

**Agenda for the
Regular Meeting of the
Englewood City Council
Monday, August 4, 2014
7:30 pm**

Englewood Civic Center – Council Chambers
1000 Englewood Parkway
Englewood, CO 80110

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Roll Call.
5. Consideration of Minutes of Previous Session.
 - a. Minutes from the Regular City Council Meeting of July 21, 2014.
6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. There is an expectation that the presentation will be conducted in a respectful manner. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)
7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. There is an expectation that the presentation will be conducted in a respectful manner. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)

Council Response to Public Comment.
8. Communications, Proclamations, and Appointments.
 - a. Letter from Tanya DeNorch announcing her resignation from the Keep Englewood Beautiful Commission.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

9. Consent Agenda Items
 - a. Approval of Ordinances on First Reading.
 - i. Council Bill No. 48 – Recommendation from the Municipal Court and the City Attorney’s Office to approve a bill for an ordinance authoring amendments to the Englewood Municipal Code setting the maximum fine amount at \$2650 and deleting sections 1-4 and 1-4-6 in their entirety. **Staff Source: Tamara Wolfe, Court Administrator and Daniel Brotzman, City Attorney.**
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 43, authorizing an intergovernmental agreement with the Regional Transportation District for improvements and repairs to four transit stops.
 - ii. Council Bill No. 44, updating definitions for Pawn Brokers and Secondhand Dealers and Purchasers of Valuable Articles (Title 5, Chapter 15 and 23) in the Englewood Municipal Code.
 - c. Resolutions and Motions.
 - i. Recommendation from the Finance and Administrative Services Department to approve a resolution in favor of increasing the Police Officers Member Contributions to the Fire and Police Pension Association Statewide Defined Benefit Plan by 1/2% per year over eight years beginning 2015. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**
 - ii. Recommendation from the Finance and Administrative Services Department to approve a resolution in favor of increasing the Firefighters Member Contributions to the Fire and Police Pension Association Statewide Defined Benefit Plan by 1/2% per year over eight years beginning 2015. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services**
10. Public Hearing Items.
 - a. A public hearing to gather input on Council Bill No. 45, authorizing amendments to Title 16: Unified Development Code regarding small lot development standards.
11. Ordinances, Resolutions and Motions.
 - a. Approval of Ordinances on First Reading.
 - b. Approval of Ordinances on Second Reading.

Please note: If you have a disability and need auxiliary aids or services, please notify the City of Englewood (303-762-2405) at least 48 hours in advance of when services are needed.

- c. Resolutions and Motions.
 - i. Recommendation from the Public Works Department and the Parks and Recreation Department to approve, by motion, a construction contract for the Recreation Center Track Replacement project. Staff further recommends awarding the contract to the lowest acceptable bidder, Rocky Mountain Decks & Floors, Inc. in the amount of \$52,924.00. **Staff Source: Michael Hogan, Facilities and Operations Manager and Joe Sack, Recreation Services Manager.**

12. General Discussion.

- a. Mayor's Choice.
- b. Council Members' Choice.

13. City Manager's Report.

14. City Attorney's Report.

15. Adjournment.

Tanya DeNorch
4524 S. Logan Street
Englewood, CO 80113

Resignation of KEB effective 07/17/14

To Whom it may concern,

I am requesting to resign from my position on the Keep Englewood Beautiful committee. Resignation is due to other community committee obligations and time for participation. I fully enjoyed my short term stay with KEB and may register in the future to join once my other obligations expire. I wish the team a ton of success this year.

Kind Regards,

Tanya Bell DeNorch

COUNCIL COMMUNICATION

Date: August 4, 2014	Agenda Item: 9 a i	Subject: Amendments to EMC 2000 § 1-4-1 General Penalty
Initiated By: City Attorney Municipal Court	Staff Source: Tamara Wolfe, Court Administrator Daniel Brotzman, City Attorney	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council reviewed these proposed ordinance amendments at their July 21, 2014 study session.

RECOMMENDED ACTION

The City Attorney and Municipal Court recommend that Council approve a Bill for an Ordinance amending the maximum fine amount from \$1000 to \$2650. Additionally, we are recommending the deletion of Englewood Municipal Code sections 1-4-4 and 1-4-6 in their entirety.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

These changes will allow Englewood Municipal Court to be in alignment with most other metro area jurisdictions regarding the allowable maximum penalties. The increase in fines will give the Municipal Judge an increase in flexibility to utilize higher fines to encourage compliance in more complex matters before the Court. Additionally, the deletion of the sections of the Ordinances as outlined will comply with State mandated laws that prohibit warrants being issued for the sole purpose of time being served in lieu of collecting unpaid fines without indigent status being determined.

FINANCIAL IMPACT

None.

LIST OF ATTACHMENTS

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2014

COUNCIL BILL NO. 48
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 1, CHAPTER 4, OF THE ENGLEWOOD MUNICIPAL CODE 2000, ENTITLED GENERAL PENALTY.

WHEREAS, during the 2014 Colorado legislative session HB 14-1061 was passed that affected all courts in the State of Colorado and their processes for issuing what has been referred to as “pay or serve” warrants; and

WHEREAS, while the Englewood Municipal Court has always had procedures in place to ensure that no defendant ever was held in the jail for failing to pay a fine simply because they were indigent, this new law essentially eliminated a Court’s ability to utilize most “pay or serve” warrants; and

WHEREAS, based on the new statewide mandate that includes all municipal home rule courts, Englewood’s Code provisions need to be modified; and

WHEREAS, the Court and Prosecution have been pro-active in dealing with this situation and have implemented a variety of other tools that will help with the collection of fines, service of jail sentences, and the reduction of recidivism; and

WHEREAS, in 2013, the Colorado Revised Statutes were amended to permit municipalities to increase their maximum fines up to \$2,650.00 for any traffic or ordinance violation; and

WHEREAS, as some violations have become more complex over time, the Court seeks the opportunity to have this maximum allowable amount available when the circumstances warrant such action.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 1, Chapter 4, Sections 1, 4, and 6, entitled General Penalty of the Englewood Municipal Code 2000, to read as follows:

1-4-1: General Penalty.

- A. *Fine; Imprisonment:* It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this

Code or any secondary code adopted herein. Except as otherwise specifically provided for in this Code, the violation of any provisions of this Code or of any secondary code adopted herein shall be punished by a fine not exceeding ~~one thousand dollars~~ two thousand six hundred and fifty dollars (\$1,000.00 2,650.00) or imprisonment for a term not exceeding three hundred sixty (360) days or by both such fine and imprisonment. The imposition of one (1) penalty shall not excuse any violation nor permit it to continue. Unless otherwise indicated, a separate offense shall be deemed committed upon each day or portion thereof during or on which any violation of any provision of this Code ⁽²⁾ or any secondary code adopted herein occurs or continues.

- B. *No Jail Sentence for Juveniles:* No jail sentence shall be imposed upon persons under the age of eighteen (18) years.
- C. *Trial By Jury for Juveniles:* No child under the age of eighteen (18) years shall be entitled to a trial by jury for a violation of a municipal ordinance for which imprisonment in jail is not a possible penalty; except that such a child is entitled to a trial by jury for any offense which would be a Class 1 misdemeanor under a State counterpart statute.
- D. Every person convicted of a violation of any provision stated or adopted which is designated as a "traffic infraction" and for which a penalty is paid or payable at the "Traffic Violations Bureau" shall be punished by a penalty not exceeding ~~one thousand~~ two thousand six hundred and fifty dollars (~~\$1,000.00~~ 2650.00). There shall be no imprisonment for traffic infractions.

1-4-2: Cumulative Remedies.

- A. Whenever any act or condition is herein declared to be, or constitutes, a nuisance or provides a cause of action for injunction or other civil remedy, the said remedies shall be considered to be cumulative, and in addition to the penalties hereinabove provided, an action for abatement, injunction or other civil remedy may be brought against such violator.
- B. The suspension or revocation of any license, permit or other privilege conferred by the City shall not be regarded as a penalty for the purposes of this Code.
- C. When work or activity for which a permit or license is required by this Code or any code adopted herein is commenced without first having acquired such permit or license, the specified fee shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with all the requirements of this Code or any code adopted herein, nor from any other prescribed penalties. Payment of such double fee or any unpaid portion thereof may be compelled by civil action in any court of competent jurisdiction. The acceptance of any portion less than the entire amount of such double fee by any officer or employee of the City shall not constitute a waiver or release of the balance thereof.

1-4-3: Presumption of Responsibility, Liability.

- A. *Responsible Persons.* The occupant of any premises upon which a violation of any provisions of this Code or of any code adopted hereby is apparent, the owner of any object or material placed or remaining anywhere in violation of any provision of this Code or of any code adopted hereby, and the occupant of any premises served by any excavation or

structure illegally made or erected shall be deemed prima facie responsible for the violation so evidenced, and subject to the penalty provided therefor.

- B. *Criminal Liability of a Person for Corporate Conduct.* An individual is criminally liable for conduct constituting a violation of any Englewood Municipal ordinance which he performs or causes to occur in the name of or in behalf of a corporation to the same extent as if that conduct were performed or caused by him in his own name or behalf.

1-4-4: Failure to Pay Fine, Imprisonment.

~~If any person shall neglect or refuse to satisfy any fine imposed for a violation of this Code or any code adopted herein, upon order of the Municipal Court, he shall be committed to the City jail until such judgment and costs are fully satisfied; provided that no such imprisonment shall exceed ninety (90) days for any one offense.~~

1-4-5: Power to Pardon.

The Mayor shall have power to grant pardons and to remit fines and penalties imposed for the violation of any section of this Code, but in every case where he exercises this power, he shall report such action to the City Council at its next meeting, with his reasons therefor.

1-4-6: City Jail; Confinements.

