



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: November 27, 2013

SUBJECT: Study Session Agenda for December 2, 2013

PREPARED BY: J. Brent McFall, City Manager

Please Note: Study Sessions and Post City Council meetings are open to the public, and individuals are welcome to attend and observe. However, these meetings are not intended to be interactive with the audience, as this time is set aside for City Council to receive information, make inquiries, and provide Staff with policy direction.

Looking ahead to next Monday night's Study Session, the following schedule has been prepared:

A light dinner will be served in the Council Family Room 5:30 P.M.

CITY COUNCIL REPORTS

1. Report from Mayor (5 minutes)
2. Reports from City Councillors (10 minutes)

PRESENTATIONS

6:00 P.M.

1. American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 114, "The Auditor's Communication with Those Charged with Governance"
2. Intergovernmental Cooperation Agreements with the Westminster Economic Development Authority

EXECUTIVE SESSION

None at this time.

INFORMATION ONLY ITEMS

None at this time.

Special Council Meeting (*separate agenda*) 6:45 P.M.

Additional items may come up between now and Monday night. City Council will be apprised of any changes to the Study Session meeting schedule.

Respectfully submitted,

J. Brent McFall
City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
December 2, 2013

SUBJECT: American Institute of Certified Public Accountants (AICPA) Statement on Auditing Standards No. 114, "The Auditor's Communication with Those Charged with Governance"

PREPARED BY: Cherie Sanchez, Accounting Manager

Recommended City Council Action

Council is requested to hear a presentation on the AICPA's Statement on Auditing Standards No. 114, "The Auditor's Communication with Those Charged with Governance," (SAS 114); understand the governing body's responsibility relative to communications with the City's independent, professional financial auditor; and receive the auditor's 2013 pre-engagement audit message.

Summary Statement

This report is intended to inform Council about the communication requirements of SAS 114 and to provide notification about audit messages to be delivered to Council by the City's independent financial auditor.

The AICPA's Statements on Auditing Standards establish due process for auditors to follow for audit engagements. SAS 114 requires formal communication by an auditor to occur at the beginning of an engagement to inform an organization's governing board about audit plans and at the end of the audit engagement to report results. This communication requirement is intended to encourage two way communication between the auditor and governing board on matters relevant to the audit.

As those charged with governance for the City of Westminster, City Council is the recipient of SAS 114 communications. BKD, LLP, (BKD) the City's independent, professional financial auditor, will be present at the Study Session meeting on Monday night, December 2, 2013 to provide Council with an overview of SAS 114 and to deliver the required 2013 pre-engagement audit message. Finance Staff will also be present to answer any related questions that Council may have.

Expenditure Required: \$0

Source of Funds: NA

Policy Issue

Should the City conduct pre-audit communications between the auditors and City Council?

Alternative

Staff does not believe there is any alternative that will meet the City’s legal requirements in this matter. AICPA SAS 114 establishes standards for an auditor’s communication with those charged with governance in relation to an audit of financial statements; therefore, Staff recommends that these requirements be part of the financial audit process for the City of Westminster.

Background Information

By state law, the City is required to conduct an annual financial audit. The AICPA’s Statements on Auditing Standards establish due process for auditors to follow for audit engagements. SAS 114 became effective for audits of financial statements beginning on or after December 15, 2006.

SAS 114 formalizes the communication required by an entity’s auditor with persons responsible for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. As those charged with governance for the City of Westminster, City Council is the recipient of SAS 114 communications.

SAS 114 requires that the City’s independent, professional financial auditor communicate with City Council on their responsibilities under generally accepted auditing standards, the planned scope and timing of the audit and significant findings from the audit. SAS 114 also requires that these messages be timely enough to provide for two-way communication between the auditor and City Council.

On November 8, 2010, Council authorized Staff to enter into a contract with BKD for independent, professional auditing services for the City’s annual financial audit for the fiscal year 2010 with an option to renew for four years, subject to annual appropriation. The 2013 audit will be the fourth performed by BKD under this contract. A portion of the 2013 audit will be conducted in December, and the balance will resume in April, 2014.

Per SAS 114, planning matters are required to be communicated early on in an audit engagement and results of the audit are required to be communicated as soon as reasonably possible at the conclusion of the audit.

On Monday night, BKD will present SAS 114 communication requirements, an overview of the scope and timing of the 2013 financial audit, and an opportunity for Council to provide feedback about any risks or other issues they may be aware of that would be significant to the audit. Finance Staff will also be present to answer any related questions Council may have.

BKD will present the 2013 financial audit results in a Study Session presentation tentatively scheduled for June 16, 2014.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment – letter from City Auditors

November 14, 2013

Honorable Mayor and Members of City Council
City of Westminster
4800 West 92nd Avenue
Westminster, Colorado 80031

The purpose of this communication is to summarize various matters related to the planned scope and timing for the December 31, 2013, audits of the financial statements of the City of Westminster (the City) and of its compliance with specified requirements applicable to its major federal award programs.

Please refer to our engagement letter dated August 14, 2013, for additional information and the terms of our engagement.

OVERVIEW

We will conduct our audits in accordance with auditing standards generally accepted in the United States of America, the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and U. S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards require that we plan and perform:

- The audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.
- The audit of compliance with the types of compliance requirements described in the U.S. Office of Management and Budget Circular A-133, *Compliance Supplement* that are applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

PLANNED SCOPE & TIMING

We have preliminarily identified the following areas of significant risks of material misstatement due to error or fraud and of material noncompliance and propose to address these areas as described:

Opinion Unit	Risk Area	Audit Approach
All	Management override of controls	Review accounting estimates for bias, review journal entries and evaluate business rationale for unusual transactions
All	Revenue recognition	Test grant, property and sales tax revenues and test cutoff of all significant revenue sources to determine if amounts are properly recognized
All	Implementation of new accounting standards (GASB 61 and 65)	Review financial statements and disclosures for compliance with requirements
Governmental and business-type activities	Capital Assets	Review for propriety, proper capitalization, reasonableness of depreciation, completeness and impairment. In addition, review capitalized interest for reasonableness
Governmental and business-type activities	Debt	Review significant activity and determine proper classifications, including confirming new debt and debt paid off (if any), review refunding calculations, test interest expense and accruals and review debt covenants for compliance
WEDA and other aggregate remaining funds	Real estate transactions with third parties	Review transactions and support for amounts recorded

Opinion Unit	Risk Area	Audit Approach
Single Audit	Compliance with requirements described in OMB Circular A-133 for major federal award programs	Select samples of expenditures charged to grants and test for compliance with federal and grant requirements.

