ctrm:

**CIRCULATOR'S AFFIDAVIT**

---

\_\_\_\_\_, being first duly sworn on oath, deposed and says:

That he is one of the Petitioners named in the foregoing Petition, that he has read said Petition and knows the contents thereof and that the same is true to the best of affiant's knowledge, information, and belief. Affiant further states that he knows the person(s) whose names are subscribed to the foregoing Petition, that he has circulated the Petition, that each signature thereon was affixed in his presence and that each signature thereon is the true, genuine, and correct signature of the person it purports to be. Affiant further states that to his best knowledge and belief the persons whose names are subscribed to the foregoing Petition are persons who are qualified to vote at general elections in the State of Colorado and who or whose spouse owns taxable real or personal property within the area to be included in the proposed 144<sup>th</sup> Avenue Metropolitan District Nos. 1 and 2, whether or not such person resided within said proposed District.

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Affiant



**EXHIBIT A**

Map/Legal Description Proposed North Valley Metropolitan District

**EXHIBIT B**  
Service Plan

**EXHIBIT C**

County Resolution of Approval of Service Plan

## Summary of Proceedings

Summary of proceedings of the special City of Westminster City Council meeting of Monday, August 30, 2004. . Mayor McNally, Councillors Davia, Dittman, Dixon, Hicks, Kauffman, and Price were present at roll call. Absent none.

The following Public Hearing was held:

At 7:05 p.m. the public hearing was opened on the formation of the 144<sup>th</sup> Avenue Metropolitan Special District.

The following Councillor's Bill was passed as an emergency ordinance:

A BILL FOR AN ORDINANCE CREATING THE CITY OF WESTMINSTER 144<sup>TH</sup> AVENUE GENERAL IMPROVEMENT DISTRICT; PROVIDING OTHER DETAILS RELATING THERETO; AND DECLARING AN EMERGENCY purpose: creation of 144<sup>th</sup> Avenue General Improvement District

The following Resolutions were adopted:

Resolution No. 52 re organization and Service Plan for the 144<sup>th</sup> Avenue Metropolitan District

At 7:10 p.m. the meeting was adjourned

By order of the Westminster City Council

Michele Kelley, CMC, City Clerk

Published in the Westminster Window on September 9, 2004

A BILL  
FOR AN ORDINANCE CREATING THE CITY OF WESTMINSTER  
144TH AVENUE GENERAL IMPROVEMENT DISTRICT;  
PROVIDING OTHER DETAILS RELATING THERETO; AND  
DECLARING AN EMERGENCY.

WHEREAS, a Petition for the Organization of a General Improvement District in the City of Westminster, Colorado (the "Petition"), has been filed in the office of the City Clerk of the City of Westminster (the "City"); and

WHEREAS, the Petition has been reviewed by the City Clerk; and

WHEREAS, the Petition states that it has been signed by one hundred percent of the owners of taxable real property to be included within the proposed district and contains a request, pursuant to Section 31-25-607 (3.5), C.R.S. and 31-25-607(4)(c), C.R.S., for waiver of all requirements for notice, publication, and a hearing set forth in Sections 31-25-606 and 31-25-607, C.R.S., and of the requirement for filing an organizational bond set forth in Section 31-25-605, C.R.S.

THE CITY OF WESTMINSTER ORDAINS:

Section 1 Short Title. This Ordinance shall be known and may be cited by the short title "City of Westminster 144th Avenue General Improvement District Creation Ordinance."

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Section 2 Findings and Determinations. The City Council hereby accepts the Petition for the Organization of a General Improvement District in the City of Westminster, Colorado, which requests the formation of a general improvement district to be known as "City of Westminster 144th Avenue General Improvement District." The Council hereby finds and determines as follows:

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a that the Petition is signed by one hundred percent of the owners of taxable real property to be included within the proposed district;

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b that the Petition contains a request for waiver of all requirements for notice, publication, and a hearing set forth in Sections 31-25-606 and 31-26-607, C.R.S., and of the organizational bond set forth in Section 31-25-605, C.R.S.;

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c that the Petition is signed by not less than thirty percent or two hundred (whichever is less) of the electors of the proposed district in compliance with Section 31-25-604(1), C.R.S.;

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d that the signatures on the Petition are genuine;

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e that a review of the tax rolls, the last official registration list of Adams County, and from such other available evidence, shows that the total number of electors of the proposed district is 1 and the estimated total valuation for assessment of the real and personal property within the proposed district is approximately \$4,929.97;

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f that the proposed district is located entirely within the City's boundaries in Adams County, Colorado;

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g that the proposed district will not provide the same improvements or service as those provided by an existing special district within the territory of such existing special district;

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h that the proposed district's improvements to be acquired, constructed, installed, operated, or maintained:

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(1) are improvements that the City is authorized to provide under the City's home rule charter (the "Charter"); and

(2) do not duplicate or interfere with any municipal improvement already constructed or planned to be constructed within the limits of the proposed district;

i that the costs of the improvements will not be excessive as compared with the value of the property in the proposed district;

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j that the creation of the proposed district and proposed improvements therein will confer a general benefit on the proposed district;

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k that the organization of the proposed general improvement district will serve a public use and will promote the health, prosperity, security and general welfare of the inhabitants of the City and the proposed district;

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l) that the request for waiver is hereby granted; and

m) that the proposed general improvement district should be established.

