

# **AGENDA**

## **WESTMINSTER HOUSING AUTHORITY SPECIAL MEETING**

**MONDAY, December 19, 2011**

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

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (August 22, 2011)
- 3. Purpose of Special WHA Meeting is to**
  - A. Consider adopting Resolution No. 44 to approve the 2012 WHA and Westminster Commons Budgets
  - B. Consider adopting Resolution No. 45 authorizing a South Westminster Arts Group Lease of the Rodeo Market and Vehicle Service Center Properties
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY  
MONDAY, AUGUST 22, 2011 AT 7:18 P.M.

ROLL CALL

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

MINUTES OF PRECEDING MEETING

Board Member Briggs moved, seconded by Lindsey, to accept the minutes of the meeting of July 25, 2011 as written and distributed. The motion carried unanimously.

RESOLUTION NO. 43 ACCEPTING CITY'S 2011 PRIVATE ACTIVITY BOND ALLOCATION

Board Member Major moved, seconded by Vice Chairperson Dittman, to adopt Resolution No. 43 accepting assignment of \$5,169,425 of private activity bond allocation for 2011 from the City of Westminster for the qualified purposes set forth in the assignment and authorize the Chair to execute the necessary documents. On roll call vote the motion passed unanimously.

ADJOURNMENT:

There being no further business to conduct, it was moved by Winter, seconded by Major, to adjourn. The motion carried and the meeting adjourned at 7:19 p.m.

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary

# WHA Agenda Item 3 A

## Agenda Memorandum

Westminster Housing Authority Meeting  
December 19, 2011



**SUBJECT:** Resolution No. 44 re 2012 Westminster Housing Authority and Westminster Commons Budgets

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

### Recommended Board Action

Adopt Resolution No. 44 approving the 2012 Westminster Housing Authority Budget and the 2012 Westminster Commons Senior Housing Project Budget.

### Summary Statement

- The 2012 operating budget revenues for the Westminster Housing Authority (WHA) include an estimated \$10,000 owner distribution from Westminster Commons. This estimate is substantially lower than previous years given WHA is due to close on the sale of the Westminster Commons to Volunteers of America in February, 2012.
- The operating budget expenses for the WHA include \$8,000 for utilities, maintenance, and insurance expenses, and \$16,000 in contractual services for property maintenance and consultant costs relative to the Westminster Commons sale and other affordable housing endeavors.
- The proposed budget includes \$27,548 for debt payment for a Brownfields Revolving Loan Fund loan used to remediate environmental contamination on WHA property along Little Dry Creek.
- The 2012 Budget of Westminster Commons is shown separately from the WHA Budget.
- The Westminster Commons Budget includes net rental revenue of \$925,068 and other revenues of \$6,156 for total revenues of \$931,224. Expenses include administrative and payroll expenses of \$239,140, utilities expenses of \$109,308, repairs and maintenance expenses of \$154,416, taxes & insurance expenses of \$31,632, depreciation expense of \$96,984, and other miscellaneous expenses (including \$60,000 transfer to WHA) of \$149,958, for total expenses of \$781,438.

**Expenditure Required:**      \$ 51,548      WHA Operations and Debt Service  
   \$781,438      Westminster Commons Operations

**Source of Funds:**              WHA Operating Revenues and Fund Balance  
   Westminster Commons Revenues



**Policy Issue**

Does the Board of the WHA wish to support the activities of the Westminster Housing Authority and Westminster Commons by adopting the proposed 2012 budgets?

**Alternative**

Do not adopt the 2011 Westminster Housing Authority or Westminster Commons Budgets or adopt revised budgets. This is not recommended as an approved budget is necessary for the operation of the Commons, for the WHA to carry out financing activities and for the WHA to enter into contracts needed to pursue WHA projects and goals.

**Background Information**

Department of Community Development staff manages the WHA and the contract with Howard Bishop & Company, which is the property management company for the Westminster Commons. The Westminster Commons budget is presented separately from the remaining WHA activities.