We welcome any input you may have regarding the risk areas identified above, any other significant risk areas in your opinion or other matters you believe warrant particular attention.

We propose the following timeline:

- Drafts of the financial statements and management letter, together with our letter regarding auditor responsibilities, will be furnished no later than two weeks preceding the study session presentation to City Council on June 16, 2014
- Final reports will be issued no later than two weeks prior to acceptance of the CAFR by City Council in June 2014

CONTACTS

We understand the appropriate person in the governance structure with whom to communicate is the City's Mayor.

If for any reason any member of the City Council would need to contact us, please call Rob McCoy, Partner at 303.861.4545.

ACCOUNTING & AUDITING MATTERS

The following matters are, in our judgment, relevant to the planned scope of the audit as well as your responsibilities in overseeing the financial reporting process.

- The City is adopting GASB Statement No. 65, *Items Previously Reported as Assets and Liabilities*. Our opinion will have an emphasis-of-matter paragraph to address the comparability of the City's financial statements due to the change in accounting principle. The anticipated proposed wording of the paragraph will be as follows: "As discussed in Note __ to the financial statements, in 2013, the City adopted new accounting guidance, Governmental Accounting Standards Board Statement No. 65, *Items Previously Reported as Assets and Liabilities*. Our opinion is not modified with respect to this matter."

- Other areas include the following:
 - Segregation of accounting duties
 - Revenue recognition
 - Self-insurance liabilities
 - Third-party service providers
 - Related-party transactions
 - Joint venture(s)
 - Component units
 - Commitments and contingencies
 - Significant estimates
 - Recording of restricted net position and restricted, committed and assigned fund balances
 - Investments and investment valuation
 - Debt
 - Capital assets
 - Expenses/expenditures
 - Compliance with federal award programs

CONSIDERATION OF ERRORS OR FRAUD

One of the most common questions we receive from audit committees is, “How do you address fraud in a financial statement audit?” Our responsibility, as it relates to fraud, in an audit of financial statements is addressed in auditing standards generally accepted in the United States of America.

Our audit approach includes such procedures as:

- Engagement team brainstorming
 - Discussions include how and where they believe the City’s financial statements might be susceptible to material misstatement due to errors or fraud, how management could perpetrate and conceal fraudulent financial reporting and how assets of the City could be misappropriated
 - An emphasis is placed on the importance of maintaining the proper state of mind throughout the audit regarding the potential for material misstatement due to errors or fraud
- Inquiries of Management and Others
 - Personnel interviewed include the Mayor, the City Manager, the Finance Director, the Accounting Manager and others

Honorable Mayor and Members of City Council
City of Westminster
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- Inquiries are directed towards the risks of errors or fraud and whether personnel have knowledge of any fraud or suspected fraud affecting the entity
- Reviewing accounting estimates for bias
- Evaluating business rationale for significant unusual transactions
- Incorporating an element of unpredictability into the audit each year

This communication is intended solely for the information and use of those charged with governance (Honorable Mayor and City Council) and management and is not intended to be and should not be used by anyone other than these parties.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. D. McCoy". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Robert D. McCoy, CPA
Partner

August 14, 2013

City Council
City of Westminster, Colorado
4800 West 92nd Avenue
Westminster, Colorado 80031

We are pleased to confirm the arrangements of our engagement and the nature of the services we will provide to the City of Westminster.

ENGAGEMENT OBJECTIVES AND SCOPE

We will audit the basic financial statements of the City of Westminster as of and for the year ended December 31, 2013, and the related notes to the financial statements.

Our audit will be conducted with the objectives of:

- Expressing an opinion on the financial statements
- Issuing a report on your compliance based on the audit of your financial statements.
- Issuing a report on your internal control over financial reporting based on the audit of your financial statements.
- Expressing an opinion on your compliance, in all material respects, with the types of compliance requirements described in the U. S. Office of Management and Budget Circular A-133, *Compliance Supplement* that are applicable to each of your major federal award programs.
- Issuing a report on your internal control over compliance based on the audit of your compliance with the types of compliance requirements that are applicable to each of your major federal award programs.
- Issuing a report on your schedule of expenditures of federal awards.

OUR RESPONSIBILITIES

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards require that we plan and perform:

- The audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by fraud or error. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
- The audit of compliance with the types of compliance requirements described in the OMB Circular A-133, *Compliance Supplement* applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance having a direct and material effect may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit. Also, in the future, procedures could become inadequate because of changes in conditions or deterioration in design or operation. Two or more people may also circumvent controls, or management may override the system.

We are available to perform additional procedures with regard to fraud detection and prevention at your request, subject to completion of our normal engagement acceptance procedures. The actual terms and fees of such an engagement would be documented in a separate letter to be signed by you and BKD.

Rob MaCoy is responsible for supervising the engagement and authorizing the signing of the report or reports.

We will issue a written report upon completion of our audit of the City's financial statements. Our report will be addressed to the Honorable Mayor and Members of City Council of the City of Westminster, Colorado. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis of matter or other matter paragraph(s), or withdraw from the engagement. If we

discover conditions that may prohibit us from issuing a standard report, we will notify you as well. In such circumstances, further arrangements may be necessary to continue our engagement.

We will also express an opinion on whether your combining and individual fund statements and schedules and other supplementary information, including your schedule of expenditures of federal awards ("supplementary information") are fairly stated, in all material respects, in relation to the financial statements as a whole.

YOUR RESPONSIBILITIES

Our audit will be conducted on the basis that management and, where appropriate, those charged with governance acknowledge and understand that they have responsibility:

- a. for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
- b. for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error;
- c. for identifying and ensuring compliance with the laws, regulations, contracts and grants applicable to your activities including your federal award programs; and
- d. to provide us with
 - i. access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation and other matters;
 - ii. additional information that we may request from management for the purpose of the audit; and
 - iii. unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.

