



ADAMS COUNTY

COLORADO

BOARD OF COUNTY COMMISSIONERS

Eva J. Henry - District #1
Charles "Chaz" Tedesco - District #2
Erik Hansen - District #3
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**STUDY SESSION AGENDA
TUESDAY
March 24, 2015**

*STUDY SESSION WILL BEGIN APPROXIMATELY 15 MINUTES AFTER CONCLUSION OF
PUBLIC HEARING.*

ALL TIMES LISTED ON THIS AGENDA ARE SUBJECT TO CHANGE.

10:00 A.M.	ATTENDEE(S):	Ed Finger / Kim Roland / Ben Dahlman
	ITEM:	Purchasing Update
10:30 A.M.	ATTENDEE(S):	Kristin Sullivan
	ITEM:	CCI Discussion
11:00 A.M.	ATTENDEE(S):	Jennifer Stanley
	ITEM:	Executive Session Pursuant to C.R.S. 24-6-402(4)(b) and (e) for the Purpose of Receiving Legal Advice and Negotiations Regarding Marijuana Tax
11:30 A.M.	ATTENDEE(S):	Kristin Sullivan / Jerry Johnson
	ITEM:	Legislative Working Group Update
12:30 P.M.	ATTENDEE(S):	Jeffery Maxwell
	ITEM:	Urban Drainage Little Dry Creek Design Discussion
1:00 P.M.	ATTENDEE(S):	Kristin Sullivan / Anna Sparks / Juliana Archuleta
	ITEM:	Water Sub Committee
2:00 P.M.	ATTENDEE(S):	Ed Finger
	ITEM:	Administrative Item Review / Commissioner Communications

(AND SUCH OTHER MATTERS OF PUBLIC BUSINESS WHICH MAY ARISE)

AGENDA IS SUBJECT TO CHANGE



STUDY SESSION AGENDA ITEM

DATE OF STUDY SESSION: March 24, 2015
SUBJECT: Local Purchasing Preference
FROM: Ben Dahlman, Interim Finance Director
AGENCY/DEPARTMENT: Finance
ATTENDEES: Kim Roland, Purchasing Manager
PURPOSE OF ITEM: To provide analysis and recommendations in response to a Commission request.
STAFF RECOMMENDATION: Staff recommends retaining existing policy and enhancing local business outreach.

BACKGROUND:

The Board of County Commissioners requested a report on local purchasing preference at a previous Public Hearing. The attached presentation is in response to that request.

AGENCIES, DEPARTMENTS OR OTHER OFFICES INVOLVED:

County Manager's Office
County Attorney's Office

ATTACHED DOCUMENTS:

PowerPoint presentation

FISCAL IMPACT:

Either mark X if there is no fiscal impact or provide the following information for the recommended action:

Fund(s):	
Cost center(s):	
Self-generated / dedicated revenues:	\$
Annual operating costs:	\$
Annual net operating (cost) / income:	\$
Capital costs:	\$
Expenditure included in approved operating budget:	\$
Expenditure included in approved capital budget:	\$
New FTEs requested:	

Additional Note:

Staff's recommendation creates no fiscal impact.

APPROVAL SIGNATURES:




Todd Leopold, County Manager

APPROVAL OF FISCAL IMPACT:



Budget / Finance

Raymond H. Gonzales, Deputy County Manager



Ed Finger, Deputy County Manager

Purchasing Preference

March 24, 2015



ADAMS COUNTY
COLORADO

Content

- What is purchasing preference?
- Potential benefits
- Potential risks
- Legal issues
- Other local entities
- Staff recommendations



What is Purchasing Preference?

- Generally, it is purchasing policy that provides a specified level of preference to targeted businesses in the purchasing process.
- Policies generally include:
 - Types of preference;
 - Definitions of preference terms;
 - Verification processes;
 - Methods and amounts of preference; and
 - Purchasing processes to which it applies

Definitions - What is “Local”?

- What does “local” mean – county, metro area, state, country?
 - The tighter the definition of local, the more money that would theoretically return to the Adams County economy.
- Ownership
- Locally-owned businesses will generally redistribute more money into the local economy than national (big box) type stores
- Physical locations
- Local employees

Verification Procedures

- Who would verify and monitor local businesses?
 - Disclosure forms
 - Staff verification
 - Follow up



Methods of Implementing Preference

- Local preference:
 - In the event of a tie
 - Price percentages
 - Score percentages



When a Bid is Equal

Adams County Current Purchasing Policy 1060 – *Formal Invitation for Bid (IFB):*

“If prices are equal and if the quality and service of the bidders are deemed to be equal, the condition is referred to as a tie bid. In this situation the BOCC may choose to award the bid according to but not limited to the following criteria: business location within the boundaries of Adams County, past business history with Adams County Government, and businesses located within Colorado. Each of the aforementioned criteria can stand alone or be considered collectively.”