Westminster Housing Authority

WHA revenues from operating activities for 2011 will come only from the Westminster Commons project that would be expected to generate \$60,000 per year as a distribution to the owner (the Authority). However, the WHA is in the process of selling the Westminster Commons to Volunteers of America (VOA) with a closing anticipated in February, 2012. Accordingly, the WHA budget takes into consideration this pending transaction and therefore only reflects a two month contribution of \$10,000 in 2012. The WHA also owns two buildings (Rodeo Market and Vehicle Service Center) that are currently being leased to the South Westminster Arts Group (SWAG) at a nominal rate of \$1.00, which is the only revenue produced from these buildings.

Authority expenses include \$8,000 for utilities, which is slightly less than budgeted in 2011, but more accurately reflects actual utility expenditure over the last year. A \$16,000 expense for contractual expenses covers the cost of insurance and mowing of weeds on WHA owned vacant property, and retaining consulting services relative to the sale of Westminster Commons and other affordable housing endeavors.

The 2010 budget also reflects a loan payment of \$27,548 to the Colorado Brownfields Revolving Loan Fund administered by the Colorado Housing Finance Authority. This payment is for a loan used to clean up contaminated property along Little Dry Creek in conjunction with the City's efforts to secure land between Federal Boulevard and Lowell Boulevard to be used for drainage and park improvements. The loan was taken on by the WHA due to "TABOR" limitations regarding incurring debt and multi-year contractual limitations. The WHA has a remaining balance of \$251,683 with four more installments of \$27,548 and a balloon payment of \$162,000 due December, 2016. It is Staffs recommendation that the remaining loan balance be repaid from proceeds of the Westminster Commons sale to Volunteers of America.

The 2012 budget contemplates WHA ending the 2012 budget year with a cash balance of \$131,918 that will be carried forward into 2013.

Westminster Commons

The Westminster Commons budget projects total income of \$931,224, which is a very slight increase over the 2011 budget amount of \$930,794. However, 2011 revenues are projected to fall short of budget by an estimated \$9,410 due to a higher than expected vacancy rate resulting from higher unit turnover. Rental income from the Westminster Commons senior housing facility is budgeted at \$925,068, of which \$502,620 would be provided by HUD in the form of tenant assistance payments provided through the Housing Assistance Payments (HAP) program. The income projection also includes \$6,156 from other miscellaneous sources.

Expenditures in the 2012 budget include operating expenses of \$781,438 including administration and payroll, utilities, repairs and maintenance, depreciation, taxes and insurance, and other miscellaneous costs for mortgage payment and a \$60,000 transfer to WHA. Although the Westminster Commons budget reflects a \$60,000 transfer to the WHA, the actual amount directed will be dependant upon a closing on the sale of the property to VOA.

The budgeted expenses for 2012 reflect a \$3,397 decrease over the 2011 budget. The most significant cost decreases are related to mortgage interest, insurance premiums, and utilities. Payroll and management fees are proposed to increase by \$1,442 over 2011 levels. Net cash flow is expected to be positive in the amount of \$149,786 for 2012.

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachments:

- Resolution
- 2012 WHA Proposed Budget
- 2012 Westminster Commons Budget

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **44**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2011

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**A RESOLUTION ADOPTING THE 2012 BUDGET FOR THE  
WESTMINSTER HOUSING AUTHORITY AND THE 2012 WESTMINSTER COMMONS  
FACILITY BUDGET**

WHEREAS, the Westminster Housing Authority (the "Authority") is a political subdivision of the State of Colorado, duly organized, existing, and acting pursuant to C.R.S. section 29-4-201 *et seq.* (the "Act"); and

WHEREAS, the Authority was created to carry out the purposes of a public housing authority pursuant to the Act; and

WHEREAS, the Westminster Housing Authority Board has not yet adopted a formal operating budget for fiscal year 2012 for the Westminster Housing Authority and the Westminster Commons senior apartment facility; and

WHEREAS, the Westminster Housing Authority has received revenue and anticipates receiving additional revenues; and

WHEREAS, the Westminster Housing Authority anticipates expenditures for various purposes relating to the goals of the Authority and operating the Westminster Commons senior housing project.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Westminster Housing Authority that the attached 2012 Westminster Housing Authority Budget and 2012 Westminster Commons Facility Budget are hereby approved and the amounts stated therein are hereby appropriated for the fiscal year 2012.