~~A. *Jail Record Book.* The City shall maintain a jail book in which shall be entered the following information relative to each person received, detained or ordered confined in the City jail: the jail serial number assigned, the name, age, sex, residence, charge, sentence, date and time received, date and time released and the credits allowed for work assigned or good behavior.~~

~~B. *Persons Confined Required to Work.* Any person committed to jail for a violation of the Code may be required to work for the City at such labor as may be designated by the City Manager or designee, within or without the jail, not exceeding ten (10) hours for each working day.~~

~~C. *Credits Issued.*~~

~~1. *Credit on Jail Sentence.* The City Manager shall have the power to reduce the sentence of a person confined under a jail sentence imposed upon him, where the person so confined does all work assigned to him, abides by the rules of the jail and all instructions given him, and otherwise conducts himself in a proper manner. Such reduction of sentence because of good conduct shall be computed one day for each two (2) days served so that each three (3) days of his sentence may thus be served in two (2) days.~~

~~2. *Credit on Fine.* Any person imprisoned for nonpayment of a fine, who is required to work for the City as provided herein, shall be allowed, exclusive of his board, the additional credit of two dollars (\$2.00) per day for each day's work, on account of such fine and costs.~~

Section 2. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 4. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 4th day of August, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 8th day of August, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 6th day of August, 2014 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the _____ day of _____, 2014.

Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2014

COUNCIL BILL NO. 43
 INTRODUCED BY COUNCIL
 MEMBER MCCASLIN

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE REGIONAL TRANSPORTATION DISTRICT (RTD) AND THE CITY OF ENGLEWOOD ENTITLED ENGLEWOOD BUS STOP IMPROVEMENT COOPERATIVE AGREEMENT.

WHEREAS, in July 2013 RTD issued a “call for applications” for small local governments to submit funding requests to improve or repair transit facilities, i.e. repair bus pads, curb and gutter, and sidewalks adjacent to bus stops; and

WHEREAS, the City of Englewood submitted an application request for \$35,000 to repair bus pads and associated curb and gutter at four locations: 1) Broadway at Chenango (southbound), 2) Broadway at Chenango (northbound), 3) Downing at Hampden (northbound), and 4) Broadway at Floyd (southbound); and

WHEREAS, in November 2013 RTD notified the City that the funding had been approved; and

WHEREAS, the final IGA for \$35,000 was delivered to Englewood in June 2014; and

WHEREAS, the IGA requires that all work for this project be completed by December 31, 2014; and

WHEREAS, due to the short timeframe to design, advertise, award, and construct this project before winter the City desires to proceed as quickly as possible so as not to risk losing the grant funding for this project; and

WHEREAS, no federal funds will be used for this project.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The City Council of the City of Englewood hereby authorizes an intergovernmental agreement entitled “Englewood Bus Stop Improvement Cooperative Agreement” attached hereto as Exhibit A.

Section 2. The Mayor and the City Clerk are hereby authorized to sign and attest said Intergovernmental Agreements on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 21st day of July, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25th day of July, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of July, 2014 for thirty (30) days.

Read by title and passed on final reading on the 4th day of August, 2014.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2014, on the 8th day of August, 2014.

Published by title on the City's official website beginning on the 6th day of August, 2014 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ____, Series of 2014.

Loucrishia A. Ellis

ENGLEWOOD BUS STOP IMPROVEMENT COOPERATIVE AGREEMENT

AGREEMENT made this ____ day of _____, 2014, by and between the City of ENGLEWOOD, hereinafter referred to as "City", and the REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of Colorado, hereinafter referred to as "RTD."

WITNESSETH:

WHEREAS, the City and RTD have determined a need for certain transit related improvements, defined in Section One hereof as the "Project"; and

WHEREAS, the parties hereto desire to participate in certain funding, construction, installation and maintenance duties concerning the Project as described herein; and

WHEREAS, the City is responsible for the management and control of certain property upon which the Project will be constructed, such property as shown on the attached Exhibit A;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION ONE
THE PROJECT

The Project consists of improvements and repairs to transit stops located at Broadway @ Chenango (Southbound), Broadway @ Chenango (Northbound), Downing @ Hampden Ave. (Northbound) and S. Broadway @ Floyd Ave. (Southbound).

SECTION TWO
RTD'S OBLIGATIONS

- A. The RTD has reviewed the estimates as provided by the City and found them to be fair and reasonable, see Exhibit A.
- B. RTD shall inspect the completed Project and prepare a punch-list of any unsatisfactory or incomplete Project work.
- C. In the year that funds have been appropriated by the RTD Board of Directors, RTD will provide funding for the cost of the Project construction in an amount not to exceed thirty five thousand Dollars (\$35,000), as its one-time cash contribution towards the Project. RTD shall remit such funds to the City within sixty (60) days of receipt of billing which may be submitted upon completion, final inspection and acceptance of the project. RTD shall not be required to fund any part of the Project for which it has given timely notice of disapproval.

SECTION THREE
CITY OBLIGATIONS

- A. The City will provide RTD with final Project plans, specifications and estimates no later than 60 days prior to commencement of work on the Project Site.
- B. The City will construct the Project no later than December 31, 2014. Construction shall be in accordance with RTD details, specifications and CDOT standards.
- C. The City shall be responsible for all necessary permits and/or variances to build and maintain the Project. The City or its agents shall be responsible to complete the construction of the Project.
- D. The City shall require any contractor to indemnify, defend and hold RTD harmless from all third-party claims, costs or demands concerning or arising from the Project.
- E. The City or its agent or contractor must obtain the following insurances and keep them in force for the duration of the construction period, with the limits as indicated.
 - 1. General Liability: \$1,000,000.00 combined single limit per occurrence for bodily injury, personal injury, and property damage. If a Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - 2. Automobile Liability: \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
 - 3. Worker's Compensation and Employers Liability: Statutory Workers' Compensation limits, Employers Liability limits of \$1,000,000.00 per occurrence.

SECTION FOUR
NOTICE OF COMPLETION

The City shall give the RTD written notice of completion of the Project upon its completion.

SECTION FIVE
PROHIBITED INTERESTS

No officer, member, or employee of the RTD, and no members of its governing body, and no other public official or employee of the governing body of the locality or localities included within the District, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement, or the proceeds thereof.

SECTION SIX
INDEPENDENT CONTRACTORS

It is expressly understood and agreed that the RTD and the City do not intend to act for or in place of the other, and do not intend to be and shall not in any respect be deemed agents of each other, but shall each be an independent entity.

SECTION SEVEN
NO THIRD PARTY BENEFICIARY

Nothing herein shall be construed as giving rise to any rights or benefits to any third-party. The RTD and the City expressly disclaim any intent to create any third-party beneficiary status or rights in any person or entity not a party to this agreement.

SECTION EIGHT
MISCELLANEOUS

- A. Notices - Any notice to be given hereunder shall be deemed given when sent by registered or certified mail to the addresses below:

RTD
James A. Stadler
Department of General Counsel
1600 Blake Street
Denver, CO 80202

CITY OF ENGLEWOOD
Dave Henderson
Deputy Public Works Director
1000 Englewood Pkwy.
Englewood, CO 80110

- B. Severability - Should any provision of this agreement be declared invalid by any court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect regardless of such declaration.
- C. Equal Employment Opportunity - In connection with the performance of this Agreement, the City, or its agent, contractor or RTD shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. The City or its agent, contractor and RTD shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. 1 12112, the City or it's agent, contractor and RTD will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act", 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
- D. Agreement Binding - This Agreement shall benefit and be binding upon the successors and assigns of the parties hereto.

- E. Laws to Apply - The Project shall be carried out in accordance with the laws of the State of Colorado and all applicable Federal laws & regulations.
- F. Amendment - This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.
- G. Any RTD or City financial obligation contained herein that may extend beyond the applicable party's current fiscal year as of the date of execution hereof is subject to budgeting and irrevocable appropriation by the governing body of such party, and shall be of no effect without such budgeting and appropriation.

IN WITNESS WHEREOF, the parties have duly executed this Agreement, effective the day and date first above written.

APPROVED AS TO LEGAL FORM
FOR THE REGIONAL
TRANSPORTATION DISTRICT

REGIONAL TRANSPORTATION DISTRICT

By: _____
Legal Counsel

By: _____
Phillip A. Washington
General Manager
Regional Transportation District

ATTEST:

CITY OF ENGLEWOOD:

