

AGENDA

**CITY OF WESTMINSTER ORCHARD PARK PLACE NORTH
GENERAL IMPROVEMENT DISTRICT
MEETING**

MONDAY, December 19, 2011

AT 7:00 P.M.

1. **Roll Call**
2. **Minutes of Previous Meeting** (October 10, 2011)
3. **New Business**
 - A. ICA with the City and WEDA re the Release of Unpledged Property Tax Increment Collections to the District
4. **Adjournment**

CITY OF WESTMINSTER, COLORADO
MINUTES OF THE ORCHARD PARK PLACE NORTH
GENERAL IMPROVEMENT DISTRICT MEETING
MONDAY, OCTOBER 10, 2011 AT 7:33 P.M.

ROLL CALL

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

CONSIDERATION OF MINUTES

Board Member Kaiser moved, seconded by Vice Chairperson Dittman, to approve the minutes of the meeting of August 22, 2011, with no additions or corrections. The motion passed with all members voting favorably.

PUBLIC HEARING CONCERNING THE 2012 BUDGET

At 7:34 p.m., the Chairperson opened a public hearing to consider the proposed 2012 budget. Mr. McFall reported that Staff had no formal presentation and was present to answer any questions the Board might have. There were no questions and no member of the public wished to testify. The Chairperson closed the hearing at 7:35 p.m.

RESOLUTION NO. 3 ADOPTING THE 2012 BUDGET AND SETTING THE 2011 MILL LEVY

Board Member Lindsey moved, seconded by Major, to adopt Resolution No. 3 setting the mill levy for the taxable year 2011 for collections in 2012 at 13 mills for the City of Westminster Orchard Park Place North General Improvement District, formally adopting the 2012 budget for the District as presented, and appropriating the funds as budgeted. On roll call vote, the motion carried unanimously.

RESOLUTION NO. 4 AUTHORIZING SUPPLEMENTAL APPROPRIATION TO 2011 BUDGET

Board Member Lindsey moved to adopt Resolution No. 4 authorizing a supplemental appropriation to the 2011 Orchard Park Place North General Improvement District Budget. The motion was seconded by Vice Chairperson Dittman and passed unanimously on roll call vote.

ADJOURNMENT

There was no further business and the meeting adjourned at 7:41 p.m.

Chairperson

ATTEST:

Secretary

Orchard Park Place North GID Agenda Item 3 A

Agenda Memorandum

Orchard Park Place North General Improvement District Meeting
December 19, 2011



SUBJECT: Intergovernmental Cooperation Agreement between the Westminster Economic Development Authority, the City of Westminster and the City of Westminster Orchard Park Place North General Improvement District relating to the release of unpledged property tax increment collections to the District

Prepared By: Karen Creager, Special Districts Accountant
Barb Dolan, Sales Tax Manager

Recommended Board Action

Authorize the Executive Director to execute the Intergovernmental Cooperation Agreement (ICA) between the Westminster Economic Development Authority, the City of Westminster and the City of Westminster Orchard Park Place North General Improvement District (District) for the release of unpledged property tax increment collections to the District for payment to the City for assessments, recoveries, interest, maintenance and administrative costs associated with the Orchard View Property and the Centura Orchard View Property in substantially the same language as attached.

Summary Statement

- The City of Westminster (City) and Westminster Economic Development Authority (WEDA) entered into an economic development agreement (EDA) dated April 14, 2008 with Centura Health Corporation (Centura) and AZG Westminster, LLC (AZG), which was amended and restated on November 24, 2009.
- The EDA relates to a 56 acre parcel known as Orchard View Property owned by AZG. Of the 56 acres, 40 acres were subsequently sold to Centura (Centura Orchard View Property) for a planned medical complex, with the remaining 16 acres to be developed by AZG.
- Over the entire 56 acres, there were over \$8.4 million of recoveries and assessments due including \$4.9 million for a portion of the 144th Avenue interchange cost. The developers requested that the City either waive or allow the financing of the recoveries.
- The EDA provided for both the waiver of a portion of the recoveries as well as a financing mechanism to pay for the remaining recovery costs.
- The City of Westminster Orchard Park Place North General Improvement District (District) was established to pay the assessments, recoveries, interest, maintenance and administrative costs owed to the City via a property tax mill levy.
- The District lies within the boundaries of the WEDA North Huron Urban Renewal Area (URA). Since the URA captures all sales and property tax increment within its boundaries, an IGA is necessary to release to the District its property tax revenues that are captured by the URA. These revenues can then be paid by the District to the City towards the outstanding assessments, recoveries, interest, maintenance and administrative costs as originally contemplated in the EDA.

