



# WESTMINSTER

## Staff Report

TO: The Mayor and Members of the City Council

DATE: December 10, 2014

SUBJECT: Study Session Agenda for December 15, 2014

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)

### PRESENTATIONS

6:30 P.M.

1. Oliver McMillan Presentation (*verbal*)
2. Local Food Initiative Update (*verbal*)
3. Status Update on a Proposed Intergovernmental Agreement with Adams County for the Little Dry Creek Flood Control Improvements and Associated Westminster Station Area Improvements
4. Financing and Bond Counsel for Little Dry Creek Flood Control Improvements

### EXECUTIVE SESSION

1. Discuss with the Acting City Attorney the 2014 annual highlights report prepared by the City Attorney's Office, which includes a discussion of past and current legal matters as well as a review of completed and on-going legal work, pursuant to W.M.C., Sections 1-11-3(C)(2), (3),(4),(5), (6), (7) and (8) and C.R.S., Sections 24-6-402(4)(a),(b),(c),(e) and (g)

### INFORMATION ONLY ITEMS

None at this time.

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

**NOTE:** Persons needing an accommodation must notify the City Manager's Office no later than noon the Thursday prior to the scheduled Study Session to allow adequate time to make arrangements. You can call [303-658-2161](tel:303-658-2161) /TTY 711 or State Relay) or write to [mbarajas@cityofwestminster.us](mailto:mbarajas@cityofwestminster.us) to make a reasonable accommodation request.



## Staff Report

City Council Study Session Meeting  
December 15, 2014



**SUBJECT:** Status Update on a Proposed Intergovernmental Agreement with Adams County for the Little Dry Creek Flood Control Improvements and Associated Westminster Station Area Improvements

**PREPARED BY:** John Burke, Senior Projects Engineer  
Barbara Opie, Assistant City Manager

### Recommended City Council Action

Direct Staff to proceed with negotiations with Adams County regarding the Little Dry Creek flood control improvements and associated Westminster Station area improvements.

### Summary Statement

- The City and the Regional Transportation District (RTD) entered into an intergovernmental agreement (IGA) for the Northwest Rail Electrified Segment Westminster Station in June 2012. The IGA allows the City to implement an alternative approach to RTD's base plan for commuter and bus access, parking, and pedestrian areas that will support the Westminster Station commuter rail station. As part of the improvements to the area surrounding the station and as part of the IGA, the City, in partnership with Adams County and Urban Drainage Flood Control District (UDFCD), is to construct significant improvements in the Little Dry Creek drainage way. These improvements will remove several properties located within unincorporated Adams County as well as Burlington Northern Santa Fe (BNSF) railroad tracks from the 100 year flood plain in the Westminster Station commuter rail area located between Lowell and Federal Boulevards south of BNSF's tracks.
- Staff has been in negotiations with Adams County staff to identify additional financial participation in these improvements. Adams County has been a financial partner in moving this project forward, assisting with key land acquisitions in the drainage way over the years. Early in discussions, Adams County staff indicated desire to assist with construction of improvements benefiting residents of both the City of Westminster as well as unincorporated Adams County, particularly directly to the south of the new commuter rail station.
- Staff continues to discuss provisions of a draft IGA with Adams County. Some members of City Council have been contacted by Adams County Commissioners or staff concerning this IGA.
- Staff would like to brief City Council on the current status of these negotiations and receive direction on efforts moving forward. A key component of the proposed IGA is a financial participation by Adams County of approximately \$4.5 million that would be paid to the City over a ten year period; Staff is proposing to finance this amount utilizing a short term bank loan in order to allow the drainage improvements to occur during 2015-2016 and meet the RTD IGA deadlines. This short term loan is discussed in a separate Staff Report in Monday's Study Session packet.

**Expenditure Required:** \$0

**Source of Funds:** N/A

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### **Policy Issue**

Should Staff continue to pursue an IGA with Adams County as a partner in the construction and associated costs with improvements to the Little Dry Creek drainage area and associated Westminster Station area improvements?

### **Alternative**

City Council could direct Staff to terminate negotiations. Staff does not recommend this as these efforts support the Strategic Plan goal for Proactive Regional Collaboration and Adams County has been a strong partner historically on a variety of City projects benefitting Westminster and Adams County residents. Furthermore, these funds are important to fully implement the drainage and transportation improvements envisioned in this area.

### **Background Information**

Staff provided City Council an update on the proposed Westminster Station platform betterment with RTD at the October 6 Study Session. As part of that discussion, Staff briefed City Council about efforts to develop an IGA with Adams County in recognition of our partnership for improvements in the area and to formalize additional financial participation by Adams County in completion of drainage and station area improvements.

Adams County, UDFCD and the City have been working together collectively over the last several years to identify solutions to address significant improvements needed in the Little Dry Creek (LDC) drainage way. These improvements will remove several properties located within unincorporated Adams County as well as BNSF railroad tracks from the 100 year flood plain in the Westminster Station commuter rail area located between Lowell and Federal Boulevards south of BNSF's tracks to the city limits.

While the Westminster Station area projects are moving forward, funding for the complete construction of the south infrastructure needs (primarily road and drainage improvements) continues to be a challenge. Adams County conceptually agreed to participate in the funding for improvements along the southern side of the commuter rail station as it benefits Adams County residents both residing within the City of Westminster and within unincorporated Adams County primarily to the south of the station. Westminster and Adams County staff have been drafting a proposed IGA for City Council and the Adams County Commissioners' consideration. Staff shared at the October 6 Study Session key points of the proposal as it stood at the time. The draft IGA in its latest form is attached to this Staff Report; the key points are highlighted below. The current proposed Adams County financial contribution totals \$7.0 million as follows:

- \$4,566,110 towards completion of flood control improvements to Little Dry Creek (LDC) west of Federal Boulevard, funded by the County at \$456,611 each year, subject to annual appropriation as required by TABOR, commencing in 2015 and ending in 2024. The City proposes utilizing a short term bank loan to finance this portion of the project and is discussed further in a separate Staff Report in Monday's Study Session packet; repayment is reflected in years 2017-2019 of the Adopted 2015-2019 Capital Improvement Program (CIP) in the Adopted 2015/2016 Budget.
- \$1,811,190 towards the construction of the Creekside Drive in its entirety by the commencement of commuter rail service at Westminster Station in 2016 (originally this proposed to be phased in 2015 and 2016).

Staff Report – Status Update on a Proposed Intergovernmental Agreement with Adams County for the Little Dry Creek Flood Control Improvements and Associated Westminster Station Area Improvements

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- \$625,000 for the construction of the 165 foot long ADA compliant bicycle/pedestrian bridge over LDC to connect the LDC regional trail to the Westminster Station from the south (this includes Adams County's "second \$60 million" DRCOG funds of \$500,000 plus their local match of \$125,000).