As part of our audit process, we will request from management written confirmation acknowledging certain responsibilities outlined in this engagement letter and confirming:

- The availability of this information
- Certain representations made during the audits for all periods presented
- The effects of any uncorrected misstatements, if any, resulting from errors or fraud aggregated by us during the current engagement and pertaining to the latest period

presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole

The results of our tests of compliance and internal control over financial reporting performed in connection with our audit of the financial statements may not fully meet the reasonable needs of report users. Management is responsible for obtaining audits, examinations, agreed-upon procedures or other engagements that satisfy relevant legal, regulatory or contractual requirements or fully meet other reasonable user needs.

With regard to supplementary information:

- Management is responsible for its preparation in accordance with applicable criteria
- Management will provide certain written representations regarding the supplementary information at the conclusion of our engagement
- Management will include our report on this supplementary information in any document that contains this supplementary information and indicates we have reported on the supplementary information
- Management will make the supplementary information readily available to intended users if it is not presented with the audited financial statements

OTHER SERVICES

When authorized by the City, we may perform other services for you not covered by this engagement letter, subject to mutual agreement as to additional compensation for such additional services. You agree to assume full responsibility for the substantive outcomes of the services described above and for any other services that we may provide, including any findings that may result. You also acknowledge that those services are adequate for your purposes and that you will establish and monitor the performance of those services to ensure that they meet management's objectives. Any and all decisions involving management functions related to those services will be made by you, and you accept full responsibility for such decisions. We understand that you will designate a management-level individual to be responsible and accountable for overseeing the performance of those services, and that you will have determined this individual is qualified to conduct such oversight.

ENGAGEMENT FEES

The fee for our services will be \$61,600.

Our pricing for this engagement and our fee structure are based upon the expectation that our invoices will be paid promptly. We will issue progress billings during the course of our engagement, based on an agreed-upon percentage of the overall contract to be paid following

completion of each proposed segment of the audit. Interest will be charged on any unpaid balance after 30 days at the rate of 10% per annum.

Our engagement fee does not include any time for post-engagement consultation with your personnel or third parties, consent letters and related procedures for the use of our reports in offering documents, inquiries from regulators or testimony or deposition regarding any subpoena. Charges for such services will be billed separately.

Our fees may also increase if our duties or responsibilities are increased by rulemaking of any regulatory body or any additional new accounting or auditing standards. We will consult with you in the event any other regulations or standards are issued that may impact our fees.

Any additional fees will be agreed to in writing by both the City and us, prior to incurring any costs or time.

If our invoices for this or any other engagement you may have with BKD are not paid within 30 days, we may suspend or terminate our services for this or any other engagement. In the event our work is suspended or terminated as a result of nonpayment, you agree we will not be responsible for any consequences to you.

OTHER ENGAGEMENT MATTERS AND LIMITATIONS

Our workpapers and documentation retained in any form of media for this engagement are the property of BKD. We can be compelled to provide information under legal process. In addition, we may be requested by regulatory or enforcement bodies to make certain workpapers available to them pursuant to authority granted by law or regulation. You agree that we have no legal responsibility to you in the event we provide such documents or information.

You agree to indemnify and hold harmless BKD and its personnel from any claims, liabilities, costs and expenses relating to our services under this agreement attributable to false or incomplete representations by management, except to the extent determined to have resulted from the intentional or deliberate misconduct of BKD personnel.

You agree that any dispute regarding this engagement will, prior to resorting to litigation, be submitted to mediation upon written request by either party. Both parties agree to try in good faith to settle the dispute in mediation. The American Arbitration Association will administer any such mediation in accordance with its Commercial Mediation Rules. The results of the mediation proceeding shall be binding only if each of us agrees to be bound. We will share any costs of mediation proceedings equally.

Either of us may terminate these services at any time in accordance with the terms set out in the previously executed contract dated November 22, 2010.

If any provision of this agreement is declared invalid or unenforceable, no other provision of this agreement is affected and all other provisions remain in full force and effect.

This engagement letter and the previously executed contract, dated November 22, 2010, represent the entire agreement regarding the services described herein and supersedes all prior negotiations, proposals, representations or agreements, written or oral, regarding these services. It shall be binding on heirs, successors and assigns of you and BKD.

We may from time to time utilize third-party service providers, *e.g.*, domestic software processors or legal counsel, or disclose confidential information about you to third-party service providers in serving your account. We remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures and safeguards to protect the confidentiality of your information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information. In the event we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider.

We will, at our discretion or upon your request, deliver financial or other confidential information to you electronically via email or other mechanism. You recognize and accept the risk involved, particularly in email delivery as the Internet is not necessarily a secure medium of communication as messages can be intercepted and read by those determined to do so.

You agree you will not modify these documents for internal use or for distribution to third parties. You also understand that we may on occasion send you documents marked as draft and understand that those are for your review purpose only, should not be distributed in any way and should be destroyed as soon as possible.

If you intend to include these financial statements and our report in an offering document at some future date, you agree to seek our permission to do so at that time. You agree to provide reasonable notice to allow sufficient time for us to perform certain additional procedures. Any time you intend to publish or otherwise reproduce these financial statements and our report and make reference to our firm name in any manner in connection therewith, you agree to provide us with printers' proofs or masters for our review and approval before printing or other reproduction. You will also provide us with a copy of the final reproduced material for our approval before it is distributed. Our fees for such services are in addition to those discussed elsewhere in this letter.

You agree to notify us if you desire to place these financial statements or our report thereon on an electronic site. You recognize that we have no responsibility as auditors to review information contained in electronic sites.

Any time you intend to reference our firm name in any manner in any published materials, including on an electronic site, you agree to provide us with draft materials for our review and approval before publishing or posting such information.

BKD is a registered limited liability partnership under Missouri law. Under applicable professional standards, partners of **BKD, LLP** have the same responsibilities as do partners in a general accounting and consulting partnership with respect to conformance by themselves and other professionals in BKD with their professional and ethical obligations. However, unlike the partners in a general partnership, the partners in a registered limited liability partnership do not have individual civil liability, directly or indirectly, including by way of indemnification, contribution, assessment or otherwise, for any debts, obligations or liabilities of or chargeable to the registered limited liability partnership or each other, whether arising in tort, contract or otherwise.