When An RFP Is Equal

Adams County Current Purchasing Policy 1070 – *Formal Request for Proposal (RFP):*

“If proposals are deemed equal, the condition is referred to as a tie proposal. In this situation the BOCC may choose to award the proposal according to but not limited to the following criteria: business location within the boundaries of Adams County, past business history with Adams County Government, and businesses located within Colorado. Each of the aforementioned criteria can stand alone or be considered collectively.”



Price Percentages - Bids

Local preference can be given in the form of price percentage preference.

Example – 2% local preference:

Local bidder - \$100,900 bid – 2% preference = \$98,882

Non-local bidder - \$99,000

Winner – local bidder

***We'd use \$98,882 to score and pay
\$100,900***

Score Percentages - RFPs

Local preference can be given in the form of score percentage preference.

Example – 2% local preference:

Local RFP respondent – 90 base RFP score + 2 preference points = 92.0

Non-local bidder – 91.7 RFP score + 0 preference points = 91.7

Winner – local bidder



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Potential Benefits For Local Preference

- Local business activity.
- Money multiplier that occurs when local dollars stay in the community and are spent again. This varies based on type of good or service and the measurement of local. This is an admittedly arguable and complex calculation.
- Increase in County revenues.
- Develops and improves relationships in the community.
- Vendor management and communication can be better with local vendors.



Potential Risks For Local Preference

- Not following best management practices
 - The National Institute of Governmental Purchasing opposes local preference on the grounds that it increases costs by:
 - Discouraging competition;
 - Inviting negative reciprocity (retribution);
 - Decreasing quality;
 - Increasing the cost of purchasing awards; and
 - Subsidizing non-competitive businesses.
- Increased purchasing administration.



Potential Risks For Local Preference

- ***Negative Reciprocity***
- **CRS 8-19-101. Bid preference - public projects**
- *When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a nonresident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident.*
- If every government agency behaved the same way, it would create impediments to Adams County businesses who want to do business outside of Adams County.



Legal Issues

- Federal procurement rules do not allow for local preference.



Legal Issues – 24 CFR 85.36(c)(2)

- **(c) Competition.**
- All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:
 -
 - 2. Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws...”



Entities With Local Preference

Entity	% Cap	\$ Cap	Note
City of Thornton	5%	\$5,000	Business license, current with taxes
City of Brighton	5%	\$5,000	Business within city limits - business license and real property on tax rolls
City of Commerce City	5%	\$5,000	
City of Longmont	5% / 7.5%	\$5,000 / \$7,500	Extra 2.5% for small business – less than 35 employees. Business license and current on taxes.
City of Colorado Springs	1%	None	1% for bids RFP – 10 points for city, 5 for El Paso County, 3 points for state, 100 point scale
Larimer County	5%	None	Up to \$25,000 (total contract) can be awarded by director, over that requires BOCC approval, if bids or proposals are substantially equal
Mesa County			Vendors who come from outside Mesa County and from a jurisdiction who provide preference have reciprocal (negative) preference applied



Entities With No Local Preference

Counties	Cities
El Paso County	City of Aurora
City and County of Denver	City of Fort Collins
Arapahoe County	City of Arvada
Jefferson County	City of Commerce City
Boulder County	City of Loveland
Pueblo County	City of Pueblo
Douglas County	City of Grand Junction



Adams County's Local Spend

- Most purchases not requiring competitive bid are local purchases.
- The total dollar spend for 2014 in Adams County zip codes was approximately \$16 million, which represents about 17% of our discretionary spending.
- For competitive solicitations, Adams County location can currently be used as a tie breaker.



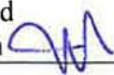
Staff Recommendations

- Vendor education through communication and workshops intended to increase local participation in solicitations. Partner with other local governments and local business groups in this effort.
- Create local vendor lists by good or service and provide to County departments for use in noncompetitive purchases and to send purchasing bids and RFPs.





STUDY SESSION AGENDA ITEM

DATE OF STUDY SESSION: March 24, 2015
SUBJECT: Amendment to Agreement with Urban Drainage and Flood Control District and the City of Westminster to contribute funding for drainage and flood control improvements associated with Little Dry Creek from Lowell Boulevard to Federal Boulevard
FROM: Todd Leopold, County Manager; and Ray Gonzales, Deputy County Manager; and Jeffery Maxwell, Director of Transportation 
AGENCY/DEPARTMENT: Transportation Department
ATTENDEES: Todd Leopold, County Manager; and Ray Gonzales, Deputy County Manager; and Jeffery Maxwell, Director of Transportation Anna Sparks, Senior Transportation Engineer
PURPOSE OF ITEM: Further consideration in light of new information
STAFF RECOMMENDATION: That the Board of County Commissioners consider approval of the Amendment to Agreement Regarding Construction of Drainage and Flood Improvements for Little Dry Creek

BACKGROUND:

This Agreement is the seventh Amendment to the Agreement with the Urban Drainage and Flood Control District (District) and the City of Westminster (City) regarding the design, right-of-way acquisition, and construction of the Little Dry Creek Flood Control and Park Project.