Per October 6 briefing, the proposed IGA also included \$500,000 towards the Federal Boulevard culvert extension in 2015. This culvert extension is a project between UDFCD and the County and is proposed to be removed from the IGA at this time. This change is reflected in the attached draft IGA.

Also per the October 6 briefing, the proposed IGA included phased payments for the construction of Creekside Drive in between 2015 (\$819,318) and 2016 (\$991,872) from Adams County in part due to the financial challenges the City has in funding the road given the significant capital costs for the entire Westminster Station area (both north and south of the railroad tracks). In the Adopted 2015-2019 CIP Budget, funding for only the first phase of the City's share of Creekside Drive is provided (2016=\$80,000 and 2017=\$680,000). Funds (\$90,537) were appropriated through 2013 carryover in 2014, bringing the total to \$850,537 available for phase one by 2017. Phase one of Creekside Drive was planned to construct the new road from Lowell Boulevard at approximately 69<sup>th</sup> Place east to the pedestrian bridge located directly south of the station platform and tunnel to a new parking lot that would service both the commuter rail station and future park site. No funding is identified in the Adopted 2015-2019 CIP for the second phase, which would extend Creekside Drive from the parking lot east towards Federal Boulevard with a second small parking lot proposed closer to the natural area near Federal Boulevard.

As reflected in the draft IGA attached, Adams County is now interested in ensuring that the full Creekside Drive as currently proposed is constructed at one time, with two small parking lots, in time for the commencement of commuter rail service at the Westminster Station. As noted, the 2015/2016 City Budget was adopted in October with funding for phase one only budgeted in 2016 and 2017. Staff discussed with City Council the challenges this creates and that we continue to work on ways to move the funding for phase one up to ensure it is complete in 2016 with the start of commuter rail service. This change by Adams County requesting that the full road be constructed provides challenges to the City in identifying funding sources to make this happen; Staff is identifying potential options and will return with a recommendation at the time the IGA is prepared to be acted upon by City Council. This remains an item of concern to Adams County and City staff.

As City Council is aware, Staff continues to negotiate with Adams County on the drainage design that is now in question due to draft updated Little Dry Creek basin storm water flow calculations from UDFCD released to staff for review. These revised flows, if confirmed, could significantly change assumptions in future drainage improvements to the entire Little Dry Creek basin. Mayor Atchison and City staff, Adams County Commissioner Chaz Tedesco and County staff, and UDFCD staff met recently to discuss the draft revised flow projections. UDFCD was working to complete the calculations but was delayed until Adams County signed the no-cost IGA with UDFCD to complete the work. That IGA was approved and signed by Adams County on November 18, and work with UDFCD and their consultant has resumed. However, it will take several weeks to complete the work and it is uncertain whether the final calculations will be received prior to year end; Staff hopes to have an update by Monday's Study Session on this timing.

Staff has been working with Adams County in efforts to keep the LDC IGA moving forward but Adams County has expressed concerns about the draft revised flow calculations and may not want to move forward until the flow issues are resolved. This is concerning as the City will need to proceed with contracting the LDC drainage improvements within the next few months in order to avoid delays that might impact the City's ability to complete the improvements prior to commencement of commuter rail service. In addition, the City has received favorable interest rates for a short term bank

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loan proposed to cover Adams County's \$4.5 million contribution towards the LDC improvements that may not be available into 2015. That proposal is discussed in greater detail in a separate Staff Report in Monday's packet.

Staff continues to work with Adams County staff and the information provided in this Staff Report is the most current information available. Staff will provide City Council with an update on the status of negotiations and potential funding sources at the City Council Study Session on Monday night.

The project to improve the drainage way along Little Dry Creek and improvements associated with the commuter rail Westminster Station (i.e., the pedestrian bridge and Creekside Drive) meets the City Council Strategic Plan goals of Proactive Regional Collaboration; Excellence in City Services; Visionary Leadership & Effective Governance; and Ease of Mobility.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment: Draft IGA Regarding Funding for Little Dry Creek Road & Drainage Improvements

**INTERGOVERNMENTAL AGREEMENT REGARDING FUNDING FOR LITTLE DRY CREEK ROAD AND DRAINAGE IMPROVEMENTS**

THIS INTERGOVERNMENTAL AGREEMENT (“**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the City of Westminster, located at 4800 West 92<sup>nd</sup> Avenue, Westminster, CO 80031 (hereinafter referred to as the “**City**”) and the Board of County Commissioners of Adams County, Colorado, located at 4430 South Adams County Parkway, Brighton, CO 80601 (hereinafter referred to as the “**County**”), collectively referred to herein as the “Parties.”

**RECITALS**

WHEREAS, pursuant to Colorado Constitution Article XIV, § 18(2)(a) and § 29-1-203, C.R.S., as amended, the Parties may cooperate or contract with each other to provide any function or service lawfully authorized to each; and,

WHEREAS, the Parties are parties to that certain Intergovernmental Agreement Regarding Little Dry Creek Drainage and Park Improvements (the “2010 IGA”); and,

WHEREAS, the Parties now wish to enter into this agreement for the purpose of defining roles and responsibilities regarding the financing, design, construction and maintenance of the facilities shown in Westminster’s Little Dry Creek Drainage and Park Master Plan (Exhibit A, hereinafter referred to as “the Plan”); and,

WHEREAS, the Parties acknowledge that scarce funding and increasing construction costs make it difficult for a single jurisdiction to pursue these capital improvements; and,

WHEREAS, the Parties recognize that certain road and drainage improvements along shared jurisdictional boundaries will benefit both Parties as shown in Exhibits B, C and D (the “Project”); and,

WHEREAS, the Parties agree that the completion of said Project will be a transformative addition to southern Westminster and southwestern Adams County; and,

WHEREAS, the construction of the Northwest Rail commuter line station at 70<sup>th</sup> Avenue and Irving Street between Denver and Boulder (the “Westminster Station”) will benefit both Parties; and,

WHEREAS, the City and County have proactively acquired flood prone properties in advance of this Project, and the City and County have previously agreed to consider the value of the properties shown on Exhibit E that were acquired by both jurisdictions as in-kind contributions toward the Westminster Station project; and,

WHEREAS, the City, County and the UDFCD have collectively invested a significant amount of funds into the design and construction of the Westminster Station project.