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These findings and determinations of the Council are final and conclusive on all parties in interest, whether appearing or not.

Section 3. Establishment of District. It appearing that the Petition has been duly signed and presented in conformity with Colorado law and that the allegations of the Petition are true, the Council, by this ordinance, hereby finds that it has full jurisdiction under the law to adopt this ordinance, that the proposed district for which the Petition has been filed is hereby declared organized and shall be known as “City of Westminster 144th Avenue General Improvement District” (the “District”), by which, in all proceedings, it shall hereafter be known. The District shall be a public or quasi-municipal subdivision of the State of Colorado and a body corporate with the limited proprietary powers set forth in Part 6, Article 25, Title 31, C.R.S.

Section 4. District Boundaries. The District lies within the City of Westminster, County of Adams, State of Colorado and its boundaries are attached hereto as Exhibit I.

Section 5. District Improvements and Services.

a. A general description of the improvements to be acquired, constructed, installed, operated, or maintained within the District is as follows: The public roadways, including road and pedestrian underpasses, site grading, sidewalks, parking improvements, water and sewer lines, landscaping, irrigation, site and traffic lighting, drainage improvements, site amenities such as benches, fountains, required signage, and relocating businesses and such other improvements that the City is authorized to provide.

b. A general description of the proposed services to be provided is as follows: police and fire protection, municipal and building code enforcement, professional services including but not limited to planning, engineering, building and construction inspection, financial, administration and legal services, and any other service that the City is authorized to provide.

Section 6. Recording of Ordinance. Within thirty days after Council action on this ordinance, the City Clerk shall transmit to the County Clerk and Recorder of Adams County a copy of this ordinance for recording.

Section 7. Ordinance Conclusive. This ordinance shall finally and conclusively establish the regular organization of the District against all persons unless an action attacking the validity of the organization is commenced in a court of competent jurisdiction within thirty days after the adoption of this ordinance. Thereafter, any such action shall be perpetually barred.

Section 8. Repealer. All bylaws, orders, resolutions and ordinances of the City, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the City, or part thereof, heretofore repealed. All rules of the City Council, if any, which might prevent the final passage and adoption of this ordinance as an emergency measure at this meeting of the City Council be, and the same hereby are, suspended.

Section 9. Severability. If any section, subsection, paragraph, clause or other provision of this ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this ordinance, the intent being that the same are severable.

Section 10. Declaration of Emergency. In order to create the District pursuant to Section 31-25-607 (3.5), C.R.S., in time to schedule an election on the question of levying taxes and issuing bonds at the general election on November 2, 2004, it is hereby declared that an emergency exists and that this ordinance is immediately necessary for the preservation of the public peace, health, safety and financial well-being of the City.

Section 11. Effective Date, Recording and Authentication. This ordinance shall be in full force and effect immediately upon its adoption and passage. This ordinance shall be recorded in “The Ordinance Book” of the City kept for that purpose, and shall be authenticated by the signatures of the Mayor and City Clerk, and published in accordance with Section 8.4 of the Charter.

INTRODUCED, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE on August 30, 2004.

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
HELD ON MONDAY, AUGUST 30, 2004 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

Mayor McNally presented a bronze medal to Tim Kauffman, his award for running the Holy Cow Stampede on Saturday, and finishing third in his age group.

ROLL CALL

Mayor McNally, Mayor Pro-Tem Kauffman, Councillors Davia, Dittman, Dixon, Hicks, and Price were present at roll call. Brent McFall, City Manager; Sharon Widener, Assistant City Attorney; and Michele Kelley, City Clerk, were also present. Absent none.

PURPOSE OF SPECIAL MEETING:

The City Manager stated the purpose of the Special Meeting is to create the 144<sup>th</sup> Avenue General Improvement District, and 144<sup>th</sup> Avenue Metropolitan Service District Plan.

COUNCILLOR'S BILL NO. 60 CREATION 144<sup>TH</sup> AVENUE GENERAL IMPROVEMENT DISTRICT

Councillor Hicks moved, seconded by Dittman to adopt Councillor's Bill No. 60 as an emergency ordinance creating the City of Westminster 144<sup>th</sup> Avenue General Improvement District. Upon roll call vote, the motion carried unanimously.

PUBLIC HEARING RE 144<sup>TH</sup> AVENUE METROPOLITAN SPECIAL DISTRICT SERVICE PLAN

At 7:05 p.m. the public hearing was opened on the formation of the 144<sup>th</sup> Avenue Metropolitan Special District. Tom House, Todd Loom, Kristen Bear, and White Bear addressed Council. The public hearing was declared closed at 7:09 p.m.

RESOLUTION NO. 52 ORGANIZATION/SERVICE PLAN 144<sup>TH</sup> AVE METROPOLITAN DISTRICT.

Councillor Dixon moved, seconded by Dittman, to adopt Resolution No. 52 approving the organization of and the Service Plan for the 144th Avenue Metropolitan District. Upon roll call vote, the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 7:10 P.M.

ATTEST:

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

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Mayor