



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: April 29, 2009

SUBJECT: Study Session Agenda for May 4, 2009

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 6:00 P.M.

CITY COUNCIL REPORTS

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

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY – SPECIAL MEETING 6:30 P.M.

1. Interest Rate Exchange Agreement

PRESENTATIONS

6:45 P.M.

1. Presentation on Community Transit Program
2. Human Resources Division Activity Update
3. Faversham Dog Park/Little Dry Creek Dog Park

EXECUTIVE SESSION

1. Discuss strategy and progress on potential sale, acquisition, trade or exchange of Certain Authority owned real property and the Authority's position relative thereto, pursuant to CRS 24-6-402(4)(a)

INFORMATION ONLY ITEMS – Does not require action by City Council

1. License Agreement provided to Church Ranch Development, LLC and Drury Development Corporation for use of Open Space
2. Personnel Rules Modifications
3. Westminster Economic Development Authority 1st Quarter 2009 Financial Update

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

Study Session minutes for April 20, 2009



WESTMINSTER

Staff Report

Westminster Economic Development Authority
May 4, 2009



SUBJECT: Swap Presentation and Discussion re Loan Agreement with Compass Mortgage

PREPARED BY: Tammy Hitchens, Finance Director

Robert Smith, Treasury Manager

Recommended City/WEDA Board Action:

Direct Staff to proceed with an interest rate exchange agreement with Banco Bilbao Vizcaya Argentaria (BBVA) to support a Loan from Compass Mortgage Company for the purpose of refinancing the 2005 Westminster Economic Development Authority's (WEDA) North Huron Urban Renewal Area (URA) bonds.

Summary Statement:

The report presents background information on a rate exchange agreement with a foreign bank that the WEDA Board must have before its potential action to enter into that interest rate exchange agreement. This action is necessary to secure an exchange agreement, as required by a loan agreement, with Compass Mortgage Company. The proceeds of the loan will be used to refund the WEDA 2005 Bonds currently owned by DEPFA Bank.

Background Information:

On April 13, 2009, the WEDA Board authorized the Chair and Vice Chairperson of the Board and the Executive Director of the Authority to enter into a Loan with Compass Mortgage Company. The proceeds of the loan would be used to refund the Bank Bonds that DEPFA Bank now owns that were originally issued as the WEDA Series 2005 Bonds (North Huron Project). The terms of the loan agreement require WEDA to enter into an interest rate exchange agreement to convert the variable interest rate paid on the loan amount into a fixed rate.

Initially it was the intent to enter into such a rate exchange agreement with Compass Bank, a bank domiciled in the United States using a local currency – single jurisdiction form of the International Swap Dealers Association (ISDA) contract. However, a downgrade of Compass Bank's credit rating by Moody's Investors Services on April 14, 2009 precluded the Authority from entering into this agreement because of a C.R.S. requirement that precludes municipalities from entering into a swap agreement if the counterparty is not in either one of the two top ratings categories (AAA and AA) by at least one of the nationally recognized rating agencies.

Compass Bank's parent company in Spain, Banco Bilbao Vizcaya Argentaria (BBVA), which is rated Aa1, was approached about either guaranteeing its subsidiary's obligations under the agreement or itself entering into the swap directly with WEDA. While BBVA declined to guarantee the obligations of Compass Bank if Compass Bank was the swap counterparty to WEDA, they did agree to enter into a swap agreement directly with WEDA. To do so, they have required that the agreement be based on

the terms contained in the Multicurrency – Cross Border form of the swap agreement created by the International Swap Dealers Association.

Per statutory requirements, the Council and Board must be informed of the costs, risks, and benefits of entering into a swap agreement. At the January 12th meeting, Staff gave a general review of swaps. On February 23, 2009 staff again briefed the City Council and WEDA Board, this time concerning the specific terms of the rate agreement with Compass Bank, and the inherent risks and benefits associated with the use of interest rate swap agreements. This briefing will expand on this discussion by addressing additional issues created when the Multicurrency – Cross Border form of the ISDA agreement is used. These include the potential that if there is a change in tax law that would require WEDA to make a payment, such as a withholding tax, to the government, it would have to pay the tax due. In addition, if the tax was an “indemnifiable tax” WEDA would also be required to pay the swap counterparty 100% of the amount that it was due under the swap agreement as if there had been no withholding tax. Note that the IRS has proposed that government payments be subject to required withholdings under the rules in the Internal Revenue Code, Section 3402(t). While the implementation of this requirement has been delayed until 2012, the rule would generally require a 3% income tax withholding by government entities on payments for property and services. Interest payments are excluded from this rule, and we believe that payments under a swap agreement would constitute interest payments. However, this example is indicative of the type of change in tax law that could occur and affect WEDA’s cost under Multicurrency – Cross Border swap agreement.

A second type of issue that Multicurrency form of ISDA agreements might present concern additional termination events that are defined in the agreement. These might be for tax events that occur after the agreement is entered into. For example, if the agreement calls for a gross up for withholding under tax law, a swap counterparty that receives a payment that had withholding tax deducted from it and was not grossed up could terminate the exchange agreement. It should be noted that this applies to either counterparty, in this case WEDA and BBVA.

Finally, another type of issue that arises from the Multicurrency vs. Single Currency ISDA agreements is an increased administrative burden. There is a reporting requirement whereby WEDA would have to provide to, or request from, the swap counterparty certain tax documents and forms to provide assurance that payments can be made without tax withholding. Further, the failure to provide these documents might result in a termination of the swap. In addition, anytime a US entity is dealing with foreign offices of a bank it complicates matters if WEDA was required to resolve any type of dispute with its swap counterparty. If the dispute concerned foreign laws resolving the legal issues could expose WEDA to substantial legal costs.

Staff recommends that the WEDA Board direct staff to proceed with an exchange agreement with BBVA using the Multicurrency – Cross Boarder Form of ISDA agreement. While no one can say that the legal and administrative issues discussed above will never occur, staff believes that their occurrence is a remote possibility and that if they should occur their resolution is manageable. As an option to avoid these issues staff did investigate entering into an exchange agreement with a Bank domiciled in the United States and therefore subject to the Single Currency for that we would have entered into with Compass bank before they were downgrade. Because of provisions in the Loan Agreement with Compass Mortgage that affected this exchange agreement, WEDA would have had to incur another 0.08% to 0.12% higher fixed interest rate. That would have increased annual interest expense to WEDA by about \$60,000 per year. This extra cost was considered to be too expensive as a way to mitigate the issues associated with doing the exchange agreement with BBVA.

Staff Report – Swap Agreement RE: 2005 WEDA Bonds

May 4, 2009

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Attached is a more detailed discussion of the issues associated with entering into an exchange agreement with a foreign entity when the Multicurrency – Cross Border form of ISDA Agreement is used. Staff and WEDA Bond Counsel will be at the May 4 meeting to discuss these issues.

Respectfully submitted,

J. Brent McFall

City Manager/Executive Director of Authority

Attachment

Attachment – Staff Report for WEDA Board Meeting May 4, 2009

Overview of Risks Using the ISDA Multicurrency Cross-Border Documentation

The documentation used for interest rate exchange agreements, or interest rate swaps, is published by the International Swaps and Derivatives Association, formerly the International Swap Dealers Association (“ISDA”), and involves a form Master Agreement, a Schedule modifying the terms of the form Master Agreement, and a Confirmation containing the pricing and payment details. There are two versions of the form ISDA Master Agreement, a Multicurrency Cross-Border form and a Local Currency-Single Jurisdiction form. Below is a brief overview of the risks associated with using the Multicurrency Cross-Border form compared to using the Local Currency-Single Jurisdiction form.

Gross Up for Deduction or Withholding of Tax. Under the Multicurrency Cross-Border documents, all payments must be made without any deduction or withholding due to any tax, unless required by applicable law. If a deduction or withholding is required, the party making the payment (the “Payor”) must pay the full amount of the tax to the relevant authorities. If the tax is an indemnifiable tax, as described below, the Payor must also pay an additional amount to ensure that the net amount received by the other party (the “Payee”) will equal the full amount the Payee would have received had no such deduction or withholding been required. A gross up will not be required by the Payor due to a failure by the Payee to provide required tax forms or notices or a failure in a tax representation by the Payee, unless those tax representations became untrue due to a change in relevant tax law. In addition, if the Payor is required to deduct or withhold a tax, but does not have to gross up the payment to the Payee, the Payee is obligated to pay that tax to the extent any liability is assessed against the Payor for failure to deduct or withhold that tax.

An “indemnifiable tax” is any tax imposed on a payment *except* a tax imposed because of a connection between the taxing jurisdiction and recipient of the payment (or a related person). In general, an indemnifiable tax is a cross border tax that applies to one of the parties to the swap. It excludes domestic income, sales and capital taxes.

These provisions expose WEDA to increased payments due to a change in tax law that would require WEDA to withhold or deduct from its payments to the swap counterparty. If that occurs, WEDA would be required to gross up that payment or could terminate the swap, as discussed below.

Tax Representations and Furnishing of Information. The Multicurrency Cross-Border documents require that each party make a number of tax related representations and agree to provide the necessary tax documents and forms to the other party to ensure that payments can be made without deduction or withholding of tax. This imposes an additional burden on WEDA to request, when necessary, tax documents from the swap counterparty and provide tax documents in response to the swap counterparty’s requests. A failure to provide these documents or a mistake in WEDA’s tax representations could impact the payments under the swap or lead to the termination of the swap.

Additional Termination Events. In addition to the termination events included in the Local Currency-Single Jurisdiction Master Agreement, the Multicurrency Cross-Border Master

Agreement provides that the swap may be terminated upon a “Tax Event” or a “Tax Event Upon Merger.”

A Tax Event is any action taken by a taxing authority or court after the swap is entered into, or a change in tax law, where (i) the Payor is required to gross up a payment or (ii) the Payee receives a payment that has a withholding or deduction taken from it which is not grossed up, as described above under “Gross Up for Deduction or Withholding of Tax.”

A Tax Event Upon Merger occurs when one party consolidates with or merges into another entity, and that consolidation or merger results in the other party to the swap having to gross up a payment or receive a payment that has a withholding or deduction taken from it which is not grossed up.

If a Tax Event or Tax Event Upon Merger occurs, the party that is required to gross up its payment, or the party that has a withholding or deduction taken from its payment that is not grossed up, can terminate the swap early. This would protect WEDA from the increased payments or decreased receipts resulting from a Tax Event or Tax Event Upon Merger, but potentially expose WEDA to having to make a termination payment to the swap counterparty depending on what the market value of the swap is at the time of termination.

Transfer to Avoid Termination Event. Under the Multicurrency Cross-Border Master Agreement, if continued performance of the swap constitutes an illegality, there is a Tax Event which only affects one party, or there is a Tax Event Upon Merger which affects the non-merging party, before the impacted party can declare an early termination event it must use all reasonable efforts to transfer the swap to another of its offices or affiliates so that such event ceases to exist. If the swap counterparty was required to transfer the swap to another of its offices or affiliates, WEDA could not withhold its consent to that transfer if WEDA could otherwise enter into the swap with the transferee. This preserves the swap, but limits WEDA’s ability to terminate the swap.

General Risks Associated with Foreign Entity. Since the Multicurrency Cross-Border Master Agreement is entered into with a foreign counterparty, the agreement exposes WEDA to a number of risks inherent in a financial contract with a foreign entity. WEDA must potentially deal with foreign offices or branches of the counterparty for operational matters or in order to resolve disputes that arise. As noted above, the payments under the swap may be impacted by future taxes the United States imposes on payments to foreign entities, and the swap may be terminated by the swap counterparty due to changes in foreign tax laws or interpretations of those laws. See “Additional Termination Events” above. Finally, the enforceability of the swap against the foreign counterparty upon certain events, most notably bankruptcy, insolvency, or reorganization of the counterparty, will depend on the interpretation and enforcement of the foreign laws affecting the counterparty in those circumstances. If a bankruptcy, insolvency, reorganization, or similar event occurs in respect of the foreign counterparty, WEDA may be exposed to uncertain and costly legal proceedings in order to terminate, transfer, or enforce the swap.

Prepared by: Bryon Farnsworth, Sherman and Howard

WEDA Agenda Item 3 A

Agenda Memorandum

Westminster Economic Development Authority - Special Meeting
May 4, 2009



SUBJECT: Resolution No. 109 re WEDA Interest Rate Exchange Agreement of up to \$69 Million to Support the Refinancing of the 2005 Series WEDA Bonds Issued for the North Huron Urban Renewal Area

Prepared By: Tammy Hitchens, Finance Director
Robert Smith, Treasury Manager

Recommended Board Action

Adopt Resolution No. 109 authorizing, approving and directing the Executive Director to execute and deliver an interest rate exchange agreement and certain other documents in connection with the Compass Mortgage Company loan to the Westminster Economic Development Authority as approved by the Board on April 13, 2009.

Summary Statement

- On April 13, 2009 the Westminster Economic Development Authority (WEDA) Board approved Resolution 106 approving certain loan and interest rate exchange agreements and the Cooperation Agreement between the Authority and the City, on file with the Secretary of the Board. The Exchange Agreement on file with the Secretary was specifically between the Authority and Compass Bank.
- The Colorado Revised Statutes (CRS) require that a public entity may enter into an agreement to exchange interest rates only if: (a) the long-term debt obligations of the party with whom the public entity enters the agreement are rated in one of its two highest rating categories by one or more nationally recognized securities rating agencies; or (b) the obligations under the agreement of the party with whom the public entity enters the agreement are (I) guaranteed by a party whose long-term debt obligations are rated in one of its two highest rating categories by one or more nationally recognized securities rating agencies, or (II) collateralized by obligations deposited with the public entity or an agent of the public entity, which would be legal investments for the public entity, and which maintain a market value of not less than 100% of the principal amount upon which the exchange of interest rates is based.
- On April 14, 2009, Moody's Investors Service downgraded the credit rating of Compass Bank's long-term Senior Unsecured debt from Aa3 to A2, which precluded WEDA from entering into an interest rate swap with Compass Bank.
- On May 20, 2009 at a Special Meeting of the WEDA Board the Board approved Resolution 108 that authorized the Chair and Vice Chairperson of the Board and the Executive Director of the Authority to approve and execute an Exchange Agreement in the form that is on file with the Secretary of the Board, which form was the ISDA Local Currency-Single Jurisdiction document.
- Staff believes that it is in the best interest of WEDA to enter into an exchange agreement with a foreign bank, Banco Bilbao Vizcaya Agentaria (BBVA) the parent company of Compass Bank and the lender Compass Mortgage Company. Entering into a swap with BBVA will require WEDA to agree to a different form of the ISDA Schedule, specifically the Multicurrency – Cross Border form.
- A new resolution has been prepared for WEDA Board consideration that will give the Chair and Vice Chairperson of the Board and the Executive Director of the Authority the authority to review, approve and execute documents related to a rate exchange agreement using the Multicurrency – Cross Border form with a financial institution that meets the applicable requirements of the C.R.S.

Expenditure Required: Up to \$69 million
Source of Funds: WEDA Loan Proceeds

Policy Issue

Does the WEDA Board of Commissioners support entering into an interest exchange agreement with a foreign bank using the Multicurrency – Cross Border form of ISDA Schedule?

Alternatives

1. Do not authorize entering into an interest rate exchange agreement with a financial institution that would require the use of the Multicurrency – Cross Border form of ISDA agreement. This is not recommended. Staff considered entering into a swap with another domestic financial institution; however, this option was deemed too expensive since it would add 0.08% to 0.12% to the fixed rate cost WEDA will incur on the loan during its seven year term (about \$60,000 per year in additional interest cost).
2. Delay the refinancing by not entering into a loan agreement with Compass in order to avoid having to enter into a rate exchange agreement. This is not recommended. WEDA staff has been working to find alternative sources of financing to refund the WEDA Series 2005 Bank Bonds now owned by DEPFA Bank. Further delay by starting the process over with other financial institutions will require that WEDA continue to pay accelerated principal payments to DEPFA Bank of \$1,707,500 on a quarterly basis.

Background Information

WEDA's Series 2005 tax-exempt variable rate debt issue is backed by a Letter of Credit (LOC) agreement with DEPFA Bank plc. In October 2008 after remarketing efforts failed to find investors for the bonds due to the credit downgrades of DEPFA caused by the current financial crisis, the bonds converted to Bank Bonds, which meant the Bank was obligated under the terms of the Reimbursement Agreement to buy the bonds. As a result the interest rate on the bonds increased and the bonds amortize over a 10 year period rather than the original 25 year period of the initial bond issue.

Since December 2008 Staff and the City's underwriter have been negotiating a financing with Compass Bank whereby the Compass Mortgage Company would loan WEDA up to \$69,000,000 that WEDA would use to refund the Bank Bonds owned by DEPFA. Under the terms of the loan commitment letter with WEDA, the Authority must obtain an interest rate exchange agreement, or interest rate swap, to convert the variable rate interest on the loan into a fixed rate. The initial agreement called for this interest rate exchange agreement to be done with Compass Bank.

On April 13, 2009, the WEDA Board approved Resolution 106 that in part, authorized the Chair or Vice Chairperson of the Board and the Executive Director of the Authority to approve the execution of the Loan Agreement, the Exchange Agreement, the Note and the Cooperation Agreement as on file with the Secretary of the Board. The Exchange Agreement on file with the Secretary was specifically between the Authority and Compass Bank.

On April 13, 2009, Compass Bank was rated Aa3 by Moody's Investor Services. On April 14, 2009, Moody's downgraded Compass Bank to A2. This action by Moody's now precludes WEDA from entering into an interest rate exchange agreement with Compass Bank unless the swap is guaranteed or collateralized, which it was not on the day the WEDA Board approved Resolution 106.

Staff has been working with WEDA's investment banker and Bank staff to arrange for another financial institution to either guarantee the obligations of Compass Bank under a rate exchange agreement or find another financial institution to enter into an exchange agreement directly with WEDA. The focus was to have Compass Bank's parent company, Banco Bilbao Vizcaya Argentaria (BBVA), an Aa1 rated Spanish Bank, either guarantee the Compass Bank swap or enter into the swap directly with WEDA itself. In

addition WEDA's swap advisor at Stifel Nicolaus contacted a domestic bank concerning a swap if BBVA was unwilling or unable to accommodate WEDA.

At a special meeting of the WEDA Board on April 20, the Board approved Resolution 108 that authorized the Chair and Vice Chairperson of the Board, and the Executive Director of WEDA to enter into a rate exchange agreement with another financial institution using the same form of Local Currency – Single Jurisdiction ISDA agreement that was on file with the Secretary of the Authority.

BBVA indicated that they would not be able to guarantee the exchange agreement with Compass Bank but was willing to enter into the interest rate swap directly with WEDA. To do so, however, they would require WEDA to enter into the agreement using the Multicurrency – Cross Border form, not the local currency form on which the Board had previously been briefed. The Multicurrency form contains provisions that are different from the single jurisdiction form. The most important of these is that each party would indemnify the other against the impacts of changes in tax law in their country, and to keep the other party whole in the case that the change in tax law would adversely impact the payment due to the other party. The WEDA Board will be briefed on the implications of this and other issues associated with the use of Multicurrency – Cross Border swap agreements at the Special Meeting.

A new Resolution has been prepared for WEDA Board approval that will give the Chair and Vice Chairperson of the Board and the Executive Director of the Authority the authority to review, approve and execute documents related to rate exchange agreement with a financial institution that meets the applicable requirements of the C.R.S. using the Multicurrency – Cross Border form of ISDA agreement.

Staff and WEDA's Bond Counsel will be present at the WEDA special meeting of May 4th to answer Board questions.

Respectfully submitted,

J. Brent McFall
Executive Director

Attachment

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. **109**

INTRODUCED BY COMMISSIONERS

SERIES OF 2009

RESOLUTION OF THE BOARD OF COMMISSIONERS OF
THE WESTMINSTER ECONOMIC DEVELOPMENT
AUTHORITY AUTHORIZING, APPROVING AND
DIRECTING THE EXECUTION AND DELIVERY OF AN
INTEREST RATE EXCHANGE AGREEMENT AND CERTAIN
OTHER DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, the Westminster Economic Development Authority (the “Authority”) is a public body corporate and politic, and has been duly created, organized, established and authorized by the City of Westminster, Colorado (the “City”) to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constituting Part 1 of Article 25 of Title 31, Colorado Revised Statutes, as amended (the “Act”); and

WHEREAS, pursuant to Section 31-25-105 of the Act, the Authority has the power to borrow money and to apply for and accept advances, loans, grants and contributions from any source for any of the purposes of the Act and to give such security as may be required; and

WHEREAS, pursuant to Section 31-25-109 of the Act, the Authority has the power to issue refunding or other bonds (defined by the Act to mean any bonds, notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures or other obligations) from time to time in its discretion for the payment, retirement, renewal or extension of any bonds previously issued by it under the Act; and

WHEREAS, the Authority is authorized to issue bonds without an election; and

WHEREAS, the Authority has previously issued its Tax Increment Adjustable Rate Revenue Bonds (North Huron Urban Renewal Project) Series 2005 in the original aggregate principal amount of \$68,300,000, and presently outstanding in the aggregate principal amount of \$64,885,000 (the “Prior Bonds”); and

WHEREAS, the Authority has previously determined that it is in the best interests of the Authority and the citizens and taxpayers of the City that the Prior Bonds be refunded (the “Refunding Project”); and

WHEREAS, the Authority intends to enter into a Loan Agreement with Compass Mortgage Corporation (“Compass”) to obtain a loan in the principal amount of not to exceed \$69,000,000 (the “Loan”) in order to finance the costs of the Refunding Project; and

WHEREAS, pursuant to Sections 11-59.3-101 through 11-59.3-105, inclusive, C.R.S. (the “Interest Rate Exchange Act”), the Authority may enter into an agreement for an exchange of interest rates, cash flows or payments with respect to public securities (defined by the Interest Rate Exchange Act to mean bonds, notes, debentures, interim certificates, bond anticipation notes, commercial paper or other evidences of indebtedness, or lease, installment purchase or other agreements, or certificates of participation therein, issued by or on behalf of a public entity) that the Authority has issued if it finds that such an agreement would be in the best

interests of the Authority and if (i) the long-term debt obligations of the party with whom the Authority enters into the agreement are rated in one of its two highest rating categories by one or more nationally recognized securities rating agencies that regularly rate such obligations, or (ii) the obligations under the agreement of the party with whom the Authority enters into the agreement are either guaranteed by a party whose long-term debt obligations are rated in one of its two highest rating categories by one or more nationally recognized securities rating agencies that regularly rate such obligations or collateralized by obligations deposited with the Authority or an agent of the Authority, which would be legal investments for the Authority, and which maintain a market value of not less than 100% of the principal amount upon which the exchange of interest rates is based; and

WHEREAS, by resolution adopted by the Authority on April 13, 2009, the Authority previously approved the entering into of an interest rate exchange agreement with Compass Bank in order to fix the interest rate on the Loan; and

WHEREAS, subsequent to April 13, 2009, the ratings of the long-term debt obligations of Compass Bank have been downgraded so that Compass Bank no longer qualifies as a counterparty to an interest rate exchange agreement under Section 11-59.3-103(2)(a) of the Interest Rate Exchange Act; and

WHEREAS, by resolution adopted by the Authority on April 20, 2009, the Authority previously approved the entering into of an interest rate exchange agreement with an alternative counterparty using the ISDA Local Currency-Single Jurisdiction documentation in order to fix the interest rate on the Loan; and

WHEREAS, in order to fix the interest rate on the Loan, there is also proposed an ISDA Master Agreement relating to the Loan using the ISDA Multicurrency Cross-Border documentation, including a Schedule thereto and a Confirmation thereunder (together, the "Exchange Agreement"), all between the Authority and a counterparty that complies with the requirements of the Interest Rate Exchange Act (the "Exchange Agreement Provider"), whereby the Authority will pay the Exchange Agreement Provider a fixed rate of interest to be specified in the confirmation of the Exchange Agreement on a notional amount to be specified in the Confirmation, and the Exchange Agreement Provider will pay the Authority a variable rate of interest equal to a specified percentage of the Index plus a Base Margin (both as defined in the Loan Agreement); and

WHEREAS, the Board of Commissioners of the Authority (the "Board") has received information as to the costs, risks and benefits of entering into the Exchange Agreement from the staff of the Authority; and

WHEREAS, the Authority specifically elects to apply the provisions of Title 11, Article 57, Part 2, C.R.S. to the Exchange Agreement; and

WHEREAS, the Board desires to delegate to the Executive Director of the Authority the power to determine the Exchange Agreement Provider and the terms of the Exchange Agreement consistent with the provisions of the Interest Rate Exchange Act, this Resolution, to the extent that the ISDA Multicurrency Cross-Border documentation is used, and the April 20, 2009 resolution, to the extent that the ISDA Local Currency-Single Jurisdiction documentation is used; and

WHEREAS, there is on file with the Secretary of the Board the proposed form of the Exchange Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY, COLORADO, THAT:

Section 1. All actions (not inconsistent with the provisions of this Resolution) heretofore taken by the Board and the officers of the Authority directed toward the entering into of the Exchange Agreement hereby are ratified, approved and confirmed.

Section 2. The form, terms and provisions of the Exchange Agreement hereby are authorized and approved, and the Authority shall enter into the Exchange Agreement in the form as is on file with the Secretary of the Board, but with such changes therein as shall be consistent with this Resolution and as the Chair or Vice Chairperson of the Board or the Executive Director of the Authority shall approve, the execution thereof being deemed conclusive approval of any such changes. The Chair and/or the Vice Chairperson of the Board is hereby authorized and directed to execute and deliver the Exchange Agreement, for and on behalf of the Authority. The Secretary of the Board is hereby authorized and directed to affix the seal of the Authority to, and to attest, the Exchange Agreement as may be required.

Section 3. The officers of the Authority shall take all action that they deem necessary or reasonably required in conformity with the Act and the Interest Rate Exchange Act to enter into the Exchange Agreement, including the paying of incidental expenses, which are hereby authorized to be paid, and for carrying out, giving effect to and consummating the transactions contemplated by this Resolution and the Exchange Agreement, including, without limitation, the execution and delivery of any necessary or appropriate closing documents to be delivered in connection with the execution and delivery of the Exchange Agreement.