NOW, THEREFORE, for and in consideration of the following promises, the sufficiency of which is acknowledged, the Parties agree as follows:

### **AGREEMENT**

1. The above Recitals are hereby incorporated into this Agreement.
2. The City and County shall collectively work with the Urban Drainage and Flood Control District (UDFCD) to complete the construction of the storm drainage and flood control improvements within the Little Dry Creek basin located south of the Burlington Northern/Santa Fe Railroad rail tracks between Lowell Boulevard and Federal Boulevard as shown in the Plan.
3. Beginning in 2015, the County will contribute, subject to appropriation by the Adams County Board of Commissioners, Four Hundred Fifty-Six Thousand, Six Hundred and Eleven Dollars (\$456,611) by March 1<sup>st</sup> to be applied towards completing flood control improvements to Little Dry Creek west of Federal Boulevard. Each successive year thereafter, from 2016 through 2024, the County will, subject to annual appropriation by the Adams County Board of Commissioners, contribute Four Hundred Fifty-Six Thousand, Six Hundred and Eleven Dollars (\$456,611) by March 1<sup>st</sup> to be applied towards completing the flood control improvements to Little Dry Creek west of Federal Boulevard, as shown in Exhibit B. The maximum total amount contributed by the County for completing the flood control improvements to Little Dry Creek west of Federal Boulevard over the years 2015 through 2024 shall not exceed Four Million, Five Hundred Sixty-Six Thousand, One Hundred Ten (\$4,566,110).
4. The County will contribute in 2015, subject to appropriation by the Adams County Board of Commissioners, One Million Eight Hundred Eleven Thousand One Hundred Ninety Dollars (\$1,811,190) to be applied to the design and construction of Creekside Drive as shown in Exhibits C and D.
5. The County was successful in obtaining a \$500,000 grant from the Denver Regional Council of Governments (DRCOG) for the construction of a 165 foot long ADA compliant bicycle/pedestrian bridge over Little Dry Creek to connect the Little Dry Creek regional trail to the Westminster Station as shown within the Transit Area on Exhibit F. The County is required to provide a match of \$125,000 to this DRCOG grant. Since this bridge falls within the larger project area, the City agrees to construct this bridge and will invoice the County \$625,000 for this work. The County will pay such invoice within 30 days of its receipt of the DRCOG grant money, or sooner if authorized by the Board of County Commissioners.
6. The City will accept as financial contributions in kind the properties conveyed by the County to the City pursuant to the June 16, 2010 Agreement between the County and the City.
7. Subject to annual appropriation by City Council, the City will pay for the balance of the flood control improvements to Little Dry Creek West of Federal Boulevard as shown in

Exhibit B, which currently has a total projected cost estimate of Fourteen Million Dollars (\$14,000,000).

- 8. Subject to annual appropriation by City Council, the City will pay for the balance of the Transit Area project, as shown in Exhibit F.
- 9. In addition to the funding of the improvements identified in this Agreement, the Parties shall cooperate in good faith to provide funding in their annual budget process for future phases of the Plan, contingent upon annual appropriation and available resources.
- 10. Any contributions by the County pursuant to this Agreement shall be considered by the City as a part of the County's local match towards the NWES FasTracks project.
- 11. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof. Neither this Agreement, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is duly approved and executed by the Parties.

IN WITNESS THEREOF, the City of Westminster and the Adams County Board of Commissioners have executed this Intergovernmental Agreement with its exhibits.

CITY OF WESTMINSTER

ADAMS COUNTY COMMISSIONERS

\_\_\_\_\_  
J. Brent McFall, City Manager

\_\_\_\_\_  
Charles Tedesco, Chair

Date \_\_\_\_\_

Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
Linda Yeager, City Clerk

\_\_\_\_\_  
Karen Long, County Clerk and Recorder

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Adams County Attorney's Office