Expenditure Required: Amount to be determined annually in the District budget

Source of Funds: Property Tax, Intergovernmental and other District excess revenues



Policy Issue

Should the District enter into an Intergovernmental Cooperation Agreement (ICA) with the City and WEDA regarding the release of property tax increment to the District to be paid to the City for assessments, recoveries, interest, maintenance and administrative costs?

Alternative

The alternative would be to not approve the ICA. This alternative is not recommended. The EDA specifically provided for the formation of the District to collect property tax revenues to pay assessments, recoveries, interest, maintenance and administrative costs to the City.

Background Information

On April 14, 2008, WEDA and the City entered into an EDA with Centura and AZG regarding the Orchard View Property and the Centura Orchard View Property. The EDA, which was amended and restated on November 24, 2009, is a multi-party agreement regarding the development of the Orchard View Property and the Centura Orchard View Property, which are both located in the North Huron URA and the District.

This project is important to the City's economic development efforts because:

- A new major medical complex and employer for the City is being provided.
- It will provide daytime population to support the retail development in the North I-25 area (i.e. the Orchard and Westminster Crossings areas).
- It will help jump start the vision of having a significant business park/employment center along I-25, north of 136th Avenue.
- The medical industry is considered part of the growth sector and this project will have a positive affect on the City's long-term economic outlook.
- The project gets the road and utility infrastructure in place that will facilitate future business development in the area.

The EDA relates to a 56 acre parcel known as Orchard View Property owned by AZG. Of the 56 acres, 40 acres were subsequently sold to Centura (Centura Orchard View Property) for a planned medical complex, with the remaining 16 acres to be developed by AZG. Over the entire 56 acres, there were over \$8.4 million of recoveries and assessments due including \$4.9 million for a portion of 144th Avenue interchange cost. The developers requested that the City either waive or allow the financing of the recoveries.

In response, the EDA provided for the following:

- a. I-25/144th Avenue Interchange Assessment - Waive half of this assessment and recoup the other \$2,461,000 through a new District property tax levy. The waiver of half the assessment is a direct benefit to Centura and allowed them to purchase the 40 acres parcel at a lower cost.
- b. Up Front Payment - The developer to pay recoveries and assessments up front to help cover costs relative to the McKay Lake outfall improvements: \$2,097,410.
- c. Financing - Total recoveries and assessment to be financed through a new District: \$4,154,549 (inclusive of \$2,461,000 for the portion of the interchange recovery that was not waived).

The Orchard Park Place North General Improvement District was established in September 2009 in accordance with the EDA. The terms of the financing are as follows:

City Recovery Mill Levy: 10 mill levy will be used to pay to the City \$4,154,549 in recoveries, assessments and interest. This mill levy will end once the principal and interest is paid to the City.

City Maintenance Mill Levy: 3 mill levy will be used to compensate the City for maintenance of the new public infrastructure built for the development and the City's standard administrative service fee for an indefinite amount of time.

Interest Rate: This will be assessed at six percent (6%) per annum against the principal balance of the recoveries and assessments.

The District is included in the boundaries of the North Huron URA. The URA captures all of the property tax increment associated with the District mill levy. An ICA is required to release the property tax increment collected by WEDA and to establish the terms by which the District will pay to the City the assessments, recoveries, interest, maintenance and administrative costs due to the City.

Once the ICA is approved, the District will annually pay to the City the property tax collected on the base valuation from the City Recovery Mill Levy and the City Maintenance Mill Levy and all incremental property tax released to the District by WEDA for the District's City Recovery Mill Levy and City Maintenance Mill Levy.