Section 4. Pursuant to Section 11-57-205, C.R.S., the Board hereby delegates to the Executive Director of the Authority the authority to make the following determinations with respect to the Exchange Agreement, including the execution of any certificates necessary or desirable to evidence such determinations, which determinations shall be subject to the restrictions and parameters set forth below and the Interest Rate Exchange Act: (a) the selection of the Exchange Agreement Provider and any guarantor of the Exchange Agreement Provider's obligations under the Exchange Agreement, including the use of the ISDA Multicurrency Cross-Border documentation or the ISDA Local Currency-Single Jurisdiction documentation that may be dependent on such selection; (b) the notional amount of the Exchange Agreement; (c) the term of the Exchange Agreement; (d) the Index and the Base Margin used to calculate amounts to be paid to the Authority by the Exchange Agreement Provider pursuant to the Exchange Agreement; and (e) the fixed rate of interest to be paid to the Exchange Agreement Provider by the Authority pursuant to the Exchange Agreement. The foregoing authority shall be subject to the following restrictions and parameters: (1) the term of the Exchange Agreement shall not extend beyond June 1, 2016; (2) the notional amount of the Exchange Agreement shall not exceed \$69,000,000; (3) the specified percentage of the Index shall not be less than 60% nor more than 70%; (4) the Base Margin shall not exceed 3.0%; and (5) the fixed rate of interest payable by the Authority under the Exchange Agreement shall not exceed 6.0%.

Section 5. The Exchange Agreement is a special obligation of the Authority payable solely as provided in the Loan Agreement and the Exchange Agreement. Any payments due under the Exchange Agreement shall not constitute an indebtedness of the City or the State of Colorado or any political subdivision thereof, and neither the City, the State of Colorado nor any political subdivision thereof shall be liable thereon, nor in any event shall any payments due under the Exchange Agreement be payable out of funds or properties other than the Pledged Revenue, as such term is defined in the Loan Agreement. Neither the Commissioners of the

Authority nor any persons executing the Exchange Agreement shall be liable personally on the Exchange Agreement.

Section 6. After the Exchange Agreement is entered into, this Resolution shall be and remain irrevocable, and may not be amended except in accordance with the Exchange Agreement and the Loan Agreement, until the Exchange Agreement has been fully paid, canceled and discharged in accordance therewith.

Section 7. The officers of the Authority are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution, including but not limited to the execution of such certificates and affidavits as may be reasonably required by the Exchange Agreement Provider and any guarantor of the Exchange Agreement Provider's obligations under the Exchange Agreement.

Section 8. All costs and expenses incurred in connection with the Exchange Agreement and the transactions contemplated by this Resolution shall be paid either from the proceeds of the Loan or from legally available moneys of the Authority, or from a combination thereof, and such moneys are hereby appropriated for that purpose.

Section 9. The Board has received information from the professional advisors of the Authority as to the costs, risks and benefits of the Exchange Agreement. The Board, in evaluating the merits of the Exchange Agreement, has given consideration to the savings and debt management benefits to the citizens residing within the boundaries of the Authority. The Board hereby finds that the Exchange Agreement, as set forth in the ISDA Master Agreement relating to the Loan Agreement using the ISDA Multicurrency Cross-Border documentation, including the Schedule thereto and the Confirmation thereunder, is in the best interests of the Authority.

Section 10. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 11. All bylaws, orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency; provided that this Resolution is in addition to and not in lieu of that certain resolution adopted by the Authority on April 20, 2009 relating to an interest rate exchange agreement using the ISDA Local Currency-Single Jurisdiction documentation. This repealer shall not be construed as reviving any bylaw, order or resolution or part thereof.

Section 12. This Resolution shall be in full force and effect immediately upon its passage and approval.

PASSED, ADOPTED AND APPROVED this May 4, 2009.

(SEAL)

Chair/Vice Chairperson of the Board of Commissioners

APPROVED AS TO LEGAL FORM:

Attorney for the Authority



WESTMINSTER

Staff Report

City Council Study Session Meeting
May 4, 2009



SUBJECT: Presentation on Community Transit Program

PREPARED BY: Matt Lutkus, Deputy City Manager

Recommended City Council Action:

View the PowerPoint presentation on the Adams County Community Transit Program.

Summary Statement:

- Time has been set aside on Monday evening's study session agenda for Council to view a PowerPoint presentation on the Adams County Community Transit Program and the A-Lift transportation service. The presentation will be made by Deputy City Manager Matt Lutkus who represents Westminster on the Community Transit Policy Council and Mark Smiley and Brandon Edelman from the Seniors' Resource Center.
- The Community Transit Council was created through a series of Intergovernmental Agreements between Adams County and the Cities of Westminster, Arvada, Commerce City, Federal Heights, Northglenn and Thornton in 1999.
- The Council contracts with the Seniors' Resources Center to provide senior and disabled persons with transportation related to their medical and nutrition needs as well as for other purposes.
- Funding for the program comes from Federal and State grants, contributions from the County and member cities and, to a lesser degree, rider donations and private contributions.

Expenditure Required: \$26,420

Source of Funds: 2009 General Fund - Central Charges Operating Budget



WESTMINSTER

Staff Report

Westminster Economic Development Authority
May 4, 2009



SUBJECT: Swap Presentation and Discussion re Loan Agreement with Compass Mortgage

PREPARED BY: Tammy Hitchens, Finance Director

Robert Smith, Treasury Manager

Recommended City/WEDA Board Action:

Direct Staff to proceed with an interest rate exchange agreement with Banco Bilbao Vizcaya Argentaria (BBVA) to support a Loan from Compass Mortgage Company for the purpose of refinancing the 2005 Westminster Economic Development Authority's (WEDA) North Huron Urban Renewal Area (URA) bonds.

Summary Statement:

The report presents background information on a rate exchange agreement with a foreign bank that the WEDA Board must have before its potential action to enter into that interest rate exchange agreement. This action is necessary to secure an exchange agreement, as required by a loan agreement, with Compass Mortgage Company. The proceeds of the loan will be used to refund the WEDA 2005 Bonds currently owned by DEPFA Bank.

Background Information:

On April 13, 2009, the WEDA Board authorized the Chair and Vice Chairperson of the Board and the Executive Director of the Authority to enter into a Loan with Compass Mortgage Company. The proceeds of the loan would be used to refund the Bank Bonds that DEPFA Bank now owns that were originally issued as the WEDA Series 2005 Bonds (North Huron Project). The terms of the loan agreement require WEDA to enter into an interest rate exchange agreement to convert the variable interest rate paid on the loan amount into a fixed rate.

Initially it was the intent to enter into such a rate exchange agreement with Compass Bank, a bank domiciled in the United States using a local currency – single jurisdiction form of the International Swap Dealers Association (ISDA) contract. However, a downgrade of Compass Bank's credit rating by Moody's Investors Services on April 14, 2009 precluded the Authority from entering into this agreement because of a C.R.S. requirement that precludes municipalities from entering into a swap agreement if the counterparty is not in either one of the two top ratings categories (AAA and AA) by at least one of the nationally recognized rating agencies.

Compass Bank's parent company in Spain, Banco Bilbao Vizcaya Argentaria (BBVA), which is rated Aa1, was approached about either guaranteeing its subsidiary's obligations under the agreement or itself entering into the swap directly with WEDA. While BBVA declined to guarantee the obligations of Compass Bank if Compass Bank was the swap counterparty to WEDA, they did agree to enter into a swap agreement directly with WEDA. To do so, they have required that the agreement be based on

the terms contained in the Multicurrency – Cross Border form of the swap agreement created by the International Swap Dealers Association.

Per statutory requirements, the Council and Board must be informed of the costs, risks, and benefits of entering into a swap agreement. At the January 12th meeting, Staff gave a general review of swaps. On February 23, 2009 staff again briefed the City Council and WEDA Board, this time concerning the specific terms of the rate agreement with Compass Bank, and the inherent risks and benefits associated with the use of interest rate swap agreements. This briefing will expand on this discussion by addressing additional issues created when the Multicurrency – Cross Border form of the ISDA agreement is used. These include the potential that if there is a change in tax law that would require WEDA to make a payment, such as a withholding tax, to the government, it would have to pay the tax due. In addition, if the tax was an “indemnifiable tax” WEDA would also be required to pay the swap counterparty 100% of the amount that it was due under the swap agreement as if there had been no withholding tax. Note that the IRS has proposed that government payments be subject to required withholdings under the rules in the Internal Revenue Code, Section 3402(t). While the implementation of this requirement has been delayed until 2012, the rule would generally require a 3% income tax withholding by government entities on payments for property and services. Interest payments are excluded from this rule, and we believe that payments under a swap agreement would constitute interest payments. However, this example is indicative of the type of change in tax law that could occur and affect WEDA’s cost under Multicurrency – Cross Border swap agreement.

A second type of issue that Multicurrency form of ISDA agreements might present concern additional termination events that are defined in the agreement. These might be for tax events that occur after the agreement is entered into. For example, if the agreement calls for a gross up for withholding under tax law, a swap counterparty that receives a payment that had withholding tax deducted from it and was not grossed up could terminate the exchange agreement. It should be noted that this applies to either counterparty, in this case WEDA and BBVA.

Finally, another type of issue that arises from the Multicurrency vs. Single Currency ISDA agreements is an increased administrative burden. There is a reporting requirement whereby WEDA would have to provide to, or request from, the swap counterparty certain tax documents and forms to provide assurance that payments can be made without tax withholding. Further, the failure to provide these documents might result in a termination of the swap. In addition, anytime a US entity is dealing with foreign offices of a bank it complicates matters if WEDA was required to resolve any type of dispute with its swap counterparty. If the dispute concerned foreign laws resolving the legal issues could expose WEDA to substantial legal costs.

Staff recommends that the WEDA Board direct staff to proceed with an exchange agreement with BBVA using the Multicurrency – Cross Boarder Form of ISDA agreement. While no one can say that the legal and administrative issues discussed above will never occur, staff believes that their occurrence is a remote possibility and that if they should occur their resolution is manageable. As an option to avoid these issues staff did investigate entering into an exchange agreement with a Bank domiciled in the United States and therefore subject to the Single Currency for that we would have entered into with Compass bank before they were downgrade. Because of provisions in the Loan Agreement with Compass Mortgage that affected this exchange agreement, WEDA would have had to incur another 0.08% to 0.12% higher fixed interest rate. That would have increased annual interest expense to WEDA by about \$60,000 per year. This extra cost was considered to be too expensive as a way to mitigate the issues associated with doing the exchange agreement with BBVA.

Staff Report – Swap Agreement RE: 2005 WEDA Bonds

May 4, 2009

Page 3

Attached is a more detailed discussion of the issues associated with entering into an exchange agreement with a foreign entity when the Multicurrency – Cross Border form of ISDA Agreement is used. Staff and WEDA Bond Counsel will be at the May 4 meeting to discuss these issues.

Respectfully submitted,

J. Brent McFall

City Manager/Executive Director of Authority

Attachment

Policy Issue:

None at this time.

Alternative:

None at this time.

Background Information:

The City was involved in the development of a special transit program for seniors and disabled persons during the late 1990's after two efforts by non-profit organizations to provide these services failed. City Staff have been very active in the Community Transit Program since its inception in January 2000. For the past nine years, transportation brokerage services for this program have been provided by the Seniors' Resource Center (SRC) in Wheat Ridge. Rides are provided using both A-Lift and SRC vans and by private transportation companies. One of the A-Lift vehicles is located at The MAC and is operated by volunteer drivers supervised by the facility's manager Kate Amack.

Approximately 20,000 rides have been provided to 550 – 600 Adams County residents during each of the past several years. During 2008, the A-Lift provided 4,630 rides to Westminster/Adams County residents. This number does not include the persons who are served in the Jefferson County portion of the City under a separate agreement with the Seniors' Resource Center.

Since the Program's inception, rides have been provided for medical and dental appointments, trips to nutrition centers and grocery store visits. In 2007, the Community Transit Council added adult day care trips and recently was able to augment the program on the temporary basis to allow personal trips. The latter includes a variety of activities that can greatly increase the quality of life for clients who often become isolated from their communities.

The PowerPoint presentation by City and Seniors' Resource Center staff will provide an overview of the program, review some of the data from the last survey of clients and address the 2009 goals of the Transit Council. Attached to this update are copies of the Community Transit Council's 2009 Goals and the current A-Lift brochure.

Respectfully submitted,

J. Brent McFall
City Manager

Attachments

Adams County Community Transit Program
Our Mission

To promote mobility and independence for older adults and disabled persons through a community partnership committed to accessible and affordable transportation in Adams County

2009 Community Transit Program Goals

- Provide a minimum of 23,000 rides contingent upon availability of funds.
- Maintain level of ridership of the minority population at no less than 15%.
- Encourage mobility-impaired riders who are 60 years of age and older.
- Provide 1,500 rides for adult day services.
- With non-profit status, expand revenue base by \$50,000 in private grant funding and fundraising not including rider donations.
- Collect a minimum of \$18,000 in rider donations.
- Conduct annual rider satisfaction survey and report.
- Increase marketing activities to boost community awareness and quantity of unduplicated riders.



WESTMINSTER

Staff Report

City Council Study Session Meeting
May 4, 2009



SUBJECT: Human Resources Division Activity Update

PREPARED BY: Debbie Mitchell, Human Resources Manager
Lisa Chrisman, Human Resources Administrator
Dee Martin, Human Resources Administrator

Recommended City Council Action:

Staff will provide a presentation to Council on the employee recruitment, retention and development programs administered by the City's Human Resources Division. Council feedback on Human Resources initiatives is welcome.

Summary Statement:

The Westminster Strategic Plan recently revised 2008-2013 Goals and Objectives at their annual retreat. Financially Sustainable City Government Providing Exceptional Services was reprioritized as Westminster's number one goal. "Maintaining a values driven organization through talent acquisition, development and management" was added as a new objective under this goal, and is a primary focus for the General Services Department Human Resources Division. This staff report and presentation to Council will outline key initiatives of the Human Resources Division in 2008 and the strategic results of these efforts.

Maintaining a quality workforce is the engine for exceptional service delivery to the citizens of Westminster. Partnering with management on succession planning, leadership development, employer marketing and branding, employee compensation, internal employee communication, and employee development were all 2008 Human Resources initiatives with organization-wide impact. Focused and deliberate efforts by City management and Human Resources are moving these programs forward in a strategic manner.

A key program was rolled out in 2009 to develop our "bench strength." Staff introduced a year long Leadership Development program. This program targets employees interested in taking on leadership responsibilities. A continued focus on these initiatives will assist the organization in maintaining an operationally healthy organization that is financially sustainable.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issues:

Are the human resources initiatives and management strategies reflective of Council’s desired approach to management?

Are the human resource efforts effective in supporting the organization’s mission and strategic goals and objectives?

Alternative:

Modify the approach currently taken for a particular area of human resources (i.e. succession management, employee development, compensation and classification, recruitment and retention)

Background Information:

Human Resource efforts are purposeful and strategic. The deliberate integration of mission and values into all organizational systems, communication, and development efforts leads to the creation and maintenance of a strong and effective organizational culture. Human Resources is a strategic partner in ensuring the City’s ability to provide exceptional value and quality of life through SPIRIT. The synergy created through aligned systems and communication is invaluable to this organization.

The intent of this staff report is to highlight three primary strategies implemented by Human Resources in 2008, to include: Talent Acquisition and Management, Employee Development, and Sustaining Foundational Efficiencies.

The City of Westminster is a values-driven organization that strives to meet its mission with purposeful integration of competency-based initiatives. This strategic effort began in 2003 with the SPIRIT initiative. The competency-based model, developed over the last five years, includes:

- SPIRIT competency based performance appraisal
- Annual SPIRIT management team symposium
- Training classes, certifications and programs
- Recruitment, selection and promotional processes
- Human Resources Division performance measures

Talent Acquisition and Management:

➤ **Employer Marketing**

Bureau of Labor statistics estimate a labor shortage of 10 million workers to hit the United States by 2010. Even though this forecast may be delayed because of current economic conditions, we know there will be a shortage based on generational and demographic trends in the next 10 to 15 years.

In 2008, the Division partnered with City management to create an employer marketing initiative, continuing the emphasis on hiring individuals with top skills, and even more importantly, those that embody the values of the organization. This strategy means focused and purposeful recruitments, directly tying in to Westminster’s succession management plan. It also supports a long term objective of maintaining a strong organizational culture. The project included contracting a local marketing firm to identify Westminster as an “Employer of Choice.” Employee focus groups were utilized to flush out key differentiators to be used in future organizational internal communications as well as in our employer branding.

➤ **Targeted Recruitment**

In 2008, Westminster faced the departure of two key division manager positions posing significant, potential negative impact to the organization. The Planning Manager recruitment conducted in 2008 was an example of a highly competitive market search. Human Resources partnered with Community Development to fill the vacated Planning Manager position with not merely a replacement, but with a leader who could help guide the organization successfully into the future. Similarly, the recruitment of candidates for the City's Fleet Manager vacancy targeted individuals who had not only strong managerial and technical skills but also who possessed values that were consistent with the City's organizational values.

Targeted recruitments strategies were used to attract and recruit very specific types of candidates without the use of an external consultant. Creative marketing approach plans were developed in collaboration with the two department heads, and as a result of recruitment efforts, exceptional individuals were hired in both areas. The 2008 division manager recruitments were milestones for the City. They exemplified the positive impact of targeted marketing efforts to attract exceptional talent with organizationally aligned values and nationally showcased the City of Westminster as an "Employer of Choice."

➤ **Recruitment Best Practices**

The Aberdeen Group conducted a survey of 620 Best in Class Talent Acquisition Organizations. Study results revealed that there are common performance criteria in four areas:

- *Time to Hire*
- *Quality of Hire*
- *New Hire Retention*
- *Hiring Manager Satisfaction with Recruitments*

The four performance criteria noted above as human resources best in class practices are already integrated in to Westminster recruitment standards and tracked in performance measures. The City recognizes the value of human resource involvement in all recruitment processes. The dividends to following these measures result in the quality of hires, a high retention rate of new employees and a strong, values driven organizational culture that supports SPIRIT.

The 2008 turnover rate for full time employees was 6.4%, well below national norms. Westminster's 18 month turnover rate of 8.39% also indicates successful recruitment and retention efforts as compared to national norms and is a measure of *Quality of Hire* and *New Hire Retention*.

The Aberdeen survey also concluded that *Time to Hire* is a critical performance measure for organizations to track. Westminster tracks this measure to ensure an efficient and effective hiring process that meets the needs of the organization. Division staff works closely with departments on recruitment to ensure *Hiring Manager Satisfaction*.

Finally, according to the *Aberdeen Study of Best in Class Talent Acquisition Organizations*, the evaluation of costs of services delivery should be made whenever possible. Within the Human Resources template of the ICMA Center for Performance Measurement, the Human Resources Division's costs of services delivery per FTE in 2007 is assessed. Westminster is at or below the costs when compared against comparable ICMA cities, even though the Division's involvement in recruitment and selection tends to be greater than other organizations. City costs for expenditures related to the full scope of human resource services are just at \$1,000 per year per FTE (see Chart HR-1). The cost of human resource services in 2008 is anticipated to be consistent with 2007 and will be

compared in future ICMA studies. This measure is another example of Human Resources meeting the goal of Financially Sustainable City Government.

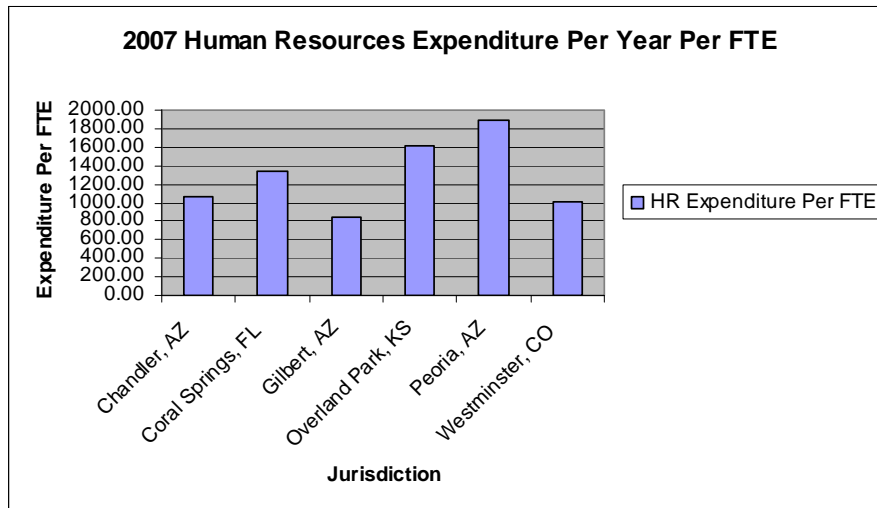


Chart HR – 1

➤ Competitive Total Compensation and Quality Employee Services

A key component of the Division’s performance measures to recruit and retain quality employees comes in the retention of the quality staff currently employed with the organization. Westminster is committed to offering a competitive total compensation package, in both pay and benefits. Using a market-based comparative system for pay analysis, in 2008 Human Resources staff completed a comprehensive salary and compensation survey process for the 2009/2010 biennial budget cycle. In addition to this analysis, the Division re-engineered a more competitive Administrative Officer pay plan. This compensation work keeps Westminster competitive, and is vital to recruiting and retaining top employees.

Employee trust of an equitable compensation review process is equally important to the actual established compensation package. The City made great strides in 2008 in developing a communication plan to build employee confidence and trust in the City’s processes and total compensation philosophy. Human Resources collaborated with City Manager’s Office in developing key compensation messages and a strategy for delivering those that involved organizational leadership. The major change in communication was a refocusing on the City’s compensation philosophy versus a detailed explanation of the data used to analyze market information and pay decisions.

➤ Compliance

Human Resources is accountable to the City of Westminster in supporting its financial sustainability by ensuring that the organization stay compliant with ever changing local, state and federal employment laws and regulations. Without due diligence paid by the Division to these many regulations, Westminster would be at risk for law suits, fines and employment violation penalties. Performance measures have been put in place to ensure compliance.

In addition to these measures, Human Resources completed a thorough review and revision to the City Personnel Policies and Rules in 2007 implementing the changes in 2008.

Human Resource Management in Public Service: Paradoxes, Processes, and Problems,
by: Evan Berman, James Bowman is a textbook that highlights the City of Westminster as being well known for innovation in Personnel Rules and Policies development.

➤ **Employee Relations**

The Human Resources Division devotes a significant amount of time partnering with departments, the City Manager's Office and the City Attorney's Office on personnel issues. These efforts encourage organization-wide consistency in dealing with personnel issues and also safeguards that the organization is compliant with employment laws in both its operations and its administration of discipline. In 2008, 60 disciplinary actions were administered Citywide. None of these disciplinary actions were grieved to the Personnel Board. Additionally in 2008, one EEOC complaint went to a hearing in front of the Equal Employment Opportunity Commission. All charges against the City were dropped due to successful case management.

Employee Development:

According to the SHRM 2007-2008 Workplace Trends List, building leadership capabilities will be one of the key differentiators among organizations that will thrive and survive in the next decade. The ability to attract, grow and fully leverage organizational leaders will be critical.

➤ **Leadership Development**

Developing the leaders of the future is a key objective for the City. A twelve month Leadership Development Program was designed in 2008 and then rolled out at the beginning of 2009. This Program is providing an opportunity to rising stars in the organization to learn more about leadership and management in the City of Westminster. The Program provides challenging opportunities to increase self awareness, skills and knowledge to prepare employees for future leadership roles. Monthly classes provide information and experiential learning on topics including leadership, communication and decision making. Participants have been assigned to teams and have assignments with these small groups and individually between each class. The selection process for the program included a rigorous assessment process and one-on-one feedback to each of the candidates regarding their strengths and growth opportunities. This program has high visibility in the organization and many people look forward to the possibility of being in the program.

➤ **Management Development**

The City Manager identified a desire for supervisors and managers to broaden their role as leaders and translators of the City's mission and SPIRIT values. It was also seen as vital to strengthen our consistency in management and leadership practices. To that end, Human Resources staff developed a Supervisor Certification Program. The City made a commitment for all supervisors in the organization to complete this comprehensive training program. Three groups began the program in 2008. Coaching and mentoring is a key component in this training and will support knowledge transference and leadership development needs as identified in our succession management plan.

Human Resources developed a succession management plan to ensure the continued effective performance of the organization by establishing a process to develop and replace key staff. An organization-wide initiative related to this plan is the implementation of a leadership development program. This will identify future leaders and build our bench strength to address future leadership

needs in the City.

➤ **Targeted Employee Trainings**

A Core Four Certification, designed to increase employee engagement through focus on the City's mission statement, core (SPIRIT) values, strategic goals and performance measures, was implemented in 2008. This certification targets all levels of employees and is designed to solidify each employee's role in mission, values, and strategic objectives. The interrelationship of each of these elements is critical to overall organizational effectiveness.

Sustain Foundational Efficiencies:

➤ **Human Resources Technology**

New organizational initiatives and marketing strategies would not be possible without strong fundamental human resource services. In 2008, the Division continued to improve workforce technologies enhancing organizational efficiencies and customer service. Initiatives included enhancements to the electronic timesheet automating overtime calculations for Police and Fire; online open enrollment enhancements; and, electronic routing of SPIRIT performance appraisals for all benefited employees. These technology implementations provide a multitude of beneficial functions for the organization including the enhancement of organization communication, customer service and efficiencies. They will provide quality human resources services through accurate administration of our employee information through the JD Edwards Human Resources Information System. Paying employees correctly and on time is an essential operation for Human Resources and Payroll in Finance and is paramount to the financial sustainability of an organization.

➤ **Human Resources Administrative Functions**

Human Resources has the important task of accurately processing scheduled salary increases, FTE changes, employee classification, pay and benefit changes, new hire paperwork, terminations, etc. It is essential that employee pay and status is accurately maintained. Human Resources sets a high bar for accuracy in our Personnel Action Form (PAF) processing, with an annual target of 99% accuracy. In 2008, 3230 PAF's were processed by Human Resources staff with 99.9% accuracy.

➤ **Health Benefit Costs Containment**

Rising health care costs are a significant concern for all organizations. The City proactively manages health care and other benefit costs through a variety of efforts. A comprehensive wellness program targets the reduction of sick leave and catastrophic illness through prevention programs. Employee education efforts focus on self management of healthy lifestyle choices. Due diligence is practiced in the oversight of a self funded medical plan and quality benefits administration.