PASSED AND ADOPTED this 19th day of December, 2011.

ATTEST:

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Authority Secretary

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Authority Attorney

**WESTMINSTER HOUSING AUTHORITY (Excluding Commons)**  
**2012 Proposed Budget**

	<u>2010 Actual</u>	<u>2011 Budget</u>	<u>2011 Estimated</u>	<u>2012 Proposed</u>
<b>Revenues</b>				
Monthly Revenue Transfers from Commons	\$ 60,000	\$ 40,000	\$ 60,000	\$ 10,000
Rental Income (Rodeo Market)	2	-	-	-
Interest	1,836	500	500	500
<i>Total Operating Revenues</i>	<u>61,838</u>	<u>40,500</u>	<u>60,500</u>	<u>10,500</u>
<b>Expenditures</b>				
Administrative Fee	70,000	-	-	-
Utilities	7,103	9,000	7,800	8,000
Contractual	391,814	18,000	16,500	16,000
<i>Total Operating Activities</i>	<u>468,917</u>	<u>27,000</u>	<u>24,300</u>	<u>24,000</u>
<b>Net Operating Surplus (Deficit)</b>	<u>(407,079)</u>	<u>13,500</u>	<u>36,200</u>	<u>(13,500)</u>
<b>Other Financing Sources (Uses)</b>				
Debt Service:				
Principal	-	24,109	24,109	22,514
Interest expense	(5,651)	3,439	3,439	5,034
Capital Contributions	-	-	-	-
<i>Total other financing sources (uses)</i>	<u>(5,651)</u>	<u>27,548</u>	<u>27,548</u>	<u>27,548</u>
<b>Net change in cash balance</b>	(412,730)	(14,048)	8,652	(41,048)
<b>Cash balance beginning</b>	207,846	144,499	164,314	172,966
<i>Accrual and Balance Sheet Adjustments</i>	<u>369,198</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>Cash balance ending</b>	<u>\$ 164,314</u>	<u>\$ 130,451</u>	<u>\$ 172,966</u>	<u>\$ 131,918</u>

**2012 WESTMINSTER COMMONS BUDGET**

	Acct	10'Budget	10'Actual	11'Budget	11'Projtd	12'Budget
<b>Ordinary Income</b>						
Rent Income - Apartments	5120	456,204	469,319	464,046	443,784	443,784
Income - Tenant Assist Pmts.	5121	458,196	470,166	470,166	492,780	502,620
Vacancies - Apartments	5220	-9,144	-9,395	-9,395	-21,336	-21,336
Interest Rev - Proj Operations	5410	552	461	461	324	324
Inc From Inv - Replacement Res	5440	1,344	532	532	300	300
Laundry & Vending Revenue	5910	2,400	3,466	3,466	3,732	3,732
Forfeited Security Deposits	5940	240	1,278	1,278	1,152	1,152
Other Revenue	5991	240	2,956	240	648	648
Other Revenue (loss) on Sale	5992	120	0	0	0	0
<b>Total Income</b>		<b>910,152</b>	<b>938,783</b>	<b>930,794</b>	<b>921,384</b>	<b>931,224</b>
<b>Expense</b>						
<b>Adminstrative Expense</b>						
Advertising	6210	1,200	827	828	1,068	1,068
Office Supplies	6311	17,676	18,072	18,072	19,140	19,140
Management Fees	6320	52,356	53,480	54,446	53,784	53,784
Manager Rent Free Unit	6331	21,600	21,834	22,068	22,164	22,164
Professional Fees						
Audit Expense	6350	5,496	5,500	5,500	5,500	5,500
Telephone Expense	6360	10,320	10,341	10,320	11,364	11,364
<b>Total Adminstrative Expense</b>		<b>108,648</b>	<b>110,054</b>	<b>111,234</b>	<b>113,020</b>	<b>113,020</b>
<b>Utilities</b>						
Electricity	6450	37,000	39,126	39,120	37,044	39,120
Water	6451	14,292	16,496	17,004	16,272	17,004
Gas	6452	37,000	38,944	38,940	38,424	38,940
Sewer	6453	17,028	16,357	16,356	14,244	14,244
<b>Total Utilities Expense</b>		<b>105,320</b>	<b>110,054</b>	<b>111,234</b>	<b>105,984</b>	<b>109,308</b>
<b>Repairs and Maintenance</b>						
<b>Janitorial &amp; Cleaning</b>						
Janitorial Supplies	6515	804	1,700	1,692	2,544	2,544
Janitorial Contracts	6517	4,680	7,539	7,536	6,660	6,660
Extermination	6519	1440	2,150	3,192	3084	3084
Garbage & Trash Removal	6525	5,976	6,612	6,612	7,800	7,992
<b>Landscaping &amp; Groundskeeping</b>						
Grounds Supplies	6536	432	432	432	432	432
Grounds Contracts	6537	2,856	5,884	2,892	2,124	2,124
<b>Repairs and Maintenance</b>						