By: _____
Loucrishia A. Ellis
City Clerk

By: _____
Randy P. Penn
Title: _____
Mayor

**EXHIBIT A
CONSTRUCTION COSTS 2013**

Description of Item	Unit	Cost Per Unit	SB Broadway at Chenango		NB Broadway at Chenango		3490 S. Downing		3315 S. Broadway	
			QUANTITY	Total Cost of Item	QUANTITY	Total Cost of Item	QUANTITY	Total Cost of Item	QUANTITY	Total Cost of Item
Remove Vertical Curb & Gutter	LF	\$7.77	45.00	\$349.65	25.00	\$194.25	49.30	\$383.06	46.50	\$361.31
Remove Walk	SF	\$1.95		\$0.00	134.60	\$262.47		\$0.00		\$0.00
Remove Curbwalk	LF	\$12.95		\$0.00		\$0.00		\$0.00		\$0.00
Remove Mono	LF	\$12.95	20.50	\$265.48	29.90	\$387.21		\$0.00		\$0.00
Remove Industrial Type B	LF	\$12.95		\$0.00		\$0.00		\$0.00		\$0.00
Remove 4' -wide V-Pan	LF	\$12.95		\$0.00		\$0.00		\$0.00		\$0.00
Remove Concrete Crosspan	SF	\$2.63	48.00	\$126.24	135.00	\$355.05		\$0.00		\$0.00
Remove Concrete Alley Paving	SF	\$2.63		\$0.00		\$0.00		\$0.00		\$0.00
Saw Concrete	LF	\$2.22	7.50	\$16.65	20.00	\$44.40	5.00	\$11.10	5.00	\$11.10
Saw Asphalt	LF	\$2.22	72.00	\$159.84	55.00	\$122.10	58.50	\$129.87	46.90	\$104.12
Remove Asphalt	SF	\$1.95	72.00	\$140.40	55.00	\$107.25	58.50	\$114.08	188.90	\$368.36
Vertical Curb & Gutter	LF	\$15.58	65.50	\$1,020.49	55.00	\$856.90	49.30	\$768.09	46.50	\$724.47
Slope Back Vertical Curb & Gutter	LF	\$17.84		\$0.00		\$0.00		\$0.00		\$0.00
4" Concrete Walk	SF	\$3.24		\$0.00	134.60	\$436.10		\$0.00		\$0.00
6" Concrete Walk	SF	\$4.80		\$0.00		\$0.00		\$0.00		\$0.00
8" Concrete Walk	SF	\$6.47		\$0.00		\$0.00		\$0.00		\$0.00
4" Curbwalk I	LF	\$20.72		\$0.00		\$0.00		\$0.00		\$0.00
6" Curbwalk I	LF	\$20.72		\$0.00		\$0.00		\$0.00		\$0.00
8" Curbwalk I	LF	\$25.90		\$0.00		\$0.00		\$0.00		\$0.00
4" Curbwalk II	LF	\$28.12		\$0.00		\$0.00		\$0.00		\$0.00
6" Curbwalk II	LF	\$28.12		\$0.00		\$0.00		\$0.00		\$0.00
8" Curbwalk II	LF	\$33.31		\$0.00		\$0.00		\$0.00		\$0.00
4" Mono	LF	\$30.23		\$0.00	29.90	\$903.88		\$0.00		\$0.00
6" Mono	LF	\$30.23		\$0.00		\$0.00		\$0.00		\$0.00
8" Mono	LF	\$35.37	20.50	\$725.08		\$0.00		\$0.00		\$0.00
Construct Industrial Type "B"	LF	\$32.39		\$0.00		\$0.00		\$0.00		\$0.00
4'-Wide V-Pan	LF	\$18.13		\$0.00		\$0.00		\$0.00		\$0.00
Curb Ramp	EA	\$595.00		\$0.00		\$0.00		\$0.00		\$0.00
Construct Crosspan	SF	\$12.00	500.00	\$6,000.00	400.00	\$4,800.00	358.00	\$4,296.00	143.00	\$1,716.00
Concrete Alley Paving	SF	\$6.47		\$0.00		\$0.00		\$0.00		\$0.00
Asphalt Patch	TONS	\$111.03	1.76	\$195.41	1.35	\$149.89	1.40	\$155.44	1.12	\$124.35
Compacted Gravel Basecourse	TONS	\$20.39		\$0.00		\$0.00		\$0.00		\$0.00
Construct Chase Section	EA	\$1,285.00		\$0.00		\$0.00		\$0.00		\$0.00
Construct Inlet	EA	\$2,364.40		\$0.00		\$0.00		\$0.00		\$0.00
Adjust Manhole	EA	\$359.80		\$0.00		\$0.00		\$0.00		\$0.00
Remove Brick Pavers	SF	\$1.95		\$0.00		\$0.00		\$0.00		\$0.00
Replacement Tree	EA	\$591.10		\$0.00		\$0.00		\$0.00		\$0.00
Rem Tree & Stumps <=12" Dia	EA	\$976.60		\$0.00		\$0.00		\$0.00		\$0.00
Rem Tree & Stumps <=24" Dia	EA	\$1,439.20		\$0.00		\$0.00		\$0.00		\$0.00
Rem Tree & Stumps <=36" Dia	EA	\$1,696.20		\$0.00		\$0.00		\$0.00		\$0.00
Rem Tree & Stumps <=48" Dia	EA	\$1,953.20		\$0.00		\$0.00		\$0.00		\$0.00
Rem Tree & Stumps >48" Dia	EA	\$1,516.32		\$0.00		\$0.00		\$0.00		\$0.00
SUBTOTAL:				\$8,999.24		\$8,619.50		\$5,857.64		\$3,409.70
30% contingency:				\$2,699.77		\$2,585.85		\$1,757.29		\$1,022.91
TOTAL:				\$11,699.02		\$11,205.35		\$7,614.93		\$4,432.61

GRAND TOTAL: \$34,951.91

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2014 _____

COUNCIL BILL NO. 44
 INTRODUCED BY COUNCIL
 MEMBER WILSON

AN ORDINANCE AMENDING TITLE 5, CHAPTER 15, SECTION 1, ENTITLED PAWNBROKERS AND SECOND HAND DEALERS AND CHAPTER 23, SECTION 1, ENTITLED PURCHASER OF VALUABLE ARTICLES OF THE ENGLEWOOD MUNICIPAL CODE 2000.

WHEREAS, the City is authorized to license and regulate pawnbrokers and purchasers of valuable articles by 31-15-401(1)(n) and 31-15-501 et. seq. C.R.S.; and

WHEREAS, changes to the Englewood Municipal Code are made as business activity and other conditions change; and

WHEREAS, licensing requirements are reviewed annually to ensure Code language is current as well as licensing fees are adequate to cover additional staff time required to administer the various license issued by the Finance and Administrative Services Department; and

WHEREAS, until recently, the buying and selling of gift certificates/cards, electronic equipment (e.g. cell phones, laptops, tablets, etc.), or tools was relatively unknown, and the increased demand for these items may invite criminal activity unless preventative actions are taken; and

WHEREAS, updating the definitions in Chapters 15 and 23 reflect additional items (gift certificates/cards, electronic equipment, and tools) that could be purchased and resold by vendors without properly verifying the ownership of these items; and

WHEREAS, this proposed ordinance expands definitions so gift certificates/cards, tools, or electronic equipment is not resold through a license holder without documentation of the person selling property to license holder who in turn provides the Police Department with information to investigate criminal acts if necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 15, entitled *Pawnbrokers and Second Hand Dealers* of the Englewood Municipal Code 2000, to read as follows:

5-15-1: Definitions.

As used in this section, the following terms shall have the meanings indicated:

Contract for Purchase: A contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer to the pawnbroker on the condition that the customer, for a fixed price and within a fixed period of time, not to exceed ninety (90) days, has the option to cancel the contract and recover from the pawnbroker the tangible personal property.

Fixed Price: The amount agreed upon to cancel a contract for purchase during the option period. Said fixed price shall not exceed:

(1) One-tenth (1/10) of the original price for each month, plus the original purchase price, on amounts of fifty dollars (\$50.00) or over; or

(2) One-fifth (1/5) of the original purchase price for each month, plus the original purchase price, on amounts under fifty dollars (\$50.00).

Fixed Time: That period of time, not to exceed ninety (90) days, as set forth in a contract for purchase, within which the customer may exercise an option to cancel the contract for purchase.

Local Law Enforcement Agency: Any marshal's office, police agency, or sheriff's office with jurisdiction in the locality in which the customer enters into a contract for purchase or a purchase transaction.

Option: The fixed time and the fixed price agreed upon by the customer and the pawnbroker in which a contract for purchase may be, but does not have to be, rescinded by the customer.

Pawnbroker: A person regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business. This section shall not apply to secondhand dealers unless specifically adopted by another section.

Person: Any individual, firm, partnership, association, corporation, company, organization, group or entity of any kind.

Police Department: The Department of Police for the City of Englewood.

Purchase Transaction: The purchase by a pawnbroker in the course of business of tangible personal property for resale, other than newly manufactured tangible personal property which has not previously been sold at retail, when such purchase does not constitute a contract for purchase.

Secondhand Goods: Includes any tangible personal property not sold as new and normally having been used by one or more intermediaries. Secondhand property does not include items that were sold as new and returned by the customer for exchange or refund. Secondhand property includes but is not limited to tools and electronic devices. Also, secondhand property does not include reconditioned property purchased from a wholesaler.

Secondhand Dealer: A person engaged in the business of buying and selling or reselling secondhand goods.

Tangible Personal Property: All personal property other than a choses in action, securities, or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of business in connection with a contract for purchase or purchase transaction.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 23, entitled *Purchaser of Valuable Articles* of the Englewood Municipal Code 2000, to read as follows:

5-23: PURCHASER OF VALUABLE ARTICLES

5-23-1: Definitions.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

Precious or Semiprecious Metals or Stones: This definition includes, but is not limited to gold, silver, platinum, pewter, alexandrite, diamonds, emeralds, garnets, opals, rubies, sapphires, and topaz. Also, included under this definition is ivory, coral, pearls, jade and other such minerals, stones, or gems as are customarily regarded as precious or semiprecious.

Private Collector: Any person who purchases an item for a price greater than the market price of the item's metallic or stone composition, who has an interest in preserving the item in its unique or historical form, and whose primary purpose in purchasing is not the immediate resale of the item.

Purchase: Giving money to acquire any valuable article.

Purchaser: Any person holding himself out to the public as being engaged in the business of purchasing valuable articles, or any person who purchases five (5) or more valuable articles in any thirty (30) day period. A purchaser does not include a person purchasing valuable articles from a retail or wholesale merchant who deals in goods of that kind.

Seller: Any person offering a valuable article for money to any purchaser.

Valuable Article: Any tangible personal property ~~consisting, in whole or in part, of including~~ precious ~~metals~~ or semiprecious metals, precious or semiprecious stones, including collector coins, and gift certificates/cards (as defined by C.R.S. Title 6, Article 1, Part 722).

Section 3. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 5. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 6. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 7. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 21st day of July, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25th day of July, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of July, 2014 for thirty (30) days.

Read by title and passed on final reading on the 4th day of August, 2014.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2014, on the 8th day of August, 2014.