Summary

The synergy created through aligned systems and communication is invaluable to this organization. The City's commitment to employee development and the focus on leadership and management development is helping all in the organization embrace the City's mission, strategic objectives and values. Staff works to develop a high degree of ownership in these areas. Our current and future leaders are key drivers in helping employees see how their contribution is vital to our purpose. These organizational initiatives are targeted to stretch and challenge our existing managers and supervisors to be champions for City objectives and our efforts to develop our future leaders and will keep us

Staff Report – Human Resources Division Activity Update

May 4, 2009

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strong as a values driven organization. Today's ever-changing economic climate, as well as new national and state legislative directives, pose significant challenges to the organization and Human Resources. A future focus with flexibility, adaptability and innovative thinking will be required to keep Westminster financially sound and an "*Employer of Choice.*"

Respectfully submitted,

J. Brent McFall
City Manager



Staff Report

City Council Study Session Meeting
May 4, 2009



SUBJECT: Faversham Dog Park/Little Dry Creek Dog Park

PREPARED BY: Rich Dahl, Park Services Manager
Kathy Piper, Landscape Architect II

Recommended City Council Action:

Concur with Staff's recommendation to not construct a dog Park at Faversham Park and direct Staff to pursue the design of an alternate dog park site along Little Dry Creek, west of Lowell Boulevard.

Summary Statement

- Faversham Park is a developed community park located in the southwest part of the City.
- The proposed dog park area was to consist of one acre, with fencing, planting, signage to be located between the existing dam and ball fields.
- A public meeting was held on January 14, 2009, at the Irving Street Library. Notification was given to all the surrounding homeowners via surveys, the City website and the local newspaper.
- Approximately 18 citizens attended with two-thirds opposed and one-third in favor for the dog park. Opposition concerns ranged from, ruining "open space" and wildlife areas, parking, baseball games, biting/uncontrolled animals, vandals, landscaping and parking. Those in favor of the dog park had concerns such as the area might be too small, the dog park should have a second area for small dogs, the fence height, water needs and the ability to maintain grass on the site.
- The project was to be developed with 2009 capital improvement funds budgeted in the Parks Renovation account.
- Based upon community feedback Staff does not recommend constructing a dog park at Faversham Park as it would be a constant source of complaints from those living near the park and would consume staff and material resources that the City can ill afford to utilize for the marginal benefits derived at this location.
- Unless City Council would prefer to move forward with the project, Staff will continue evaluating other locations for a dog park in the southern portion of the City with the goal of developing a new dog park in 2010. Staff has identified a site located on City open space property between the Fire Training Tower at England Park and Lowell Boulevard. Staff believes it will make a very good location for the dog park (see attached aerial map). Further discussion on this location can be found in the background section of this staff report.

Expenditure Required: \$150,000

Source of Funds: General Capital Improvement Fund Park Renovation Project

Policy Issue:

Does City Council wish to authorize Staff to proceed with a dog park at Faversham Park or provide other options on possible locations in South Westminster?

Alternatives:

1. Council could direct Staff to proceed with a dog park at the Faversham Park location. However, some of the funding has been redirected to another project at this time.
2. Per Staff's recommendation, Council could direct Staff to identify other possible locations and more specifically to develop concept plans for a dog park on the Little Dry Creek between the Fire Training Tower and Lowell Boulevard.
3. Council could direct Staff to discontinue this project.

Background Information:

Faversham Park is located at 6109 W. 73rd Avenue and is approximately 18 acres. It was constructed in 1984 and was last renovated in 2004, at which time the pond was dredged and a fishing pier and an additional shelter were added to the park.

The proposed dog park design, as presented in the public meeting, includes one acre of fenced area, an additional 20-car parking lot, pathways to the dog park, and landscaping. Approximately 500 surveys were sent out to all the surrounding homeowners in that area. Over 100 hundred surveys were received, with the majority of respondents in favor of a dog park at this location.

The public meeting was very contentious and obviously upsetting to some of the long-term residents not only due to the proposed dog park, but from recent surrounding commercial and residential development. There were several issues brought up by both those who opposed or favored the dog park. These issues included concerns of barking dogs, parking, conflicts between dogs and owners, trash and policing of the area, landscaping, the size of the dog park, fencing height, being able to maintain turf within the dog area and maintaining the area for the sledding hill, which is an important neighborhood feature.

Some of these issues could be resolved with more specific site and landscape planning. However, the overall size, and location of the dog park would not change enough to alleviate all of the citizens' concerns, whether perceived or real. In the best interest of the City and the residents, Staff recommends forgoing construction of a dog park at Faversham Park as it would be a source of complaint from those living near the park and would consume Staff and material resources that the City can ill afford to waste at this time.

Staff has evaluated alternate sites in south Westminster and has identified a site along Little Dry Creek that it believes is a good location for a dog park (see concept plan attached). The site is surrounded by mainly industrial/commercial properties and is easily accessible from Lowell Boulevard and the Little Dry Creek Trail. Therefore, Staff seeks City Council concurrence to develop a plan and cost estimate for a dog park at that location. If approved, Staff would plan to move forward with construction in 2010.

Staff Report – Faversham Dog Park/Little Dry Creek Dog Park

May 4, 2009

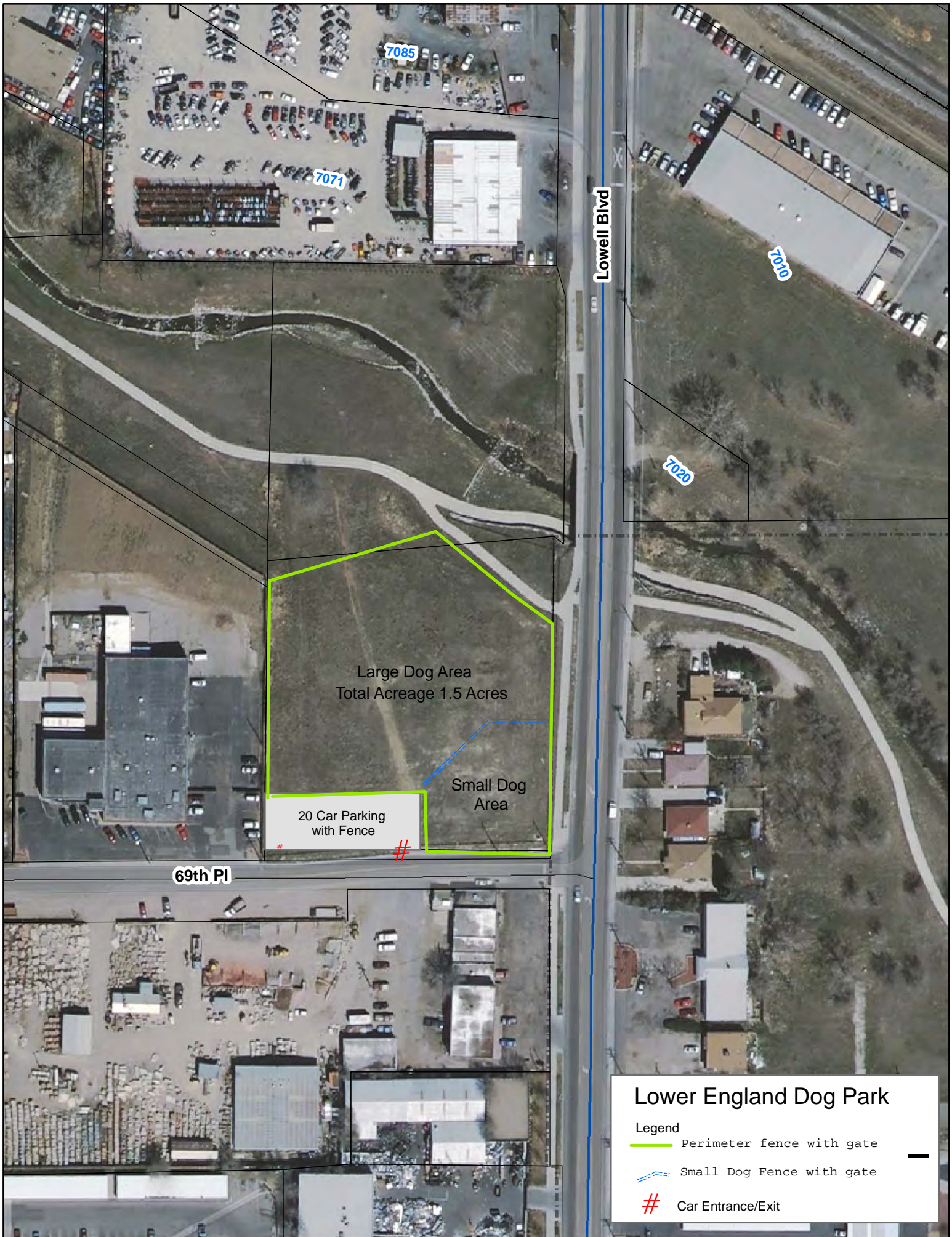
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This project, if approved, would address City Council's Strategic Plan Goals of "Vibrant Neighborhoods and Commercial Areas" and "Beautiful and Environmentally Sensitive City."

Respectfully submitted,

J. Brent McFall
City Manager

Attachments



7085

7071

7010

7020

Lowell Blvd

69th Pl


Large Dog Area
Total Acreage 1.5 Acres


Small Dog Area


20 Car Parking
with Fence

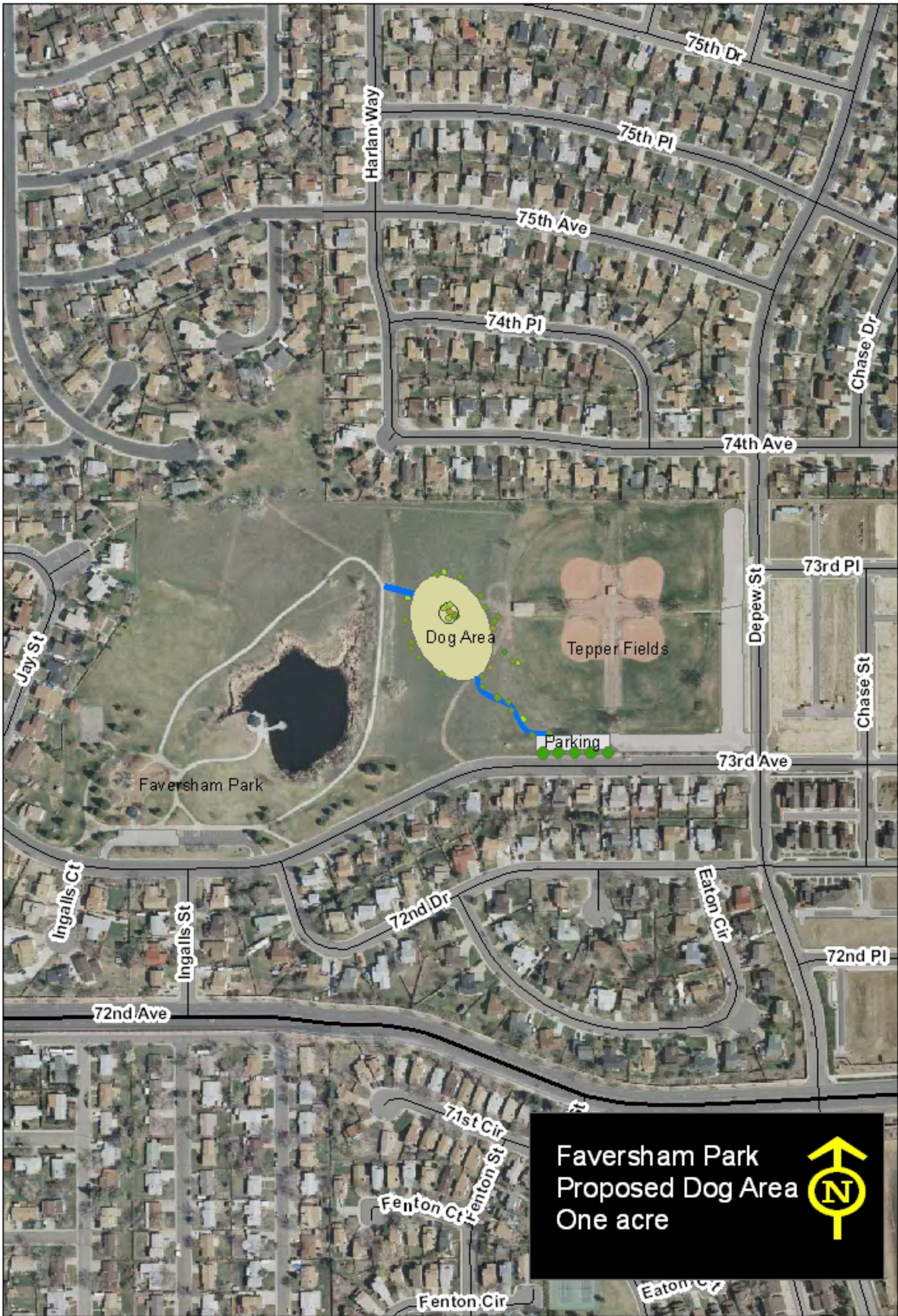
Lower England Dog Park

Legend

 Perimeter fence with gate

 Small Dog Fence with gate

 Car Entrance/Exit



Dog Area

Parking

Tepper Fields

Faversham Park

Faversham Park
Proposed Dog Area
One acre





WESTMINSTER

Staff Report

Information Only Staff Report
May 4, 2009



SUBJECT: License Agreement provided to Church Ranch Development, LLC and Drury Development Corporation for use of Open Space

PREPARED BY: Heather Cronenberg, Open Space Coordinator

Summary Statement:

This report is for City Council information only and requires no action by City Council.

At City Council's request, Staff is informing Council about a license agreement that was recently granted for access across City Open Space lands. The City has granted access across Walnut Creek Open Space to Church Ranch Development, LLC and Drury Development Corporation for construction of improvements related to Westminster Gateway Subdivision Phase I.

Background Information:

At a recent Study Session, Staff reviewed with City Council a number of changes to City code and policy regarding use of Parks and Open Space Lands. City Council requested that Staff inform Council anytime Open Space Lands are used for private use. Church Ranch Development, LLC (also known as Resolute Investments) applied for and received approval for the Westminster Gateway Subdivision, generally located near the intersection of Church Ranch Boulevard and Reed Street. With the approval of the Official Development Plan, Church Ranch Development, LLC requested access to Walnut Creek Open Space, south of their property, for a storm sewer pipe and outfall structure and retaining walls to serve the needs of their property. The City requested construction of a trail and associated retaining walls to serve the public. After careful review of the request by the City Staff Parks, Open Space, and Trails committee, staff granted the license agreement for these purposes with Church Ranch Development, LLC, the developers, and Drury Development Corporation, the owners of the property. The parties are required to complete construction and restore the Open Space by March 18, 2011. The City is requiring the developer to plant native grasses and provide temporary irrigation until at least 80% coverage is achieved. The developer is also obligated to maintain the above mentioned improvements in perpetuity.

This license agreement included improvements that were associated with Phase I of the Westminster Gateway Subdivision. Drury Development Corporation has commenced the development review process for their proposed hotel and will be requesting another license agreement for the next phase.

Information Only Staff Report – License Agreement provided to Church Ranch Development, LLC
and Drury Development Corporation for use of Open Space
May 4, 2009
Page 2

This next phase will include completion of the trail, construction of Open Space fencing, and landscaping.

Respectfully submitted,

Brent McFall
City Manager

Attachment:
Fully Executed License Agreement

CITY OF WESTMINSTER

LICENSE AGREEMENT

For

Access to City of Westminster Open Space Lands

THIS LICENSE AGREEMENT ("Agreement") is made and entered into this 18th day of March, 2009, by and between the **CITY OF WESTMINSTER, COLORADO** ("City"), whose legal address is 4800 West 92nd Avenue, Westminster, CO 80031, and Church Ranch Development, LLC., whose legal address is 7374 S. Alton Way, Centennial, CO 80112 ("CRD"), and Drury Development Corporation, whose legal address is 721 Emerson Road, Suite 200, St. Louis, MO 63141 ("DDC"), sometimes jointly called ("Grantee"),

I. RECITALS

This Agreement is made with respect to the following facts:

1.1. The City is the owner of certain real property currently used for the purpose of Open Space conservation, generally located near the intersection of Reed Street and Church Ranch Boulevard, as depicted in Exhibit A, attached hereto and incorporated herein by reference (the "City's Open Space Property").

1.2. DDC is the owner of that certain real property described in Exhibit B, attached hereto and incorporated herein by reference (the "DDC Property"), for which the Grantee has received approval of an Official Development Plan for Westminster Gateway Subdivision ("ODP"), which ODP permits the crossing of the City's Open Space Property for a storm sewer line and outfall structure (the "Storm Sewer Line"), an 8' concrete trail (the "Trail"), 2 2' retaining walls associated with the Trail (the "West Retaining Walls"), 2 2' retaining walls at southeast corner of property (the "East Retaining Walls"), a 2' retaining wall north of the Trail ("North Retaining Wall"), and grading to prepare for future trail construction (the "Grading") to serve the public and DDC's Property. CRD is obligated by separate agreement with DDC to perform the construction and installation of the Storm Sewer Line, the West Retaining Walls, the East Retaining Walls, the North Retaining Wall, and a portion of the Trail, and the Grading.

1.3 The City is willing to grant to Grantee a temporary license for the construction of the Storm Sewer Line, the West Retaining Walls, the East Retaining Walls, the North Retaining Wall, and a portion of the Trail, and for performance of the Grading, and a permanent license for the continued maintenance of the Storm Sewer Line, the West Retaining Walls, the East

Retaining Walls, the North Retaining Wall, and the Trail, all such licenses to be over, across, under and through various portions of the City's Open Space Property on the terms and conditions set forth in this Agreement.

1.4. Each of the parties desire that the public's use of the City's Open Space Property not be unduly impaired by Grantee's construction activities and that said land be restored as provided in Section 7.1, below. Further, each of the parties acknowledge the need for Grantee to provide continuing maintenance of the Storm Sewer Line and the outfall structure, the East and North Retaining Walls as a private improvement benefiting DDC's Property, and the Trail and West Retaining Walls as required by the ODP, or any amendments to the ODP approved by the City.

II. LICENSE TO USE

For value received and in consideration of Grantee's promises herein, the receipt and sufficiency of which is hereby acknowledged, the City hereby grants to each Grantee, and their respective successors and assigns, the following licenses to use portions of the City's Open Space Property, subject to the Terms and Conditions set forth below:

A. STORM SEWER LINE

2.1 Grant of Temporary License for Construction. The City hereby grants to Grantee, a temporary license for construction over, across, under and through the portion of the City's Open Space Property described on Exhibit C-1 attached hereto and depicted on Exhibit C-2 attached hereto for the construction and installation of the Storm Sewer Line and the outfall structure, and restoration work described in Section 7.1 below (the "Storm Sewer Temporary License"). The Storm Sewer Line shall be constructed in accordance with engineering drawings that have been prepared by Grantee and approved by the City on March 13th, 2009.

2.2 Term of Temporary License. The Storm Sewer Temporary License shall be for a term of two (2) years and shall commence on March 18th, 2009. The City also grants Grantee the option to extend the term of the Storm Sewer Temporary License for a period not to exceed one (1) year after the initial two (2) year term, at no additional cost, for the purpose of completing or restoring the vegetation thereon and for restoring the land to the grade shown on the engineering drawings approved by the City, if such becomes necessary due to settling or erosion resulting from the construction of the Storm Sewer Line. Grantee shall provide written notice to the City before the end of the two (2) year term of its intent to exercise such option. Upon the expiration of the three (3) year term, or sooner if Grantee elects to complete its revegetation and restoration work earlier, but not before such work has been accepted by the City as complete, the Storm Sewer Temporary License shall be extinguished without any requirement of notice or recordation of any kind.

2.3 Grant of Permanent License for Storm Sewer. The City also hereby grants to Grantee and its successors and assigns with respect to the DDC Property, a permanent license over, across, under and through the portion of the City's Open Space Property described on Exhibit D-1 attached hereto and depicted on Exhibit D-2 attached hereto for the operation, maintenance, repair, replacement and reconstruction (if and when needed) of the Storm Sewer Line ("Storm Sewer License"). (The Storm Sewer Temporary License and the Storm Sewer License are together referred to as the "Storm Sewer Licenses.")

2.4 Term of License. The period of use covered by the Storm Sewer License granted in paragraph 2.3 above shall commence on the commencement date set forth in paragraph 2.2 above and shall continue for as long as needed to serve DDC's Property and the ODP, as it may be amended from time to time. Grantee and the City agree that this Storm Sewer License is not a lease of, nor an easement across, the City's Open Space.

2.5 Scope. The Storm Sewer License granted in paragraph 2.3 above may be used for the purposes of entering upon the lands of the City for any and all maintenance, repair, replacement and reconstruction of the Storm Sewer Line and for the continued use and operation of the Storm Sewer Line to serve the storm sewer needs of DDC's Property and the ODP, as it may be amended from time to time.

2.6 Operation and Maintenance. In the event Grantee fails to maintain the Storm Sewer Line in accordance with this Agreement, the City shall have the right to perform such maintenance on Grantee's behalf as provided herein and thereafter assess Grantee the costs thereof incurred by the City as a result of Grantee's violation of this Agreement. Unless an emergency exists, the City will provide written notice to Grantee, at the addresses above indicated, of any violation of this Agreement by Grantee and shall allow Grantee thirty (30) days to correct any violations prior to the City's correction of such violation. If Grantee fails to correct such violation(s) within such thirty day period, the City may correct such violations and will bill Grantee for City's costs to correct. Any unpaid bills shall become municipal liens against DDC's Property, subject to collection pursuant to Chapter 1-31, W.M.C. For the purpose of this Agreement, "maintenance" of the Storm Sewer Line includes the repair or replacement of the improvements as needed, a trash rack kept shut in a locked position, periodic removal of trash from the rack, maintenance of the concrete rip-rap outfall pan, and restoration of any surface area damaged by erosion.

2.7 No Obstruction. The City shall not construct or place any building, street light, power pole, or other structure within the area described on Exhibit D-1 attached hereto and depicted on Exhibit D-2 attached hereto, that would unreasonably interfere with or impair (or increase the cost of) Grantee's use of the Storm Sewer License granted in paragraph 2.3 above, without Grantee's express written approval.

2.8 Payment. No later than five (5) business days following the complete execution of this Agreement, and in all events prior to entry onto City Open Space Property, Grantee shall pay the City the sum of **\$2,204.36** as consideration for the grant of the Storm Sewer Licenses to construct and maintain the Storm Sewer Line to serve and benefit DDC's Property, in accordance with the ODP in and across the City's Open Space Property.

B. TRAIL AND WEST RETAINING WALLS

3.1 Grant of Temporary License for Construction. The City hereby grants to Grantee, a temporary license for construction over, across, under and through the portion of the City's Open Space Property described on Exhibit E-1 attached hereto and depicted on Exhibit E-2 attached hereto for the construction and installation of the Trail and West Retaining Walls and restoration work described in Section 7.1 below (the "Trail Temporary License"). The Trail and West Retaining Walls shall be constructed in accordance with engineering drawings that have been prepared by Grantee and approved by the City on March 13th, 2009.

3.2 Term of Temporary License. The Trail Temporary License shall be for a term of two (2) years and shall commence on March 18th, 2009. The City also grants Grantee the option to extend the term of the Temporary License for a period not to exceed one (1) year after the initial two (2) year term, at no additional cost, for the purpose of completing or restoring the vegetation thereon and for restoring the land to the grade shown on the engineering drawings approved by the City, if such becomes necessary due to settling or erosion resulting from the construction of the Trail and West Retaining Walls. Grantee shall provide written notice to the City before the end of the two (2) year term of its intent to exercise such option. Upon the expiration of the three (3) year term, or sooner if Grantee elects to complete its revegetation and restoration work earlier, but not before such work has been accepted by the City as complete, the Trail Temporary License shall be extinguished without any requirement of notice or recordation of any kind.

3.3 Grant of Permanent License for Trail and West Retaining Walls. The City also hereby grants to Grantee and its successors and assigns with respect to DDC's Property, a permanent license over, across, under and through the portion of the City's Open Space Property described on Exhibit F-1 attached hereto and depicted on Exhibit F-2 attached hereto for the operation, maintenance, repair, replacement and reconstruction (if and when needed) of the Trail and West Retaining Walls (the "Trail License"). (The Trail Temporary License and the Trail License are together referred to as the "Trail Licenses.")

3.4 Term of License. The period of use covered by the Trail License granted in paragraph 3.3 above shall commence on the commencement date set forth in paragraph 3.2 above and shall continue for as long as needed to serve DDC's Property and the ODP, as it may be amended from time to time. Grantee and the City agree that this Trail License is not a lease of nor an easement across the City's Open Space Property.

3.5 Scope. The Trail License granted in paragraph 3.3 above may be used for the purposes of entering upon the lands of the City for any and all maintenance, repair, replacement and reconstruction of the Trail and West Retaining Walls and for the continued use and operation of the Trail and West Retaining Walls to serve public benefit and the needs of DDC's Property, in accordance with the ODP, as it may be amended from time to time.

3.6 Operation and Maintenance. In the event Grantee fails to maintain the Trail and the West Retaining Walls in accordance with this Agreement, the City shall have the right to perform such maintenance on Grantee's behalf as provided herein and thereafter assess Grantee the costs thereof incurred by the City as a result of Grantee's violation of this Agreement. Unless an emergency exists, the City will provide written notice to Grantee, at the addresses above indicated, of any violation of this Agreement by Grantee and shall allow Grantee thirty (30) days to correct any violations prior to the City's correction of such violation. If Grantee fails to correct such violation(s) within such thirty day period, the City may correct such violations and will bill Grantee for City's costs to correct. Any unpaid bills shall become municipal liens against DDC's Property, subject to collection pursuant to Chapter 1-31, W.M.C. For the purpose of this Agreement, "maintenance" of the Trail includes the repair or replacement of the improvements as needed, removal of debris and sediment, and snow removal. For the purpose of this Agreement, "maintenance" of the West Retaining Walls includes the repair or replacement of the improvements as needed, cleaning, and graffiti removal.

3.7 No Obstruction. The City shall not construct or place any building, street light, power pole, or other structure within the area described on Exhibit F-1 attached hereto and depicted on Exhibit F-2 attached hereto, that would unreasonably interfere with or impair (or increase the cost of) Grantee's use of the Trail License granted in paragraph 3.3 above, without Grantee's express written approval.

C. EAST RETAINING WALLS

4.1 Grant of Temporary License for Construction. The City hereby grants to Grantee, a temporary license for construction over, across, under and through the portion of the City's Open Space Property described on Exhibit G-1 attached hereto and depicted on Exhibit G-2 attached hereto for the construction and installation of the East Retaining Walls and restoration work described in Section 7.1 below (the "East Walls Temporary License"). The East Retaining Walls shall be constructed in accordance with engineering drawings that have been prepared by Grantee and approved by the City on March 13th, 2009.