Repairs Material	6541	11,892	11,144	11,892	10,308	10,308
Repairs Contract	6542	24,000	16,360	21,000	16,668	16,668
Elevator Maintenance/Contract	6545	19,596	27,990	25,140	25,740	25,740
Heating/Cooling Repr & Maint	6546	21,996	15,424	25,900	21,708	21,708
Snow Removal	6548	1,608	1,608	1,608	1,884	1,884
Fire Alarm Maintenance	6581	9,132	7,248	7,248	6,804	6,804
Decorating						
Decorating Contract	6560	24,000	33,585	30,000	39,432	39,432
Decorating Supplies	6561	3,720	6,568	6,000	9,036	9,036
<b>Total Repairs and Maintenance</b>		<b>132,132</b>	<b>144,244</b>	<b>151,144</b>	<b>154,224</b>	<b>154,416</b>
<b>Depreciation Expense</b>						
Depr-Land Improve.	6611	18,078	8,974	0	0	0
Depr.-Bldgs & Improv	6620	67,112	67,112	67,112	67,112	67,112
Depr-Bldg Equip F&P	6630	29,872	29,872	29,872	29,872	29,872
Depr-Bldg Equip Port	6640	14,327	14,327	0	0	0
<b>Total Depreciation Expense</b>		<b>129,389</b>	<b>120,285</b>	<b>96,984</b>	<b>96,984</b>	<b>96,984</b>
<b>Taxes &amp; Insurance</b>						
Property & Liab. Ins.	6720	17,982	17,982	22,920	18,108	18,108
Fidelity Bond Ins.	6721	1,185	1,185	468	816	816
Health Ins.	6723	9,504	9,437	11,040	11,244	12,708
<b>Total Taxes &amp; Insurance</b>		<b>28,671</b>	<b>28,604</b>	<b>34,428</b>	<b>30,168</b>	<b>31,632</b>
<b>Payroll Expenses</b>						
Office Salaries	6310	59,172	61,514	62,552	62,844	62,844
Manager's Salaries	6330	40,668	39,232	40,272	40,812	40,812
Cleaning Payroll	6510	11,316	11,093	11,088	11,328	11,328
SS ER 6.29%	6712	6,888	6,900	6,900	7,104	7,104
Medicare ER 1.45%	6713	1,608	1,614	1,620	1,656	1,656
FUTA Expense .08%	6714	888	385	384	456	456
SUTA Expense 1.22%	6715	1,356	1,200	1,200	1,920	1,920
<b>Total Payroll Expenses</b>		<b>121,896</b>	<b>121,938</b>	<b>124,016</b>	<b>126,120</b>	<b>126,120</b>
<b>Other Expense</b>						
Workmen's comp	6722	3,960	4,174	4,176	3,732	3,732
Other-D&O, Discrimination	6729	4,272	4,272	4,272	4,272	4,272
Interest - Mortgage	6820	86,004	86,255	86,255	81,048	81,048
Transfer to City	6850	60,000	60,000	60,000	60,000	60,000
Deferred Loss Amortized	6891	906	906	906	906	906
<b>Total Other Expense</b>		<b>155,142</b>	<b>155,607</b>	<b>155,609</b>	<b>149,958</b>	<b>149,958</b>
<b>Total Expenses</b>		<b>766,068</b>	<b>791,655</b>	<b>784,835</b>	<b>776,458</b>	<b>781,438</b>