# EXHIBIT A

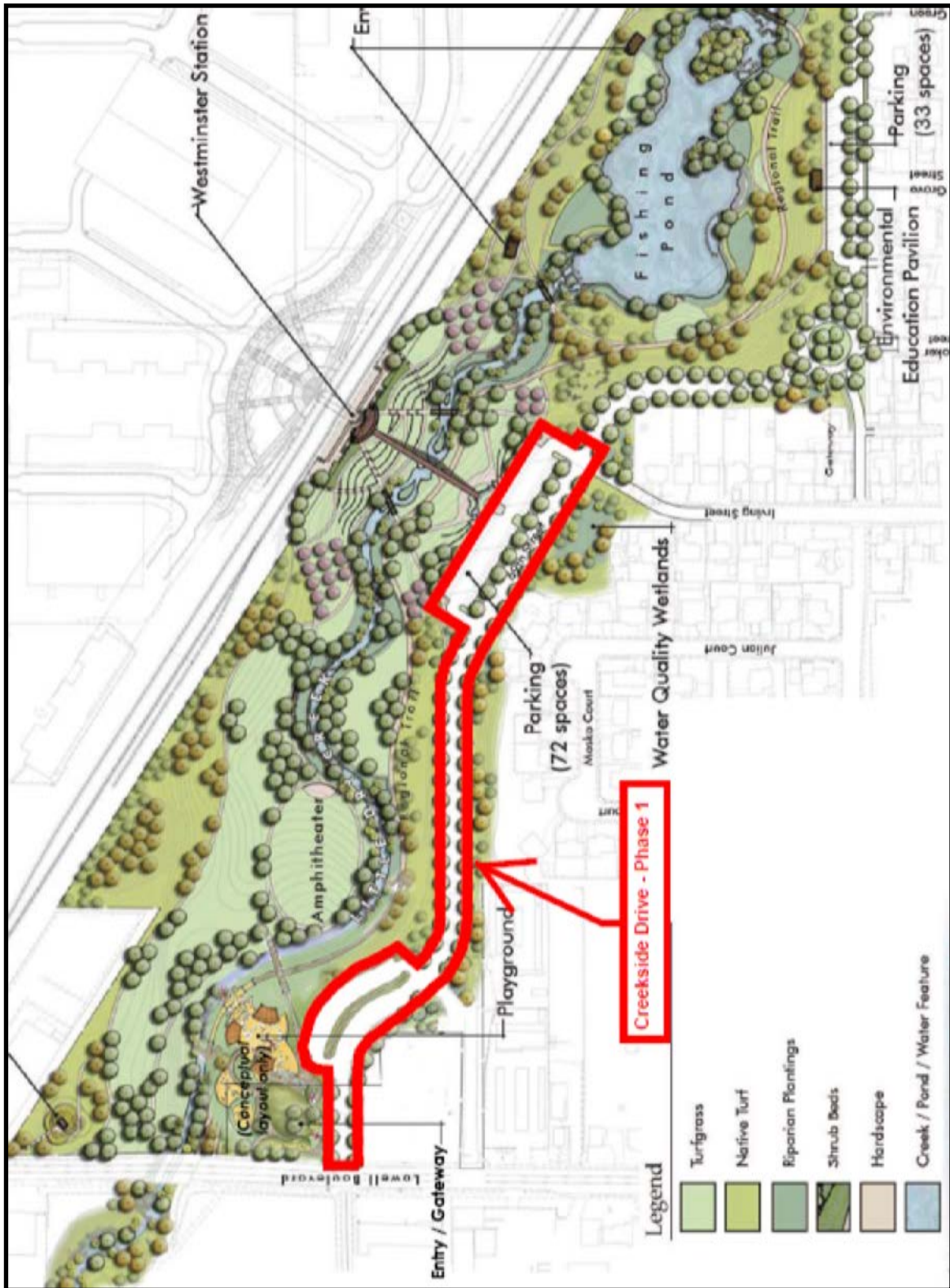


# EXHIBIT B

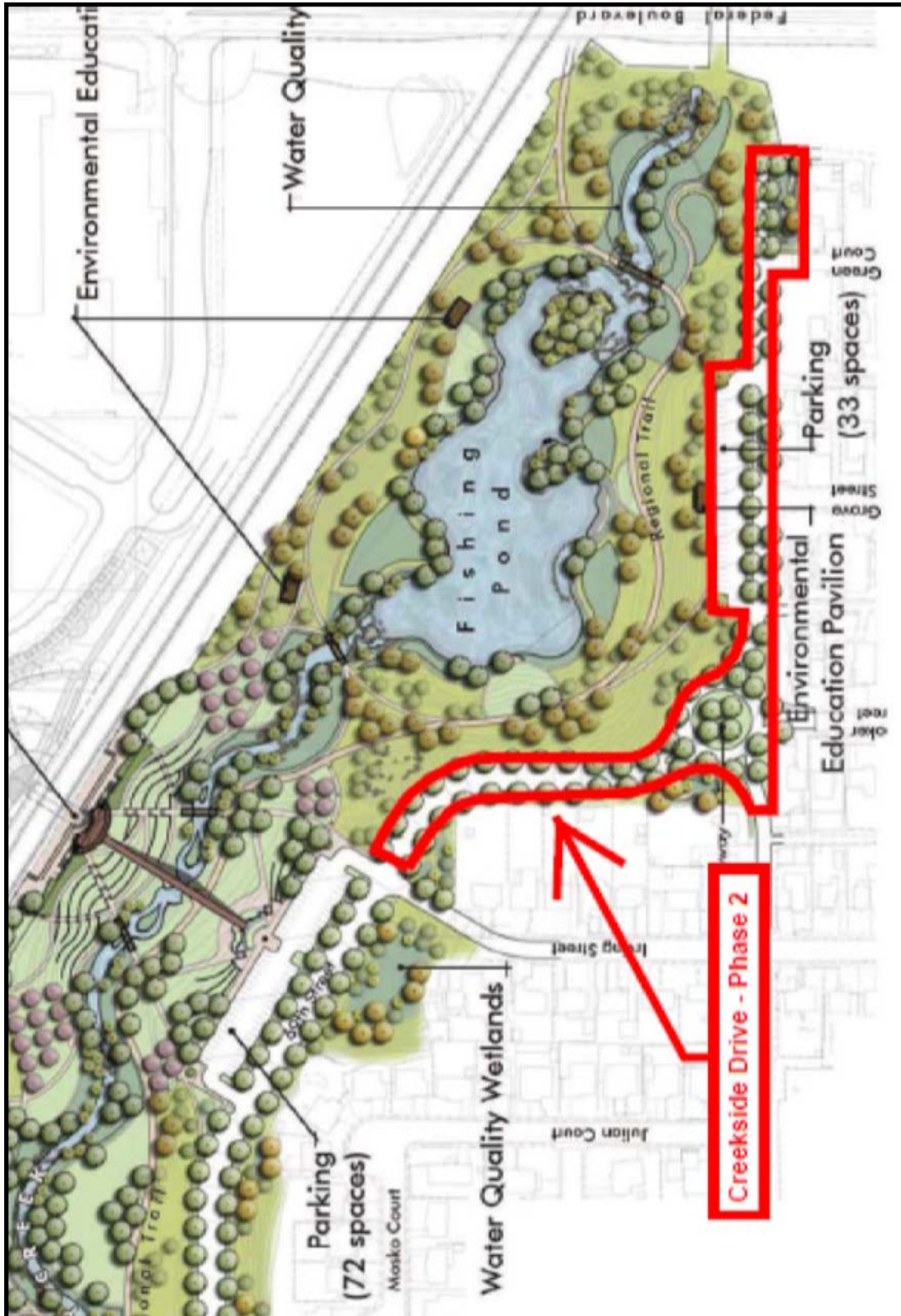




# EXHIBIT C

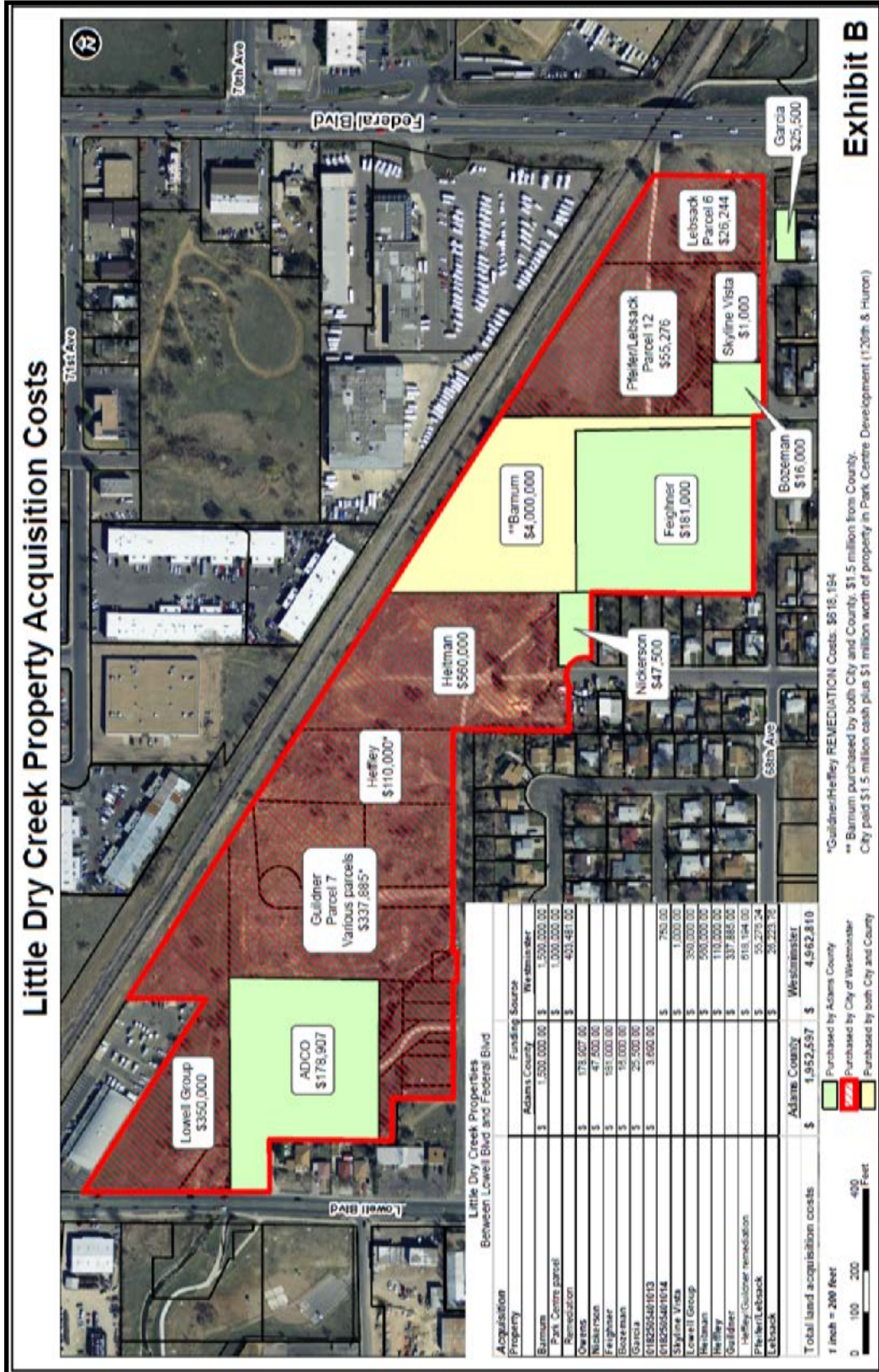


# EXHIBIT D





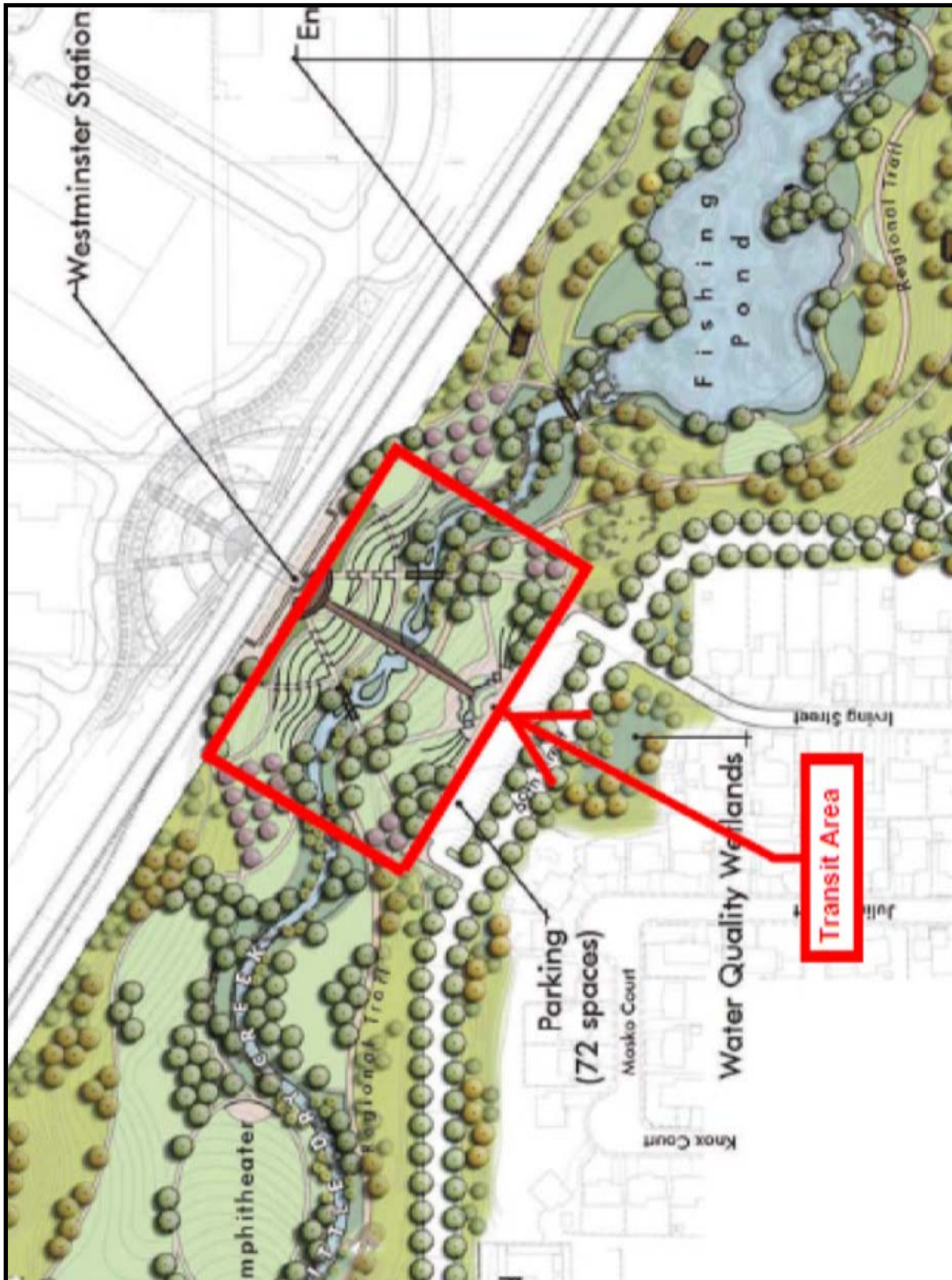
# EXHIBIT E



**Exhibit B**

\*Guilford/Heffley REMEDIATION Costs: \$618,194  
 \*\* Barmum purchased by both City and County, \$1.5 million from County.  
 City paid \$1.5 million cash plus \$1 million worth of property in Park Centre Development (120m & Huron)

# EXHIBIT F







## Staff Report

City Council Study Session Meeting  
December 15, 2014



SUBJECT: Financing and Bond Counsel for Little Dry Creek Flood Control Improvements

PREPARED BY: Tammy Hitchens, Finance Director  
Robert Byerhof, Treasury Manager  
Fred Kellam, Senior Financial Analyst

### Recommended City Council Action

Provide direction for Staff to issue private placement bonds (Bonds) in a principal amount not to exceed \$4,650,000 with UMB Bank, n.a. for purposes of financing a portion of the flood control improvements in the Transit Oriented Development (TOD) in South Westminster along Little Dry Creek. If Staff is directed to move forward with the financing, outside legal counsel will need to be hired to give a bond opinion on the legality of the financing structure. In conjunction with the proposed financing, an ordinance recognizing the Stormwater Fund as a part of the utility enterprise will need to be approved.