In accordance with the provisions of *Government Auditing Standards*, we have enclosed herewith a copy of our firm's latest peer review report.

Please sign and return the attached copy of this letter to indicate your acknowledgement of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities. If the signed copy you return to us is in electronic form, you agree that such copy shall be legally treated as a "duplicate original" of this agreement.

BKD, LLP

Acknowledged and agreed to on behalf of
City of Westminster, Colorado

BY



Brent McFall, City Manager

DATE

10/17/13

cc: City Council



System Review Report

To the Partners of BKD, LLP
and the AICPA National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of BKD, LLP (the Firm) applicable to non-SEC issuers in effect for the year ended May 31, 2011. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The Firm is responsible for designing a system of quality control and complying with it to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the Firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under the *Government Auditing Standards*; audits of employee benefit plans, audits of carrying broker dealers and audits performed under FDICIA.

In our opinion, the system of quality control for the accounting and auditing practice applicable to non-SEC issuers of BKD, LLP in effect for the year ended May 31, 2011, has been suitably designed and complied with to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. BKD, LLP has received a peer review rating of *pass*.

Clifton Gunderson LLP

August 17, 2011

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WESTMINSTER

Staff Report

City Council Study Session Meeting
December 2, 2013



SUBJECT: Intergovernmental Cooperation Agreements with the Westminster Economic Development Authority

PREPARED BY: Robert Byerhof, Treasury Manager
Karen Creager, Special Districts Accountant
Barb Dolan, Sales Tax Manager
Fred Kellam, Senior Financial Analyst

Recommended City Council Action

Concur with Staff recommendation to enter into two intergovernmental cooperation agreements with the Westminster Economic Development Authority. Direct Staff to schedule the approval of such agreements for City Council action on December 9, 2013.

Summary Statement

- There are seven separate urban renewal areas (URAs) established under the Westminster Economic Development Authority (WEDA) umbrella.
- The North Huron URA Plan was approved by City Council on January 26, 2004.
- The Westminster Center Urban Reinvestment Plan Area (WURP) was approved by City Council on April 13, 2009.
- Both Plans provided for WEDA to undertake certain actions that would make the URA more attractive for private investment, which actions could include street and traffic improvements, streetscape improvements, storm water and other drainage improvements, landscaping, parks and recreation facilities, utility improvements and public arts projects (collectively, “the Improvements”). Additionally, the WURP plan provided for property acquisition, relocation assistance and site preparation, which are also included as “the Improvements.”
- The City and WEDA both contributed funds towards constructing the Improvements in the URAs.
- The continued development and redevelopment in these URAs will cause the City to incur additional costs that may be chargeable to WEDA.
- The ICAs detail City and WEDA obligations regarding the covenants set forth for the reimbursement of costs from WEDA’s North Huron URA and WURP to the City for the maintenance of improvements located within the URAs or for other contractual obligations.
- It is permissible to use tax increment revenue to reimburse the City for current and future maintenance costs or other contractual obligations incurred in the URAs.
- Pursuant to Article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and WEDA are authorized to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each government entity.

Expenditure required: Amounts billed to WEDA by the City

Source of Funds: Incremental tax revenues, intergovernmental revenues, interest earnings and prior year excess revenues

Policy Issue

Should Council direct Staff to schedule the approval of the ICAs with WEDA providing for the City to bill WEDA for reimbursable costs related to maintenance and other contractual obligations?

Alternative

City Council could decide to not proceed with the approval of the proposed ICAs between the City and WEDA. This alternative is not recommended. The costs borne by the City for maintenance of improvements associated with the URAs and other contractual obligations are expenses that are a proper and legal use of URA project funds, tax increment revenues and interest earnings.

Background Information

The Westminster Economic Development Authority (WEDA) was organized by City Council on September 14, 1987, pursuant to the Westminster Municipal Code and Title 31 of the Colorado Revised Statutes. WEDA was created to provide a regulatory and financial vehicle for improving and redeveloping properties and facilities within defined urban renewal areas (URAs) in the City. Accordingly, WEDA was given the right to provide funding for administration, planning, and financing of revitalization and redevelopment projects. WEDA's principal revenue sources are sales tax increment and property tax increment within each of the URAs. The City's Finance Department generally provides administrative services to WEDA; however, the City's Department of Community Development manages the development/redevelopment projects and, in some cases, the City's Department of Parks, Recreation and Libraries contracts with WEDA for required maintenance of areas within the URAs.

Since its inception in 1987, WEDA has established seven URAs:

- Holly Park – WEDA established this URA on February 23, 2004. The URA encompasses approximately 23 acres along the west side of Federal Boulevard between 96th Avenue and 97th Avenue. The primary objective of the URA plan is to renovate or redevelop the deteriorated, unsafe and outdated buildings of the former Holly Park project as well as eliminate the unsafe, unsanitary and unhealthy conditions resulting from abandonment of that defunct residential project.
- Mandalay Gardens - WEDA initiated a redevelopment project in 2003 known as the Shops at Walnut Creek. This redevelopment project is generally bound by US 36, Church Ranch Boulevard, and the Burlington Northern/Santa Fe railroad line. The creation of this URA allowed the city to remove blighted conditions and create the Shops at Walnut Creek, connected by an attractive underpass to the Westminster Promenade, which combines the warmth and familiarity of Victorian-inspired main street America with a multitude of restaurants, shops and a major retailer. Initially, variable rate taxable tax increment revenue bonds were issued in 2003 to fund the project. Subsequent refinancings of those bonds have occurred with the most recent in 2012. On August 15, 2012 the debt was refinanced to secure fixed rate financing through the term of the original amortization period. Up until this point, the interest rate paid on this debt was variable, and due to favorable interest conditions, it was deemed prudent to lock in interest rates through maturity of the original debt.
- North Huron - WEDA established the North Huron URA on January 26, 2004. The boundaries of the URA are approximately 124th Avenue to 150th Avenue, Interstate 25 to Huron Street. Development in the URA included the construction of the interchange at 144th Avenue and I-25, Huron Street improvements from approximately 124th Avenue to 150th Avenue and the public improvements and blight removal in the URA. These improvements

paved the way for a new retail development along the Interstate 25 corridor in Westminster. “The Orchard Town Center” is a 1-million-square-foot, open-air, lifestyle and entertainment center located at the northwest corner of I-25 and 144th Avenue. In 2005, variable rate tax exempt tax increment revenue bonds were issued to fund the project. Subsequent refinancings of this debt have occurred with the most recent in 2012. On August 29, 2012, WEDA refinanced this debt with a bank loan that fixed the interest rate at 3.51% through expiration of the original term in 2028.