4.2 Term of Temporary License. The East Walls Temporary License shall be for a term of two (2) years and shall commence on March 18th, 2009. The City also grants Grantee the option to extend the term of the East Walls Temporary

License for a period not to exceed one (1) year after the initial two (2) year term, at no additional cost, for the purpose of completing or restoring the vegetation thereon and for restoring the land to the grade shown on the engineering drawings approved by the City, if such becomes necessary due to settling or erosion resulting from the construction of the East Retaining Walls. Grantee shall provide written notice to the City before the end of the two (2) year term of its intent to exercise such option. Upon the expiration of the three (3) year term, or sooner if Grantee elects to complete its revegetation and restoration work earlier, but not before such work has been accepted by the City as complete, the East Walls Temporary License shall be extinguished without any requirement of notice or recordation of any kind.

4.3 Grant of Permanent License for East Retaining Walls. The City also hereby grants to Grantee and its successors and assigns with respect to DDC's Property, a permanent license over, across, under and through the portion of the City's Open Space Property described on Exhibit H-1 attached hereto and depicted on Exhibit H-2 attached hereto for the operation, maintenance, repair, replacement and reconstruction (if and when needed) of the East Retaining Walls ("East Walls License"). (The East Walls Temporary License and the East Walls License are together referred to as the "East Walls Licenses.")

4.4 Term of License. The period of use covered by the East Walls License granted in paragraph 4.3 above shall commence on the commencement date set forth in paragraph 4.2 above and shall continue for as long as needed to serve DDC's Property and the ODP, as it may be amended from time to time. Grantee and the City agree that this East Walls License is not a lease of nor an easement across the City's Open Space Property.

4.5 Scope. The East Walls License granted in paragraph 4.3 above may be used for the purposes of entering upon the lands of the City for any and all maintenance, repair, replacement and reconstruction of the East Retaining Walls and for the continued use and operation of the East Retaining Walls to serve the needs of DDC's Property, in accordance with the ODP, as it may be amended from time to time.

4.6 Operation and Maintenance. In the event Grantee fails to maintain the East Retaining Walls in accordance with this Agreement, the City shall have the right to perform such maintenance on Grantee's behalf as provided herein and thereafter assess Grantee the costs thereof incurred by the City as a result of Grantee's violation of this Agreement. Unless an emergency exists, the City will provide written notice to Grantee, at the addresses above indicated, of any violation of this Agreement by Grantee and shall allow Grantee thirty (30) days to correct any violations prior to the City's correction of such violation. If Grantee fails to correct such violation(s) within such thirty day period, the City may correct such violations and will bill Grantee for City's costs to correct. Any unpaid bills shall become municipal liens against DDC's Property, subject to collection pursuant to Chapter 1-31, W.M.C. For the purpose of this Agreement,

"maintenance" of the East Retaining Walls includes the repair or replacement of the improvements as needed, cleaning, and graffiti removal.

4.7 No Obstruction. The City shall not construct or place any building, street light, power pole, or other structure within the area described on Exhibit H-1 attached hereto and depicted on Exhibit H-2 attached hereto, that would unreasonably interfere with or impair (or increase the cost of) Grantee's use of the East Walls License granted in paragraph 4.3 above, without Grantee's express written approval.

4.8 Payment. No later than five (5) business days following the complete execution of this Agreement, and in all events prior to entry onto City Open Space Property, Grantee shall pay the City the sum of **\$234.20** as consideration for the grant of the East Walls Licenses to construct and maintain the East Retaining Walls to serve and benefit DDC's Property and the ODP in and across the City's Open Space Property.

D. GRADING FOR FUTURE TRAIL CONSTRUCTION

5.1 Grant of Temporary License for Construction. The City hereby grants to Grantee, a temporary license for construction over, across, under and through the portion of the City's Open Space Property described on Exhibit I-1 attached hereto and depicted on Exhibit I-2 attached hereto for the Grading, and restoration work described in Section 7.1 below ("Future Trail Temporary License"). The Grading shall be completed in accordance with engineering drawings that have been prepared by Grantee and approved by the City on March 13th, 2009.

5.2 Term of Temporary License. The Future Trail Temporary License shall be for a term of two (2) years and shall commence on March 18th, 2009. The City also grants Grantee the option to extend the term of the Future Trail Temporary License for a period not to exceed one (1) year after the initial two (2) year term, at no additional cost, for the purpose of completing or restoring the vegetation thereon and for restoring the land to the grade shown in the engineering drawings approved by the City, if such becomes necessary due to settling or erosion resulting from the Grading. Grantee shall provide written notice to the City before the end of the two (2) year term of its intent to exercise such option. Upon the expiration of the three (3) year term, or sooner if Grantee elects to complete its revegetation and restoration work earlier, but not before such work has been accepted by the City as complete, the Future Trail Temporary License shall be extinguished without any requirement of notice or recordation of any kind.

E. NORTH RETAINING WALL

6.1 Grant of Permanent License for North Retaining Wall. The City also hereby grants to Grantee and its successors and assigns with respect to DDC's Property, a permanent license over, across, under and through the portion of the City's Open Space Property described on Exhibit J-1 attached hereto and depicted

on Exhibit J-2 attached hereto for the construction, operation, maintenance, repair, replacement and reconstruction (if and when needed) of the North Retaining Wall ("North Wall License").

6.2 Term of License. The period of use covered by the North Wall License granted in paragraph 6.1 above shall commence on March 18th, 2009 and shall continue for as long as needed to serve DDC's Property and the ODP, as it may be amended from time to time. Grantee and the City agree that this North Wall License is not a lease of nor an easement across the City's Open Space.

6.3 Scope. The North Wall License granted in paragraph 6.1 above may be used for the purposes of entering upon the lands of the City for any and all maintenance, repair, replacement and reconstruction of the North Retaining Wall and for the continued use and operation of the North Retaining Wall to serve the needs of DDC's Property, in accordance with the ODP, as it may be amended from time to time.

6.4 Operation and Maintenance. In the event Grantee fails to maintain the North Retaining Wall in accordance with this Agreement, the City shall have the right to perform such maintenance on Grantee's behalf as provided herein and thereafter assess Grantee the costs thereof incurred by the City as a result of Grantee's violation of this Agreement. Unless an emergency exists, the City will provide written notice to Grantee, at the addresses above indicated, of any violation of this Agreement by Grantee and shall allow Grantee thirty (30) days to correct any violations prior to the City's correction of such violation. If Grantee fails to correct such violation(s) within such thirty day period, the City may correct such violations and will bill Grantee for City's costs to correct. Any unpaid bills shall become municipal liens against DDC's Property, subject to collection pursuant to Chapter 1-31, W.M.C. For the purpose of this Agreement, "maintenance" of the North Retaining Wall includes the repair or replacement of the improvements as needed, cleaning, and graffiti removal.

6.5 No Obstruction. The City shall not construct or place any building, street light, power pole, or other structure within the area described on Exhibit J-1 attached hereto and depicted on Exhibit J-2 attached hereto, that would unreasonably interfere with or impair (or increase the cost of) Grantee's use of the North Wall License granted in paragraph 6.1 above, without Grantee's express written approval.

6.6 Payment. No later than five (5) business days following the complete execution of this Agreement, and in all events prior to entry onto City Open Space Property, Grantee shall pay the City the sum of **\$856.98** as consideration for the grant of the North Wall License to construct and maintain the North Retaining Wall to serve and benefit DDC's Property and the ODP in and across the City's Open Space Property.

III. TERMS AND CONDITIONS

The City and Grantee agree that the Storm Sewer Licenses, Trail Licenses, East Walls Licenses, Future Trail Temporary License, and North Wall License (collectively, the "Licenses") are made and shall remain subject to the following Terms and Conditions for so long as such Licenses may exist:

7.1 Restoration. Each Grantee covenants and agrees to restore the surface of any ground it may disturb in the course of exercising any of its rights under this Agreement to substantially the same condition that existed prior to its use, including landscaping, fences or other improvements. At a minimum, each Grantee agrees to fulfill the conditions for revegetation and restoration specified in Exhibit K-1 attached hereto in connection with the work required to be performed by such Grantee hereunder. Each Grantee shall obtain the written approval of the restoration and revegetation work to be performed by it hereunder from the City's Open Space Coordinator, Heather Cronenberg, or the position's successors. Additionally, each Grantee will be responsible for the removal, storage, and replacement of any existing surface improvements, if any, in connection with any revegetation or restoration work required to be performed by such Grantee hereunder.

7.2 Fencing. Prior to commencement of Grantee's construction of the Storm Sewer Line, the Trail, the Retaining Walls, and Grading, Grantee shall install temporary construction fencing on and along the boundaries of the areas covered by the Temporary Licenses granted herein in order to insure that the public is restricted from accessing the construction sites and that Grantee's contractors and subcontractors do not trespass onto the City's Open Space Property located outside of the areas under license. The nature and type of fencing must be approved by the City's Open Space Coordinator.

7.3. Indemnification. Each Grantee hereby agrees to indemnify and hold harmless the City from any and all claims, demands, suits or judgments of every nature and description in any way related to defects or hazards upon the public lands arising out of the Licenses granted to such Grantee herein, or construction activities of such Grantee hereunder, together with all reasonable expenses and attorneys' fees incurred by the City in defending such suit, action or claim.

7.4 Reserved Right of Entry. Subject to Sections 2.7, 3.7, 4.7, and 6.5 hereunder, the City reserves its right to enter any portion of the licensed property to exercise its rights as owner of the land described in Exhibit A, and pursuant to this Agreement.

IV. MISCELLANEOUS

8.1. Successors and Assigns. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.

8.2. Complete Agreement. The parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees. Notwithstanding the foregoing, CRD and DDC acknowledge that they are parties to Post Closing Agreement dated December 19, 2008 (the "Post Closing Agreement") which sets out certain rights and obligations of CRD and DDC with respect to the construction of certain site improvements on DDC's Property and the City Open Space Property, and that they are parties to the Declaration of Protective Covenant, Conditions and restriction for Westminster Gateway dated December 19, 2008 (the "CCR's") which sets out certain rights and obligations of CRD and DDC with respect to the construction and maintenance of certain site improvements on DDC's Property and the City Open Space Property. As between CRD and DDC, but not the City, the terms and conditions of the Post Closing Agreement and the CCR's shall govern.

8.3. Construction. Wherever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders.

8.4. Governing Law. This Agreement shall be construed and interpreted under the laws of the State of Colorado.

[SIGNATURE PAGES FOLLOW]

GRANTEE:

DDC
Drury Development Corporation, Inc.
a Missouri corporation

By: *Larry W. Hasselfeld*
Name: Larry W. Hasselfeld
Title: Senior Vice President

STATE OF MISSOURI)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 17th day of March 2009, by Larry W. Hasselfeld as Senior Vice President of Drury Development Corporation, a Missouri corporation.

Witness my hand and official seal.

[S E A L]

Krystal J. Jones
Notary Public
My Commission Expires: 2-9-11

**KRYSTAL J. JONES
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXPIRES FEB. 9, 2011
COMMISSION #07514822**

City of Westminster Open Space Property Exhibit A

Walnut Creek
Open Space

Westminster Gateway
Property

Walnut Creek

- Streets
- Streams
- Trails
- Open Space



Exhibit B

Grantee's Property

LEGAL DESCRIPTION LOT 3

A PARCEL OF LAND LYING WITHIN THE SOUTHEAST QUARTER OF SECTION 11, THE SOUTHWEST QUARTER OF SECTION 12, THE NORTHWEST QUARTER OF SECTION 13, AND THE NORTHEAST QUARTER OF SECTION 14, ALL IN TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 11, WHENCE THE SOUTHWEST CORNER OF THE SOUTHEAST ¼ OF SAID SECTION 11 BEARS S 88° 52' 48" W, A DISTANCE OF 2714.05 FEET;

THENCE N 10° 23' 50" W, A DISTANCE 55.78 TO THE POINT OF BEGINNING;

THENCE S 50° 17' 03" E, A DISTANCE OF 48.44 FEET;

THENCE S 00° 42' 14" W, A DISTANCE OF 206.73 FEET;

THENCE N 89° 17' 46" W, A DISTANCE OF 17.98 FEET;

THENCE S 00° 42' 14" W, A DISTANCE OF 89.25 FEET;

THENCE N 88° 45' 44" W, A DISTANCE OF 25.68 FEET;

THENCE S 78° 57' 13" W, A DISTANCE OF 92.58 FEET;

THENCE N 89° 51' 50" W, A DISTANCE OF 334.91 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 148.65 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 34° 04' 02", AND A CHORD WHICH BEARS N 71° 12' 23" W, A DISTANCE OF 146.47 FEET;

THENCE N 54° 10' 22" W, A DISTANCE OF 18.67 FEET;

THENCE S 89° 54' 28" E, A DISTANCE OF 51.68 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE LEFT;

THENCE 124.99 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 133.50 FEET, A CENTRAL ANGLE OF 53° 38' 31", AND A CHORD WHICH BEARS N 63° 17' 36" E, A DISTANCE OF 120.47 FEET;

THENCE N 36° 23' 05" E, A DISTANCE OF 144.20 FEET TO THE POINT OF A TANGENT CURVE TO THE RIGHT;

THENCE 35.33 FEET ALONG THE ARC OF SAID TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 86.50 FEET, A CENTRAL ANGLE OF 23° 24' 06", AND A CHORD WHICH BEARS N 48° 05' 08" E, A DISTANCE OF 35.08 FEET;

THENCE N 42° 05' 19" W, A DISTANCE OF 66.46 FEET;

THENCE N 36° 22' 57" E, A DISTANCE OF 25.52 FEET;

THENCE N 88° 48' 21" E, A DISTANCE OF 20.63 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 144.69 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 50.50 FEET, A CENTRAL ANGLE OF 164° 09' 43", AND A CHORD WHICH BEARS S 86° 46' 46" E, A DISTANCE OF 100.04 FEET;

THENCE N 85° 18' 05" E, A DISTANCE OF 10.22 FEET;

THENCE S 88° 57' 48" E, A DISTANCE OF 163.96 FEET;

THENCE N 74° 28' 10" E, A DISTANCE OF 43.26 FEET;

THENCE N 38° 29' 29" E, A DISTANCE OF 18.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 144,284 SQ. FT. 3.312 ACRES, MORE OR LESS.

**Westminster Gateway Subdivision
Temporary License Agreement Area
Exhibit C-1**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARINGS), A DISTANCE OF 2714.05 FEET;

THENCE S 58°33'13" W, A DISTANCE OF 549.14 TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836) AND THE **POINT OF BEGINNING**;

THENCE 10.05 FEET ALONG SOUTHERLY LINE OF SAID LOT 3 AND THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 02° 18' 14", AND A CHORD WHICH BEARS S 84° 11' 30" E, A DISTANCE OF 10.05 FEET;

THENCE S 00° 00' 00" W, LEAVING THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 59.58 FEET;

THENCE N 90° 00' 00" W, A DISTANCE OF 10.00 FEET;

THENCE N 00° 00' 00" E, A DISTANCE OF 60.60 FEET TO THE **POINT OF BEGINNING**;

CONTAINING 0.014 ACRES (601 SQ. FEET), MORE OR LESS.

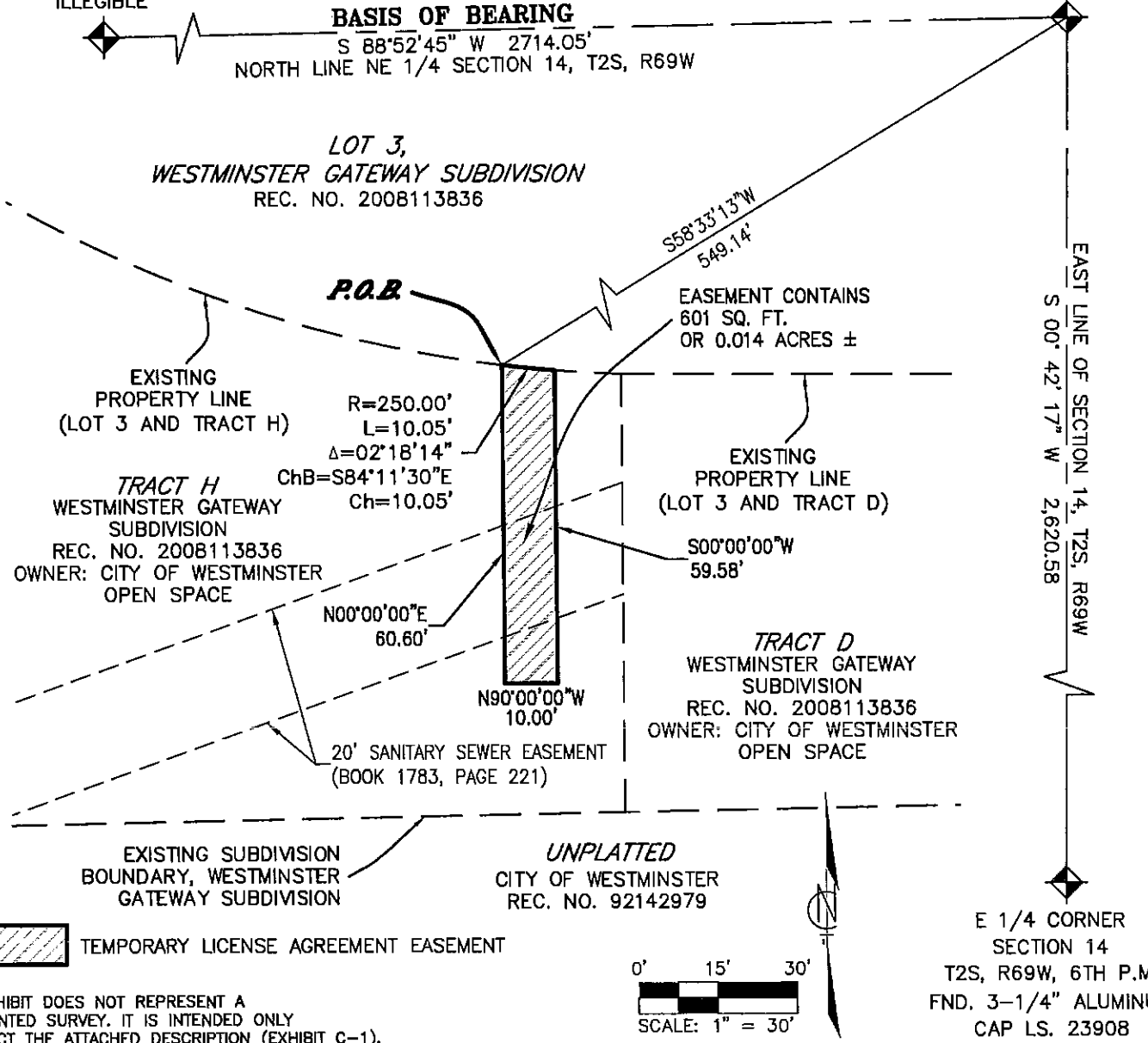
FOR AND ON BEHALF OF:
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE – SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

EXHIBIT C-2

TEMPORARY LICENSE AGREEMENT AREA
 WESTMINSTER GATEWAY SUBDIVISION
 NE 1/4 SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
 ----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
 T2S, R69W, 6TH P.M.,
 FND. 3-1/2" ALUMINUM CAP
 ILLEGIBLE

POINT OF COMMENCEMENT
 NE CORNER OF SECTION 14
 T2S, R69W, 6TH P.M.
 FND. 3-1/4" ALUMINUM CAP LS. 14070



THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT C-1).

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB
DATE	02-11-09
SCALE	1"=30'
Bohannon & Huston INC.	
Meridian One 9785 Maroon Circle, Suite 140 Englewood, CO 80112 (303) 799-5103	
ENGINEERING & SPATIAL DATA & ADVANCED TECHNOLOGIES	

WESTMINSTER GATEWAY SUBDIVISION		
JEFFERSON COUNTY		
TITLE: EXHIBIT C-2 TEMPORARY LICENSE AGREEMENT AREA		
REVISION:	DRAWING NO.	SHEET NO.
	1	2 OF 2

**Westminster Gateway Subdivision
Permanent License Agreement Area
Exhibit D-1**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARINGS), A DISTANCE OF 2714.05 FEET;

THENCE S 59°53'43" W, A DISTANCE OF 564.65 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836) AND THE **POINT OF BEGINNING**;

THENCE 20.27 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 3 AND THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 04° 38' 45", AND A CHORD WHICH BEARS S 80° 43' 01" E, A DISTANCE OF 20.27 FEET;

THENCE S 00° 00' 00" W, LEAVING THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 60.60 FEET;

THENCE N 90° 00' 00" W, A DISTANCE OF 20.00 FEET;

THENCE N 00° 00' 00" E, A DISTANCE OF 63.86 FEET TO THE SOUTHERLY LINE OF SAID LOT 3 AND THE **POINT OF BEGINNING**.

CONTAINING 0.028 ACRES (1242 SQ. FEET), MORE OR LESS.

FOR AND ON BEHALF OF:
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE – SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

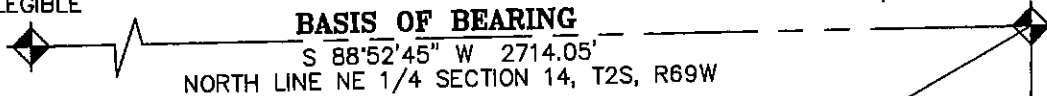
EXHIBIT D-2

PERMANENT LICENSE AGREEMENT AREA
WESTMINSTER GATEWAY SUBDIVISION

NE 1/4 SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
T2S, R69W, 6TH P.M.,
FND. 3-1/2" ALUMINUM CAP
ILLEGIBLE

POINT OF COMMENCEMENT
NE CORNER OF SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM CAP LS. 14070



LOT 3,
WESTMINSTER GATEWAY SUBDIVISION
REC. NO. 2008113836

EXISTING
PROPERTY LINE
(LOT 3 AND TRACT H)

P.O.B.

S59°53'43"W
564.65'

R=250.00'
L=20.27'
Δ=04°38'45"
ChB=S80°43'01"E
Ch=20.27'

EASEMENT CONTAINS
1,242 SQ. FT.
OR 0.028 ACRES ±

N00°00'00"E
63.86'

TRACT H
WESTMINSTER GATEWAY
SUBDIVISION
REC. NO. 2008113836
OWNER: CITY OF WESTMINSTER
OPEN SPACE

EXISTING
PROPERTY LINE
(LOT 3 AND TRACT D)

S00°00'00"W
60.60'

TRACT D
WESTMINSTER GATEWAY
SUBDIVISION
REC. NO. 2008113836
OWNER: CITY OF WESTMINSTER
OPEN SPACE

N90°00'00"W
20.00'

20' SANITARY SEWER EASEMENT
(BOOK 1783, PAGE 221)

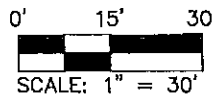
EXISTING SUBDIVISION
BOUNDARY, WESTMINSTER
GATEWAY SUBDIVISION

UNPLATTED
CITY OF WESTMINSTER
REC. NO. 92142979

EAST LINE OF SECTION 14, T2S, R69W
S 00°42'17" W 2,620.58'

E 1/4 CORNER
SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM
CAP LS. 23908

 PERMANENT LICENSE AGREEMENT EASEMENT



THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED SURVEY. IT IS INTENDED ONLY
TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT D-1).

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB DATE 02-11-09 SCALE 1"=30'

Bohannon & Huston

Meridian One 9785 Maroon Circle, Suite 140
Englewood, CO 80112 (303) 799-5103

ENGINEERING & SPATIAL DATA & ADVANCED TECHNOLOGIES

WESTMINSTER GATEWAY
SUBDIVISION
JEFFERSON COUNTY

TITLE:
EXHIBIT D-2
PERMANENT LICENSE AGREEMENT AREA

REVISION:	DRAWING NO.	SHEET NO.
	1	2 OF 2

**Westminster Gateway Subdivision
Temporary License Agreement Area
Exhibit E-1**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARING), A DISTANCE OF 2714.05 FEET;

THENCE S 55°21'00" W, A DISTANCE OF 507.04 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836) AND THE **POINT OF BEGINNING**;

THENCE S 00° 09' 05" W, A DISTANCE OF 21.36 FEET TO THE POINT OF A NON-TANGENT CURVE;

THENCE 45.44 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 269.00 FEET, A CENTRAL ANGLE OF 09° 40' 42", AND A CHORD WHICH BEARS N 86° 17' 15" W, A DISTANCE OF 45.39 FEET;

THENCE N 81° 26' 53" W, A DISTANCE OF 15.91 FEET TO THE POINT OF A NON-TANGENT CURVE;

THENCE 4.93 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 267.00 FEET, A CENTRAL ANGLE OF 01° 03' 26", AND A CHORD WHICH BEARS N 80° 56' 17" W, A DISTANCE OF 4.93 FEET;

THENCE S 09° 07' 02" W, A DISTANCE OF 3.73 FEET TO THE POINT OF A NON-TANGENT CURVE;

THENCE 107.54 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 248.29 FEET, A CENTRAL ANGLE OF 24° 48' 55", AND A CHORD WHICH BEARS N 69° 49' 12" W, A DISTANCE OF 106.70 FEET;

THENCE 36.36 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 82.00 FEET, A CENTRAL ANGLE OF 25° 24' 10", AND A CHORD WHICH BEARS N 45° 10' 37" W, A DISTANCE OF 36.06 FEET;

THENCE N 32° 28' 30" W, A DISTANCE OF 12.52 FEET;

THENCE N 57° 31' 30" E, A DISTANCE OF 8.16 FEET TO THE NORTH LINE OF TRACT H, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE S 89° 54' 28" E, A DISTANCE OF 9.55 FEET TO THE WESTERLY MOST CORNER OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 3, THE FOLLOWING THREE (3) COURSES:

- 1.) THENCE S 54° 10' 22" E, A DISTANCE OF 18.67 FEET THE TO POINT OF A TANGENT CURVE TO THE LEFT;
- 2.) THENCE 148.65 FEET ALONG THE ARC OF SAID TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 34° 04' 02", AND A CHORD WHICH BEARS S 71° 12' 23" E, A DISTANCE OF 146.47 FEET;
- 3.) THENCE S 89° 51' 50" E, A DISTANCE OF 28.76 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.107 ACRES (4644 SQ. FEET), MORE OR LESS.