### Summary Statement

#### Financing of Improvements

- Included in the December 15, 2014, Study Session packet is a separate Staff Report regarding road and drainage improvements required on the south side of the Westminster commuter rail station in addition to the funding challenges given the magnitude of the improvements.
- One of the funding challenges identified was the need to finance a portion of the costs to be paid by Adams County per a proposed Intergovernmental Agreement (IGA), which outlines the commitment by the County to contribute \$4,566,110 toward the Little Dry Creek drainage improvements; however, they need to structure the commitment in \$456,611 annual payments over a ten year period from 2015 through 2024.
- Finance investigated short-term financing solutions to the funding issue and through a competitive bid process, and recommend that UMB Bank, n.a., be chosen to structure a 5-year private placement bond.
- Source of repayment for the Bonds is storm water revenues, including payments identified in the IGA with Adams County.
- The estimated closing costs on the Bonds include origination fees (\$11,500), bank legal fees (\$5,000), City legal fees (\$20,000), and miscellaneous fees (\$5,000) for a total of \$41,500.

#### Bond Counsel

- All special legal counsel agreements are subject to approval by the City Council in accordance with City Charter Requirements.

Financing and Bond Counsel for Little Dry Creek Flood Control Improvements

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- Staff recommends hiring the law firm of Butler Snow. Representatives from Butler Snow previously worked for Sherman & Howard, who were legal counsel on a number of past debt financings, including financings for the Water and Wastewater Utility Enterprise, Sales and Use Tax Revenue Bonds, Park, Open Space, and Trails (POST) bonds, and various Certificates of Participation (COPs).
- The proposed fees are within the range of fees experienced for similar financings in the past and will be included as part of the issuance cost for this financing.

Stormwater Enterprise

- In order for the proposed debt to be in compliance with Article X, Section 20, of the Colorado Constitution (Tabor Amendment), the Stormwater Fund must be officially recognized as an enterprise fund.
- An ordinance will be presented to Council at a future meeting, requesting adoption of the Stormwater Fund as a component of the Utility enterprise in accordance with the aforementioned state statute, which will facilitate the proposed bond financing.

**Expenditure Required:** Not to exceed \$41,500

**Source of Funds:** All fees will be paid from the Bond proceeds; no additional funds need to be budgeted.



## **Policy Issue**

Should the City Council authorize Staff to proceed with work required to secure a tax-exempt private placement bond issue in the amount up to \$4,650,000 with UMB Bank, n.a., to finance a portion of the flood control improvements along Little Dry Creek between Lowell and Federal Boulevards, south of Westminster Station?

## **Alternative**

Do not secure a private placement bond issue with UMB Bank, n.a. This alternative is not recommended. The terms of the IGA with Adams County dictate that they will pay for their commitment of the improvements over a 10-year period and the City does not have the available funds to fund their portion of the project. By securing a private placement issue, the City is able to ensure timely construction of flood control infrastructure improvements on the south side of Westminster Station.

## **Background Information**

### The Project and Funding Mechanism

Included in the December 15, 2014, Study Session packet is a Staff Report providing an overview of the proposed IGA with Adams County regarding the Little Dry Creek flood control improvements and associated Westminster Station area improvements required on the south side of the railroad tracks in addition to the funding challenges given the magnitude of the improvements.

In particular, one of the funding challenges identified was the need to finance a portion of the costs to be paid by Adams County per an IGA. As currently proposed, the County will commit \$4,566,110 per the IGA; however, they need to structure the commitment in \$456,611 annual payments over a ten year period from 2015 through 2024.

Finance investigated short-term financing solutions to the funding issue presented since Adams County will not be able to fully fund their commitment in a lump sum nor are they willing to obtain their own financing. Furthermore, they are not obligated to fund any of the project and to get their commitment to fund a portion of the necessary improvements is welcomed, even if we need to obtain financing in order to efficiently complete the storm water project.

### Selection Process for the Financing Partner

Using a competitive bid process, Staff received five financing proposals and evaluated them based on interest cost, origination and bank legal fees, prepayment terms and other requirements such as financing covenants. Staff requested bids for both five and six year repayment terms; however, it was determined that the City has sufficient cash flows to cover a 5-year amortization period.

Out of the five respondents, UMB Bank, n.a., was selected as the financial institution with the most favorable terms, including the lowest interest rate. The table below highlights some of the criteria utilized in the financing proposal evaluation for a 5-year term obligation. Please note that until financing is secured with a commitment by the City to engage in the financing, all the rates submitted will fluctuate; however, UMB's rate will still be considered the best proposal given the lower anticipated rate increase relative to the other responses as well as the other terms the bank is providing, such as a cap on legal fees, low origination fee, and no prepayment penalty.

Financing and Bond Counsel for Little Dry Creek Flood Control Improvements

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<u>Bank</u>	<u>Current Rate</u>	<u>Interest Cost</u>	<u>Origination Fees</u>	<u>Bank Legal Fees</u>
Compass Bank	2.40%	\$294,725	\$0	\$20,000
KeyBank	1.59%	\$190,283	\$0	\$20,000
UMB Bank	1.35%	\$161,370	\$11,500	\$5,000
US Bank	1.99%	\$278,202	\$0	\$15-30,000
Vectra Bank	3.55%	\$435,947	\$23,000	\$20,000

The proposed repayment schedule shown in UMB's Debt Service Schedule attached is consistent with the funding included within the 2015-2019 Capital Improvement Program in the Adopted 2015/2016 Budget.

Bond Counsel

External legal counsel is required for the issuance of tax-exempt debt by the City. The proposed bond counsel fees, which were quoted at not to exceed \$20,000, will be paid out of proceeds at closing of the financing.

As with all public tax-exempt financings, an opinion from a nationally recognized law firm regarding certain tax-related matters is required. Mr. Dee Wisor of Butler Snow has served as the City's bond counsel on numerous other issues and is thoroughly familiar with the City's Charter, ordinances, and outstanding bond covenants.

The fees quoted by Butler Snow are reasonable and in line with past financings, and the familiarity of Butler Snow attorneys with the City and its financial and legal documents is very valuable. The efficiencies in retaining Butler Snow as bond counsel are significant and will help assure an expeditious closing of the tax exempt private placement financing.

Stormwater Fund Enterprise Ordinance

In order to execute the proposed tax-exempt financing, an ordinance will be drafted and submitted to Council for the Stormwater Fund to be officially recognized as a component of the Utility enterprise per Article X, Section 20, of the Colorado Constitution (Tabor Amendment). The ordinance will be presented to Council at a future meeting. The Stormwater Fund has been treated as a component of the Utility enterprise fund but was never formally established as such; the proposed ordinance clarifies this original intent.