**Net Ordinary Income**

144,084 147,128 145,959 144,926 149,786

## WESTMINSTER COMMONS

### Notes to the 2012 Proposed Budget

#### Income

5120	<u>Resident Portion of Rent</u> Projected through end of year based on October figures. (Managers + Maint. Assist. Units - 3 not included)
5121	<u>Income - Tenant Assist Pmts.</u> Does not reflect any HAP increase in 2012
5220	<u>Vacancies: huge increase due to sale of project.</u>
5410	<u>Interest Income - Project Operations</u> Historic
5440	<u>Income from Interest - Reserve for Replacements</u> Historic
5910	<u>Laundry &amp; Vending Income - no change/increase in charges planned</u>
5991	<u>Other Revenue</u> Contains refunds/rebates.

#### Administrative Expenses

6331	<u>Manager Rent Free Units</u> 2 manager units + 1 maintenance assistant unit
6360	<u>Telephone</u> Based on historical charges.

#### Utilities

6450 - 6453	<u>Utilities</u> Lower figures for 2011 based on increased vacancies.
6330	<u>Manager Salary</u> No increases planned for 2012. No increase planned for maintenance assistant.
6331	<u>Manager Rent-Free Unit</u> 3 units @\$613 x 6 months + \$621 x 6 months

#### Repairs & Maintenance

6515	<u>Janitorial Supplies</u> Increase in 2011 due to increased vacancies and more cleaning req.
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6519	<u>Extermination</u> 2012 based on historical information.
6537	<u>Grounds Contract</u> <u>2012 savings due to hiring of maintenance assistant.</u>
6542	<u>Repairs Contract</u> Continued savings realized due to hiring of a maintenance assistant
6545	<u>Elevator Maintenance/Contract</u> 2012 based on historical information.
6546	<u>Heating /Cooling Repair &amp; Maintenance</u> 2011/2012 decrease due to the replacement of 5 boilers and fewer n
6560	<u>Decorating Contract</u> Increase due to higher vacancies.
6561	<u>Decorating Supplies</u> Same as above.

**Depreciation Expense**

6611	<u>Depreciation Land Improvements</u> - fully depreciated
6640	<u>Depreciation Building Equipment Portable</u> - fully depreciated

**Taxes & Insurance**

6720	<u>Property &amp; Liability Insurance</u> Contains Commercial Package (hazard on buildings), Umbrella Polic and Tenant Descrimination Policy.
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**Payroll Expenses**

6310	<u>Office Salaries</u> No increases planned.
6330	<u>Manager's Salaries</u> No increases planned.

# WHA Agenda Item 3 B

## Agenda Memorandum

Westminster Housing Authority Meeting  
December 19, 2011



**SUBJECT:** Resolution No. 45 re South Westminster Arts Group Lease of Rodeo Market and Vehicle Service Center Properties

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

### Recommended Board Action

Adopt Resolution No. 45 authorizing the Executive Director to execute a one-year lease for the South Westminster Arts Group for the use of properties located at 3915 West 73<sup>rd</sup> Avenue, 3630 W. 73<sup>rd</sup> Avenue, and 7287 Lowell Boulevard.

### Summary Statement

- The Westminster Housing Authority (WHA) Board is requested to approve a lease between the Authority and the South Westminster Arts Group (SWAG) to utilize the Rodeo Market building and adjoining property located at 3915 West 73<sup>rd</sup> Avenue, and 3630 W. 73<sup>rd</sup> Avenue and 7287 Lowell Boulevard commonly known as the Vehicle Service Center (VSC). The lease amount is proposed to be \$1.00 per year.
- SWAG will use the space to facilitate cultural activities such as art shows, theatrical performances, community meetings and programming that support the growth of non-profit cultural activities and arts businesses in South Westminster.
- At year end, SWAG will be responsible for reimbursing the WHA for the cost of utilities in excess of \$7,500.
- The lease agreement would be for one year. There are no substantive changes to the lease.

**Expenditure Required:** \$7,500

**Source of Funds:** 2012 WHA Budget



**Policy Issue**

Should the Westminster Housing Authority continue to lease the Rodeo Super Market and VSC properties to the non-profit South Westminster Arts Group (SWAG) for \$1.00 per year and cover a significant portion of the cost to maintain water, sewer, heat, and electrical utilities and provide minor maintenance?