- South Sheridan - The South Sheridan URA was established by WEDA on March 29, 2004. The approximate boundaries of the URA are commercial and vacant land north of 70th Avenue, east of Depew Street, south of 75th Avenue, and west of Xavier Street. The purpose of the URA was to provide funds for land acquisition, demolition of structures, and tenant relocation so as to facilitate redevelopment of the blighted Shoenberg Shopping Center located at the southwest corner of 72nd Avenue and Sheridan Boulevard. The synergy of the new anchor store and overall redevelopment has encouraged development of the Shoenberg Farm and other commercial properties in the immediate area. The South Sheridan gateway to the City is anticipated to play an even more strategic role as a connection to the planned Transit Oriented development and commuter rail station in South Westminster. In 2007, variable rate tax exempt tax increment revenues bonds were issued to fund the redevelopment. A subsequent refinancing of this debt occurred in 2009. On September 12, 2012 the debt was refinanced with a bank loan which matures in 2028, the original maturity year. The loan agreement features variable interest rate reset periods ranging from three months to five years. The loan currently locks in an interest rate of 2.8% until September 2017.
- South Westminster – This URA was organized by City Council on September 14, 1987. It was established to revitalize and redevelop the City’s older, blighted commercial areas in the general vicinity of 72nd Avenue and Federal Boulevard. The South Westminster URA was the first URA established under WEDA, and includes two Phases. Phase I of the URA was established in 1988 and expired in May 2013. In October, 1992, the South Westminster URA boundaries were expanded with the addition being called “Phase II.” In 1996, redevelopment of the Westminster Plaza Shopping Center, anchored by a grocery store, was undertaken. Both variable rate tax exempt and taxable convertible tax increment revenues bonds were issued in 1997 to fund the project. These bonds were subsequently refunded in 2009.
- Westminster Center East Sub-Area - WEDA established the Westminster Center East Sub-Area URA on December 8, 2003. The approximate boundaries of the URA are commercial properties north of the Burlington Northern Railroad just south of the Westminster Mall running north to 98th Avenue, west of Sheridan Boulevard and east of Harlan Street. The URA boundaries do include City Center Park at the northeastern corner of 92nd and Yates, but do not include the Westminster Mall. The purpose of the URA is to provide funds to facilitate redevelopment in the City Center Area.
- Westminster Center Urban Reinvestment Project - On April 13, 2009, City Council approved Resolution 12, Series 2009 that established the Westminster Center Urban Reinvestment Plan Area and the Reinvestment Plan. The vision for the future Westminster Center is for a new transit-oriented mixed-use neighborhood including residential, retail, entertainment and employment uses, all adjacent to a new commuter rail transit station as well as the existing Westminster Center Park-n-Ride. This site will provide the City with a unique opportunity to create a focal point, a downtown district for the community. The new mixed-use neighborhood will serve the needs of current and future Westminster residents to live close to new workplaces and have the opportunity to use convenient transit as part of their everyday

lives. It will be a place to live, work, play, visit, entertain and be entertained, and will serve as a source of great community pride for the existing City residents and the new residents that it will attract.

Pursuant to Article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and WEDA are authorized to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each governmental entity. Since WEDA's inception, the City and WEDA have entered into agreements when necessary to cooperate with actions to benefit both parties. Currently, WEDA and the City desire to enter into ICAs to reimburse costs incurred by the City relative to the maintenance of improvements and other contractual obligations associated with the North Huron URA and WURP.

The ICAs accomplish several things:

- Recognize that the City approved the North Huron Urban Renewal Plan, which included as one of its primary objectives providing an efficient system of street, roads and other transportation facilities necessary to support urban development in the URA.
- Recognize that the City approved the Westminster Center Urban Reinvestment Plan, which included as one of its primary objectives acquiring property, site preparation and public improvements to support urban development in the URA.
- Recognize that both Plans provided for WEDA to undertake certain actions that would make the URA more attractive for private investment, which actions may include street and traffic improvements, streetscape improvements, storm water and other drainage improvements, landscaping, parks and recreation facilities, utility improvements and public arts projects.
- Recognize that the City will incur maintenance costs associated with improvements located within the North Huron URA and Westminster Center Urban Reinvestment Project (WURP).
- Recognize that reimbursement of City incurred costs will be subordinate to any current or future bonded indebtedness (Superior Obligations), including but not limited to tax increment notes, tax increment bonds, economic development agreements, and all other forms of contractual indebtedness or obligation of whatsoever nature that is any way secured, collateralized, or backed by revenues of WEDA.
- As necessary, the City and WEDA shall negotiate in good faith the amount due from WEDA under this Agreement, based on the costs incurred or expected to be incurred by the City, and the funds available to WEDA after first meeting all Superior Obligations of WEDA.

The information presented in this staff report relates to the Westminster City Council's Strategic Plan goals of: Strong, Balanced Local Economy; Financially Sustainable City Government Providing Exceptional Services and Vibrant Neighborhoods in One Livable Community. These goals are met by establishing agreements for the reimbursement of costs incurred by the City that will then make funds available for other projects in the City.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments
Intergovernmental Cooperation Agreements

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE
WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AND
THE CITY OF WESTMINSTER FOR THE REIMBURSEMENT OF COSTS INCURRED BY
THE CITY IN THE NORTH HURON URBAN RENEWAL AREA**

This Intergovernmental Cooperation Agreement (“Agreement”), is made and entered into this _____ day of _____, 2013, by and between the **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY** (“WEDA”), a Colorado urban renewal authority, and the **CITY OF WESTMINSTER** (“City”), a Colorado home-rule municipality (collectively “Parties”).