The recommended actions of issuing tax-exempt Bonds to fund flood control improvements near the Westminster Station, and retaining required bond counsel services in connection with the financing, supports the strategic objectives of a Dynamic, Diverse Economy.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments:

- Commitment letter for proposed tax-exempt private placement from UMB Bank, n.a.
- Engagement letter for bond counsel services from Butler Snow LLP



September 23, 2014

Robert Byerhof  
Treasury Manager  
City of Westminster

Re: Proposed \$4.6 million Storm-water Revenue Bond, Series 2014 (Tax Exempt Private Placement)

Dear Bob:

On behalf of UMB Bank, n.a. ("UMB"), we are pleased to provide the enclosed proposal to City of Westminster ("City") in response to a request for private placement proposal for the proposed Utility Enterprise Fund financing referenced above.

Below, we've provide two tax-exempt proposals for the City's consideration. As requested we have provided two fixed rate proposals (amortizations enclosed as requested):

Option 1: 5 year Fixed Rate Option  
1.35% 5-Year "AA" Rated MMD (Municipal Market Data) spot rate plus 14 basis points

Option 2: 6 year Fixed Rate Option  
1.68% 6-Year "AA" Rated MMD (Municipal Market Data) spot rate plus 16 basis points

Pricing has been formerly approved by UMB's internal credit committee. Both options provide prepayment flexibility as requested and include at 0.25% origination fee (of the final par amount). UMB requests representation by bank/purchaser's counsel at the City's expense (capped at \$5,000). The rates above are locked for a period of sixty days. An additional sixty day lock period may be provided at a fee of 6 bps.

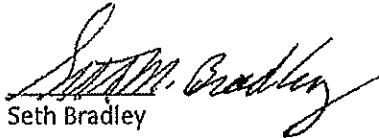
Our proposal includes no prepayment penalty and assumes continued compliance with current bond covenants of the water/wastewater Utility Enterprise (rated Aa2/AA/AAA) of which storm-water revenues are pledged for repayment of the proposed Series 2014 private placement.

This letter constitutes the full extent of UMB's offer to extend the Loans described herein and no other verbal statements shall be considered an offer or a commitment with respect thereto. If there are any conflicts between this letter and the actual loan documents which are executed, the loan documents shall govern. This commitment is contingent on and subject to the execution of all loan, collateral, and other documentation required by UMB in a form acceptable to UMB including a business loan agreement with the terms outlined herein and other normal and customary terms and conditions satisfactory to UMB. This commitment remains subject to approval and execution of an inter-governmental agreement between the City and Adams County securing Adams County's financial commitment to the project as well as City Council approval of the financing and related documents. This proposal will automatically expire on October 15, 2014 if not accepted by then.



We appreciate being considered and look forward to the opportunity of working with the City.

Thank you,

  
Seth Bradley  
SVP, Comm. Lending

  
Troy Bernberg  
VP, Public Finance

The undersigned hereby accepts the terms and conditions stated above.

Dated: 9-25-14

By: Jammy A. Hotal  
Title: Finance Director

Dated: \_\_\_\_\_

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

City of Westminster, Colorado

Utility Enterprise

Stormwater Revenue Obligation, Series 2014

Private Placement Five Yr Term

**Debt Service Schedule**

Date	Principal	Coupon	Interest	Total P+I
06/01/2015	510,000.00	1.350%	36,225.00	546,225.00
06/01/2016	320,000.00	1.350%	55,215.00	375,215.00
06/01/2017	1,650,000.00	1.350%	50,895.00	1,700,895.00
06/01/2018	1,055,000.00	1.350%	28,620.00	1,083,620.00
06/01/2019	1,065,000.00	1.350%	14,377.50	1,079,377.50
<b>Total</b>	<b>\$4,600,000.00</b>	<b>-</b>	<b>\$185,332.50</b>	<b>\$4,785,332.50</b>

**Yield Statistics**

Bond Year Dollars	\$13,728.33
Average Life	2.984 Years
Average Coupon	1.3500000%

Net Interest Cost (NIC)	1.3500000%
True Interest Cost (TIC)	1.3462236%
Bond Yield for Arbitrage Purposes	1.3462236%
All Inclusive Cost (AIC)	1.3462236%

**IRS Form 8038**

Net Interest Cost	1.3500000%
Weighted Average Maturity	2.984 Years

# BUTLER | SNOW

October 13, 2014

VIA E-MAIL

City of Westminster  
Office of the City Attorney  
4800 West 92nd Avenue  
Westminster, CO 80031

Attn: Hilary Graham

Re: Storm Water Revenue Bonds, Series 2014 in the approximate principal amount of \$4,600,000

Dear Hilary:

We are pleased to confirm our engagement as bond counsel to the City of Westminster (the "Issuer"). We appreciate your confidence in us and will do our best to continue to merit it. This letter sets forth the role we propose to serve and the responsibilities we propose to assume as bond counsel to the Issuer in connection with the private placement of the above captioned bonds (the "Bonds"). The Bonds are expected to be privately placed with UMB Bank (the "Bank").

Personnel. We understand that the City Council (the "Council") has authorized the execution of this letter. Dee Wisor and Kim Crawford will be principally responsible for the work performed by Butler Snow LLP on your behalf. Where appropriate, certain tasks may be performed by other attorneys or paralegals. At all times, however, Dee Wisor will coordinate, review, and approve all work completed for the Issuer.

Scope of Services. Bond counsel is engaged as a recognized expert whose primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of bonds. As your bond counsel, we will: examine applicable law; consult with the parties to the transaction prior to the issuance of the Bonds; prepare customary authorizing and operative documents, which may include proceedings relating to: an election on the Bonds, canvassing the returns of the election, the authorization of the sale and issuance of the Bonds, and closing certificates; review a certified transcript of proceedings; and undertake such additional duties as we deem necessary to render the opinion. Subject to the completion of proceedings to our satisfaction, we will render our opinion relating to the validity of the Bonds, the enforceability of the security for the Bonds, and the exclusion of the interest paid on the Bonds (subject to certain limitations which may be expressed in the opinion) from gross income for federal income tax purposes and for Colorado income tax purposes.

1801 California Street  
Suite 5100  
Denver, CO 80202

DEE P. WISOR  
720.330.2357  
dee.wisor@butlersnow.com

T 720.330.2300  
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www.butlersnow.com

We understand that the Bonds will be sold to the Bank and no offering document or official statement is being prepared. Therefore, we are not undertaking any responsibility for disclosing information about the City or its financial affairs to the Bank..

Our opinion will be addressed to the Issuer and will be executed and delivered by us in written form on the date the Bonds are exchanged for their purchase price (the "Closing"). The opinion will be based on facts and law existing as of its date.