FOR AND ON BEHALF OF:
BOIANNAN-HUSTON, INC.
9785 MAROON CIRCLE – SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

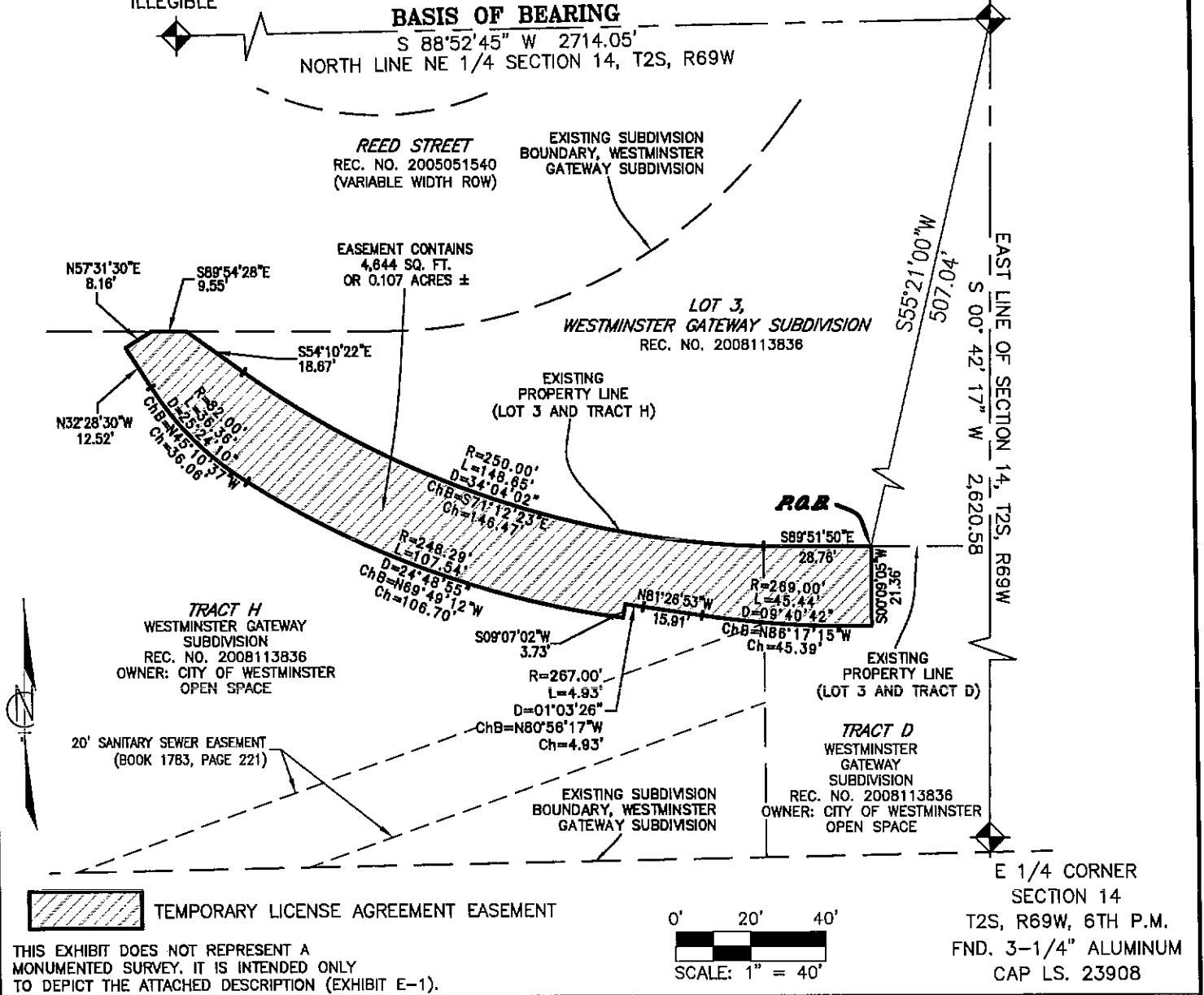
EXHIBIT E-2

TEMPORARY LICENSE AGREEMENT AREA WESTMINSTER GATEWAY SUBDIVISION

NE 1/4 SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
T2S, R69W, 6TH P.M.,
FND. 3-1/2" ALUMINUM CAP
ILLEGIBLE

POINT OF COMMENCEMENT
NE CORNER OF SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM CAP LS. 14070



THIS EXHIBIT DOES NOT REPRESENT A
MONUMENTED SURVEY. IT IS INTENDED ONLY
TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT E-1).

E 1/4 CORNER
SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM
CAP LS. 23908

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB
DATE	02-11-09
SCALE	1"=40'

Bohannon & Huston INC.
Meridian One 9785 Maroon Circle, Suite 140
Englewood, CO 80112 (303) 799-5103

ENGINEERING ▲ SPATIAL DATA ▲ ADVANCED TECHNOLOGIES

WESTMINSTER GATEWAY SUBDIVISION JEFFERSON COUNTY		
TITLE: EXHIBIT E-2 TEMPORARY LICENSE AGREEMENT AREA		
REVISION:	DRAWING NO.	SHEET NO.
	1	3 OF 3

**Westminster Gateway Subdivision
Permanent License Agreement Area
Exhibit F-1**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARING), A DISTANCE OF 2714.05 FEET;

THENCE S 55°40'12" W, A DISTANCE OF 511.15 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836) AND THE **POINT OF BEGINNING**;

THENCE S 00° 09' 05" W, A DISTANCE OF 16.43 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 39.71 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 264.00 FEET, A CENTRAL ANGLE OF 08° 37' 03", AND A CHORD WHICH BEARS N 85° 45' 25" W, A DISTANCE OF 39.67 FEET;

THENCE N 81° 26' 53" W, A DISTANCE OF 15.91 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 9.88 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 262.00 FEET, A CENTRAL ANGLE OF 02° 09' 37", AND A CHORD WHICH BEARS N 80° 23' 13" W, A DISTANCE OF 9.88 FEET;

THENCE S 09° 07' 02" W, A DISTANCE OF 3.89 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 100.49 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 243.29 FEET, A CENTRAL ANGLE OF 23° 39' 55", AND A CHORD WHICH BEARS N 69° 14' 42" W, A DISTANCE OF 99.77 FEET;

THENCE 34.18 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 77.00 FEET, A CENTRAL ANGLE OF 25° 25' 59", AND A CHORD WHICH BEARS N 45° 11' 30" W, A DISTANCE OF 33.90 FEET;

THENCE N 32° 28' 30" W, A DISTANCE OF 7.52 FEET;

THENCE N 57° 31' 30" E, A DISTANCE OF 5.00 FEET;

THENCE N 32° 28' 30" W, A DISTANCE OF 3.82 FEET TO THE NORTH LINE OF TRACT H, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE S 89° 54' 28" E, A DISTANCE OF 7.36 FEET TO WESTERLY MOST CORNER OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 3, THE FOLLOWING THREE (3) COURSES:

- 1.) THENCE S 54° 10' 22" E, A DISTANCE OF 18.67 FEET THE TO POINT OF A TANGENT CURVE TO THE LEFT;
- 2.) THENCE 148.65 FEET ALONG THE ARC OF SAID TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 34° 04' 02", AND A CHORD WHICH BEARS S 71° 12' 23" E, A DISTANCE OF 146.47 FEET;
- 3.) THENCE S 89° 51' 50" E, A DISTANCE OF 23.76 FEET TO THE **POINT OF BEGINNING.**

CONTAINING 0.078 ACRES (3418 SQ. FEET), MORE OR LESS.

FOR AND ON BEHALF OF:
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE - SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

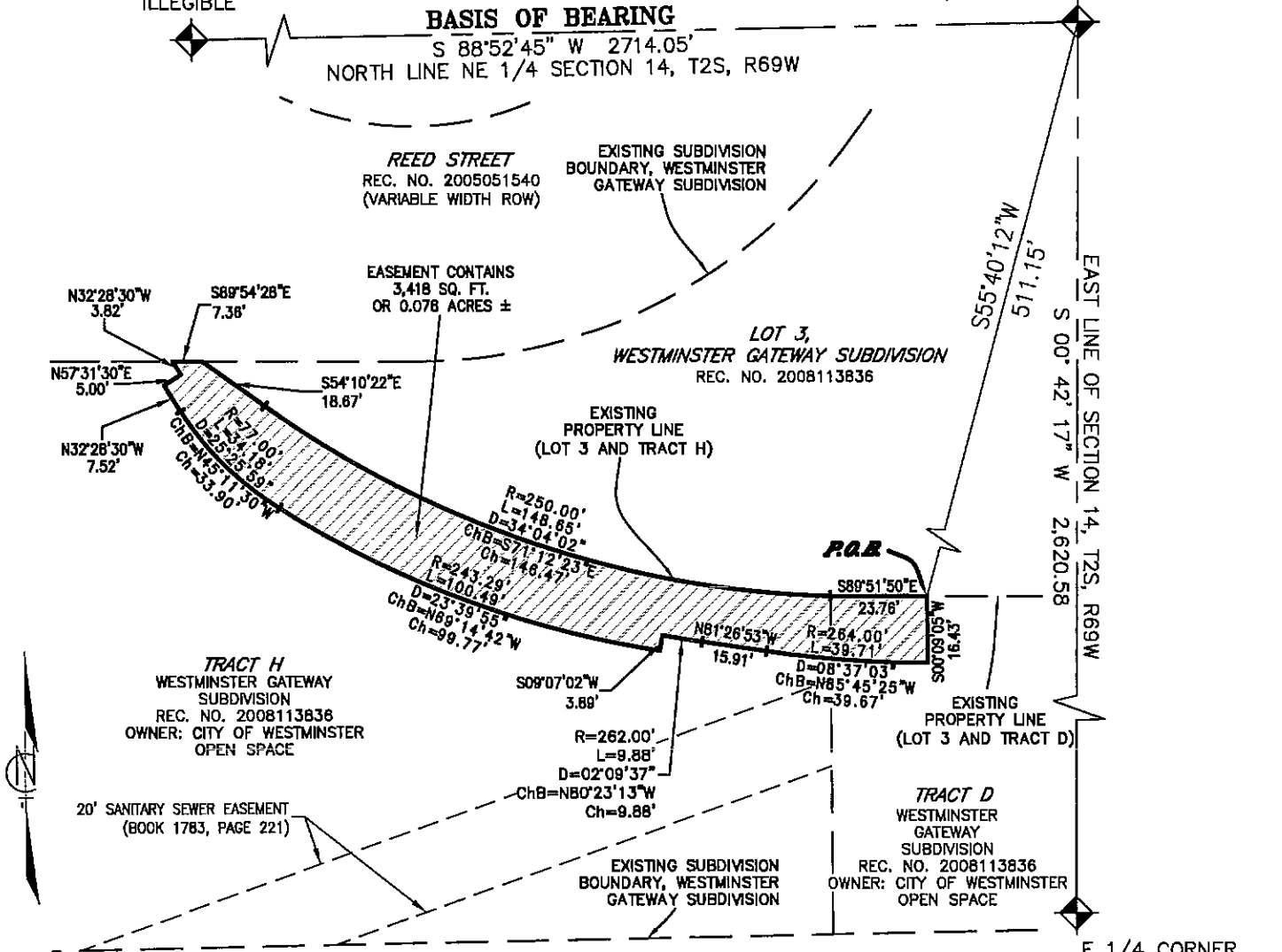
EXHIBIT F-2

PERMANENT LICENSE AGREEMENT AREA WESTMINSTER GATEWAY SUBDIVISION

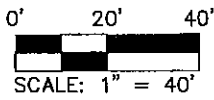
NE 1/4 SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
T2S, R69W, 6TH P.M.,
FND. 3-1/2" ALUMINUM CAP
ILLEGIBLE

POINT OF COMMENCEMENT
NE CORNER OF SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM CAP LS. 14070



PERMANENT LICENSE AGREEMENT EASEMENT



THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT F-1).

E 1/4 CORNER SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM CAP LS. 23908

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB
DATE	02-11-09
SCALE	1"=40'

Bohannon & Huston INC.
Meridian One 9785 Maroon Circle, Suite 140
Englewood, CO 80112 (303) 799-5103

ENGINEERING & SPATIAL DATA & ADVANCED TECHNOLOGIES

WESTMINSTER GATEWAY SUBDIVISION JEFFERSON COUNTY		
TITLE: EXHIBIT F-2 PERMANENT LICENSE AGREEMENT AREA		
REVISION:	DRAWING NO.	SHEET NO.
	1	3 OF 3

**Westminster Gateway Subdivision
Temporary License Agreement Area
Exhibit G-1**

A PARCEL OF LAND LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 13 AND THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 13070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARINGS), A DISTANCE OF 2714.05 FEET;

THENCE S 00°42'14" W, ALONG THE WEST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 13, A DISTANCE OF 271.65 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE S 88°45'44" E, ALONG THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 8.93 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3 AND THE POINT OF BEGINNING;

THENCE N 00°42'14" E, ALONG THE EAST LINE OF SAID LOT 3, A DISTANCE OF 14.03 FEET;

THENCE S 90°00'00" E, LEAVING THE EAST LINE OF SAID LOT 3, A DISTANCE OF 8.48 FEET;

THENCE S 00°00'00" W, A DISTANCE OF 3.00 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 28.52 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 19.00 FEET, A CENTRAL ANGLE OF 86°00'06", AND A CHORD WHICH BEARS S 43°00'02" W, A DISTANCE OF 23.92 FEET TO THE EAST LINE OF TRACT D, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE 1.33 FEET CONTINUING ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 19.00 FEET, A CENTRAL ANGLE OF 03°39'57", AND A CHORD WHICH BEARS S 88°00'03" W, A DISTANCE OF 1.33 FEET;

THENCE N 90°00'00" W, A DISTANCE OF 3.00 FEET;

THENCE N 00°00'00" E, A DISTANCE OF 8.26 FEET TO THE SOUTHERLY LINE OF SAID LOT 3;

THENCE S 88°45'44" E, ALONG THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 13.35 FEET TO THE POINT OF BEGINNING;

CONTAINING 0.005 ACRES (220 SQ. FEET), MORE OR LESS.

FOR AND ON BEHALF OF:
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE - SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

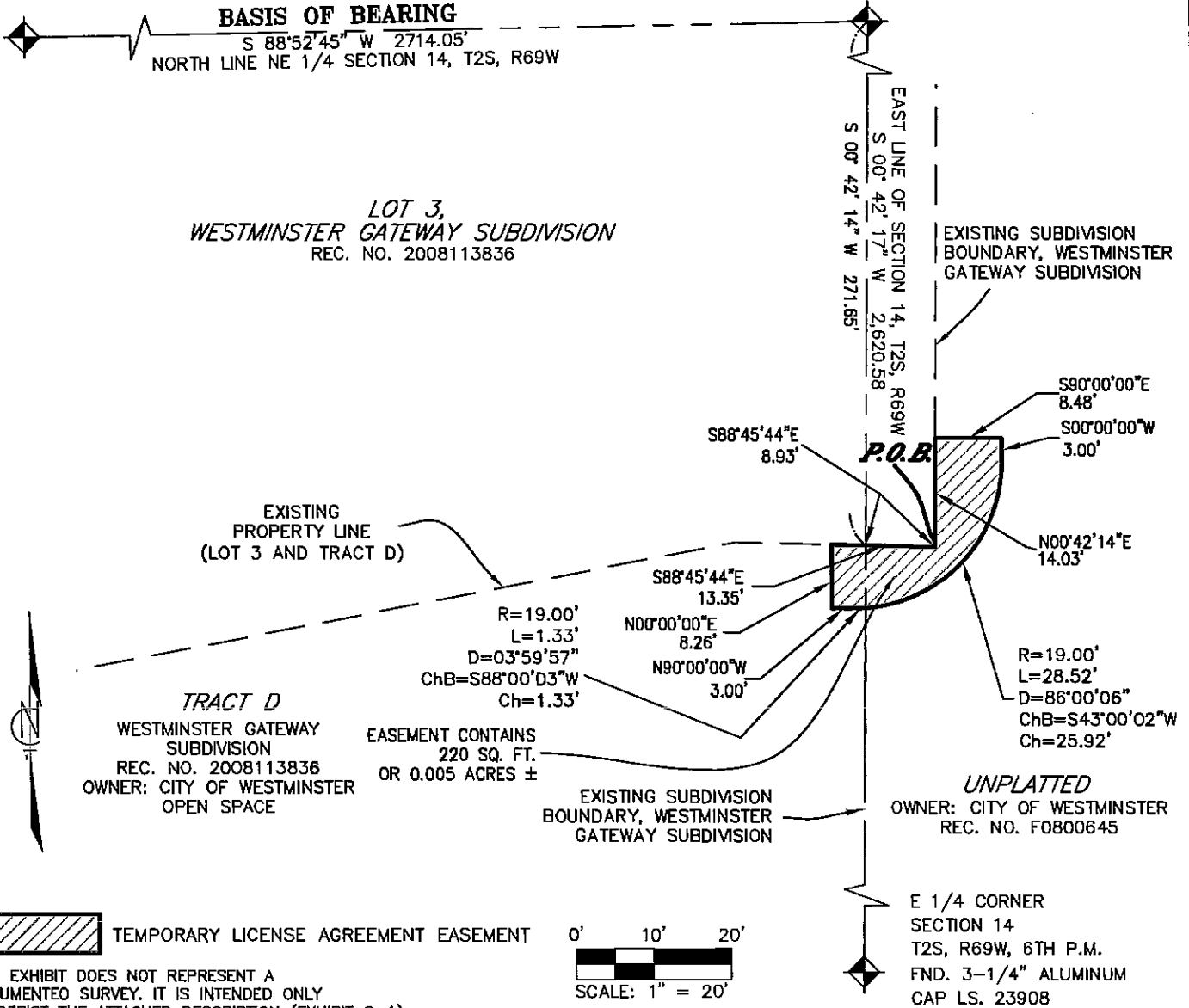
EXHIBIT G-2

TEMPORARY LICENSE AGREEMENT AREA
 WESTMINSTER GATEWAY SUBDIVISION
 NE 1/4 SECTION 14 AND NW 1/4 SECTION 13, TOWNSHIP 2 SOUTH,
 RANGE 69 WEST OF THE 6TH P.M.,

----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
 T2S, R69W, 6TH P.M.,
 FND. 3-1/2" ALUMINUM CAP
 ILLEGIBLE

POINT OF COMMENCEMENT
 NE CORNER OF SECTION 14
 T2S, R69W, 6TH P.M.
 FND. 3-1/4" ALUMINUM CAP LS. 14070



THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT G-1).

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB
DATE	03-16-09
SCALE	1"=20'

Bohannon & Huston INC.

Meridian One 9785 Maroon Circle, Suite 140
 Englewood, CO 80112 (303) 799-5103

ENGINEERING • SPATIAL DATA • ADVANCED TECHNOLOGIES

WESTMINSTER GATEWAY
 SUBDIVISION
 JEFFERSON COUNTY

TITLE: EXHIBIT G-2
 TEMPORARY LICENSE AGREEMENT AREA

REVISION:	DRAWING NO.	SHEET NO.
	1	2 OF 2

**Westminster Gateway Subdivision
Permanent License Agreement Area
Exhibit H-1**

A PARCEL OF LAND LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 13 AND THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARING), A DISTANCE OF 2714.05 FEET;

THENCE S 00°42'14" W, ALONG THE WEST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 13, A DISTANCE OF 271.65 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE S 88° 45' 44" E, ALONG THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 8.93 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3 AND THE POINT OF BEGINNING;

THENCE N 00° 42' 14" E, ALONG THE EAST LINE OF SAID LOT 3, A DISTANCE OF 12.03 FEET;

THENCE S 90° 00' 00" E, LEAVING THE EAST LINE OF SAID LOT 3, A DISTANCE OF 6.50 FEET;

THENCE S 00° 00' 00" W, A DISTANCE OF 1.00 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 25.35 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 85° 26' 48", AND A CHORD WHICH BEARS S 42° 43' 23" W, A DISTANCE OF 23.07 FEET TO THE EAST LINE OF TRACT D, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE 1.35 FEET CONTINUING ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 04° 33' 15", AND A CHORD WHICH BEARS S 87° 43' 24" W, A DISTANCE OF 1.35 FEET;

THENCE N 90° 00' 00" W, A DISTANCE OF 1.00 FEET;

THENCE N 00° 00' 00" E, A DISTANCE OF 6.21 FEET TO THE SOUTHERLY LINE OF SAID LOT 3;

THENCE S 88° 45' 44" E, ALONG THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 11.35 FEET TO THE POINT OF BEGINNING;

CONTAINING 0.002 ACRES (126 SQ. FEET), MORE OR LESS.

FOR AND ON BEHALF OF
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE - SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

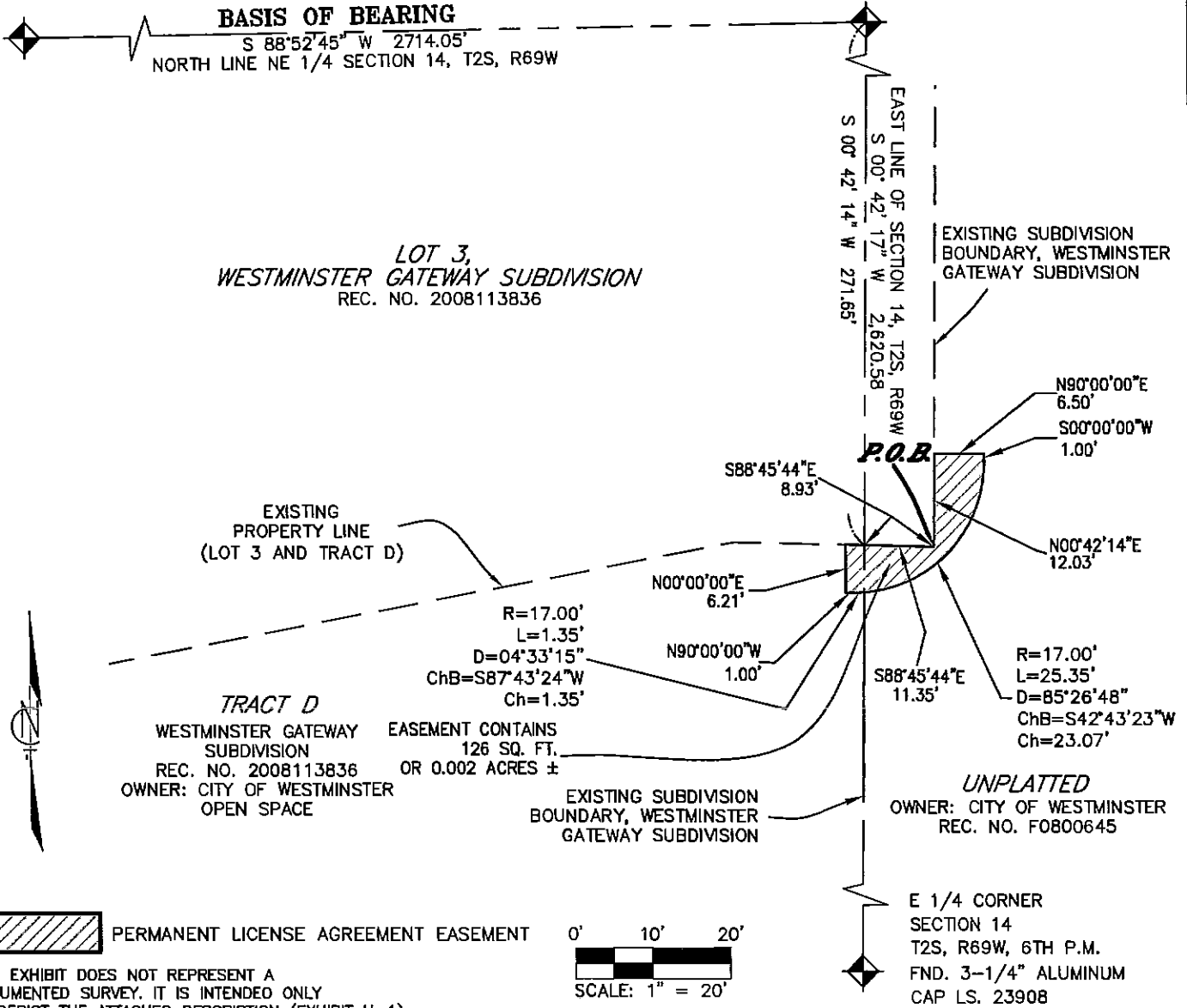
EXHIBIT H-2

PERMANENT LICENSE AGREEMENT AREA
 WESTMINSTER GATEWAY SUBDIVISION
 NE 1/4 SECTION 14 AND NW 1/4 SECTION 13, TOWNSHIP 2 SOUTH, RANGE 69
 WEST OF THE 6TH P.M.,

----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

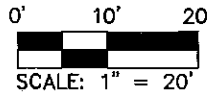
NORTH 1/4 CORNER SECTION 14
 T2S, R69W, 6TH P.M.,
 FND. 3-1/2" ALUMINUM CAP
 ILLEGIBLE

POINT OF COMMENCEMENT
 NE CORNER OF SECTION 14
 T2S, R69W, 6TH P.M.
 FND. 3-1/4" ALUMINUM CAP LS. 14070



PERMANENT LICENSE AGREEMENT EASEMENT

THIS EXHIBIT DOES NOT REPRESENT A
 MONUMENTED SURVEY. IT IS INTENDED ONLY
 TO DEPICT THE ATTACHEO DESCRIPTION (EXHIBIT H-1).