**Alternatives**

1. Do not lease the premises to SWAG. This alternative is not recommended given the tremendous strides SWAG has made in attracting artistic talent, raising community goodwill, and promoting arts related activities. A failure to lease the premises to SWAG could result in the demise of the organization and potentially negatively impact the positive strides made to date.
2. Lease the premises with a required higher financial contribution from SWAG. This alternative is not recommended because SWAG is attempting to establish a higher level of cultural activity using only existing minimal resources. If it is required to pay higher rent and utility costs, a lease would be financially infeasible at this time.

**Background Information:**

The Westminster Housing Authority acquired the property at 3915 West 73<sup>rd</sup> Avenue in 2005 with the proposed concept of establishing a community arts center. The property is zoned C-1, which zone permits the uses conducted by SWAG. The City of Westminster and the WHA had been paying the cost of utilities and maintenance for about four years prior to occupancy of the premises by SWAG as it was necessary to protect the internal building infrastructure. Since entering into a lease with SWAG a few years ago, the WHA and City have continued to pay a substantial portion of the utility and maintenance costs so as to ensure the continued financial viability of SWAG.

In an effort to increase non-profit arts-related activity in the City, staff has worked to create arts business incubator opportunities by identifying potential spaces in which arts activities could be conducted on a temporary or permanent basis. City staff has also worked with local artists to incorporate the South Westminster Arts Group (SWAG), a community-based arts network. The goals of SWAG include:

- Establishing a network of artists, arts supporters and art supportive businesses for communication, advocacy, and identification of needs, and progress toward solutions for the creative community.
- Promoting and fostering a population of creative workers by encouraging them to reside or work in the historic, established South Westminster neighborhood, in order to better meet mutual goals.
- Focusing on diversity, tolerance and inclusiveness in order to strengthen the arts community and help it to serve the needs of its supporters and audience, and providing an influential voice for all facets of the community.
- Maintaining a commitment to public service through education, outreach, public artistic endeavors and other means of connecting with the larger community.
- Showcasing the strength and diversity of the arts community.

Local artists have shown their enthusiasm about the gallery by participating in many activities including art shows, classes and meetings, and utilization of community studio space since occupying the Rodeo Market.

SWAG has been operating for four years, with just over two years having been operated out of the Rodeo Market building. Previous operations were conducted out of the VSC building housing the 73<sup>rd</sup> Avenue Community Theater at 73<sup>rd</sup> Avenue and Lowell Boulevard. SWAG remains instrumental in ensuring the continued presence of the theater and operating a community artist gallery that has hosted many art exhibitions since its opening in September 2008. This helped attract three local art galleries that have opened nearby, which along with the member gallery at the Rodeo Market, conduct monthly art walks and other arts related programs throughout the year. SWAG also assumes the lead for coordinating the Orchard Festival and an arts fair, which have drawn up to 1,000 people to the South Westminster neighborhood and continues to grow.

In 2011, SWAG entered into a lease with the WHA to use the Rodeo Market building for \$1.00 for the year. At the time the lease was signed, it was anticipated that SWAG would receive its 501(c)3 non-profit designation from the IRS, which would allow for grant opportunities that would assist the organization to become self-sustaining. After an eighteen month application process with the IRS, SWAG was finally awarded its 501(c)3 tax-exempt status in April, 2011. While SWAG is now confirmed a legal non-profit entity, its funding capabilities may continue to be a challenge given some technical issues pertaining to SWAG's "effective" date of operation. This issue has already resulted in the organization being ruled ineligible for funding from the Denver area Scientific and Cultural Facilities District (SCFD) for 2012. The SCFD rule that a non-profit entity is eligible for funding only after having provided programming for 3 years as a designated 501c3 effectively will keep SWAG from being awarded any SCFD funding until 2014. SWAG's board of directors continues to work diligently to build the organization's financial capacity and has identified several program based (not operational) grant opportunities it intends to pursue in 2012, however with no operational budget SWAG will be maintaining operations with its existing volunteer base, while continuing to pursue new funding opportunities.