Published by title on the City's official website beginning on the 6th day of August, 2014 for thirty (30) days.

This Ordinance shall take effect thirty (30) days after publication following final passage.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ____, Series of 2014.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: August 4, 2014	Agenda Item: 9 c i	Subject: Resolution to Vote for the Increased Employee Police Officers Contributions to the Fire and Police Pension Association (FPPA) Statewide Defined Benefit Plan (SWDB)
Initiated By: City of Englewood, Finance and Administrative Services Department		Staff Source: Frank Gryglewicz, Director

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The City Council and staff discussed the FPPA SWDB election results at the July 28, 2014 Study Session. Council and staff believe an increase in contributions will help fund retirement benefits for police officers in the future and directed staff to prepare the necessary resolution for their consideration at the Regular City Council Meeting on August 4, 2014.

RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution supporting the vote in favor of increasing the Police Officers Member Contributions to the Fire and Police Pension Association Statewide Defined Benefit Plan by 1/2% per year over eight years beginning 2015 and will be fully implemented by 2022.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Section 31-31-408(1.5), C.R.S., as amended, authorizes the Board of Directors of the Fire and Police Pension Association ("the FPPA Board") to increase the member contribution rate for pension benefits for participating public safety officers with respect to the members of the Statewide Defined Benefit Plan ("the Plan"), as established pursuant to Section 31-31-402, C.R.S., upon the meeting of certain conditions.

Pursuant to FPPA Resolution No. 2014-05, the FPPA Board has directed an election of the participating Employers in the plan be conducted with regard to an increase in the member contribution rate for the Plan by an additional 4% of base salary, to be implemented by an annual increase in the member contribution of 1/2% of base salary paid beginning in 2015. The member contribution rate shall be increased by an additional 1/2% of base salary paid in each of the 7 following years, through 2022, until the cumulative increase in the member contribution rate is 4% of base salary paid.

Employees in the Employer's police department earn service credit towards retirement and are thereby members of the Plan administered by FPPA.

The Employer is thereby eligible to vote in the Employer election concerning the membership contribution rate, being conducted at the direction of the FPPA Board.

During June of 2014, the active members in the SWDB Plan voted on the proposal with respect to increasing the member contribution rate to the SWDB Plan. The SWDB membership voted in favor of the proposal (68% approval), to increase the member contribution rate to the SWDB Plan by 4%, phased in at 1/2% per year over 8 years. The Colorado State Statutes election process now provides for an Employer Election on the proposal.

Past City Council action has been to vote in favor or against election issues based upon the vote of the Police Officers FPPA SWDB membership. The Englewood Police Officer's voting in the election provided a 80% approval and 20% opposed vote.

The election has no impact on the amount of the employer contributions.

FINANCIAL IMPACT

There is no financial impact to the City.

LIST OF ATTACHMENTS

Employer's Notification of Member Election Results
FPPA Board of Directors Resolution No. 2014-05
Proposed Resolution



Fire & Police Pension Association
of Colorado

EMPLOYER'S NOTIFICATION OF MEMBER ELECTION RESULTS

Primary Proposal

This notification concerns the Member election results for the Statewide Defined Benefit (SWDB) Member Contribution election Primary Proposal as set forth in the Fire and Police Pension Association Board of Directors Resolution No. 2014-04.

ENGLEWOOD POLICE	
% of voting members in favor of the proposal- "Yes" votes	80%
% of voting members opposed to the proposal- "No" votes	20%

VR Election Services, a neutral election services firm located in Texas, conducted the member election on behalf of FPPA. Active Members participating in the Statewide Defined Benefit Plan and appearing on the FPPA pension administration system as of May 15, 2014, at 5:00 p.m. were permitted to vote. These Members were given the option to vote by mail, touch-tone telephone or by the internet. The member election concluded on June 30, 2014, at 4:00 p.m. Mountain Time.

**FIRE AND POLICE PENSION ASSOCIATION
BOARD OF DIRECTORS**

RESOLUTION NO. 2014-05

**Regarding: MEMBER CONTRIBUTIONS TO
THE STATEWIDE DEFINED BENEFIT PLAN**

WHEREAS, Section 31-31-408(1.5), C.R.S., as amended, authorizes the Board of Directors of the Fire and Police Pension Association (“the Board”) to increase the member contribution rate for pension benefits set forth in Part 4, Article 31, Title 31, Colorado Revised Statutes, as amended, with respect to the members of the Statewide Defined Benefit Plan (“the Plan”); and

WHEREAS, Section 31-31-408(1.5), C.R.S., as amended, sets forth certain conditions which must be met before the Board may adopt an increase in the member contribution rate, including approval by at least sixty-five percent of the active members of the Plan who vote in the election proposing an increase in the member contribution rate and more than fifty percent of the employers who vote in the election proposing an increase in the member contribution rate.; and

WHEREAS, pursuant to the authority granted in Section 31-31-408, C.R.S., as amended, the Board has adopted Rules establishing the procedure which the Board will follow with respect to its adoption of any modification of the Plan. Furthermore, pursuant to FPPA Rule 704.08, the Board has prescribed an alternative voting procedure in lieu of using the paper ballots and the process otherwise contemplated by FPPA Rule 704. Pursuant to the adopted alternative election procedure, the Board must certify that the proposed modification complies with the requirements set forth in the Colorado statute and the Plan.

WHEREAS, the Board has adopted Resolution No. 2013-02 and Resolution No. 2014-03, which set forth facts, background and history regarding the Plan and the desirability of an increase in the member contribution rate.

WHEREAS, if adopted, the proposed amendments will only affect the Statewide Defined Benefit Plan.

WHEREAS, the Board previously adopted Resolution No. 2013-09 and Resolution No. 2014-04 establishing a member election to be conducted regarding an increase in member contribution rate.

WHEREAS, an election of the active members of the Plan regarding the proposed increase in the member contribution rate has been conducted at the Board’s direction. VR Election Services has certified the results of the election, indicating that an increase in the member contribution rate by 4% over eight years (2% over eight years for members participating in the Social Security Supplemental Plan), hereinafter referred to as the Increased Member

Contribution Rate, has been approved by more than sixty-five percent of the active members of the Plan who voted in the election.

WHEREAS, the Board has been advised by legal counsel regarding the proposed increase in the membership contribution rate complies with the federal Internal Revenue Code.

NOW, THEREFORE, BE IT RESOLVED,

THAT the Board hereby proposes the following increase in the member contribution rate to the Plan which shall be submitted for consideration to all employers who had active members in the Plan on May 15, 2014, pursuant to the provisions of Section 31-31-408, C.R.S., as amended, the FPPA Rules and Regulations, and the alternative election procedure.

“Shall the member contribution rate for the Statewide Defined Benefit Plan, as established pursuant to Section 31-31-402, C.R.S., be increased by an additional 4% of base salary paid, and shall the member contributions rate for members participating in the social security supplemental plan (the SWDB-SS), as established pursuant to Section 31-31-704.6(3), be increased by an additional 2% of base salary paid, to be implemented as follows? An annual increase in the member contribution of ½% of base salary paid (¼% of base salary paid for the SWDB-SS members) beginning in 2015. The member contribution rate shall be increased by an additional ½% of base salary paid (¼% of base salary paid for the SWDB-SS members) in each of the 7 following years, through 2022, until the cumulative increase in the member contribution rate is 4% of base salary paid (2% of base salary paid for the SWDB-SS members).”

THAT the Board finds and certifies to employers of the Plan that the proposed Increased Member Contribution Rate:

1. Does not require an increase in the employer contribution rate; and
2. Does not adversely affect the Plan’s status as a qualified plan pursuant to the federal Internal Revenue Code; and
3. Has been duly approved by more than sixty-five percent of the active members of the Plan who voted in the election; and
4. Complies with all other requirements set forth in the applicable statutes and plan documents.

THAT staff be directed to conduct the election of the employers. The governing body of the employer shall determine whether the employer approves the Increased Member Contribution Rate. Each employer participating in the election shall submit a resolution, copy of minutes or other certification of a decision made by the governing body prior to **4:00 pm MT on August 22, 2014** in order for the employer’s vote to be included in the election results. The proposal shall be deemed to be approved by the employers if a majority of those employers submitting votes approve the proposal.

THAT upon approval by the members and the employers, the increase in the member contribution rate shall become effective January 1, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand on this 9th day of July, 2014.

FIRE AND POLICE PENSION ASSOCIATION,
a political subdivision of the State of Colorado

ORIGINAL ON FILE AT FPPA

By: *Susan R. Eaton*
Susan R. Eaton, Chair
Board of Directors

RESOLUTION NO. _____
SERIES OF 2014

A RESOLUTION VOTING IN FAVOR OF INCREASING THE EMPLOYEE POLICE OFFICERS CONTRIBUTIONS TO THE FIRE AND POLICE PENSION ASSOCIATION (FPPA) STATEWIDE DEFINED BENEFIT PLAN.

WHEREAS, Section 31-31-408(1.5) C.R.S., as amended, authorizes the Board of Directors of the Fire and Police Pension Association (the FPPA Board") to increase the member contribution rate for pension benefits for participating public safety officers with respect to the members of the Statewide Defined Benefit Plan ("the Plan"), as established pursuant to Section 31-31-402 C.R.S., upon the meeting of certain conditions; and

WHEREAS, pursuant to FPPA Resolution No. 2014-05, the FPPA Board has directed an election of the participating Employers in the plan be conducted with regard to an increase in the member contribution rate for the Plan by an additional 4% of base salary, to be implemented by an annual increase in the member contribution of ½% of base salary paid beginning in 2015. The member contribution rate shall be increased by an additional ½% of base salary paid in each of the 7 following years, through 2022, until the cumulative increase in the member contribution rate is 4% of base salary paid; and

WHEREAS, employees in the City of Englewood Police Officer Department earn service credit towards retirement and are thereby members of the Plan administered by FPPA; and

WHEREAS, the City of Englewood is thereby eligible to vote in the City of Englewood election concerning the membership contribution rate, being conducted at the direction of the FPPA Board.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby votes in favor of increasing the City of Englewood Police Officer Department member contribution rate for the Statewide Defined Benefit Plan, by an additional 4% of base salary paid.