BHI PROJECT NO.		080262	
CLIENT PROJECT NO.		080262	
REVISION DESCRIPTION			
DRAWN	SDB	DATE 03-16-09	SCALE 1"=20'
Bohannon & Huston INC.			
Meridian One 9785 Maroon Circle, Suite 140 Englewood, CO 80112 (303) 799-5103			
ENGINEERING & SPATIAL DATA & ADVANCED TECHNOLOGIES			

WESTMINSTER GATEWAY SUBDIVISION JEFFERSON COUNTY		
TITLE: EXHIBIT H-2 PERMANENT LICENSE AGREEMENT AREA		
REVISION:	DRAWING NO.	SHEET NO.
	1	2 OF 2

**Westminster Gateway Subdivision
Temporary License Agreement Area
Exhibit I-1**

A PARCEL OF LAND LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 13 AND THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" BRASS CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARING), A DISTANCE OF 2714.05 FEET;

THENCE S 89° 38' 38" E, ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 13, A DISTANCE 26.90 TO THE WEST LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE S 00°42'14" W, ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 182.64 FEET;

THENCE N 89° 17' 46" W, ALONG THE SOUTHERLY LINE OF SAID LOT 3, A DISTANCE OF 17.98 FEET AND THE **POINT OF BEGINNING**;

THENCE S 10° 05' 28" E, A DISTANCE OF 69.99 FEET;

THENCE S 02° 56' 42" W, A DISTANCE OF 63.33 FEET;

THENCE N 73° 39' 06" W, A DISTANCE OF 8.86 FEET;

THENCE S 82° 15' 49" W, A DISTANCE OF 82.94 FEET;

THENCE S 87° 47' 24" W, A DISTANCE OF 8.70 FEET;

THENCE N 64° 27' 36" W, A DISTANCE OF 33.17 FEET;

THENCE N 89° 33' 59" W, A DISTANCE OF 136.57 FEET;

THENCE N 88° 40' 48" W, A DISTANCE OF 63.74 FEET;

THENCE S 87° 34' 52" W, A DISTANCE OF 103.36 FEET;

THENCE N 00° 09' 05" E, A DISTANCE OF 23.01 FEET TO THE SOUTH LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836);

THENCE ALONG THE SOUTH LINE OF SAID LOT 3, WESTMINSTER GATEWAY SUBDIVISION (RECEPTION NO. 2008113836) THE FOLLOWING THREE (3) COURSES;

- 1.) THENCE S 89° 51' 50" E, A DISTANCE OF 306.15 FEET;

2.) THENCE N 78° 57' 13" E, A DISTANCE OF 92.58 FEET;

3.) THENCE S 88° 45' 44" E, A DISTANCE OF 25.68 FEET TO THE SOUTHEAST CORNER
OF SAID LOT 3;

THENCE N 00° 42' 14" E, ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 89.25
FEET TO THE **POINT OF BEGINNING**;

CONTAINING 0.275 ACRES (11982 SQ. FEET), MORE OR LESS.

FOR AND ON BEHALF OF:
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE – SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103

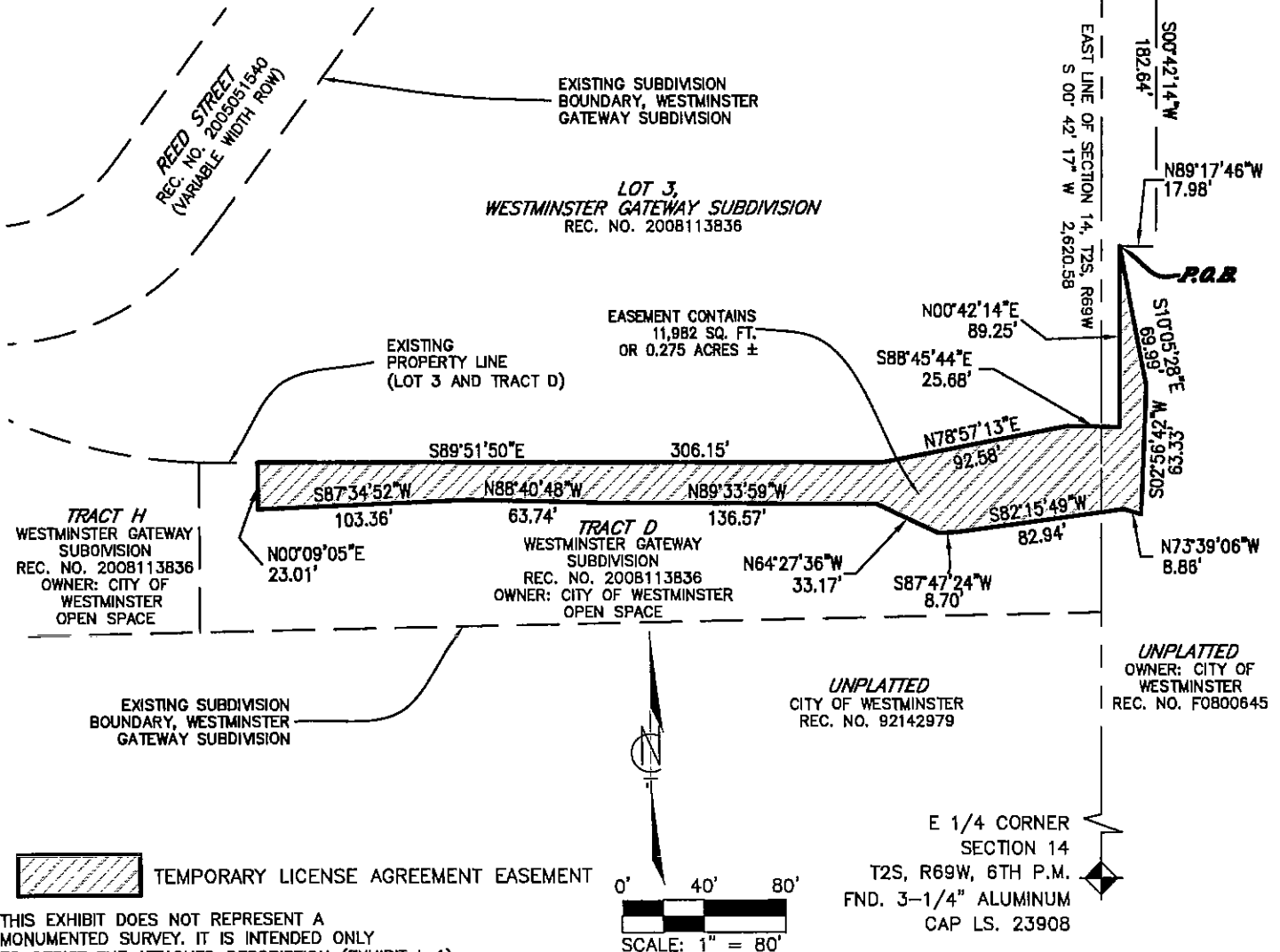
EXHIBIT I-2

TEMPORARY LICENSE AGREEMENT AREA
 WESTMINSTER GATEWAY SUBDIVISION
 NE 1/4 SECTION 14 AND NW 1/4 SECTION 13, TOWNSHIP 2 SOUTH,
 RANGE 69 WEST OF THE 6TH P.M.,
 ----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
 T2S, R69W, 6TH P.M.,
 FND. 3-1/2" ALUMINUM CAP
 ILLEGIBLE

POINT OF COMMENCEMENT
 NE CORNER OF SECTION 14
 T2S, R69W, 6TH P.M.
 FND. 3-1/4" ALUMINUM CAP LS. 14070

BASIS OF BEARING
 S 88°52'45" W 2714.05'
 NORTH LINE NE 1/4 SECTION 14, T2S, R69W



THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT I-1).

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB DATE 02-11-09 SCALE 1"=80'
Bohannon & Huston <small>INC.</small>	
<small>Meridian One 9785 Maroon Circle, Suite 140 Englewood, CO 80112 (303) 799-5103</small>	
<small>ENGINEERING & SPATIAL DATA & ADVANCED TECHNOLOGIES</small>	

WESTMINSTER GATEWAY SUBDIVISION JEFFERSON COUNTY		
TITLE: EXHIBIT I-2 TEMPORARY LICENSE AGREEMENT AREA		
REVISION:	DRAWING NO.	SHEET NO.
	1	3 OF 3

**Westminster Gateway Subdivision
Permanent License Agreement Area
Exhibit J-1**

A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST, OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF JEFFERSON, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 14 (A FOUND 3-1/4" ALUMINUM CAP LS. 14070), WHENCE THE NORTH ONE-QUARTER CORNER OF SAID SECTION 14 (A FOUND 3-1/2" ALUMINUM CAP ILLEGIBLE) BEARS S 88°52'45" W (BASIS OF BEARING), A DISTANCE OF 2714.05 FEET;

THENCE S 50° 34' 32" W, A DISTANCE OF 454.19 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION AND THE **POINT OF BEGINNING**;

THENCE 10.75 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 18.75 FEET, A CENTRAL ANGLE OF 32° 51' 14", AND A CHORD WHICH BEARS S 73° 42' 32" W, A DISTANCE OF 10.60 FEET;

THENCE N 89° 51' 50" W, A DISTANCE OF 84.90 FEET TO THE POINT OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE 85.03 FEET ALONG THE ARC OF SAID NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 253.00 FEET, A CENTRAL ANGLE OF 19° 15' 21", AND A CHORD WHICH BEARS N 78° 37' 18" W, A DISTANCE OF 84.63 FEET;

THENCE N 20° 19' 36" E, A DISTANCE OF 3.00 FEET TO THE SOUTHERLY LINE OF LOT 3, WESTMINSTER GATEWAY SUBDIVISION AND THE ARC OF A NON-TANGENT CURVE;

THENCE 84.01 FEET ALONG THE SOUTH LINE OF SAID LOT 3 AND THE ARC OF SAID NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 19° 15' 15", AND A CHORD WHICH BEARS S 78° 36' 46" E, A DISTANCE OF 83.62 FEET;

THENCE S 89° 51' 50" E, CONTINUING ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 95.02 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 0.012 ACRES (529 SQ. FT), MORE OR LESS.

FOR AND ON BEHALF OF:
BOHANNAN-HUSTON, INC.
9785 MAROON CIRCLE – SUITE 140
ENGLEWOOD, CO 80112
PH: 303-799-5103
FAX: 303-799-5104

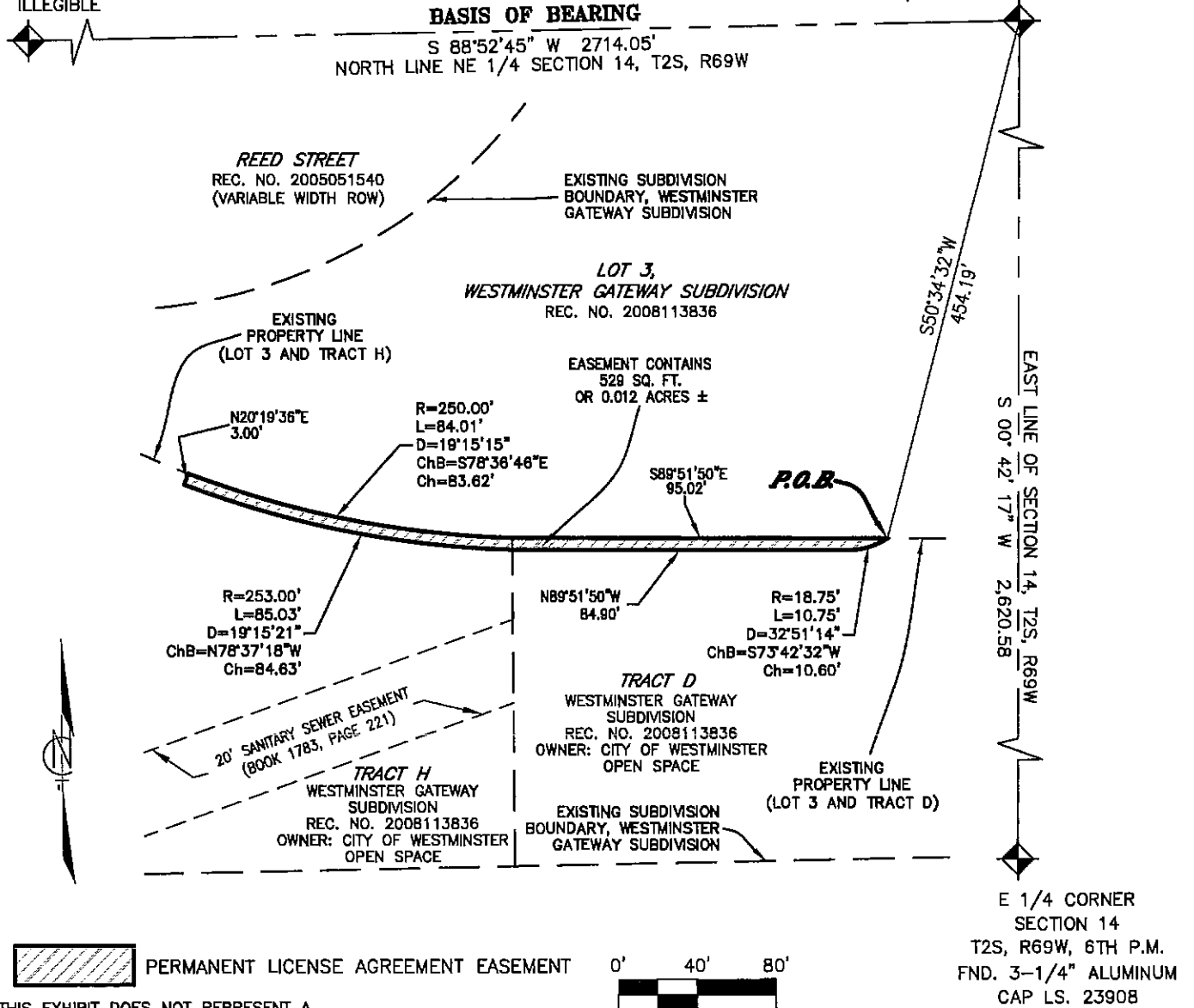
EXHIBIT J-2

PERMANENT LICENSE AGREEMENT AREA WESTMINSTER GATEWAY SUBDIVISION

NE 1/4 SECTION 14, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6TH P.M.,
----- CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO -----

NORTH 1/4 CORNER SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/2" ALUMINUM CAP
ILLEGIBLE

POINT OF COMMENCEMENT
NE CORNER OF SECTION 14
T2S, R69W, 6TH P.M.
FND. 3-1/4" ALUMINUM CAP LS. 14070



THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION (EXHIBIT J-1).

BHI PROJECT NO.	080262
CLIENT PROJECT NO.	080262
REVISION DESCRIPTION	
DRAWN	SDB
DATE	03-11-09
SCALE	1"=40'
Bohannon & Huston INC.	
Meridian One 9785 Maroon Circle, Suite 140 Englewood, CO 80112 (303) 799-5103	
ENGINEERING & SPATIAL DATA & ADVANCED TECHNOLOGIES	

WESTMINSTER GATEWAY SUBDIVISION JEFFERSON COUNTY		
TITLE: EXHIBIT J-2 PERMANENT LICENSE AGREEMENT AREA		
REVISION:	DRAWING NO.	SHEET NO.
	1	2 OF 2

Exhibit K-1

Restoration and Revegetation Conditions

1. Construction fencing and silt fencing is required along the temporary construction easement to protect open space until construction is complete. Reseed in accordance with the attached Revegetation Specifications, attached hereto.
2. Seeding shall be done between April 15 and August 15.
3. Silt fencing will remain in place until re-seeding has been accepted by the City.
4. Developer is responsible for irrigating the areas until the seed is established, as approved by the City, a minimum two-year warranty period is required.

Attachment to Exhibit K-1
City of Westminster Open Space Revegetation Specifications

A. SEED TYPES

Seed Mix - Perennial Cover

<u>Species</u>	<u>Common Name - Variety</u>	<u>Rate-PLS lb/ac*</u>
GRASSES		
<u>Bouteloua curtipendula</u>	Sideoats Grama	6.80
<u>Bouteloua gracilis</u>	Blue grama - Alma or native	12.40
<u>Buchloe dactyloides</u>	Buffalograss - Native	18.00
<u>Calamovilfa longifolia</u>	Prairie Sandreed	6.20
<u>Schizachyrium scoparium</u>	Little Bluestem	4.80
<u>Sporobolus airoides</u>	Alkali Sacaton-Native	0.80

* Rate for drill seeding; PLS = PURE LIVE SEED (Bulk rate =PLS rate /(% purity x % germination).

B. SEEDING RATE

Seeding shall be done at a rate of 50 PLS lb/ac.

C. PURITY

Grass seed specified will conform with all current state regulations regarding weed seed content and will meet the required pure live seed content as adjusted for batch purity and germination.

D. SOIL AMENDMENTS

Upon approval of the seedbed, apply Biosol Mix 7-2-3, or approved equal, at the rate of 25 lbs/1000 sf mixed with Menefee Granular Humate, or approved equal, at a rate of 5 lbs/1000 sf. In addition, incorporate 3 yds of compost to an 8" depth, per 1000 sf. The City of Westminster shall approve soil amendment application prior to seeding.

E. MULCH

Mulch is required to conserve moisture, prevent crusting, reduce runoff and erosion and help establish a plant cover. The need for mulch will be at the sole discretion of the City of Westminster. Mulching material shall be applied immediately or immediately after seeding. One of the mulching methods listed below will be acceptable:

- Areas under one acre: application of hydro-mulch (wood fibers in a water slurry) -- minimum rate of 2,000 lbs/acre. A guar-based tackifier, shall be included in the hydro-mulch.
- Areas over one acre: grain straw shall be used at an application rate of 4,000 lbs/acre of air dried material. At least 50-percent of the mulch by weight shall be

10 inches or more in length. Mulch shall be anchored immediately after distributing with a mulch crimper, and tackifier.

F. GRADING / SEEDBED PREPARATION

In general, graded areas will match the undisturbed surface elevations ensuring positive drainage. In areas of pipeline installation grades over the pipe itself may be slightly elevated where the project engineer may believe that settling is likely to occur. Upon establishment of approved grades, the soil surface shall be loosened by rototilling to a minimum of 8 inches, and all materials over 2 inches in diameter shall be removed. The organic matter shall be evenly spread over the entire surface at the rate specified, and shall be mixed thoroughly into the soil surface to a depth of 8 inches by means of a rototiller, soil mixer or similar equipment. The surface shall then be finish-graded and compacted to the approved elevations. Prior to seeding, Biosol Mix combined with Humate as described above shall be applied. Seedbed preparation shall be approved by the City of Westminster prior to the installation of seed or soil amendments.

G. SEEDING

Dry land seeding, sometimes referred to as "native" seeding, shall be accomplished with mechanical power-drawn drills which have depth bands set to maintain a planting depth between ¼ inch and ½ inch and shall be set to space the rows not more than 2 inches apart. In addition the drill will be equipped with multiple seed boxes from which large smooth, small smooth, and appendaged (i.e. fluffy or trashy) seed can be metered evenly. Seed that is extremely small shall be sowed from a separate hopper adjusted to the proper rate of application. When requested by the contractor and approved by the City, seeding may be accomplished by means of approved broadcast or hydraulic-type seeders. Seed shall not be drilled or sown during windy weather or when the ground is frozen or otherwise untilable.

All seed sown by broadcast-type seeders shall be "raked in" or otherwise covered with soil to a depth of at least 1/4-inch. Hand method of broadcasting seed will be permitted only on small areas not accessible to machine methods. If inspections indicate that strips wider than the specified space between the rows planted have been left or other areas skipped, the City may require immediate resowing of seed in such areas at the developer's expense.

During all seeding operations, proper functioning of the seed drill will be demonstrated to the satisfaction of the City of Westminster upon request.

H. IRRIGATION

All disturbed areas shall be irrigated temporarily by a method approved by the City of Westminster. Temporary irrigation shall remain in place for a period of at least one growing season. No above ground irrigation will be allowed. Irrigation piping shall be placed underground but must be abandoned in place upon cessation of irrigation. Removal or discontinuation of temporary irrigation shall be approved by the City of Westminster. Normal water charges for water used for the establishment of seed are to be paid by the Developer.

I. WEED MANAGEMENT

In the two years following seeding, seeded areas will be monitored to assess the presence of serious weeds that require eradication or other treatment. Manual control will be undertaken

where species and circumstances allow. However, chemical treatment may become necessary in some areas, to be determined by the City of Westminster.

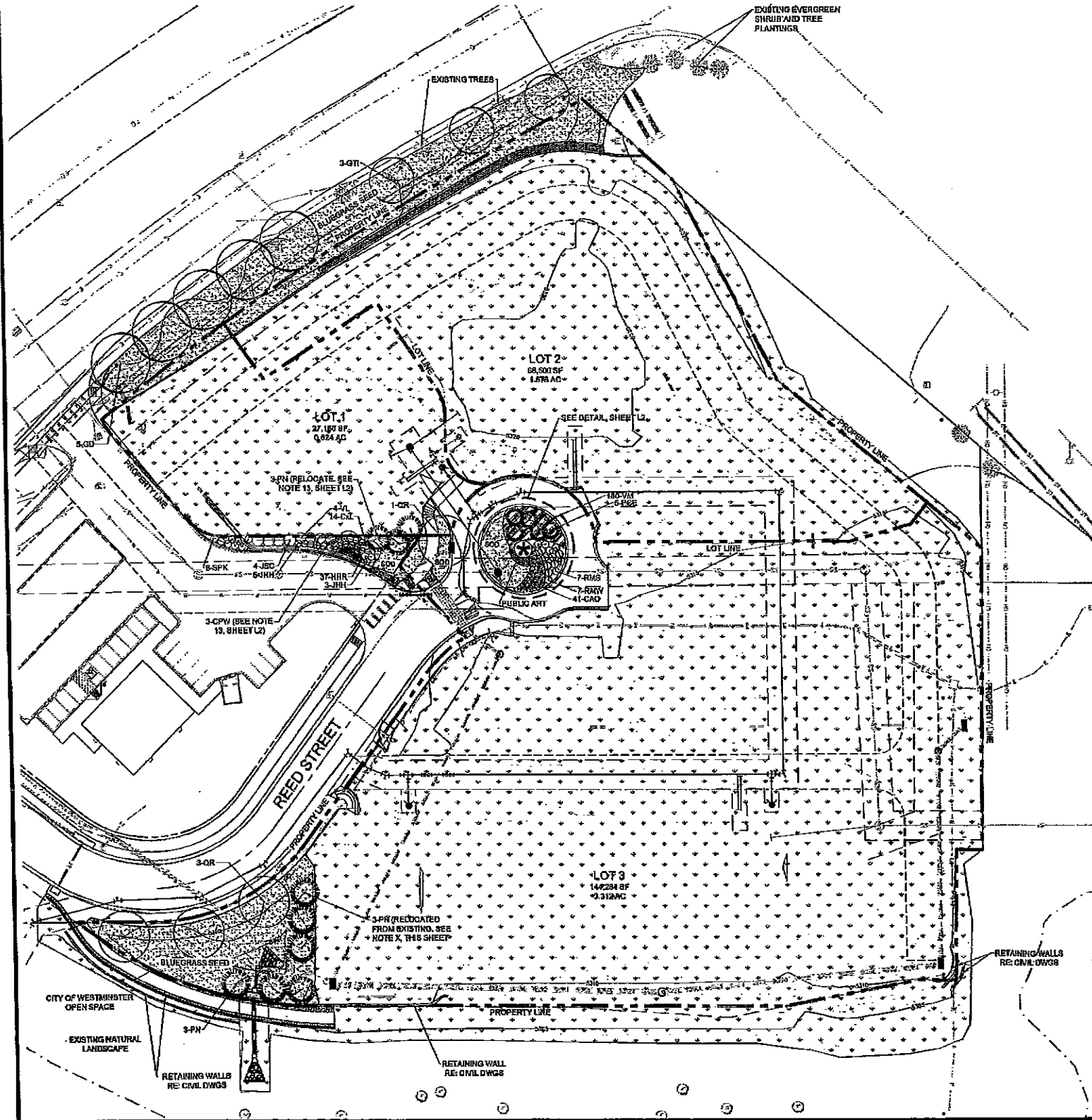
J. ACCEPTANCE

Acceptance of the seeding shall be per the Terms and Conditions of this License Agreement. A minimum of 80% coverage will be required, with no visible bare spots.

EXHIBIT K-2

PLANT LIST

	HYDR.	ABBR.	COMMON NAME	BOTANICAL NAME	QNTY.	SIZE	RMKS.
SHADE TREES	MOD.	GTI	IMPERIAL HONEYLOCUST	GLEDITSIA TRIACANTHOS IN. IMPERIAL	3	3"	B+B
	MOD.	QR	NORTHERN RED OAK	QUERCUS RUBRA	4	2"	B+B
	MOD.	GD	KENTUCKY COFFEETREE	GYMNOCALDUS DIOICUS	6	2"	B+B
TOTAL					12		
ORNAMENTAL TREES	MOD.	CPW	WASHINGTON HAWTHORN	CRATAEGUS PHAENOPYRUM	3	1.5"	B+B
TOTAL					3		
EVERGREEN TREES	MOD.	PN	AUSTRIAN PINE	PINUS NIGRA	3	6' HT.	B+B
	MOD.	PCE	PINON PINE	PINUS EDULIS	5	6' HT.	B+B
	LOW	JSC	COLOGREEN JUNIPER	JUNIPERUS SCOPULORUM 'COLOGREEN'	4	8' HT.	B+B
TOTAL					12		
TOTAL ALL TREES					27		
DECIDUOUS SHRUBS, GRASSES & PERENNIALS	MOD.	RMB	DOUBLE RED SHRUB ROSE	ROSA X MEIDLAND SCARLET	7	5 GAL.	SPACING PLAN
	MOD.	RMW	DOUBLE WHITE SHRUB ROSE	ROSA X MEIDLAND WHITE	7	5 GAL.	
	MOD.	CAO	FEATHER REED GRASS	CALAMAGROSTIS ACUTIFLORA 'OVERDAM'	41	1 GAL.	
	MOD.	VL	NANNYBERRY VIBURNUM	VIBURNUM LENTAGO	4	5 GAL.	
	LOW	CAL	LENA BROOM	CYTISUS X 'LENA'	14	5 GAL.	
	MOD.	SPK	MISS KIM LILAC	BYRINGA PATULA 'MISS KIM'	8	5 GAL.	
	LOW	HHR	HEMEROCALLIS 'HAPPY RETURNS'	DWARF YELLOW DAYLILY	37	1 GAL.	
TOTAL					118		
EVERGREEN SHRUBS	MOD.	JHH	HUGHES JUNIPER	JUNIPERUS HORIZONTALIS 'HUGHES'	8	5 GAL.	
TOTAL					8		
TOTAL ALL SHRUBS					126		
GROUNDCOVERS	LOW	VM	BIG LEAF PERIWINKLE	VINCA MAJOR	180	1 GAL.	18" O.C.