Given its continued funding challenges, SWAG has been successful in establishing itself in the community by providing programming that benefits the community through free children's art classes, community festivals, monthly art walks and free art exhibits, including the Sculpture on 73<sup>rd</sup> Avenue sculpture display. Based on these endeavors, SWAG is requesting consideration of the WHA to extend the lease at the Rodeo Market building for \$1.00 in 2012 and is requesting that the amount of funds provided by the WHA to cover utilities be maintained at \$7,500. The proposed 2012 WHA Budget provides for funds to cover the utility and maintenance expenses. Per the lease, SWAG will also be required to carry its own liability insurance in addition to the coverage obtained by the WHA through CIRSA.

The approval of the proposed lease to SWAG meets the City's Strategic Plan Goal of creating "Vibrant Neighborhoods and Commercial Areas," with the Objective to "Develop Westminster as a cultural art community."

Respectfully submitted,

J. Brent McFall  
Executive Director

- Attachments
- Resolution
  - Lease Agreement

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **45**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2011

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**A RESOLUTION  
APPROVING A LEASE BETWEEN THE WESTMINSTER HOUSING AUTHORITY AND THE  
SOUTH WESTMINSTER ARTS GROUP FOR 3915 WEST 73<sup>RD</sup> AVENUE, 3630 W. 73<sup>RD</sup>  
AVENUE AND 7287 LOWELL BOULEVARD**

WHEREAS, the Westminster Housing Authority owns property located at 3915 West 73<sup>rd</sup> Avenue, 3630 W. 73<sup>rd</sup> Avenue and 7287 Lowell Boulevard (“the Premises”); and

WHEREAS, the South Westminster Arts Group is a non-profit organization dedicated to promoting community arts activities and providing an incubator for artists’ businesses; and

WHEREAS, the South Westminster Arts Group proposes to use the Premises to promote community arts activities, including operation of a community theater, art shows, meetings, classes and programming that support the growth of non-profit cultural activity and artists’ businesses; and

WHEREAS, the attached Lease Agreement would allow the South Westminster Arts Group to operate out of the Premises.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Westminster Housing Authority that the Executive Director is hereby authorized to execute and the Authority Clerk to attest the attached Lease Agreement, or a substantially similar form of Lease Agreement as approved by the Authority Attorney.

PASSED AND ADOPTED this 19th day of December, 2011.

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Chairperson

ATTEST:

APPROVED AS TO LEGAL FORM:

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Secretary

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Authority Attorney

## **LEASE AGREEMENT**

This **Lease** is made between the **WESTMINSTER HOUSING AUTHORITY**, a Colorado public housing authority (hereinafter called "Lessor" or "Authority"), and **SOUTH WESTMINSTER ARTS GROUP**, a Colorado nonprofit corporation (hereinafter called "Lessee" or "SWAG").

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth hereinbelow:

**1. Premises.** The Premises consist of the buildings and property located at 3915 West 73rd Avenue, 3630 W. 73<sup>rd</sup> Avenue and 7287 Lowell Boulevard.

**2. Term and Rent.** Lessor demises the above Premises for a term of one year, commencing 12:00 a.m. on January 1, 2012, terminating 12:00 a.m. on January 1, 2013, or sooner as provided herein (hereinafter, the "Term"), for a nominal rent payment for the Term in the sum of One Dollar (\$1.00), and for other good and valuable consideration described below and in Exhibit 1.

**3. Use.** Lessee shall use and occupy the Premises for activities and functions specifically related to the purpose and mission of the South Westminster Arts Group. The Premises shall be used for no other purpose unless approved in writing by the Lessor.

**4. Utilities, Care and Maintenance of Premises.**

a. Lessee's responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for the routine care and maintenance of the interior of the Premises of a housekeeping nature, including custodial and janitorial services, normal and reasonable cleaning, and the replacement of all consumable or expendable items such as light bulbs, cleaning, bathroom and office supplies and all items brought into the Premises by the Lessee. The Lessee shall be responsible for utility costs as defined in item 8.

b. Lessor's responsibilities: The Lessor shall be responsible for utilities as defined in item 8, but not to exceed \$7,500. The Lessor shall be responsible for all general repairs relative to the principal structure of the Premises, including roofing, plumbing, mechanical and electrical equipment. Minor interior repairs, not to exceed \$500 in cost can be submitted to the City of Westminster Building Operations and Maintenance Department and will be handled subject to the availability of City staff. Minor repairs in excess of \$500 shall be made by Lessor only upon approval of the Executive Director of the Authority.