Our services as bond counsel are limited to those contracted for explicitly herein; the Issuer's execution of this letter constitutes an acknowledgment of those limitations. Specifically, but without implied limitation, our responsibilities do not include any representation by Butler Snow LLP in connection with any IRS audit or SEC enforcement action or any litigation involving the Issuer or the Bonds, or any other matter. Neither do we assume responsibility for the preparation of any collateral documents (e.g., environmental impact statements) which are to be filed with any state, federal or other regulatory agency. Nor do our services include financial advice (including advice about the structure of the Bonds) or advice on the investment of funds related to the Bond issue. If such services are requested of us, we suggest that we discuss the nature and extent of those services and an estimate of our fee at the time of the request.

Attorney-Client Relationship. In performing our services as bond counsel, the Issuer will be our client and an attorney-client relationship will exist between us. We will represent the interests of the Issuer rather than the Council, its individual members, or the Issuer's employees. We assume that other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction.

Conflicts of Interest. Before accepting any new business, the Colorado Rules of Professional Conduct (the "Rules") require us to evaluate whether there exist any ethical constraints to representing the Town. We have completed a conflicts check within our firm and have found no current conflict between the Town and our existing clients.

Fee Arrangement. Our fee will be contingent upon issuance of the Bonds and will be based upon the time we spend on this matter but will not exceed \$20,000 without your consent. Butler Snow's rates for the work by its attorneys and legal assistants vary based on the experience and expertise of the individuals involved. Typically, we adjust these rates at year-end to reflect changing economic conditions. If the firm increases rates during this engagement, we will provide written notice of those changes. The Rules require that the basis or rate of legal fees be communicated to the client in writing. The hourly rates for our lawyers who may work on this matter are set forth below:

<b>Attorney</b>	<b>Billing Rate</b>	<b>Discounted Rate</b>
Dee P. Wisor	\$545.00	\$475.00
Sally Tasker	\$490.00	\$420.00
Kim Crawford	\$465.00	\$415.00
Rene Moore	\$375.00	\$325.00
Monica Rosenbluth	\$325.00	\$280.00
Matt Gray	\$255.00	\$225.00

We understand and agree that our contingent fees will be paid at Closing out of Bond proceeds. If the financing is not consummated, we understand and agree that we will not be paid. If, for any reason, the financing is completed without our opinion as bond counsel, we will expect to be compensated at our normal hourly rates for time actually spent on your behalf, plus disbursements.

Document Retention. At or within a reasonable period after Closing, we will review the file to determine what materials should be retained as a record of our representation and those that are no longer needed. We will provide you with a copy of the customary transcript of documents after Closing and will return any original documents obtained from you (if a copy is not included in the transcript). Our document retention policy is attached hereto.

Termination of Engagement. Upon delivery of our approving opinion, our responsibilities as bond counsel will terminate with respect to the Bonds, and our representation of the Issuer and the attorney-client relationship created by this engagement letter will be concluded. Should the Issuer seek the advice of bond counsel on a post-closing matter or seek other, additional legal services, we would be happy to discuss the nature and extent of our separate engagement at that time.

Approval. If the foregoing terms of this engagement are acceptable to you, please so indicate by returning a copy of this letter signed by the officer so authorized, keeping a copy for your files.



City of Westminster  
October 13, 2014  
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We are pleased to have the opportunity to serve as your bond counsel and look forward to a mutually satisfactory and beneficial relationship. If at any time you have questions concerning our work or our fees, we hope that you will contact us immediately.

BUTLER SNOW LLP

By: Dee P. Wilson

Accepted and Approved:

CITY OF WESTMINSTER, COLORADO

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

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

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

DPW/jw  
Enclosure

**NOTICE TO CLIENTS OF BUTLER SNOW'S  
RECORD RETENTION & DESTRUCTION POLICY FOR CLIENT FILES**

Butler Snow maintains its client files electronically. Ordinarily, we do not keep separate paper files. We will scan documents you or others send to us related to your matter to our electronic file for that matter and will ordinarily retain only the electronic version while your matter is pending. **Unless you instruct us otherwise, once such documents have been scanned to our electronic file, we will destroy all paper documents provided to us.** If you send us original documents that need to be maintained as originals while the matter is pending, we ordinarily will scan those to our client file and return the originals to you for safekeeping. Alternatively, you may request that we maintain such originals while the matter is pending. If we agree to do that, we will make appropriate arrangements to maintain those original documents while the matter is pending.

At all times, records and documents in our possession relating to your representation are subject to Butler Snow's Record Retention and Destruction Policy for Client Files. Compliance with this policy is necessary to fulfill the firm's legal and ethical duties and obligations, and to ensure that information and data relating to you and the legal services we provide are maintained in strict confidence at all times during and after the engagement. All client matter files are subject to these policies and procedures.

At your request, at any time during the representation, you may access or receive copies of any records or documents in our possession relating to the legal services being provided to you, excluding certain firm business or accounting records. We reserve the right to retain originals or copies of any such records or documents as needed during the course of the representation.

Unless you instruct us otherwise, once our work on this matter is completed, we will designate your file as a closed file on our system and will apply our document retention policy then in effect to the materials in your closed files. At that time, we ordinarily will return to you any original documents we have maintained in accordance with the preceding paragraph while the matter was pending. Otherwise, we will retain the closed file materials for our benefit and subject to our own policies and procedures concerning file retention and destruction. Accordingly, if you desire copies of any documents (including correspondence, e-mails, pleadings, contracts, agreements, etc.) related to this matter or generated while it was pending, you should request such copies at the time our work on this matter is completed.

You will be notified and given the opportunity to identify and request copies of such items you would like to have sent to you or someone else designated by you. You will have 30 days from the date our notification is sent to you to advise us of any items you would like to

receive. You will be billed for the expense of assimilating, copying and transmitting such records. We reserve the right to retain copies of any such items as we deem appropriate or necessary for our use. Any non-public information, records or documents retained by Butler Snow and its employees will be kept confidential in accordance with applicable rules of professional responsibility.

Any file records and documents or other items not requested within 30 days will become subject to the terms of Butler Snow's Record Retention and Destruction Policy for Client Files and will be subject to final disposition by Butler Snow at its sole discretion. Pursuant to the terms of Butler Snow's Record Retention and Destruction Policy for Client Files, all unnecessary or extraneous items, records or documents may be removed from the file and destroyed. The remainder of the file will be prepared for closing and placed in storage or archived. It will be retained for the period of time established by the policy for files related to this practice area, after which it will be completely destroyed. This includes all records and documents, regardless of format.

While we will use our best efforts to maintain confidentiality and security over all file records and documents placed in storage or archived, to the extent allowed by applicable law, Butler Snow specifically disclaims any responsibility for claimed damages or liability arising from damage or destruction to such records and documents, whether caused by accident; natural disasters such as flood, fire, or wind damage; terrorist attacks; equipment failures; breaches of Butler Snow's network security; or the negligence of third-party providers engaged by our firm to store and retrieve records.