ADOPTED AND APPROVED this 4th day of August, 2014.

ATTEST:

Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2014.

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date: August 4, 2014	Agenda Item: 9 c ii	Subject: Resolution to Vote for the Increased Employee Firefighters Contributions to the Fire and Police Pension Association (FPPA) Statewide Defined Benefit Plan (SWDB)
Initiated By: City of Englewood, Finance and Administrative Services Department		Staff Source: Frank Grylewicz, Director

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The City Council and staff discussed the FPPA SWDB election results at the July 28, 2014 Study Session. Council and staff believe an increase in contributions will help fund retirement benefits for firefighters in the future. Council directed staff to prepare the necessary resolution for their consideration at the Regular City Council Meeting on August 4, 2014.

RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution supporting increasing the Firefighters Member Contributions to the Fire and Police Pension Association Statewide Defined Benefit Plan by 1/2% per year over eight years.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Section 31-31-408(1.5), C.R.S., as amended, authorizes the Board of Directors of the Fire and Police Pension Association ("the FPPA Board") to increase the member contribution rate for pension benefits for participating public safety officers with respect to the members of the Statewide Defined Benefit Plan ("the Plan"), as established pursuant to Section 31-31-402, C.R.S., upon the meeting of certain conditions.

Pursuant to FPPA Resolution No. 2014-05, the FPPA Board has directed an election of the participating Employers in the plan be conducted with regard to an increase in the member contribution rate for the Plan by an additional 4% of base salary, to be implemented by an annual increase in the member contribution of 1/2% of base salary paid beginning in 2015. The member contribution rate shall be increased by an additional 1/2% of base salary paid in each of the 7 following years, through 2022, until the cumulative increase in the member contribution rate is 4% of base salary paid.

Employees in the Employer's Fire Department earn service credit towards retirement and are thereby members of the Plan administered by FPPA.

The Employer is thereby eligible to vote in the Employer election concerning the membership contribution rate, being conducted at the direction of the FPPA Board.

During June of 2014, the active members in the SWDB Plan voted on the proposal with respect to increasing the member contribution rate to the SWDB Plan. The SWDB membership voted in favor of the proposal (68% approval), to increase the member contribution rate to the SWDB Plan by 4%, phased in at 1/2% per year over 8 years. The Colorado State Statutes election process now provides for an Employer Election on the proposal.

Only 17 Englewood firefighters voted in the election; ten voted against (59%) and seven voted in favor (41%). Even though past City Council action has been to vote in favor or against election issues based upon the vote of the Firefighters FPPA SWDB membership Council determined it is the best interest of firefighters to increase their contributions to insure they have adequate retirement income.

The election has no impact on the amount of the employer contributions.

FINANCIAL IMPACT

There is no financial impact to the City.

LIST OF ATTACHMENTS

Employer's Notification of Member Election Results
FPPA Board of Directors Resolution No. 2014-05
Proposed Resolution

EMPLOYER'S NOTIFICATION OF MEMBER ELECTION RESULTS**Primary Proposal**

This notification concerns the Member election results for the Statewide Defined Benefit (SWDB) Member Contribution election Primary Proposal as set forth in the Fire and Police Pension Association Board of Directors Resolution No. 2014-04.

ENGLEWOOD FIRE	
% of voting members in favor of the proposal- "Yes" votes	41%
% of voting members opposed to the proposal- "No" votes	59%

VR Election Services, a neutral election services firm located in Texas, conducted the member election on behalf of FPPA. Active Members participating in the Statewide Defined Benefit Plan and appearing on the FPPA pension administration system as of May 15, 2014, at 5:00 p.m. were permitted to vote. These Members were given the option to vote by mail, touch-tone telephone or by the internet. The member election concluded on June 30, 2014, at 4:00 p.m. Mountain Time.

**FIRE AND POLICE PENSION ASSOCIATION
BOARD OF DIRECTORS**

**RESOLUTION NO. 2014-05
Regarding: MEMBER CONTRIBUTIONS TO
THE STATEWIDE DEFINED BENEFIT PLAN**

WHEREAS, Section 31-31-408(1.5), C.R.S., as amended, authorizes the Board of Directors of the Fire and Police Pension Association (“the Board”) to increase the member contribution rate for pension benefits set forth in Part 4, Article 31, Title 31, Colorado Revised Statutes, as amended, with respect to the members of the Statewide Defined Benefit Plan (“the Plan”); and

WHEREAS, Section 31-31-408(1.5), C.R.S., as amended, sets forth certain conditions which must be met before the Board may adopt an increase in the member contribution rate, including approval by at least sixty-five percent of the active members of the Plan who vote in the election proposing an increase in the member contribution rate and more than fifty percent of the employers who vote in the election proposing an increase in the member contribution rate.; and

WHEREAS, pursuant to the authority granted in Section 31-31-408, C.R.S., as amended, the Board has adopted Rules establishing the procedure which the Board will follow with respect to its adoption of any modification of the Plan. Furthermore, pursuant to FPPA Rule 704.08, the Board has prescribed an alternative voting procedure in lieu of using the paper ballots and the process otherwise contemplated by FPPA Rule 704. Pursuant to the adopted alternative election procedure, the Board must certify that the proposed modification complies with the requirements set forth in the Colorado statute and the Plan.

WHEREAS, the Board has adopted Resolution No. 2013-02 and Resolution No. 2014-03, which set forth facts, background and history regarding the Plan and the desirability of an increase in the member contribution rate.

WHEREAS, if adopted, the proposed amendments will only affect the Statewide Defined Benefit Plan.

WHEREAS, the Board previously adopted Resolution No. 2013-09 and Resolution No. 2014-04 establishing a member election to be conducted regarding an increase in member contribution rate.

WHEREAS, an election of the active members of the Plan regarding the proposed increase in the member contribution rate has been conducted at the Board’s direction. VR Election Services has certified the results of the election, indicating that an increase in the member contribution rate by 4% over eight years (2% over eight years for members participating in the Social Security Supplemental Plan), hereinafter referred to as the Increased Member

Contribution Rate, has been approved by more than sixty-five percent of the active members of the Plan who voted in the election.

WHEREAS, the Board has been advised by legal counsel regarding the proposed increase in the membership contribution rate complies with the federal Internal Revenue Code.

NOW, THEREFORE, BE IT RESOLVED,

THAT the Board hereby proposes the following increase in the member contribution rate to the Plan which shall be submitted for consideration to all employers who had active members in the Plan on May 15, 2014, pursuant to the provisions of Section 31-31-408, C.R.S., as amended, the FPPA Rules and Regulations, and the alternative election procedure.

“Shall the member contribution rate for the Statewide Defined Benefit Plan, as established pursuant to Section 31-31-402, C.R.S., be increased by an additional 4% of base salary paid, and shall the member contributions rate for members participating in the social security supplemental plan (the SWDB-SS), as established pursuant to Section 31-31-704.6(3), be increased by an additional 2% of base salary paid, to be implemented as follows? An annual increase in the member contribution of ½% of base salary paid (¼% of base salary paid for the SWDB-SS members) beginning in 2015. The member contribution rate shall be increased by an additional ½% of base salary paid (¼% of base salary paid for the SWDB-SS members) in each of the 7 following years, through 2022, until the cumulative increase in the member contribution rate is 4% of base salary paid (2% of base salary paid for the SWDB-SS members).”

THAT the Board finds and certifies to employers of the Plan that the proposed Increased Member Contribution Rate:

1. Does not require an increase in the employer contribution rate; and
2. Does not adversely affect the Plan's status as a qualified plan pursuant to the federal Internal Revenue Code; and
3. Has been duly approved by more than sixty-five percent of the active members of the Plan who voted in the election; and
4. Complies with all other requirements set forth in the applicable statutes and plan documents.

THAT staff be directed to conduct the election of the employers. The governing body of the employer shall determine whether the employer approves the Increased Member Contribution Rate. Each employer participating in the election shall submit a resolution, copy of minutes or other certification of a decision made by the governing body prior to **4:00 pm MT on August 22, 2014** in order for the employer's vote to be included in the election results. The proposal shall be deemed to be approved by the employers if a majority of those employers submitting votes approve the proposal.

THAT upon approval by the members and the employers, the increase in the member contribution rate shall become effective January 1, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand on this 9th day of July, 2014.

FIRE AND POLICE PENSION ASSOCIATION,
a political subdivision of the State of Colorado

ORIGINAL ON FILE AT FPPA

By: *Susan R. Eaton*
Susan R. Eaton, Chair
Board of Directors

RESOLUTION NO. _____
SERIES OF 2014

A RESOLUTION VOTING IN FAVOR OF INCREASING THE EMPLOYEE FIRE FIGHTERS' CONTRIBUTIONS TO THE FIRE AND POLICE PENSION ASSOCIATION (FPPA) STATEWIDE DEFINED BENEFIT PLAN.