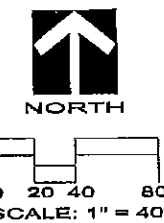
PLANT LEGEND


- DECIDUOUS CANOPY TREES
 - ORNAMENTAL TREES
 - EVERGREEN TREES
 - EXISTING TREES TO REMAIN
 - SHRUBS AND ORNAMENTAL GRASS
 - IRRIGATED BLUE GRASS SOD/SEED
 - NATIVE SEED (SEE SHEET 6)
 - VINCA MINOR GROUNDCOVER
 - CRUSHED FINES
 - CRUSHED FINES
 - STEEL EDGER (ROLLED EDGE)
 - PROPOSED CONTOURS
 - PUBLIC ART
- ### EXISTING UTILITIES
- SS SANITARY SEWER
 - W WATER
 - E ELECTRIC
 - T TELEPHONE
 - ST STORM SEWER
 - GT OVERHEAD ELECTRICAL UTILITY POLE
 - TE TELEPHONE PEDESTAL
 - WS WATER SERVICE
 - EL EXISTING LIGHT POLE
 - FH FIRE HYDRANT
 - EV ELECTRICAL VAULT
- ### PROPOSED UTILITIES
- PROPERTY LINE
 - STORM SEWER PIPE
 - SANITARY SEWER
 - WATER
 - ELECTRIC VAULT
 - FIRE HYDRANT
 - STORM SEWER MANHOLE
 - SANITARY SEWER MANHOLE
 - STORM INLETS

NATIVE SEED MIX

SPECIES	COMMON NAME - VARIETY	RATE-PLS LB/AC
GRASSES		
<i>BOUTELOUA CURTIPENDULA</i>	SIDFOATS GRAMA	6.00
<i>BOUTELOUA GRACILIS</i>	BLUS GRAMA - ALMA OR NATIVE	12.00
<i>BOUTELOUA DACTYLOIDES</i>	BUFFALOGRASS - NATIVE	18.00
<i>CALAMAGROSTIS LONGICOROLLA</i>	RAIRIE SANDREED	6.20
<i>SCHIZACHYRIUM SCOPARUM</i>	LITTLE BLUESTEM	4.00
<i>SPOROBOLEUS AIROIDES</i>	ALKALISACATON-NATIVE	0.30

* RATE FOR DRILL SEEDING; PLS = PURE LIVE SEED (BULK RATE - PLS RATE) (% PURITY X % GERMINATION).
 NUTRIENT OR SIMILAR APPROVED 1-YEAR ANNUAL COVER CROP MUST BE ADDED AT 50 LB/AC/HR.





VFRipley
ASSOCIATES, INC.
Landscape Architecture Urban Design Planning

401 W. MOUNTAIN AVE.
SUITE 201
FORT COLLINS, CO 80521
(970) 224-5828
(970) 224-1682 (FAX)

PLANNER

VF RIPLEY ASSOC. INC.
401 W. MOUNTAIN AVENUE
SUITE 201
FORT COLLINS, CO 80521
(970) 224-5828
(970) 224-1682 FAX
SANDY MCFERON

OWNER

CHURCH RANCH
DEVELOPMENT LLC
88 INVERNESS CIRCLE E.
SUITE A208
ENGLEWOOD, CO 80112
(303) 645-0555
(866) 305-0930 FAX
KRISTOPHER BARNES
RESOLUTE INVESTMENTS

LANDSCAPE ARCH.

VF RIPLEY ASSOC. INC.
401 W. MOUNTAIN AVENUE
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FORT COLLINS, CO 80521
(970) 224-5828
(970) 224-1682 FAX
SANDY MCFERON

ENGINEER

NORTHERN ENGINEERING
200 SOUTH COLLEGE AVE.
SUITE 100
FORT COLLINS, CO 80524
(970) 221-4166
(970) 221-4169 FAX
GARY ODEHNAL, P.E.

SURVEYOR

BOHANNAN HUSTON
8785 MAROON CIRCLE
SUITE 140
ENGLEWOOD, CO 80112
(303) 799-5103
(303) 799-6104 FAX
MATHEW BARR, P.L.S.

WESTMINSTER
GATEWAY
PHASE ONE
WESTMINSTER COLORADO

PHASE ONE
LANDSCAPE
PLAN

DATE 11/24/08
 JOB NO. R07-054
 DRAWN BC, RL
 CHECKED RL
 REVISED 11/24/08

L1



WESTMINSTER

Staff Report

Information Only Staff Report
May 4, 2009



SUBJECT: Personnel Rules Modifications

PREPARED BY: Debbie Mitchell, Human Resources Manager

Summary Statement:

This report is for City Council information only and requires no action by City Council.

The City Manager plans to administratively modify the Personnel Policies and Rules on June 8, 2009 to enable staff to move forward with changes previously discussed with City Council to the overtime rules, position step and merit increase delays and to provide in the rules for mandatory and voluntary furloughs. These three modifications to the Personnel Policies and Rules will allow the organization to take action on several of the next strategic steps identified to address anticipated 2009 revenue shortfalls outlined at the recent Council retreat and in an April 6, 2009 staff report, 2009 Financial and Budget Update. Mandatory furloughs and position step and merit increases are not being implemented at this time.

Background Information:

The City Council previously requested that the City Manager inform Council of any modifications to the Personnel Policies and Rules. Modifications are planned for administrative implementation on June 8, 2009. These policy changes will establish guidelines that allow the organization to implement cost saving measures to address anticipated revenue and budgeted expenditure shortfalls in 2009/2010 budget years. The changes will also be in place in the event of similar circumstances in the future.

The Personnel Policies and Rules modifications planned for June include:

- Modifying the overtime rules to match the requirements of Fair Labor Standards Act (FLSA) regulations
- Allowing the City Manager to delay scheduled salary increases and merit increases when budgetary constraints exist
- Allowing the City Manager the option of allowing voluntary furloughs
- Allowing the City Manager the option of requiring mandatory furloughs

Implementation of the Personnel Policies and Rules changes will result in an immediate change in overtime rule and savings in overtime expense beginning in 2009. The City's current overtime rules significantly exceed the FLSA requirements. Changes to the overtime rules eliminate overtime pay based on the lack of 24 hour notice of a schedule change, automatic overtime if called in for an emergency and overtime calculated on hours worked combined with leave taken in an FLSA period versus the FLSA requirement to pay overtime based on hours worked only.

The rule changes also allow the City Manager to delay regular progressions through a pay range or merit increase for the purpose of addressing economic constraints. Council may remember that this action is listed in the City's recession response plan as a least favored reduction but would be a possible tool to avoid layoffs of regular employees because of economic necessity.

Furloughs, both voluntary and mandatory, are included in the Personnel Policies and Rules changes. Voluntary furloughs will become an option for employees in 2009. The need for mandatory furloughs in 2009 is not currently anticipated.

No Council action is requested on these administrative changes to the Personnel Policies and Rules. A copy of the modified portion of the document is included for your information. Staff believes that these changes to the Personnel Policies and Rules will provide the flexibility needed to respond to possible revenue shortfalls in the coming years.

Respectfully submitted,

J. Brent McFall
City Manager

Attachment

Job Split:

A position that is filled by two (2) or more employees who are assigned independent duties and responsibilities and in which the employees are treated as part-time equivalents.

Job Title:

The title assigned to any particular class and used for reference to that class.

Layoff:

The separation of an employee from municipal service, which has been made necessary by lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee. This term shall include those separations initially expected to be temporary, as well as those resulting from the elimination of a position.

Legally Prescribed Drug:

A prescription or other written approval from a physician for the use of a drug in the course of medical treatment which includes the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

MRO:

Medical Review Officer.

On-call Duty:

A mandatory requirement to remain readily accessible through telephone or pager communications and within a specified radius of a work site in order to be available to report to work within a specified period of time if the need arises.

On-call Status:

A mandatory requirement to carry a pager or telephone in order to be available to report to emergency calls if the need arises.

Original Appointment:

The appointment of a person to a position in the municipal service.

Outside Employment:

Any work other than the employee's primary position in the City performed for monetary compensation. This includes self-employment and positions which may or may not be in the City organization.

Overtime Pay:

Monetary compensation for hours worked ~~beyond the scheduled workday or~~ beyond the work period designated for FLSA compliance.

Position:

A group of current duties and responsibilities requiring the full, temporary, or part-time services of one (1) employee.

Probationary Period:

A working test period following an original appointment, a promotion, a lateral transfer or a demotion during which an employee is required to demonstrate the ability to satisfactorily perform and learn in the assigned position.

- (F) Accelerated Scheduled Salary Increase:
Non-exempt employees who have not yet attained the highest step in their pay range are eligible to receive an accelerated salary increase for outstanding job performance at the time of their regular performance review. Any such salary increases must be authorized in writing by the division manager with the concurrence of the department head. The standard practice for Non-exempt employees is one additional step.
- (G) Withholding or Delaying Salary Increases:
Non-exempt employees who have not yet attained the highest step in their adopted pay range are subject to having any scheduled salary increase delayed or withheld in six (6) month increments if job performance is not satisfactory. Reasons for delaying or withholding a scheduled salary increase shall be provided in writing to the Human Resources Manager who shall initiate the appropriate Personnel Action Form. A division manager may initiate the withholding or delaying of any salary increase if job performance warrants with the approval of the department head. Future anniversary dates will change in accordance with the time the increase is delayed.
- (H) Citywide Delays in Pay Progression:
Citywide delays in progression through the pay plan steps may occur if authorized by the City Manager after review with Council. These delays in progression through the pay plan could be authorized, for example, based on economic conditions and budgetary constraints. Future anniversary dates will not be affected by these types of delays.
- (I) Transfer:
An employee who is transferred may receive the rate of pay closest to their existing pay but within the pay range of the new position. The employee will have a new anniversary date, effective the date of the transfer. Employees transferred shall be placed on probation for a six (6) month period. Scheduled salary increases shall be annual based on the new anniversary date.
- (J) Salary Increases for Temporary Employees:
Employees in this category may receive salary increases due to length of service or job performance as established administratively, by position, according to the adopted pay plan or at the discretion of the division manager.
- (K) Pay Upon Reclassification:
If an employee is reclassified into a position classification with a lower maximum pay range, the employee shall receive the rate of pay in the new range that most nearly coincides with the previous rate of pay.

If an employee is reclassified to a position classification with a higher maximum pay range, the employee shall receive at least the minimum rate of pay in the new pay range or a higher step as determined administratively by the Human Resources Manager. Reclassifications shall not be subject to the provisions of advertising open positions if there is a qualified incumbent to fill the position.
- (L) Reduction of Pay Ranges Resulting from Annual Review of Pay Plans:
If, as a result of Human Resources' annual review of the pay plan, the salary range of a classification is reduced to the point where an incumbent's salary is above the new range, the City Manager may approve the freezing of the incumbent's salary. The salary of the incumbent employee shall not be increased

until such time as the top of the pay range for that classification exceeds the employee's salary.

- (M) Increase in Pay Range Resulting from Annual Review of Pay Plans:
If, as a result of Human Resources' annual review of the pay plan, the salary range of a Non-exempt classification is increased, the incumbent's step in the new range will be based on a step position that most closely reflects the percent (%) increase warranted by the market data acquired, in addition to any general across-the-board market adjustment. Market adjustments may impact pay progression through the range.
- (N) Demotions:
A demotion shall result in the employee being placed in a classification having a lower pay range or at a lower pay rate in the employee's current pay range. In the case where the employee remains in the same classification, the demotion shall result in at least a five percent (5%) decrease in rate of pay, as long as the rate of pay after the decrease is at least the minimum of the pay range. Employees demoted may be placed on probation for a six (6) or twelve (12) month period at the discretion of the division manager. Scheduled salary increases will be considered annually based on the new anniversary date.
- (O) Notice on Salary Changes:
An employee who has a salary change due to demotion, or whose salary is frozen, shall be so advised in writing, with the exception of a salary change as a result of across-the-board salary changes. Employees having a scheduled salary increase denied or withheld shall be advised in writing as to the reasons for such action.
- (P) Voluntary Furlough:
The City Manager may authorize department heads to grant voluntary furloughs for designated periods of time to address specific budgetary constraints. If available, an annual limit will be established by the City Manager. When authorized, department heads may consider requests for voluntary furloughs in at least eight (8) hour increments for a one (1.0) FTE employee and will be prorated based on full time equivalency. All benefits will continue while employees are on voluntary furlough. Benefits calculated based on wage will be impacted by the furlough (i.e. pension contributions). The granting of voluntary furloughs is at the discretion of the department head based on operational needs and employee performance.
- (Q) Mandatory Furlough:
The City Manager has the authority to mandate unpaid time off to address economic conditions, temporary reductions in workload and budgetary constraints. Such unpaid time off, or furloughs, may be authorized in any increment of days and/or hours. It may coincide with the closure of a facility or operation, may be selected by a department head or may be required through a substitution of paid leave with an unpaid mandatory furlough. Furloughs will be established and communicated to employees and Council with at least a thirty (30) day lead time. Any employee may be required to take a mandatory furlough, and the furlough requirement may be for designated groups only. The City Manager may extend full or partial benefits to employees for the duration of a mandatory furlough.

(R) Merit Award Program:

All employees are eligible to receive merit awards on a lump sum basis. The amount of the special pay will be determined administratively. Bonuses of up to five hundred dollars (\$500) will be based on exemplary job performance or cost saving suggestions based on the recommendation of the employee's division manager and the approval by the department head. Bonuses in excess of five hundred dollars (\$500) may be recommended by the department head and then referred to the City Manager for review and approval. The economic condition of the City and availability of budgeted funds may be a limiting factor on the amount and number of merit awards granted annually. Employees may be eligible for merit awards when required to do work temporarily that is considered to be substantially above and beyond the normal requirements of their positions.

(S) Overtime Pay:

Non-exempt employees will receive overtime compensation at the rate of one and one-half (1 1/2) times their regular hourly pay rate for any hours worked beyond their scheduled work period. All hours worked must be reflected on payroll time sheets in one quarter hour increments. Part-time and temporary employees shall be eligible for overtime pay only if they work more than forty (40) hours in a seven (7) day period.

Scheduled work days and defined ~~FLSA~~ work periods may be adjusted by the division manager to address service demands either on a long-term or temporary basis. ~~When at least twenty four (24) hours' notice is provided, changes in a scheduled work period or scheduled work hours' that do not increase the total hours in a scheduled work period are paid at the regular base rate of pay. When less than twenty four (24) hours notice is given of a schedule change and the scheduled change is modified by the supervisor, such as in the case of an emergency callout, overtime pay shall be provided for hours worked beyond the work hours previously scheduled.~~ An employee called in to work during an emergency shall receive a minimum of two (2) hours of ~~overtime~~ pay. If the employee completes the work from home, no minimum hours of ~~overtime~~ pay will apply. For purposes of computing hours worked, when an employee travels away from home overnight on City business, such travel shall be considered work time when it occurs during the employee's regular work period. Travel time outside the normal work hours is not compensable unless:

- 1) A special one (1) day work assignment requires travel and work hours in excess of the employee's regular total hours for the day, or,
- 2) The travel time occurs during the employee's normal work hours on days the employee would normally have off.

For purposes of computing overtime pay under the Fair Labor Standards Act (FLSA), the work period for all Non-exempt, non-law enforcement, non-firefighting and non-emergency medical personnel is designated as a forty (40) hour period during the seven (7) days beginning 12:01 a.m. Monday through midnight of the following Sunday. Hours worked in excess of forty (40) during this seven (7) day period shall be considered overtime. The work period for determining FLSA overtime for law enforcement personnel shall be fourteen (14) day periods beginning at 12:01 a.m., January 21, 2008. Hours worked in excess

of eighty (80) during the applicable fourteen (14) day period shall be considered overtime. The work period for determining FLSA overtime for firefighting and emergency medical personnel shall be twenty-seven (27) day periods beginning at 12:01 a.m., December 18, 1989. Hours worked in excess of two-hundred and four (204) during the applicable twenty-seven (27) day period shall be considered overtime. ~~Compensated hours of leave such as sick, injury, vacation, holiday, or other paid leave shall be considered as hours worked for the purpose of computing FLSA hours.~~ Only hours worked during the FLSA period will be considered for the purpose of computing overtime or compensatory time earned.

Holiday cash-out hours shall not be included in the computation of hours worked for overtime purposes. Overtime pay shall not be provided when employees are cashing out a holiday pursuant to Section IX of these rules.

Supervisory and administrative employees shall have the authority to require overtime work as necessary. For Non-exempt employees, work over and above the normal work period, including volunteer work that is directly job related and work taken home, is compensable and must be approved in advance by the employee's supervisor.

Compensatory Time may be provided in lieu of overtime pay in accordance with Section IX of these rules.

City employees paid on a salary basis with erratic work week schedules will be paid one-half (1/2) time overtime for hours worked in excess of the maximum hours worked during their FLSA cycles.

City personnel may work in an off-duty capacity at a pay rate established by the City. This pay is not considered hours worked for the purpose of calculating overtime.

- (T) Training Pay:
Non-exempt employees are eligible for overtime pay for training hours beyond the normally scheduled work period when the training is required by the City.
- (U) Court Appearance Pay:
Any employee who testifies in any Court, hearing or deposition pursuant to subpoena in the line of duty shall be compensated for such time spent. Time spent in performing this type of work shall be considered hours worked when computing overtime pay for Non-exempt employees. Court appearance pay during off-duty hours shall be provided for the time required to travel to and from the location where the hearing is being held and the actual hearing time itself.
- (V) Mileage Pay:
Any employee driving a personal vehicle while on authorized City business shall receive compensation at the rate established by the City Manager upon filing the appropriate form with the Finance Department after approval of the employee's supervisor. The employee will provide, at no cost to the City, at least the statutory insurance coverage for the employee's vehicle. Those employees receiving a monthly car allowance are only eligible to receive mileage pay for travel outside of the Denver metropolitan area.

- (W) Transportation, Travel, and Other Official Expenses:
Employees who incur expenses in the conduct of City business shall be reimbursed for such expenses according to the written policy established by the City Manager.
- (X) Pay Certification:
No payroll check shall be issued to any employee until the Human Resources Manager has certified in writing to the Finance Department that each person named on the payroll has been employed in accordance with the appointment and classification procedures of these rules, and that the salary rates for all are those authorized by the adopted pay plan. The method of certification shall be the Personnel Action Form.
- (Y) Pay Periods:
Pay periods shall be fourteen (14) calendar days from 12:01 a.m., Monday through midnight on Sunday of the following week. Pay days shall be the Friday following the end of the pay period.
- (Z) Method of Pay Computation:
The hourly pay for Non-exempt full-time employees, except shift firefighting personnel, is computed by dividing the base annual salary by 26.0714 and then dividing by eighty (80) hours. The hourly pay for Fire Department personnel working on twenty-four (24) hour shifts is computed by dividing the base annual salary by two-thousand nine-hundred and twenty (2920). The hourly pay for Non-exempt part-time and temporary employees shall be as designated in the City pay plan.
- Any Non-exempt employee who is to receive less than the employee's biweekly salary will have pay computed on the actual number of hours worked during that pay period, plus any paid leaves.
- Overtime pay shall be computed by multiplying the hourly equivalent base wage times one and one-half. (1 1/2).
- Half time overtime will be computed by multiplying the hourly equivalent base wage times one-half (1/2).
- (AA) Salary for Exempt Employees:
All Exempt employees shall be paid on a salary basis, which shall not be subject to reduction because of variations in the quality or quantity of work performed, unless the employee is absent from work for a day or more for personal reasons, illness, **mandatory or voluntary furlough**, or if the employee is suspended without pay.
- (BB) Erroneous Payments:
If the City makes any payment that, according to the terms of the City's Personnel Policies and Rules, the City's Pay Plan or the benefits provided thereunder, should not have been made, authorized personnel may recover that incorrect payment by whatever means necessary, whether or not it was made due to the error of City staff, the person to whom it was made, or any other appropriate party.

(CC) Erroneous Payments to Pension Plans:

If the City's Plan Administrator makes any payment that, according to the terms of the Plan Document and the benefits provided thereunder, should not have been made, the City's Plan Administrator may recover that incorrect payment by whatever means necessary, whether or not it was made due to the error of the Plan Administrator, the person to whom it was made, or any other appropriate party.



WESTMINSTER

Staff Report

Information Only Staff Report
May 4, 2009



SUBJECT: Westminster Economic Development Authority 1st Qtr 2009 Financial Update

PREPARED BY: Karen Creager, Special Districts Accountant

Summary Statement:

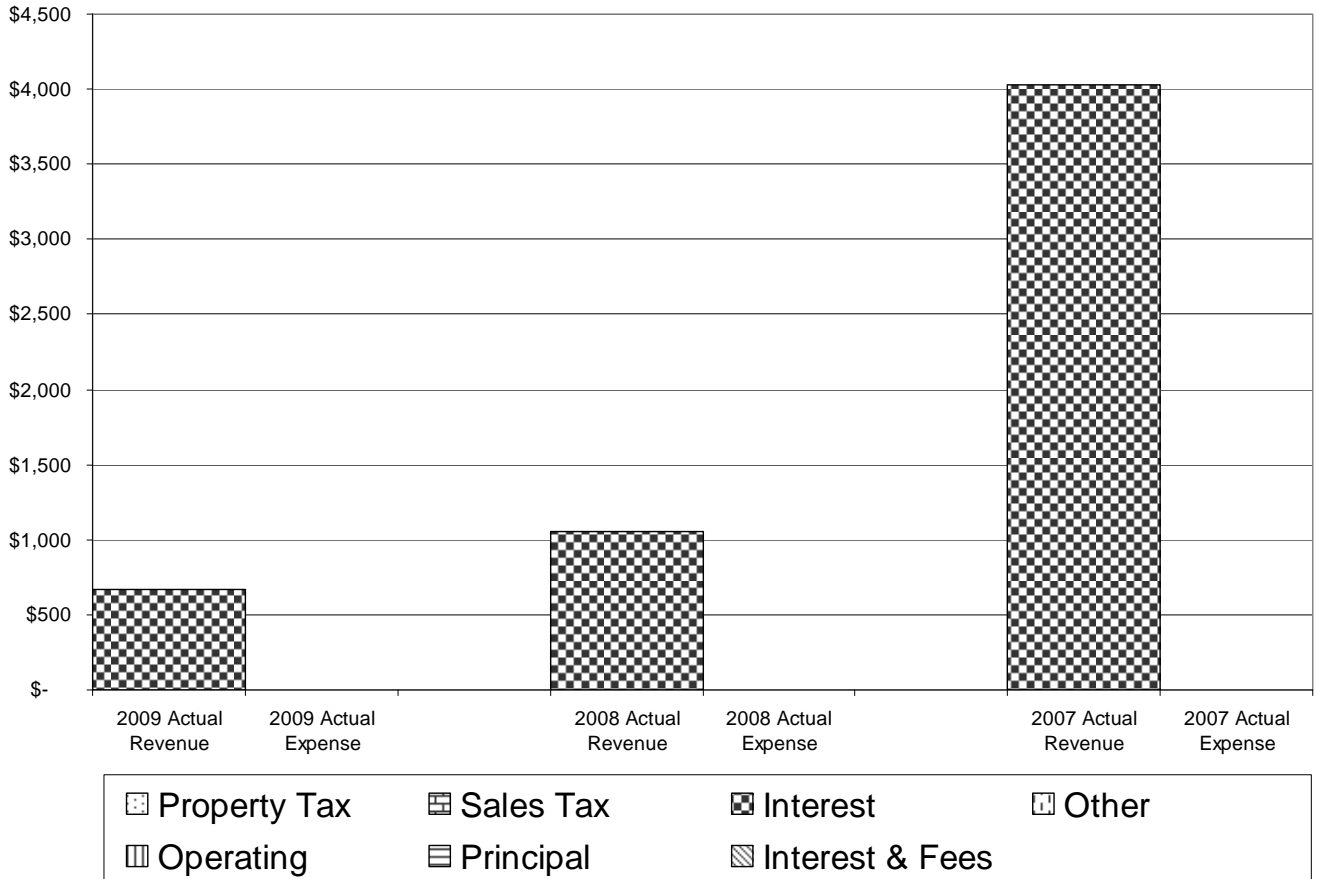
This report is for information only and requires no action by the Board. The report represents the unaudited financial position for each of the Westminster Economic Development Authority's (WEDA) Urban Renewal Areas (URA's) as of March 31, 2009.

Background Information:

WEDA currently includes six separate URA's. This report presents the financial activity as of March 31, 2009. Included in the report are the following for each URA: 1) three year 1st quarter comparative graphs for operating revenues and expenses, 2) a chart summarizing the financial position as March 31, 2009, 3) a list of all current outstanding obligations.

Holly Park URA

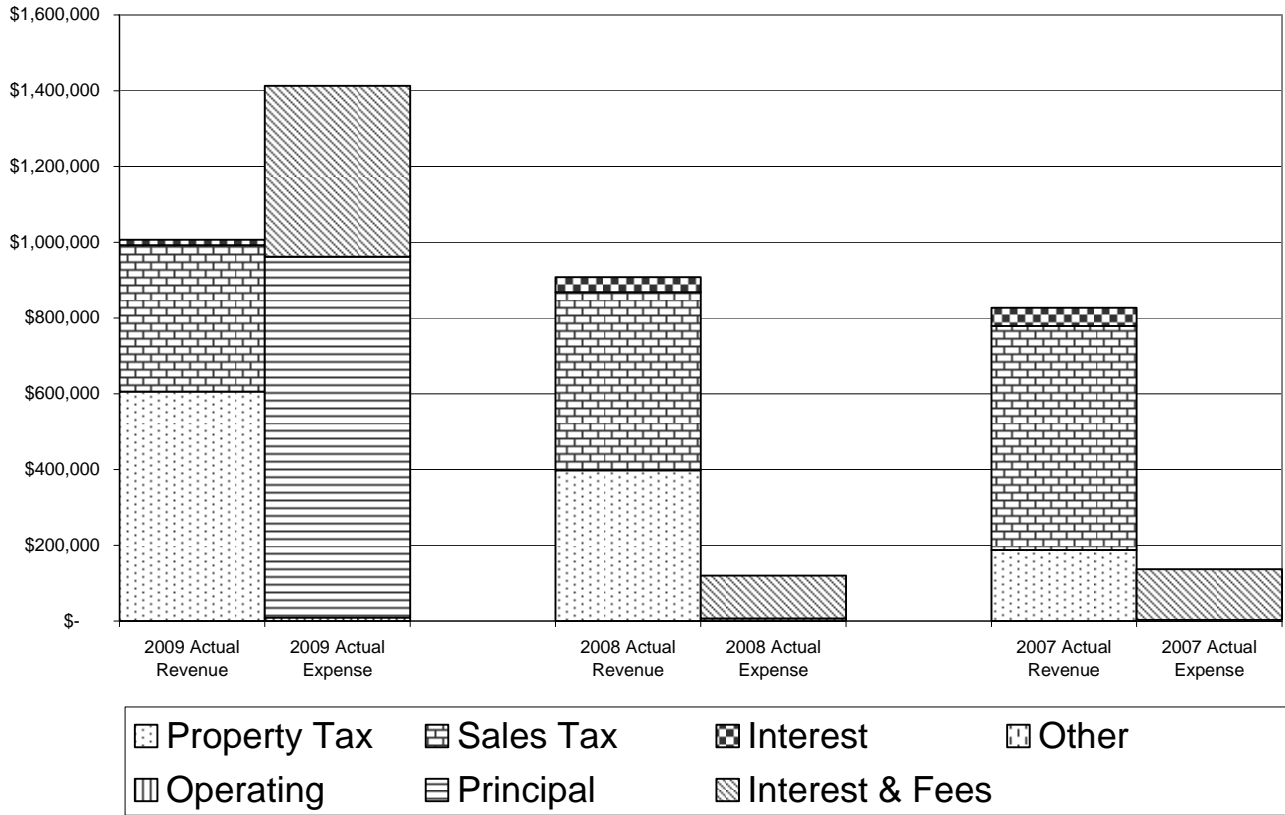
Holly Park URA Comparative 1st Quarter Revenues vs Expenses



- The General Fund loaned this URA \$1,245,000 to fund the capital project for the clean-up of the property to ready it for resale. It is anticipated that the interfund loan will be repaid once the property is sold.
- The only revenue recorded is interest earnings on the unspent project funds. Interest earnings decreased \$386 from 2009 compared to 2008 because the project funds continue to be spent.