This recommended action supports the strategic objectives of a Financially Sustainable City Government Providing Exceptional Services; a Strong, Balanced Local Economy; and Vibrant Neighborhoods in One Livable Community. It does so by assuring that the City receives payment for associated costs related to redevelopment and development projects.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachment - Intergovernmental Cooperation Agreement

INTERGOVERNMENTAL COOPERATION AGREEMENT AMONG THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, THE CITY OF WESTMINSTER AND THE CITY OF WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT DISTRICT REGARDING TAX INCREMENT REVENUES, GENERAL IMPROVEMENT DISTRICT FINANCED RECOVERY COSTS AND ADMINISTRATIVE, OPERATING AND MAINTENANCE COSTS

This Intergovernmental Cooperation Agreement (the "ICA"), dated as of _____, 2011, by and among the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY ("WEDA"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado, the CITY OF WESTMINSTER (the "City"), a home rule municipality duly organized and existing under the Constitution and laws of the State of Colorado, the CITY OF WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT DISTRICT ("District"), a quasi-municipal corporation and body corporate of the State of Colorado duly organized and existing pursuant to Title 31, Article 25, Part 6, C. R. S., as amended (collectively the "Parties").

W I T N E S S E T H;

WHEREAS, the City Council of the City has adopted an urban renewal plan known as the "North Huron Urban Renewal Plan" ("Urban Renewal Plan") under and pursuant to the Colorado Urban Renewal Law, Section 31-25-101, et. seq., C.R.S., as amended (the "Act"); and

WHEREAS, in accordance with the Urban Renewal Plan and the Act, WEDA is authorized to undertake urban renewal projects and activities and to finance such projects and activities by utilization of certain incremental increases in property and sales taxes; and

WHEREAS, the Urban Renewal Plan defines an urban renewal area (the "Urban Renewal Area") which is generally described as property located west of the centerline of I-25, east of the centerline of North Huron Street, south of the centerline of 152nd Avenue and north of the centerline of 124th Avenue extended (except for three areas where the boundaries extend west of Huron Street, including the extended right-of-way of 144th Avenue); and

WHEREAS, an Amended and Restated Economic Development Agreement was entered into between Centura Health Corporation, AZG Westminster, LLC, the City of Westminster and the Westminster Economic Development Authority dated November 24th, 2009 (the "Agreement") incorporated herein by reference as Exhibit A;

WHEREAS, the District was one of the Districts established to assist in the financing of the public improvements for the development of the Orchard View Property including the Centura Orchard View Development; and

WHEREAS, the City ascertains that certain assessments and recovery costs are due on the Orchard View Property and the Centura Orchard View Property in the amount of \$4,154,549 plus accrued interest at the rate of six percent (6%) per annum accruing from April 14, 2008 as specified in Section 6 of the Agreement ("GID Financed Recovery Costs"); and

WHEREAS, the District is responsible for costs to operate and maintain the improvements that are the subject of the GID Financed Recovery Costs ("Improvements") in the District, as well as administering the District; and

WHEREAS, at an election held on November 3, 2009, a majority of the eligible electors of the District voting thereon approved the following questions (the "Election Questions"):

**WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT
DISTRICT BALLOT ISSUE 5A:**

SHALL WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT DISTRICT TAXES BE INCREASED \$100,000 ANNUALLY IN THE FIRST YEAR OF COLLECTION OR BY SUCH OTHER AMOUNT AS IS COLLECTED IN THE FUTURE FROM A MILL LEVY OF NOT TO EXCEED 3 MILLS (WITH THE ACTUAL MILL LEVY RATE FOR ANY FISCAL YEAR TO BE ADJUSTED DOWNWARDS OR UPWARDS BY THE BOARD OF DIRECTORS IN ITS DISCRETION) TO PAY THE ANNUAL EXPENSES TO OPERATE AND MAINTAIN CAPITAL IMPROVEMENTS AND TO ADMINISTER THE DISTRICT (AS SPECIFIED IN THE ECONOMIC DEVELOPMENT AGREEMENT ENTERED INTO APRIL 14, 2008 AMONG THE CITY, THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, AZG WESTMINSTER, LLC, AND CENTURA HEALTH CORPORATION); AND SHALL THE REVENUES FROM SUCH TAXES AND ANY EARNINGS FROM THE INVESTMENT OF SUCH REVENUES BE COLLECTED AND SPENT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND NOTWITHSTANDING THE 5.5% REVENUE LIMIT OF SECTION 29-1-301, C.R.S. OR THE LIMITS OF ANY OTHER LAW?

**WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT
DISTRICT BALLOT ISSUE 5B:**

SHALL WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT DISTRICT BE AUTHORIZED TO COLLECT, KEEP AND SPEND ALL REVENUES IT RECEIVES AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

**WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT
DISTRICT BALLOT ISSUE 5C:**

SHALL WESTMINSTER ORCHARD PARK PLACE NORTH GENERAL IMPROVEMENT DISTRICT DEBT BE INCREASED \$4,154,549.40 WITH A REPAYMENT COST OF \$50,000,000; AND SHALL THE DISTRICT TAXES BE INCREASED \$400,000 ANNUALLY IN THE FIRST YEAR OF COLLECTION OR BY SUCH OTHER AMOUNT AS IS COLLECTED IN THE FUTURE FROM A MILL LEVY OF NOT TO EXCEED 10 MILLS TO PAY THE DISTRICT DEBT; SUCH DEBT TO CONSIST OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE DISTRICT AND THE CITY OF WESTMINSTER FOR THE PURPOSE OF PAYING, REIMBURSING OR FINANCING ALL OR ANY PART OF THE COSTS OF ACQUIRING, CONSTRUCTING, RELOCATING, INSTALLING, COMPLETING AND OTHERWISE PROVIDING, WITHIN OR WITHOUT THE BOUNDARIES OF THE DISTRICT, STREET, WATER, SEWER AND STORM DRAINAGE IMPROVEMENTS (AS SPECIFIED IN THE ECONOMIC DEVELOPMENT AGREEMENT ENTERED INTO APRIL 14, 2008 AMONG THE CITY, THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, AZG WESTMINSTER, LLC, AND CENTURA HEALTH CORPORATION), TOGETHER WITH ALL NECESSARY, INCIDENTAL AND APPURTENANT FACILITIES, EQUIPMENT, LAND AND EASEMENTS, AND EXTENSIONS OF AND IMPROVEMENTS TO SAID FACILITIES; SUCH DEBT TO BEAR INTEREST AT A NET EFFECTIVE INTEREST RATE NOT IN EXCESS OF 6%; SUCH DEBT TO BE TO BE PAID FROM ANY LEGALLY AVAILABLE MONEYS OF THE DISTRICT; AND SHALL THE PROCEEDS OF ANY SUCH DEBT AND THE PROCEEDS OF SUCH TAXES, ANY OTHER REVENUE USED TO PAY SUCH DEBT, AND INVESTMENT INCOME THEREON, BE COLLECTED AND SPENT BY THE DISTRICT AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND NOTWITHSTANDING THE 5.5% REVENUE LIMIT OF SECTION 29-1-301, C.R.S. OR THE LIMITS OF ANY OTHER LAW?

WHEREAS, WEDA acknowledges in the Agreement that any tax increment revenues that it receives which are attributable to the District's current and future levy of ad valorem taxes on real and personal taxable property within the District shall be remitted to the District; and

WHEREAS, the Improvements are located within the Urban Renewal Area and are the type of project which WEDA is authorized to undertake pursuant to the Act and the Urban Renewal Plan; and

WHEREAS, the Parties are authorized by Section 112 of the Act to enter into cooperative agreements with respect to projects and activities and are authorized by Section 29-1-203, C.R.S. to enter into contracts to provide any function, service or facility lawfully authorized to each; and

WHEREAS, the Parties desire to enter into an intergovernmental cooperation agreement setting forth their intent to cooperate as to the provisions of the Agreement and to assure that taxes levied by the District are made available to the District for purposes of paying the GID Financed Recovery Costs and costs to administer, operate and maintain the District.

NOW THEREFORE, in consideration of the foregoing recitals, and pursuant to the Agreement, the City, WEDA and the District hereby agree as follows:

1. GID Financed Recovery Costs; District Obligation To Levy Taxes. The Parties agree that the City is owed the GID Financed Recovery Costs and that the City has agreed to accept property tax revenues in payment of these costs. Therefore, the District shall annually levy a property tax of 10 mills ("City Recovery Mill Levy") to pay the City the total amount of the GID Financed Recovery Costs plus accrued interest at the rate of six percent (6%) per annum accruing as of April 14th, 2008. Payments will be applied first to current interest, then to outstanding accrued interest and lastly to principal. The obligation to levy the City Recovery Mill Levy shall end when the GID Financed Recovery Costs plus accrued interest have been paid.