WHEREAS, Section 31-31-408(1.5) C.R.S., as amended, authorizes the Board of Directors of the Fire and Police Pension Association (the FPPA Board") to increase the member contribution rate for pension benefits for participating public safety officers with respect to the members of the Statewide Defined Benefit Plan ("the Plan"), as established pursuant to Section 31-31-402 C.R.S., upon the meeting of certain conditions; and

WHEREAS, pursuant to FPPA Resolution No. 2014-05, the FPPA Board has directed an election of the participating Employers in the plan be conducted with regard to an increase in the member contribution rate for the Plan by an additional 4% of base salary, to be implemented by an annual increase in the member contribution of ½% of base salary paid beginning in 2015. The member contribution rate shall be increased by an additional ½% of base salary paid in each of the 7 following years, through 2022, until the cumulative increase in the member contribution rate is 4% of base salary paid; and

WHEREAS, employees in the City of Englewood Fire Department earn service credit towards retirement and are thereby members of the Plan administered by FPPA; and

WHEREAS, the City of Englewood is thereby eligible to vote in the City of Englewood election concerning the membership contribution rate, being conducted at the direction of the FPPA Board.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby votes in favor of increasing the City of Englewood Fire Fighters' contribution rate for the Statewide Defined Benefit Plan, by an additional 4% of base salary paid.

ADOPTED AND APPROVED this 4th day of August, 2014.

ATTEST:

Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. _____, Series of 2014.

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date: August 4, 2014	Agenda Item: 10 a	Subject: Amendments to Title 16: Small Lot Development Standards
Initiated By: Community Development Department	Staff Source: Brook Bell, Planner II	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council considered the proposed Title 16 amendments at First Reading on July 21, 2014 and set a public hearing for August 4, 2014.

RECOMMENDED ACTION

Recommendation from the Community Development Department to consider testimony during Public Hearing on a Bill for an Ordinance authorizing amendments to Title 16: Unified Development Code regarding Small Lot Development Standards.

BACKGROUND

Since the UDC was adopted in 2004, it has become apparent that a number of smaller residential properties are not regulated in terms of Development Standards and associated Dimensional Requirements. Any lot not meeting the minimal dimensional standards is treated as a non-conforming lot. Council was made aware of a few instances over the past 2-3 years where an owner purportedly couldn't sell or refinance a house because of the non-conforming lot status. This package of code amendments is intended to address this concern for a vast majority of non-conforming lots in the City.

These lots are non-conforming because they do not meet the requirements for "small lots". The UDC defines a "small lot" as: "A legal lot of record existing on the effective date of this Title (February 23, 2004) where the lot width or lot area is less than the minimum standard for a one-unit dwelling in the zone district in which the lot is located."

While the UDC has Dimensional Requirements for "small lots", it does not have requirements for properties that are smaller than the "small lots" described in UDC Table 16-6-1.1. From this point forward, these smaller lots will be referred to as "Urban Lots". Currently, the following properties are not effectively regulated:

- In R-1-A and R-1-B Zone Districts: Properties with lot width greater than or equal to 25', but less than 50'; and with lot area greater than or equal to 3,000 sf, but less than 6,000 sf. (+/- 13 Total in the City)
- In R-1-C Zone Districts: Properties with lot width greater than or equal to 25', but less than 37'; and with lot area greater than or equal to 3,000 sf, but less than 4,500 sf. (+/- 40 Total in the City)
- In R-2 or R-3 Zone Districts: Properties with lot width greater than or equal to 25', but less than 40'; and with lot area greater than or equal 3,000 sf, but less than 4,000 sf. (+/- 176 Total in the City)

- In Medical Zone Districts: Properties with lot width greater than or equal to 25', but less than 40'; and with lot area greater than or equal 3,000 sf, but less than 4,000 sf. (+/- 1 Total in the City)
- In Residential and Medical Zone Districts: Properties with lot width of less than 25'; and with lot area less than 3,000 sf. (+/- 45 Total in the City)

These properties do not fit the "small lot" criteria and no minimum setback, maximum height, or maximum lot coverage requirements are established in the UDC. There are approximately 275 of these properties within the City.

ANALYSIS

If the owner of a property that is smaller than the "small lot" standards proposes an addition, improvements, or development on their property they currently have two options:

1. Apply for a Variance through the Board of Adjustment and Appeals (BOAA) to establish dimensional requirements for minimum setbacks, maximum lot coverage, etc. for the individual lot. This option is time consuming, requires an application fee, and has no assurance of being approved. The uncertainty of approval can cloud the sale and development of a property. Over time, the BOAA could have as many as 275 of these Variance requests.

It should also be noted that the BOAA does not have the authority to consider a variance application if it involves a nonconforming vacant lot because of the following provision in UDC Section 16-2-16:A.5., "The Board shall not consider a Zoning Variance application to allow additional dwelling units in residential districts above the maximum number permitted by zone district standards for lot area and lot width."

2. If the lot is vacant then the following provision in the UDC may be utilized:

16-9-4: - Nonconforming Lots.

A. Nonconforming Vacant Lot.

1. A nonconforming vacant lot may be used only for a use permitted in the zone district in which the lot is located. The City Manager or designee may waive minimum open space, parking lot area, setback, or lot width requirements for any nonconforming lot if he/she finds that:
 - a. The lot cannot otherwise be used for any purpose permitted within the zone district applicable to the property; and
 - b. The waiver, if granted, is necessary to afford relief with the least modification possible of the development or dimensional standards otherwise applicable to the property.
2. Any appeal from the City Manager or designee's decision shall be to the Board.
3. No nonconforming lot shall be further subdivided or shall have its boundaries altered in any manner that would compound, expand, or extend the nonconforming characteristic(s) of the lot.

Though this provision may be utilized to develop the dimensional requirements, it lacks certainty, could be viewed as arbitrary, and only applies to vacant or soon to be vacant properties. The nonconforming status of the lot creates uncertainty for lenders, who are then reluctant to lend on a property where the entitlements are vague or unknown.

PROPOSED AMENDMENTS

In order to effectively regulate these smaller residential lots, and to provide greater certainty for property owners, staff is proposing UDC amendments that are summarized below. A more detailed copy of the proposed edits to the UDC follows the amendment summaries below in the attached Bill for an Ordinance.

- UDC Table 16-2-2.1: Summary of Development Review and Decision-Making Procedures has been amended to add a procedure for development proposals involving nonconforming lots. Review of the development proposal is by staff, decision making is by the Planning and Zoning Commission, and any appeal is to City Council.
- UDC Table 16-6-1.1: Summary of Dimensional Requirements for Principal Structures has been amended to add a row for Urban Lots to each residential zone district in Table 16-6-1.1. Corresponding notes to the table [6] and [7] make a distinction between Urban Lots with an existing dwelling unit, Vacant Urban Lots, and Lots with less than 3,000 sq. ft. of Lot Area or less than 25 ft. of Lot Width. Urban Lots that do not, or did not contain a one-unit dwelling that existed on February 23, 2004 are required to follow the same process as Nonconforming Vacant Lots as outlined in Section 16-9-4.
- UDC Table 16-6-1.1a: Summary of Dimensional Requirements for Principal Structures Located within the Medical Zone Districts has been amended to add a row for Urban Lots. Corresponding notes to the table [6] and [7] make a distinction between the different types of Urban Lots.
- UDC Tables 16-6-1.1 and 16-6-1.1a: have been amended to increase the maximum lot coverage percentage for a one-unit dwelling on a small lot. The increase raises the maximum lot coverage from 35% to 40%. This change applies to all residential and medical zone districts except for R-1-A and R-1-B which already have a maximum lot coverage of 40%. This change uses the logic that a small lot already has greater space constraints than a standard lot, and therefore should not have a lower maximum lot coverage percentage.
- UDC Table 16-6-1.1: has been amended to decrease the front setback for a one-unit dwelling on a small lot in the MU-R-3-B from 25' to 15'. Staff believes the current figure of 25' is a typographical error.
- UDC Section 16-9-4: Nonconforming Lots has been amended to create a process for establishing dimensional requirements for Vacant Urban Lots, and Lots with less than 3,000 sq. ft. of Lot Area or less than 25 ft. of Lot Width. The review process and criteria for nonconforming lots has also been amended to shift the decision-making authority from the City Manager or designee to the Planning and Zoning Commission. Including the Planning and Zoning Commission in the decision-making process ensures a public hearing with due process and appropriate public notice.
- UDC Section 16-11-2.B, Definitions of Words, Terms, and Phrases has been amended to provide a definition for an Urban Lot.

SUMMARY

The proposed amendments to the small lot development standards will accomplish the following three objectives.

1. The proposed amendments will effectively regulate smaller residential lots (defined as "Urban Lots") that contain or contained a one-unit dwelling existing on or before February 23, 2004, and have 25 ft. or more of Lot Width, and 3000 sq. ft. or more of Lot Area. These Urban Lots will no longer be

considered nonconforming and will have appropriate development standards codified in the UDC. This will provide approximately 214 residential properties with a high degree of certainty for the purposes of appraisal, sale, additions, redevelopment, etc.

2. The proposed amendments will establish a new process for the possible development of Vacant Urban Lots that legally existed on or before February 23, 2004, and have 25 ft. or more of Lot Width, and 3000 sq. ft. or more of Lot Area. Development of these Vacant Urban Lots would be possible if approved by the Planning and Zoning Commission at a public hearing. Any appeals to the Planning and Zoning Commission's decision would be to City Council. There are approximately 15 properties in this category.
3. The proposed amendments will establish a process for regulating Urban Lots with less than 25 ft. of Lot Width or less than 3,000 sq. ft. of Lot Area. These lots might be vacant or could have an existing dwelling unit on the property. Additions, redevelopment, or development of these properties would be possible if approved by the Planning and Zoning Commission at a public hearing. Any appeals to the Planning and Zoning Commission's decision would be to City Council. There are approximately 45 properties in this category, although 31 of the properties are unlikely to see any redevelopment activity since they are attached townhomes.

The maximum number of all Urban Lots that could potentially come before the Planning and Zoning Commission is approximately 29; however, it is unlikely that it would ever approach this figure as the majority of these properties are remainder parcels associated with a larger developed parcel.

FINANCIAL IMPACT

No financial impacts are anticipated from the adoption of the proposed amendments.