Adams County (County), the District and the City are engaged in a cooperative project to construct drainage and flood control improvements along Little Dry Creek in conjunction with the creation of Little Dry Creek Park and the construction of the Westminster Station on the Northwest Rail line. The original Agreement was approved by the County on August 5, 2009.

This Amendment does not require any direct financial contribution from the County, rather it acknowledges that the District will contribute an additional \$615,000 toward the project. These District funds must be allocated through this agreement annually, as available through the District for this project.

A study session regarding this Amendment was held on March 3, 2015. Since the study session, the County was informed that Westminster and Arvada have chosen to forego the Major Drainageway Planning for Little Dry Creek. The last of such was studied in 1979. The County desires to continue with the study in progress to assure the proper design of the proposed Little Dry Creek Flood Control and Park Project. Without Westminster's and Arvada's funding in the study, \$43,000 each, the study has then to find another funding source or stop the progress that has already been made. If the study stops, then there is no assurance that the Little Dry Creek Flood Control and Park Project is providing sufficient flood control to Adams County citizens.

AGENCIES, DEPARTMENTS OR OTHER OFFICES INVOLVED:

Transportation Department

ATTACHED DOCUMENTS:

Agreement with the District

FISCAL IMPACT:

Either mark X if there is no fiscal impact or provide the following information for the recommended action:

Fund(s):	
Cost center(s):	
Self-generated / dedicated revenues:	\$
Annual operating costs:	\$
Annual net operating (cost) / income:	\$
Capital costs:	\$
Expenditure included in approved operating budget:	\$
Expenditure included in approved capital budget:	\$
New FTEs requested:	

APPROVAL SIGNATURES:

APPROVAL OF FISCAL IMPACT:



Todd Leopold, County Manager



Budget / Finance



Raymond H. Gonzales, Deputy County Manager

Ed Finger, Deputy County Manager

SEVENTH AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
LITTLE DRY CREEK FROM LOWELL BOULEVARD TO FEDERAL BOULEVARD

Agreement No. 08-09.09G

THIS AGREEMENT, made this _____ day of _____, 2014, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), CITY OF WESTMINSTER (hereinafter called "CITY") and ADAMS COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Little Dry Creek from Lowell Boulevard to Federal Boulevard" (Agreement No. 08-09.09) dated August 19, 2009, as amended, and

WHEREAS, PARTIES now desire to proceed with construction; and

WHEREAS, PARTIES desire to increase the level of funding by \$615,000; and

WHEREAS, the City Council of CITY, the County Commissioners of COUNTY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:

1. Final design services;
2. Delineation, description and acquisition of required rights-of-way/ easements;
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$6,900,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 1,400,000	\$ 1,400,000
2. Right-of-way	200,000	200,000
3. Construction	5,200,000	4,585,000
4. Contingency	100,000	100,000
Grand Total	\$6,900,000	\$6,285,000

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	40.0%	\$2,110,000		\$2,725,000
Capital			\$265,000	
Maintenance			\$350,000	
COUNTY	2.0%	\$ 150,000	\$ -0-	\$ 150,000
CITY	58.0%	\$4,025,000	\$ -0-	\$4,025,000
TOTAL	100.0%	\$6,285,000	\$615,000	\$6,900,000

3. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal or other sources of funding without limitation and without prior approval by DISTRICT's Board of Directors.

Payment of each party's full share (CITY - \$4,025,000; COUNTY - \$150,000; DISTRICT - \$2,725,000) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special interest bearing account to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to CITY and COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or, at CITY or COUNTY request, CITY or COUNTY share of remaining monies may be transferred to another special fund held by DISTRICT.

5. All other terms and conditions of Agreement No. 08-09.09 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT

(SEAL)

By _____

ATTEST:

Title Executive Director

Date _____

ADAMS COUNTY

(SEAL)

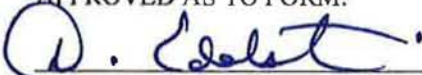
By _____

ATTEST:

Title _____

Date _____

APPROVED AS TO FORM:



County Attorney

CITY OF WESTMINSTER

(SEAL)

By _____

ATTEST:

Title _____

Date _____

APPROVED AS TO FORM:

City Attorney