2. Administration, Operation and Maintenance Costs; District Obligation To Levy Taxes. The Parties agree that the District shall annually levy a property tax of 3 mills ("City Maintenance Mill Levy") to pay the City for administering the District and for operating and maintaining the Improvements. The obligation to levy the City Maintenance Mill Levy will end when the Improvements are no longer operational.

3. District Revenues. The District agrees that any revenues not otherwise pledged that it receives as a result of the District's City Recovery Mill Levy and/or City Maintenance Mill Levy on real and personal taxable property plus applicable interest on the ad valorem taxes within the District (the "Property Tax Revenues"), shall be segregated upon receipt. All property tax revenues, plus any other revenues received by the District and legally available shall be remitted by the District to the City no later than December 31 of each calendar year commencing with taxable year 2011.

4. WEDA Tax Increment Revenues. The Improvements benefit the property located within the Urban Renewal Area and as a result benefit WEDA by facilitating development of the property within Urban Renewal Area. In order to assist the District in paying the City for the GID Financed Recovery Costs and for annual District administration, operation and maintenance costs, WEDA agrees that the portion of tax increment revenues that it receives pursuant to Section 107(9)(II) of the Act and the Urban Renewal Plan which are attributable to the District's Property Tax Revenues within the Urban Renewal Area (the "District Tax Increment Revenues"), shall be segregated upon receipt. WEDA shall remit the District Tax Increment Revenues received by WEDA to the District no later than December 31 of each calendar year commencing with taxable year 2011. The obligation of WEDA set forth herein shall constitute an obligation to the District to finance an urban renewal project within the meaning of Section 107(9) of the Act.

5. Use of Revenues. The City agrees to apply the District Tax Increment Revenues and the Property Tax Revenues to the assessments and recovery costs associated with the Orchard View Property and the Centura Orchard View Property. WEDA hereby covenants that so long as this ICA is in effect, it will not pledge, encumber or otherwise transfer the revenues or the right to the District Tax Increment Revenues paid to WEDA in accordance with the Act. The District hereby covenants that so long as this ICA is in effect, it will not pledge, encumber or otherwise transfer the revenues or the right to the Property Tax Revenues.

6. Cooperation. The Parties covenant with each other that in any action or challenge of the Urban Renewal Plan and/or this ICA, regarding the legality, validity or enforceability of any provision thereof, the Parties will work cooperatively and in good faith to defend and uphold each and every such provision.

7. Enforcement. WEDA agrees that it shall enforce the collection of all moneys which may qualify as District Tax Increment Revenues.

8. Effective Date; Term. This ICA shall become effective January 1, 2012. Unless sooner terminated by mutual consent of the Parties, this ICA shall remain in full force and effect until the District has fully performed its obligations under Sections 1, 2 and 3 of this ICA provided that WEDA's obligation under Sections 4 and 5 of this ICA terminate when the tax allocation provisions of the Urban Renewal Plan and the Act terminate.

9. Amendments and Waivers. No amendment or waiver of any provision of this ICA, nor consent to any departure herefrom, in any event shall be effective unless the same shall be in writing and signed by the Parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

10. Governing Law. This ICA shall be governed by, and construed in accordance with the laws of the State of Colorado.

11. Headings. Paragraph headings in this ICA are included herein for convenience of reference only and shall not constitute a part of this ICA for any other purpose.

12. Severability. If any covenant, term, condition, or provision under this ICA shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

IN WITNESS WHEREOF, the Parties hereto have caused this ICA to be duly executed and delivered by their respective officers thereunto and duly authorized as of January 1, 2012.

WESTMINSTER ECONOMIC DEVELOPMENT
AUTHORITY

By: _____
Executive Director

ATTEST:

APPROVED AS TO FORM:

Secretary

Attorney for Authority

CITY OF WESTMINSTER

By: _____
City Manager

(SEAL)

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY OF WESTMINSTER ORCHARD PARK PLACE
NORTH GENERAL IMPROVEMENT DISTRICT

By: _____
Executive Director

ATTEST:

Secretary

APPROVED AS TO FORM:

District's Attorney