WHEREAS, the City is a Colorado home-rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its City Charter; and

WHEREAS, WEDA is a Colorado urban renewal authority, with all the powers and authority granted pursuant to Title 31, Article 25, Part 1, C.R.S. (“Colorado Urban Renewal Law”); and

WHEREAS, pursuant to article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and WEDA are authorized to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each governmental entity; and

WHEREAS, pursuant to Section 31-25-105, C.R.S., WEDA has the authority to undertake urban renewal projects and to make and execute any and all contracts that it may deem necessary or convenient to the exercise of its powers; to arrange for the furnishing or repair by any public body of services, privileges, works, streets, roads, public utilities, or educational or other facilities, for or in connection with an urban renewal project; and to make such appropriations and expenditures of its funds as it deems necessary to carry out the purposes of the Colorado Urban Renewal Law; and

WHEREAS, pursuant to Section 31-25-112 of the Colorado Urban Renewal Law, the City is specifically authorized to do all things necessary to aid and cooperate with WEDA in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations, or activities of WEDA, to enter into agreements with WEDA respecting such actions to be taken by the City, to cause public buildings and public facilities, including parks, playgrounds, and recreational and community facilities to be furnished within an urban renewal area and to appropriate funds and make such expenditures of its funds to aid and cooperate with WEDA in undertaking its urban renewal projects and carrying out its plans; and

WHEREAS, the City has heretofore approved the North Huron Urban Renewal Plan (“Plan”), on January 26, 2004 that includes as one of its primary objectives providing an efficient system of streets, roads and other transportation facilities necessary to support urban development within the North Huron Urban Renewal Area (“URA”), as described in said Plan; and

WHEREAS, Section 4.5 of the Plan provides that WEDA may undertake certain actions that would make the North Huron URA more attractive for private investment, which actions may include street and traffic improvements, streetscape improvements, storm water and other drainage improvements, landscaping, parks and recreation facilities, utility improvements and public art projects (collectively referred to as “Improvements”); and

WHEREAS, pursuant to the Plan, WEDA has collected and currently collects sales tax and property tax incremental revenues, which revenue is deposited by WEDA in a special fund to be utilized pursuant to Section 31-25-107(9)(a)(II), Colorado Revised Statutes; and

WHEREAS, the respective governing bodies of the City and WEDA hereby find and declare that the maintenance of improvements within the URA and the execution of certain contractual agreements will further the urban renewal goals and objectives of WEDA; and

WHEREAS, the Parties desire to enter into this Agreement to provide for the reimbursement of such costs incurred by the City; and

NOW, THEREFORE, in consideration of the foregoing, and the promises and covenants set forth below, the Parties hereby agree as follows:

1. **Maintenance of Improvements.** The City has agreed to maintain said Improvements in accordance with the same standards of maintenance as the City follows for other improvements within the City. WEDA agrees to reimburse the City a portion of the City's costs related to the current and future maintenance of said Improvements, as set forth in paragraph 4B below.

2. **Other Contractual Obligations.** WEDA hereby agrees to reimburse the City amounts paid by the City for current and future contractual obligations associated with the URA.

3. **Funding.** WEDA's obligations under this paragraph 1 and 2 shall be paid from current or future project funds, incremental revenues and interest earnings available to WEDA after first satisfying WEDA's Superior Obligations, as herein defined below.

4. **Conditions to WEDA's Payment Obligations.** WEDA's obligations pursuant to Section 1 and 2 of this Agreement are subject to the following conditions:

A. WEDA's obligations pursuant to this Agreement are subordinate to WEDA's obligations for repayment of any current or future bonded indebtedness ("Superior Obligations"). The term "bonded indebtedness" includes all form of indebtedness of WEDA, including but not limited to tax increment notes, tax increment bonds, economic development agreements, and all other forms of contractual indebtedness or obligation of whatsoever nature that is in any way secured, collateralized, or backed by revenues of WEDA.

B. The City and WEDA shall negotiate in good faith any amounts due from WEDA under this Agreement, based on the costs incurred or expected to be incurred by the City, and the funding available to WEDA after first meeting all Superior Obligations of WEDA. The City and WEDA agree that the obligations of WEDA under this Agreement shall be deemed subordinate to all other obligations of WEDA, past or future, except to the extent that any future obligation incurred by WEDA is expressly made subordinate to WEDA's obligations under this Agreement, provided, however, it is WEDA's intent to apply any revenues not needed to meet its Superior Obligations to funding its obligations under this Agreement.

C. The City will bill WEDA at least annually for WEDA's share of the maintenance and other contractual obligation costs. WEDA will pay amounts billed in no more than 30 days from the date of the invoice.

D. It is the intent of the parties that WEDA's obligations pursuant to this Agreement shall be deemed and construed as an indebtedness of WEDA within the meaning of § 31-25-107(9)(a)(II), C.R.S.

5. **Cooperation.** The Parties covenant with each other that in any action or challenge of the Plan or this Agreement, regarding the legality, validity or enforceability of any provision thereof,

the Parties will work cooperatively and in good faith to defend and uphold each and every such provision.

6. **Effective Date; Term.** The City and WEDA agree that it is their intent to implement this Agreement retroactively to January 1, 2013. Unless sooner terminated by mutual consent of the Parties, this Agreement shall remain in full force and effect until the tax allocation provisions of the Urban Renewal Plan and the Act terminate.

7. **General Provisions.**

A. **Governing Body.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of Colorado.

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

C. **Conflicts.** To the extent any term or provision of this Agreement conflicts with any other term or condition of any previous agreement between the City and WEDA, this Agreement shall control.

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

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

F. **Third Parties.** The City and WEDA expressly disclaim any intent to create any third-party beneficiary rights or benefits pursuant to this Agreement. Neither the City nor WEDA shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto and duly authorized as of the date first above written.