LIST OF ATTACHMENTS

Planning and Zoning Commission Minutes – February 4, 2014
Planning and Zoning Commission Minutes – March 4, 2014
Planning and Zoning Commission Minutes – March 18, 2014
Planning and Zoning Commission Findings of Fact Amended – March 18, 2014
Bill for an Ordinance

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
Community Development Conference Room
February 4, 2014

I. CALL TO ORDER

The regular meeting of the City Planning and Zoning Commission was called to order at 7:00 p.m. in the Community Development Conference Room of the Englewood Civic Center, Vice Chair Fish presiding.

Present: Roth, King, Knoth (7:10), Kinton, Townley (7:10), Fish, King, Freemire, Madrid
(Alternate)

Absent: Brick (Excused), Bleile (Unexcused)

Staff: Alan White, Director, Community Development
Chris Neubecker, Senior Planner
Brook Bell, Planner II
John Voboril, Planner II
Nancy Reid, Assistant City Attorney



II. APPROVAL OF MINUTES

· January 22, 2013

King moved;

Kinton seconded: TO APPROVE THE JANUARY 22, 2014 MINUTES

Vice Chair Fish asked if there were any modifications or corrections, there were none.

AYES: Fish, King, Kinton, Roth, Knoth, Townley

NAYS: None

ABSTAIN: Freemire

ABSENT: Brick, Bleile

Motion carried.



Commissioners and Staff introduced themselves to Patrick Madrid, newly appointed Alternate to the Commission



III. STUDY SESSION

Case 2013-02 Small Lot Development Standards UDC 16-9-4

Brook Bell, Planner II, reviewed history of the topic of Small Lot Development Standards and explained the process of changing zoning text and executing amendments. He explained the appeal process for citizens that do not agree with the code once it is amended.

Additional approval criteria and revised language were included in the Staff memo. There was discussion about the remedy for appeals and whether or not the appeal would go through City Council, Board of Adjustments or District Court.

Consensus of the Commission was that the proposed changes are acceptable as written, which would require appeals of decisions on nonconforming lots to be brought to a court of record. Staff will bring the revised code in its current form to the Public Hearing and if the Commissioners wish to change it, they may make a motion at the hearing so that a formal vote and record can be made. The tentative Public Hearing date is March 4, 2014. Members of the Commission were encouraged to submit their opinion to be included in the next meeting packet.



Light Rail Corridor Zoning Reform Discussion

John Voboril, Planner II, presented options and ideas for encouraging development in the vicinity of the Oxford Light Rail Station. One possibility would be to establish a TSA overlay district that would be applied to the industrial areas to facilitate non-industrial and multi-family development in the future.

The presentation included findings and suggestions on the following topics:

- Establishing Boundaries for Oxford Station TSA Overlay
 - Proposed boundary would extend south to Layton
- Setbacks
 - Proposed front setbacks are 0-10 to create an urban environment conducive to pedestrian traffic.
- Minimum Lot Size
 - Consistent with current code; no new lots would be created that are less than the current minimum.
- Minimum Lineal Street Frontage
 - 75% of the main street and 25% of the side street. Landscaping could be substituted between the right of way or sidewalk in lieu of the structure to maintain a linear form along the street frontage.
- Zone of Transparency▶
 - Establish minimum requirements for building transparency. Alternatives to windows should be considered for retail businesses. Design could be addressed in light of specific business needs.
- Required Front Street Entrance
 - Would establish business presence; side and rear doors would be permitted. Ideally parking would be located in the rear of the building.
- Building Height▶
 - Currently there are no height restrictions in industrial zones. It was generally agreed that a five or six story building approximately 75 in height would be an acceptable maximum.
- Residential Parking▶
 - Because the area is designated to be transit oriented, the assumption is that there would be fewer parking spaces required due to fewer vehicles.

Due to time restraints, the presentation will be continued at a later date to discuss the following:

- Commercial Parking
- Design Guidelines/Standards
- Street Network



IV. PUBLIC FORUM

No members of the public were in attendance.



V. ATTORNEYS CHOICE

Ms. Reid distributed suggestions regarding proposed changes to UDC 16-9-3 Non-Conforming Structures as she will not be attending the Public Hearing February 20th. Discussion ensued regarding procedures for Staff and the Commission when presenting proposed changes to City Council to increase efficiency in the process.



VI. STAFFS CHOICE

Director White stated that there will be a second Public Hearing regarding Home Occupations at City Council on February 18, 2014. City Council has several changes to the proposed amendment regarding uses in R-1-A.



Director White shared an article in Commissioners Journal that contained information regarding code changes that he feels would be helpful to the Commissioners. This article will be forwarded to the Commissioners.

The next meeting of the Planning and Zoning Commission will be the Public Hearing scheduled for Thursday February 20, 2014 and the topics will be Zoning Site Plan Review and Non-Conforming Structures.



VII. COMMISSIONERS CHOICE

Vice Chair Fish welcomed new voting member of the Commission, Michael Freemire.

Chris Neubecker informed the Commission of a meeting regarding safe routes to school and offered to share the invitation and information with the Commissioners.

The meeting adjourned at 9:20 p.m.

/s/Julie Bailey
Recording Secretary

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
City Council Chambers – Englewood Civic Center
March 4, 2014**



I. CALL TO ORDER

The regular meeting of the City Planning and Zoning Commission was called to order at 7:00 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Fish presiding.

Present: Brick, Fish, Freemire, King, Kinton, Knoth, Roth, Townley, Madrid (alternate)

Absent: Bleile (Excused)

Staff: Alan White, Director, Community Development
Chris Neubecker, Senior Planner
Brook Bell, Planner II
John Voboril, Planner II
Nancy Reid, Assistant City Attorney



**II. APPROVAL OF MINUTES
February 20, 2014**

Knoth moved;

Roth seconded: TO APPROVE THE FEBRUARY 20, 2014 MINUTES

Chair Fish asked if there were any modifications or corrections. Mr. Freemire requested that the minutes be modified to reflect City Attorney Brotzman's statement that he would supply the Commission with legal definitions of substantive burden and undue burden.

AYES: Brick, Freemire, Kinton, Knoth, Roth, Townley, Chair Fish

NAYS: None

ABSTAIN: King

ABSENT: Bleile

Motion carried.



III. PUBLIC HEARING CASE #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS

Knoth Moved;

Freemire Seconded: TO OPEN PUBLIC HEARING FOR CASE #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS

AYES: Brick, Freemire, Kinton, King, Knoth, Roth, Townley, Chair Fish
NAYS: None
ABSTAIN: None
ABSENT: Bleile



Assistant City Attorney Reid advised the Commission that her office was asked to provide a memo on substantive due process regarding appeals and Small Lot Development Standards, but the memo has not yet been prepared. She suggested that the Commission may want to continue the hearing until the information has been provided to them. Chair Fish stated that the Commission chooses to continue the hearing with the Staff presentation.



Brook Bell, Planner II was sworn in. A Staff report has been submitted and the Public Hearing was posted in the Englewood Herald and the City of Englewood website. The history of the case was reviewed. Following the initial Public Hearing on November 19, 2013, Staff worked with the City Attorney's office to prepare a bill for ordinance for Council consideration at first reading. The City Attorney's office advised staff that the review criteria for consideration was insufficient and required additional language. It was also recommended that Planning and Zoning Commission's decisions on non-conforming Small Lots should be final and that any appeals to the decision should be directed to the court of record. At the study session February 4, 2014, the supplemental and revised appeal process was reviewed by the Commission. The consensus of the Commission was that the proposed changes were acceptable as written. Appeals of decisions regarding non-conforming lots would be brought to the court of record.

The additions to the review criteria are outlined in the Staff Report for 16-9-4: Nonconforming Lots.

Mr. Knoth expressed that there is confusion between the appeals process for Non-Conforming Structures, for which appeals are directed to the Board of Adjustments and Appeals and Nonconforming Lots, which appeals are directed to the court. Mr. Bell deferred to Director White.



Alan White, Community Development Director, was sworn in. Director White stated that the difference is that the decisions for Nonconforming Structures is an administrative or Staff decision and under the UDC any appeals of administrative decisions go to the Board of Adjustments and Appeals. The decision of the Planning and Zoning Commission, as this issue has been drafted, would be appealed through court.

Mr. Knoth asked why the decisions for nonconforming lots could not go through the BOAA rather than the court. Director White responded that there is another provision in the code that states that appeals to Commission decisions go to City Council; however this proposed amendment preempts that procedure with the court requirement.

Mr. Bell added that the BOAA is prohibited from reviewing cases that would result in an additional residence being added on a lot where there was not sufficient lot width or lot area. A decision by City Council or the court would be the best way to resolve an appeal on a nonconforming lot.

Chair Fish asked if it is a legal requirement for the appeals to go to court. Mr. Bell referred to the UDC regulation concerning variances to the zoning code that states "The Board shall not consider a Zoning Variance Application to allow additional dwelling units in residential districts above the maximum number permitted by zone district standards for lot area and lot width." The cases that the Commission would be reviewing do not meet the standard lot area and lot width.



Mr. Freemire asked for clarification of the reference to the "Board"; Mr. Bell stated that he was referring to the Board of Adjustments and Appeals. The BOAA cannot make a determination relative to the number of residences on a particular parcel. There are other zoning variances that they cannot rule on as well. Mr. Freemire asked if there is anything in the code stating that the Planning and Zoning Commission are under the same obligation and restriction and/or freedom that the BOAA has. Mr. Bell replied that the Planning and Zoning Commission can hear appeals to subdivisions, interpretations and conditional use cases. (Staff Clarification: The UDC specifies that the Planning and Zoning Commission is the appeal body for Administrative Land Review Permits, Limited Use Permits, Minor Subdivisions, Temporary Use Permits, Unlisted Use Classifications, and Zoning Site Plans. The Planning and Zoning Commission is the decision-making body for Title Interpretations, Conditional Use Permits, and Landmark Sign cases.)