**5. Alterations.** Lessee shall not, without first obtaining the prior written consent of Authority staff, make any interior alterations, additions, or improvements to the principal structure of the Premises. Lessee shall not make any changes to the exterior of the Premises. In particular, the south elevation is a historic restoration funded in 2009 by the State Historical Fund. As a result of this funding and the local historic landmark designation, no alterations, including signage, may be made to any part of the exterior of the building without permission from both the Westminster Historic Landmark Board and the State Historical Fund.

**6. Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.

**7. Assignment and Subletting.** Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole discretion. Any such assignment or subletting without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's forthwith termination of this Lease.

**8. Utilities.** The Lessor shall provide and pay for utility charges as they become due, including those for heat, electricity, water and sewer for the 2012 year only as outlined in section 4.b. The Lessee shall reimburse the Lessor for costs incurred above \$7,500 for utilities pertaining to electrical, gas, water and sanitary sewer service. Such utility cost reimbursement shall be due from the Lessee to Lessor by no later than December 31, 2012. All applications and connections for other services desired by Lessee for the Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for such charges as they become due, including those for cable, Internet, alarm and telephone services.

**9. Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

**10. Possession.** If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby.

**11. Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to any person or property occurring on the Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the Authority.

**12. Insurance.**

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies that may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation that might otherwise exist.

**13. Eminent Domain.** If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

**14. Destruction of Premises.** In the event that the Premises or any part of the building in which the Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable for Lessee's purposes, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

**15. Lessor's Remedies on Default.** If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default),

then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

**16. Taxes.** Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

**17. Attorneys' Fees.** In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

**18. Waiver.** No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.

**19. Heirs, Assigns, Successors.** This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

**20. Subordination.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the Premises.

**21. Early Termination.** The WHA retains to the right to terminate the lease on the properties located at 3630 W. 73<sup>rd</sup> Avenue and 7287 Lowell Boulevard upon 30 days written notice to the Lessor.

**22. Entire Agreement.** This Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

**23. Survival.** Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

Signed as of this \_\_\_ day of \_\_\_\_\_, 2011.

**WESTMINSTER HOUSING AUTHORITY**

By: \_\_\_\_\_  
Nancy McNally, Chairperson

Attest: \_\_\_\_\_  
Authority Clerk

**SOUTH WESTMINSTER ARTS GROUP**

By: \_\_\_\_\_  
Debbie Teter, Chair

Attest: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Authority Attorney

## EXHIBIT 1

As further consideration for the use of the Premises, SWAG agrees to operate the building pursuant to the following public purposes:

1. The Premises, as outlined on the map below, are located in a low and moderate-income neighborhood, in which revitalization activities and projects are a City priority. The Westminster Housing Authority is permitted by state law to own a community center that supports its affordable housing goals. SWAG is expected to operate the Premises for the benefit of the neighborhood, keeping in mind the diversity of the neighborhood, including incomes, ethnicity, age and abilities.
2. Goals for use of the outlined Premises may include:
  - a. Community use and access.
  - b. Providing resources and programming to support the careers of emerging creative professionals.
  - c. Providing opportunities for users of the building to engage in volunteerism and community service.
  - d. Educational opportunities for both youth and adults
  - e. Promotion of a variety of cultural and creative activities including, but not limited to, visual arts, music, digital art and video, historic preservation, ethnic cultural programming, festivals and other projects and activities of interest to the inhabitants of the neighborhood.
3. SWAG is expected to coordinate its events and activities with neighboring landowners and businesses in order to manage parking and other impacts efficiently and with consideration of all concerned.
4. SWAG is expected to keep the outlined Premises clean and free of weeds and debris.

**3630 W. 73<sup>rd</sup> Avenue and 7287 Lowell Boulevard**



**3915 W. 73<sup>rd</sup> Avenue**