**WESTMINSTER ECONOMIC
DEVELOPMENT AUTHORITY**

CITY OF WESTMINSTER

By: _____
J. Brent McFall
Executive Director

By: _____
J. Brent McFall
City Manager

ATTEST:

ATTEST:

Secretary for WEDA

Linda Yeager, City Clerk

Approved as to Form:

Approved as to Form:

Martin R. McCullough
Attorney for WEDA

Martin R. McCullough
City Attorney

**INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE
WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY AND
THE CITY OF WESTMINSTER FOR THE REIMBURSEMENT OF COSTS INCURRED BY
THE CITY IN THE WESTMINSTER CENTER URBAN REINVESTMENT PLAN AREA**

This Intergovernmental Cooperation Agreement (“Agreement”), is made and entered into this _____ day of _____, 2013, by and between the **WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY** (“WEDA”), a Colorado urban renewal authority, and the **CITY OF WESTMINSTER** (“City”), a Colorado home-rule municipality (collectively “Parties”).

WHEREAS, the City is a Colorado home-rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its City Charter; and

WHEREAS, WEDA is a Colorado urban renewal authority, with all the powers and authority granted pursuant to Title 31, Article 25, Part 1, C.R.S. (“Colorado Urban Renewal Law”); and

WHEREAS, pursuant to article XIV of the Colorado Constitution, and Title 29, Article 1, Part 2, C.R.S., the City and WEDA are authorized to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each governmental entity; and

WHEREAS, pursuant to Section 31-25-105, C.R.S., WEDA has the authority to undertake urban renewal projects and to make and execute any and all contracts that it may deem necessary or convenient to the exercise of its powers; to arrange for the furnishing or repair by any public body of services, privileges, works, streets, roads, public utilities, or educational or other facilities, for or in connection with an urban renewal project; and to make such appropriations and expenditures of its funds as it deems necessary to carry out the purposes of the Colorado Urban Renewal Law; and

WHEREAS, pursuant to Section 31-25-112 of the Colorado Urban Renewal Law, the City is specifically authorized to do all things necessary to aid and cooperate with WEDA in connection with the planning or undertaking of any urban renewal plans, projects, programs, works, operations, or activities of WEDA, to enter into agreements with WEDA respecting such actions to be taken by the City, to cause public buildings and public facilities, including parks, playgrounds, and recreational and community facilities to be furnished within an urban renewal area and to appropriate funds and make such expenditures of its funds to aid and cooperate with WEDA in undertaking its urban renewal projects and carrying out its plans; and

WHEREAS, the City has heretofore approved the Westminster Center Urban Reinvestment Plan (“Plan”), on April 13, 2009 that is intended to achieve the goals for the area previously outlined in the Westminster Comprehensive Land Use Plan through a project or projects that will create a new Westminster Center within the Westminster Center Urban Reinvestment Plan (“WURP”) Area as described in said Plan; and

WHEREAS, Section 4.5 of the Plan provides that WEDA may undertake certain actions that would make WURP more attractive for private investment, which actions may include street and traffic improvements, streetscape improvements, landscaping, parks and recreation facilities, utility improvements and public art projects (collectively referred to as “Improvements”); and

WHEREAS, pursuant to the Plan, WEDA has collected and currently collects sales tax and property tax incremental revenues, which revenue is deposited by WEDA in a special fund to be utilized pursuant to Section 31-25-107(9)(a)(II), Colorado Revised Statutes; and

WHEREAS, the respective governing bodies of the City and WEDA hereby find and declare that the maintenance of improvements within the URA and the execution of certain contractual agreements will further the urban renewal goals and objectives of WEDA; and

WHEREAS, the Parties desire to enter into this Agreement to provide for the reimbursement of such costs incurred by the City; and

NOW, THEREFORE, in consideration of the foregoing, and the promises and covenants set forth below, the Parties hereby agree as follows:

1. **Maintenance of Improvements.** The City has agreed to maintain said Improvements in accordance with the same standards of maintenance as the City follows for other improvements within the City. WEDA agrees to reimburse the City a portion of the City's costs related to the current and future maintenance of said Improvements, as set forth in paragraph 4B below.

2. **Other Contractual Obligations.** WEDA hereby agrees to reimburse the City amounts paid by the City for current and future contractual obligations associated with the URA.

3. **Funding.** WEDA's obligations under this paragraph 1 and 2 shall be paid from current or future project funds, incremental revenues and interest earnings available to WEDA after first satisfying WEDA's Superior Obligations, as herein defined below.

4. **Conditions to WEDA's Payment Obligations.** WEDA's obligations pursuant to Section 1 and 2 of this Agreement are subject to the following conditions:

A. WEDA's obligations pursuant to this Agreement are subordinate to WEDA's obligations for repayment of any current or future bonded indebtedness ("Superior Obligations"). The term "bonded indebtedness" includes all form of indebtedness of WEDA, including but not limited to tax increment notes, tax increment bonds, economic development agreements, and all other forms of contractual indebtedness or obligation of whatsoever nature that is any way secured, collateralized, or backed by revenues of WEDA.

B. The City and WEDA shall negotiate in good faith any amounts due from WEDA under this Agreement, based on the costs incurred or expected to be incurred by the City, and the funding available to WEDA after first meeting all Superior Obligations of WEDA. The City and WEDA agree that the obligations of WEDA under this Agreement shall be deemed subordinate to all other obligations of WEDA, past or future, except to the extent that any future obligation incurred by WEDA is expressly made subordinate to WEDA's obligations under this Agreement, provided, however, it is WEDA's intent to apply any revenues not needed to meet its Superior Obligations to funding its obligations under this Agreement.

C. The City will bill WEDA at least annually for WEDA's share of the maintenance and other contractual obligation costs. WEDA will pay amounts billed in no more than 30 days from the date of the invoice.

D. It is the intent of the parties that WEDA's obligations pursuant to this Agreement shall be deemed and construed as an indebtedness of WEDA within the meaning of § 31-25-107(9)(a)(II), C.R.S.

5. **Cooperation.** The Parties covenant with each other that in any action or challenge of the Plan or this Agreement, regarding the legality, validity or enforceability of any provision thereof,

the Parties will work cooperatively and in good faith to defend and uphold each and every such provision.

6. **Effective Date; Term.** The City and WEDA agree that it is their intent to implement this Agreement retroactively to January 1, 2013. Unless sooner terminated by mutual consent of the Parties, this Agreement shall remain in full force and effect until the tax allocation provisions of the Urban Renewal Plan and the Act terminate.