Mandalay Gardens URA (Shops at Walnut Creek)

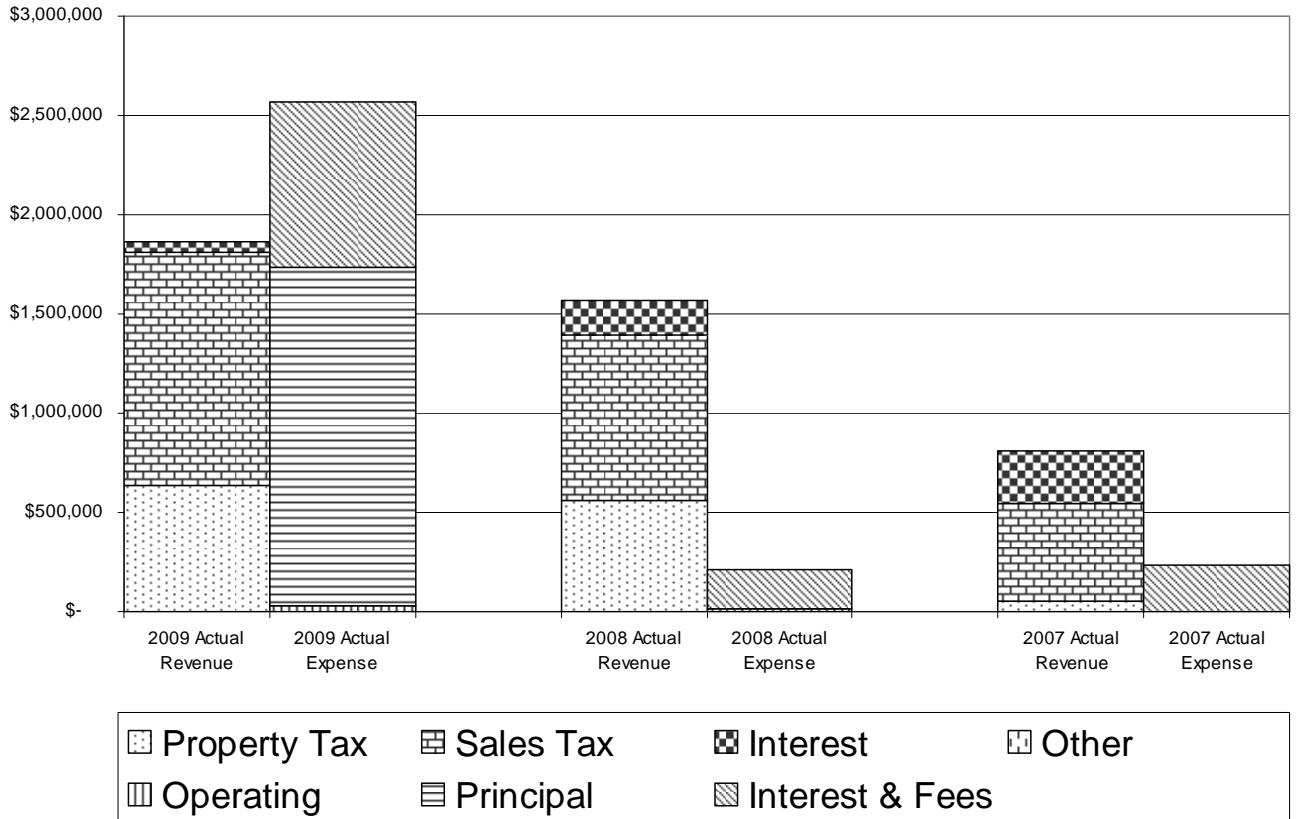
Mandalay Gardens URA Comparative 1st Quarter Revenues vs Expenses



- 2008 was the first full year of the sales tax pledge reduction from 3.0% to 1.75%. Sales tax increment decreased \$83,524 in 2009 from 2008 due to the current economic climate.
- Property tax increment increased \$207,706 in 2009 from 2008. The optional first half property tax payment was received in the 1st quarter.
- Interest earnings decreased \$25,364 in 2009 from 2008 as cash on hand decreased due to increases in the URA’s scheduled debt service payments.
- Operating expenses increased \$2,038 in 2009 from 2008 due to an increase in the property tax collection fee paid to the county treasurer, consistent with the increase in property tax revenues.
- Debt service costs increased \$1,290,251 in 2009 from 2008 due to the accelerated debt service schedule with the conversion from variable rate bonds to bank bonds. Accumulated prior year excess incremental revenues have been used to supplement current year revenues to pay debt service due under the accelerated schedule. These additional revenues are not shown in the graph above.

North Huron URA

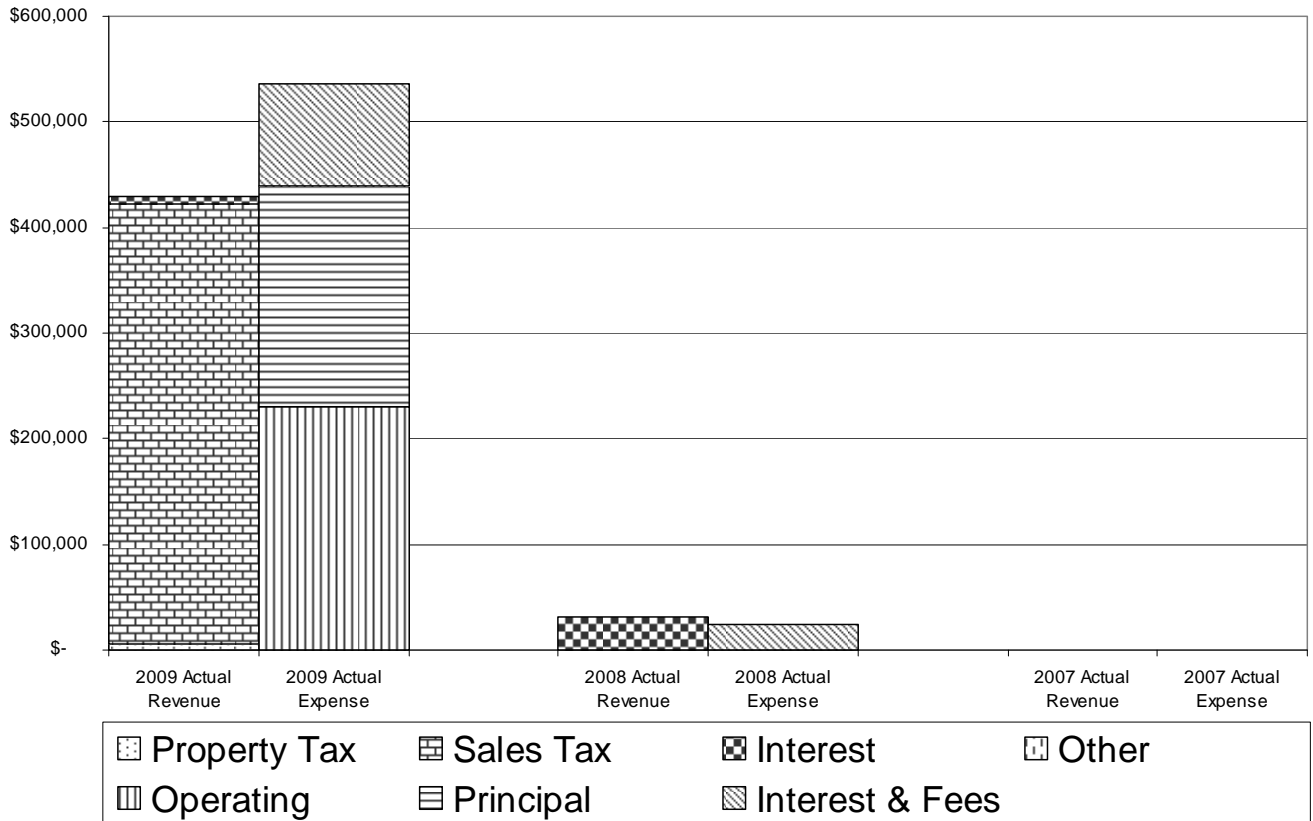
North Huron URA Comparative 1st Quarter Revenues vs Expenses



- Property tax increment increased \$81,976 in 2009 from 2008. This trend should continue as the property values increase due to continued development. Additionally, the optional first half property tax payment was received in the 1st quarter.
- Sales tax increment increased \$340,250 in 2009 from 2008. Again, it is anticipated that this trend will continue with development continuing in the area and a full year of operations.
- Interest earnings decreased \$128,948 in 2009 from 2008. This decrease is primarily the result of lower project cash on hand due to project completions.
- Operating expenses increased \$15,624 in 2009 from 2008. This increase is due to an increase in the property tax collection fee paid to the county treasurer, consistent with the increase in property tax revenues. Economic development agreement (EDA) expenses also increased in 2009.
- Debt service costs increased \$2,337,714 in 2009 from 2008 due to the accelerated debt service schedule with the conversion from variable rate bonds to bank bonds. Accumulated prior year excess incremental revenues have been used to supplement current year revenues to pay debt service due under the accelerated schedule. These additional revenues are not shown in the graph above.

South Sheridan URA

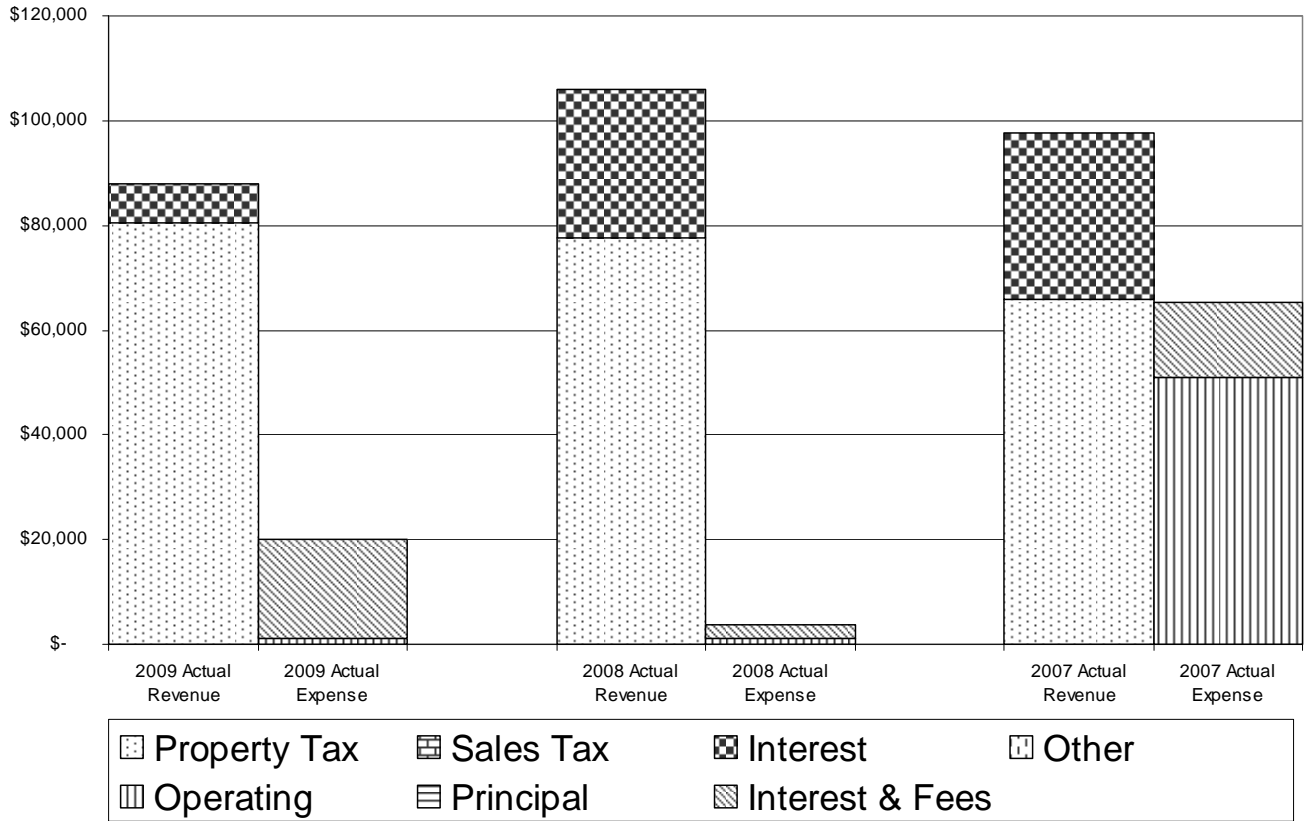
South Sheridan URA Comparative 1st Quarter Revenues vs Expenses



- A portion of the 1st quarter principal, interest and fees payments were funded with capitalized interest from bond proceeds. These funds are now exhausted. Property tax and sales tax increment should be more than adequate to cover all future debt service and other obligations of the URA.
- Receipt of incremental property tax revenues began in the 1st quarter 2009, which accounted for the increase in property tax increment of \$5,078 in 2009 from 2008.
- The sales tax base was met in the 1st quarter 2009 compared to the 3rd quarter 2008. Therefore, sales tax increment of \$417,689 was realized in the 1st quarter 2009.
- Interest earnings decreased \$25,095 in 2009 from 2008. This decrease is primarily the result of lower cash on hand due to project completions.
- Operating expenses increased \$230,835 in 2009 from 2008 due to increased EDA expenses in 2009.
- Debt service costs increased \$280,592 in 2009 from 2008 due to the accelerated debt service schedule with the conversion from variable rate bonds to bank bonds. Accumulated prior year excess incremental revenues have been used to supplement current year revenues to pay debt service due under the accelerated schedule. These additional revenues are not shown in the graph above.

South Westminster URA

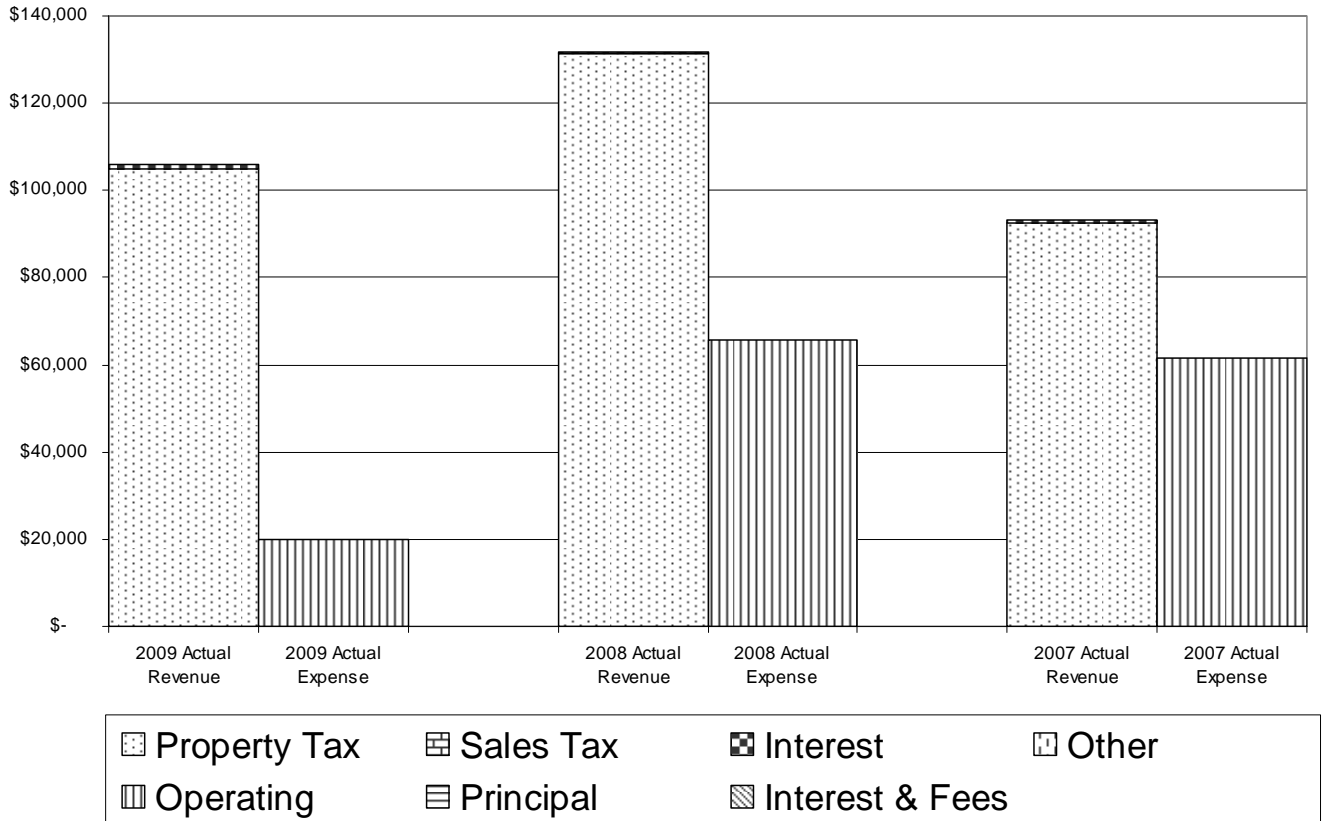
South Westminster URA Comparative 1st Quarter Revenues vs Expenses



- It is anticipated that increases in property tax and sales tax increment will cover most of the URA's obligations in 2009. Existing available cash will be used to fund the remainder. This will result in a further reduction in this URA's fund balance.
- Property tax increment increased \$2,860 in 2009 from 2008. It is anticipated that this trend will continue for a couple of years due to some recent redevelopment projects.
- No sales tax increment was realized in the 1st quarter of 2009 or 2008 as the sales tax base was not met.
- Interest earnings decreased \$20,707 in 2009 from 2008. This decrease is primarily the result of lower cash on hand due to the reduction of increment received in recent years and principal payments on the interfund loan.
- Operating expenses increased slightly in 2009 from 2008. This slight increase is due to an increase in the property tax collection fee paid to the county treasurer, consistent with the increase in property tax revenues.
- Debt service costs increased \$16,386 in 2009 from 2008 primarily due to the change in the interest expense accrual from year end 2007 and year end 2008.

Westminster Center URA

Westminster Center East URA Comparative 1st Quarter Revenues vs Expenses



- Property tax increment decreased \$26,439 in 2009 from 2008. Again, the optional first half property tax payment was received in the 1st quarter.
- No sales tax increment was realized in the 1st quarter of 2009 or 2008 as the sales tax base was not met. It is anticipated that property tax increment will be sufficient to meet obligations again in 2009 which means sales tax increment will not be transferred to this URA in 2009.
- Interest earnings increased \$474 in 2009 from 2008.
- Operating expenses decreased \$45,897 in 2009 from 2008. This decrease is due primarily to a decrease in EDA expenses.
- This URA has no bonded debt obligations.

Respectfully submitted,

J. Brent McFall
Executive Director of Authority

Attachments

Westminster Economic Development Authority
Unaudited Financial Statements
For the period ending March 31, 2009

	Holly Park	Mandalay Gardens	North Huron	South Sheridan	South Westminster	Westminster Center East	Total
Revenues							
<i>Property Tax</i>	\$ -	\$ 605,772	\$ 639,822	\$ 5,078	\$ 80,362	\$ 105,027	\$ 1,436,061
<i>Sales Tax</i>	-	386,314	1,173,981	417,689	-	-	1,977,984
<i>Interest</i>	672	14,382	49,695	6,121	7,668	888	79,426
Total Revenues	672	1,006,468	1,863,498	428,888	88,030	105,915	3,493,471
Expenses							
<i>Operating</i>	-	9,086	30,233	230,835	1,205	19,829	291,188
<i>Capital Project -proj exp</i>	116	-	172,557	49,292	-	-	221,965
<i>Principal</i>	-	952,625	1,707,500	208,000	-	-	2,868,125
<i>Interest & Fees</i>	-	450,685	827,075	96,646	18,964	-	1,393,370
Total Expenses	116	1,412,396	2,737,365	584,773	20,169	19,829	4,774,648
<i>Revenues Over(under) Exp</i>	556	(405,928)	(873,867)	(155,885)	67,861	86,086	(1,281,177)
Beginning Fund Balance	(138,413)	7,118,786	21,526,255	1,425,825	283,861	95,930	30,312,244
Ending Fund Balance*	\$ (137,857)	\$ 6,712,858	\$ 20,652,388	\$ 1,269,940	\$ 351,722	\$ 182,016	\$ 29,031,067

* Ending fund balance includes the following reserved amounts that can be spent only as indicated in the line description:

Bond Reserve	\$ -	\$ 3,160,000	\$ 5,101,200	\$ 634,412	\$ 646,000	\$ -	\$ 9,541,612
Debt Service Reserve	-	2,825,470	5,979,504	1,021,826	913,105	-	10,739,905
Capital Project Reserve	56,953	-	9,177,759	77,625	-	-	9,312,337
Total Reserved Fund Balance	\$ 56,953	\$ 5,985,470	\$ 20,258,463	\$ 1,733,863	\$ 1,559,105	\$ -	\$ 29,593,854

**Westminster Economic Development Authority
Obligations at 3/31/09**

	URR	Outstanding Balance
<u><i>Bonds-Principal only</i></u>		
1997 WEDA Bonds	South Westminster	\$ 5,330,000
2005 WEDA Bonds	N Huron	66,592,500
2006 WEDA Bonds	Mandalay	37,252,375
2007 WEDA Bonds	South Sheridan	8,112,000
Total Bonds		<u>\$ 117,286,875</u>
<u>EDA</u>		
Lowes' HIW, Inc. - 136th Avenue location	N Huron	\$ 601,062
Shoenberg Ventures	South Sheridan	5,000,000
LaConte Real Estate Trust	South Westminster	50,000
Parkwood East, LLC (formerly Carlson Associates, Inc.)	South Westminster	2,600,000
Pappa's Restaurants, Inc.	Westminster Center	163,409
Total EDA		<u>\$ 8,414,471</u>
<u>Interfund loans</u>		
Gen Capital Improv Fund	Holly Park	\$ 1,125,000
General Fund	Holly Park	120,000
Utility Fund	South Westminster	2,400,000
Total Interfund loans		<u>\$ 3,645,000</u>

City of Westminster City Council Study Session Notes
April 20, 2009

Mayor Nancy McNally called the Study Session to order at 6:43 PM. All Councillors were in attendance.

City Staff in attendance included: City Manager Brent McFall; Assistant City Manager Steve Smithers; City Attorney Marty McCullough; Deputy City Manager Matt Lutkus; City Engineer Dave Downing; Planning Manager Mac Cummins; Public Works and Utilities Director Mike Smith; Water Resources and Treatment Manager Mike Happe; Water Resources Engineering Coordinator Josh Nims; Water Resources Engineer Mary Jay Vestal; Planning Technician Brian Potts; Planning Technician Ryan Johnson; Planner I Walter Patrick; Landscape Planner Joe Schalk; Public Information Officer Katie Harberg and Management Analyst Aric Otzelberger.

Guests in attendance included Regional Transportation District (RTD) Board Chair Lee Kemp, RTD Project Manager for the Northwest Rail Project Chris Quinn and Nissa LaPoint with the Westminster Window.

Northwest Commuter Rail Corridor Update

Regional Transportation District (RTD) Board Chair Lee Kemp and RTD Project Manager for the Northwest Rail Project Chris Quinn were present to deliver an update to City Council on RTD's FasTracks Rail Program and the portion of that project that will serve Westminster (Northwest Commuter Rail). RTD currently projects a \$2.2 billion shortfall to complete the project by 2017. The RTD Board recently voted to propose a 0.4% sales tax increase to voters either this year or in 2010 to fully fund the FasTracks project by 2017. Mr. Kemp and Mr. Quinn also discussed ridership projections, proposed station layouts, parking projections, negotiations with railroad companies, fencing considerations and quiet zones. City Council expressed their desire for RTD to complete the entire Northwest Commuter Rail project by 2017, as was originally promised to voters in 2004. City Council also asked for more attention to projected ridership numbers for the Northwest Commuter Rail, as RTD's current projections appear relatively low from City Council's perspective. In addition, City Council expressed concerns about RTD's current direction to place fencing along the entire Northwest Rail corridor. Finally, City Manager Brent McFall asked RTD to seriously consider adding additional stations to the project if ridership numbers make sense and highlighted projections that show a potential rail station at the current Westminster Mall site would be heavily utilized.

Proposed "Green Building/Sustainability" Additions to the Growth Management Competition Process

Planning Manager Mac Cummins was present to discuss the proposed addition of sustainable design elements to the City's Single Family Detached (SFD), Single Family Attached (SFA), Multi-Family and Senior Housing design guidelines. Mr. Cummins discussed proposed new minimum requirements for improved pedestrian circulation and proposed voluntary elements to support healthy tree growth, water conservation and alternative energy usage. Developers could choose to incorporate some of these voluntary elements in order to score additional points through the City's Growth Management Competition Process. Mr. Cummins also discussed proposed bonus points for developments with higher energy efficiency ratings or LEED (Leadership in Energy and Environmental Design) certification. City Council expressed support for these proposed additions and directed Staff to bring the item for official City Council action at the May 11 City Council meeting.

Water Supply Status Update

Public Works and Utilities Staff including Mike Smith, Mike Happe, Josh Nims and Mary Jay Vestal were present to deliver a status update on the City's water supply. With the recent snow storm, the City's current water supply is well above average and more than sufficient for the community's water needs for the coming year. As of April 20, the snow water equivalent (SWE) measured at Loveland Basin was 124% of average. Per City Council's direction, Staff is working to establish short-term leases with other irrigators to utilize the City's surplus water.

Mayor McNally adjourned the Study Session at 8:32 PM.