7. **General Provisions.**

A. **Governing Body.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of Colorado.

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

C. **Conflicts.** To the extent any term or provision of this Agreement conflicts with any other term or condition of any previous agreement between the City and WEDA, this Agreement shall control.

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

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

F. **Third Parties.** The City and WEDA expressly disclaim any intent to create any third-party beneficiary rights or benefits pursuant to this Agreement. Neither the City nor WEDA shall be obligated or liable under the terms of this Agreement to any person or entity not a party hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto and duly authorized as of the date first above written.

**WESTMINSTER ECONOMIC
DEVELOPMENT AUTHORITY**

CITY OF WESTMINSTER

By: _____
J. Brent McFall
Executive Director

By: _____
J. Brent McFall
City Manager

ATTEST:

ATTEST:

Secretary for WEDA

Linda Yeager, City Clerk

Approved as to Form:

Approved as to Form:

Martin R. McCullough
Attorney for WEDA

Martin R. McCullough



WESTMINSTER

AGENDA

**SPECIAL CITY COUNCIL MEETING
COUNCIL BOARD ROOM
MONDAY, DECEMBER 2, 2013**

AT OR ABOUT 6:45 P.M.

- 1. Roll Call**
- 2. Purpose of Special Council Meeting:**
 - A. Conduct Interviews of Applicants for City Council Vacancy
- 3. Adjournment**



WESTMINSTER

November 26, 2013

Linda Yeager, City Clerk
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031

City of Westminster
Office of the
City Manager

4800 West 92nd Avenue
Westminster, Colorado
80031

303-658-2400
FAX 303-706-3921

Dear Linda:

I wish to call a special meeting of the City Council to be held in the Council Board Room on Monday, December 2, 2013, beginning at 6:45 p.m., or as soon as practicable following the study session, for the purpose of interviewing seven individuals who have applied for a vacancy on City Council.

Sincerely,

Herb Atchison
Mayor

cc: City Council
J. Brent McFall, City Manager



Agenda Memorandum

City Council Special Meeting
December 2, 2013



SUBJECT: Interviews of Applicants for City Council Vacancy

Prepared By: Linda Yeager, City Clerk

Recommended City Council Action

Conduct 20-minute interviews of seven individuals from the pool of fourteen applications received from qualified citizens interested in filling a vacancy on City Council.

Summary Statement

- A vacancy on City Council was created on November 11 when Herb Atchison, a seated City Councillor, was sworn into the office of Mayor following the November 5 regular biennial election.
- Pursuant to Section 1-11-4 of the Westminster Municipal Code and Section 5.7 of the Westminster City Charter, any vacancy that occurs on City Council shall be filled within thirty (30) days by a majority vote of the remaining members of the City Council, said appointee to hold office for the balance of the unexpired term.
- At the November 11, 2013, post-meeting briefing, Council directed that the City Clerk immediately begin the process of soliciting applications from qualified citizens interested in being appointed to fill the vacancy on City Council throughout the unexpired term in November, 2015.
- The application period was from November 12 through the close of business on Thursday, November 21, and fifteen (15) applications were timely filed. On November 25, one applicant, Bev Bishop, withdrew her application from consideration.
- As Council has directed, interviews were scheduled on November 26 and December 2 following study session (December 2 schedule attached).
- The Council's adopted Rules and Regulations set forth a procedure to fill vacant positions on City Council.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Should Council fill a vacancy on City Council following the adopted procedure in the Council's Rules and Regulations?

Alternative

The adopted procedure in the Rules and Regulations allows Council to make its final selection by written ballot or to suspend use of written ballots upon unanimous Council vote. A majority vote is necessary to make an appointment.

Background Information

On five occasions in recent history, the City Council has appointed interested applicants to fill vacancies on City Council. These vacancies occurred between May of 1983 and July of 2004. The applicable process in Part VII, Section 24 of Council's Rules and Regulations reads as follows:

Vacant positions on the City Council shall be appointed by Council from applicants who have completed the appropriate application form and interview process. Appointments shall be by written ballot unless this method is suspended by unanimous Council vote. A majority vote is necessary to an appointment. If no single applicant obtains a majority vote after the first ballot, all persons receiving no votes, and the person receiving the smallest number of votes will be removed from nomination. This process will be repeated after each ballot until a majority vote is received by one applicant. After seven (7) ballots with no one person appointed, the Council will consider all candidates again and begin the process of elimination of candidate names after every seven ballots. (Res. 39, 1984, 42, 1995, 84, 1997, 16, 1999)

This is the final special meeting that has been called to satisfy the interview process referenced in the first sentence above. Council plans to make the official appointment of a new City Councillor at its regular meeting of December 9.

The successful appointment of an interested applicant to fill the vacancy position on City Council supports the City Council's Strategic Goal of a Financially Sustainable City Government Providing Exceptional Services by seating the seventh member of City Council in a timely manner so that the business of the City can be conducted with a full complement of the governing body membership without incurring the cost and delay of calling a special election.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment - December 2 Interview Schedule

**2013 COUNCIL VACANCY
INTERVIEW SCHEDULE**

**MONDAY, DECEMBER 2, 2013
Council Board Room**

TIME	NAME	PHONE #s	E-MAIL
6:45 PM	Donald C Ciancio (out of town 11/26)	303-356-0112 cell	dciancio33@gmail.com
7:05 PM	Mark Moreno	720-938-2540	mark.moreno4@gmail.com
7:30 PM	Anita L. Seitz	303-817-5237 wk 303-466-8555 hm	anitalouiseseitz@gmail.com
7:55 PM	Suzanne Ramirez (out of town 11/26)	303-478-7764 cell	mrsramirez2002@gmail.com
8:20 PM	Michael S Melvin (needs appt after 8pm)	303-235-5000 wk 303-469-6307 hm	dmmelvin1@comcast.net
8:45 PM	Jonathan Herrmann	303-991-5844 wk 720-470-2729 cell	herrmannjs@live.com
9:05 PM	Brian Harms (out of town 11/26)	720-345-8414 cell	brian.harms@gmail.com