Mr. Freemire asked if there is any other provision in the code that states that if an applicant is not satisfied with the determination of the Planning and Zoning Commission's decision that they should go to court and there is not an opportunity to go to an elected official.



Mr. Bell responded that there is a provision in the appeals section 16-2-18; there are appeals to administrative decisions they go to the BOAA, and if they wish to appeal the decision of the BOAA further, they may then go to district court.



Appeals to the Commission will go to City Council unless this title specifies that the appeal shall be to another party. Further appeals from the Board or Council would go the court of record.



Mr. Freemire asked if there is a provision in the code for appeals from the Commission to be sent to court without the opportunity to appeal to an elected official. Mr. Bell replied that there is not. Mr. Freemire asked why Staff would recommend that this particular item would not be given the opportunity to be vetted in a Council setting with elected officials for due process and equal treatment under the law. He questioned the motivation for the recommendation and Mr. Bell deferred to the City Attorney's office.



Staff recommendation in the first draft of the amendment and the first Public Hearing was to direct appeals to City Council. Mr. Freemire asked if the current draft of the amendment

represents what was recommended by the City Attorney's office, Mr. Bell responded yes. Mr. Freemire asked if there was any other influence and Mr. Bell responded no.



Mr. Knoth asked if it was true that BOAA cannot rule on cases where density would be increased on a site. Mr. Bell responded that is correct. Mr. Knoth asked if the issue of nonconforming buildings refers to more density than code allows, Director White responded that situations where zoning may have changed and the lot area per unit was increased thereby lowering the density were grandfathered to the existing density. It is not a BOAA decision but will be allowable should City Council adopt the ordinance. It would not be an appeal to BOAA for a density issued. Should an applicant disagree with an administrative decision, the appeal would go to BOAA.



Ms. Townley asked if an applicant would provide a site plan for a nonconforming lot, Mr. Bell responded yes. The applicant would provide a site plan and it would be reviewed internally not only by the Community Development Department but also by six other departments in order to incorporate those comments into the Staff Report. The Planning and Zoning Commission would receive the Staff report just as they would a PUD and a Public Hearing would be held in order for the Planning and Zoning Commission to make a decision.



Mr. Fish stated that for the record, he is examining table 6-2-2, which does lay out the various review, appeal and decision processes in the City. Conditional Use Permits and Conditional Use Telecommunications process are review by Community Development Department, decision by Planning and Zoning Commission and appeal to Council. There are different processes in the City for various reviews, decisions and appeals. He stated that it is important for the Commission to know that these different avenues exist. For example, for Administrative Land Review permit the decision is by the Community Development Department and appeal is to the Planning and Zoning Commission.



Mr. Bell responded there are some cases where Planning and Zoning Commission hears the appeal as a result of a Staff decision.



Mr. Fish requested counsel in light of the changes that were made upon the suggestion of the City Attorney's office to explain the rationale behind the changes that were made between the first and current version of the proposed amendment.



Assistant City Attorney Reid responded that she would not testify in a Public Hearing but can give legal advice. She recommended that the Public Hearing be continued and have the information included in the next meeting packet for the Commissioners. The Commission can make a decision without the input from her office if they choose to do so.



Mr. Fish noted that no public was present at the Public Hearing and asked if Staff had any additions to their presentation. Mr. Bell responded that he had nothing further to add.



Mr. Freemire moved;

Ms. Townley seconded: To continue the Public Hearing for Case #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS until the next regularly scheduled meeting March 18, 2014.

Discussion:

Mr. Knoth questioned why the Commission would wait to make a decision on this issue.



Mr. Fish stated that this is the time for the Commission to consider the introduction of a different kind of decision process that does not have precedent and a new process.



Mr. Brick – This is not an urgent case and feels that the Commission should wait for the Attorney’s comment to make a decision.



Mr. King – Questioned why a case coming before the Commission would be better served going to a political entity when the Commission is ahead of the curve. He does not see the advantage of a case going to a political organization. The Commission seems to be favorable to working with people regarding their property. If a case were denied by the Commission it would be a long uphill battle for the individual to have their request approved.



Mr. Knoth – This amendment removes one part of the process (City Council) by sending appeals directly to court. He is not in favor of having to hire an attorney to represent a case in court.



Mr. Freemire – The request for a continuance is not related to the necessary agreement with the City Attorney’s office. He does not agree that people should be treated differently and have a different place to go for appeals. Counter to Staff recommendation that appeals would go to City Council, he does not agree with the City Attorney’s office that the Commission should change both Due Process and Substantive Due Process under the 5th and 14th Amendments. He is interested in hearing the motivation behind the City Attorney’s office for making the change. He feels that it is better to be slow to act and long to consider and just in consideration. He is not aware of any other provision that would require discussion but where to go if there is disagreement on the decision. He would like to know what case law justifies the recommendation.



Mr. Roth added that one argument on the other side is that the “waiver or modification” is similar to a variance. If a variance is not approved, appeal is to the court. He can understand why an appeal to the Commission would be sent to court. The chance of there being a case for the Commission to hear is small and the chance of an appeal is exponentially smaller.



AYES: Brick, Freemire, Kinton, Roth, Townley,
NAYS: King, Knoth, Chair Fish
ABSTAIN: None
ABSENT: Bleile

Motion passes 5-3 in favor of continuing the Public Hearing.



Mr. Freemire requested a transcript of the meeting today due to the fact that Staff was explicit in their recommendations. He was advised that a detailed account would be recorded in the minutes and that the audio recording would be available as well.



IV. Light Rail Corridor Zoning Reform Discussion Continued

John Voboril, Planner II, presented the remainder of the original presentation from the previous study session.



Commercial Parking

In Denver, little off-street parking is provided for mixed use developments. Parking needs are expected to be partially or fully met by on street parking on front and side streets. He presented examples with various ratios of parking per square foot of the retail development. Compared to Englewood's standards, the required parking is considerably less. The opinion of Staff is that we should retain the current ratios for retail and reduce the restaurant ratio from 1:200 to 1:300. It is also recommended that the available space in front of the building on the street be counted as available space.



Ms. Townley – Within the Oxford Station area, is RTD planning to help build a garage or will the light rail users be expected to use on street parking?



Mr. Voboril – RTD is not interested in providing additional parking because of the accessibility of the Oxford Station and also the fare zone that falls within the other stations. Cost of obtaining land would be very high and would require taking land out of private ownership resulting in a loss of tax revenue.

Ms. Townley asked if time limits could be imposed on street parking. Mr. Voboril stated that if the parking demand increased substantially, the issue would need to be addressed.



Mr. Knoth remarked that development would be hampered if parking is too limited. Mr. Roth cited the example of East Evans Avenue where the parking is interfering with residents' ability to park near their homes due to the lack of off street parking.



Mr. Brick – Adequate parking needs to be provided if the industrial area becomes residential.

Mr. Voboril explained that there is not a great deal of retail development expected near the Oxford Station.

Mr. Roth commented that restaurants that do provide a parking area in Englewood are seldom full and that decreasing the ratio would not be a major issue.



Design Guidelines and Standards

Guidelines can be provided and the adherence would basically be voluntary. Communicating the values of the community would provide direction for development. There is a variety of materials and designs present in the existing buildings in the district.

Mr. Freemire commented that the best way to insure integrity in development is to communicate with the developers and existing businesses so that they are clear on expectations. Some requirements should be mandatory.



Mr. Roth asked if the existing buildings would be used as a standard for future development. Mr. Voboril replied that the focus is on the residential side. The questions is whether the desire is to have new development fit in with what exists or do we want to create something completely different.



Mr. King remarked that most communities have standards for hard surfaces and mixed materials. It is common in newer developments to see an eclectic mix of materials.



Ms. Townley asked if there are similar standards in the PUD requirements for transparency and façade treatments. Mr. Knoth commented that he would support aligning standards with the current PUD requirements.



Mr. Fish is in favor of encouraging variation to avoid having blank spaces and solid walls.



Ms. Townley supports Mr. Freemire's opinion on communicating with the neighborhoods and developers to preserve the integrity of the community.

Mr. Madrid commented that we are not as much preserving character as creating it with new development by setting a standard.



Mr. Kinton added that in most cases he would lean toward preservation but the current buildings were built for function and virtually none that cry out for preservation.



Ms. Reid commented that the current PUDs in the district will serve to set a standard for development in the area.

A variety of roofs currently exist representing a number of different materials and profiles. It was agreed that roofs are going to be determined by the developer, but that different treatments should be encouraged.



Ms. Townley suggested a requirement for funding through a fee or performance based system to ensure that common space and/or parks are included in the development. Mr. Voboril stated that the inclusion of parks and open space will be addressed in the Next

Steps study which is a way of locating money and the consultant will be tasked with developing a strategy to incorporate public space in conjunction with the development.



Mr. Freemire added that the long range cost of "green roofs" would be prohibitive as the technology is still developing and it would not be feasible to include requirements that are not cost effective.



Discussion about how to incorporate green space included possible incentives and ways to promote green space development voluntarily by a developer.



Mr. Voboril presented slides with various architectural styles including Alexan Littleton, Riverton Apartments, Evans Station Lofts, new developments at 10th and Osage and use of color. Mr. Roth commented that unless a true form-based code is instituted, there will be a variety depending on the developer's preferences.



Mr. King recently visited a development in Houston that included small lots with detached houses that appear to be popular.



Mr. Voboril presented other developments that are designed to fit in with the industrial area or repurposing of the existing buildings such as in the River North area of Denver.



Director White commented that the TOD would be designed to replace the PUD process. Most of the development requirements would be satisfied through administrative review.



Mr. Voboril commented that height restrictions previously discussed are still under consideration as is a means of addressing the transition area between the residential areas adjacent to the TOD and possible high rise development.



Mr. Madrid added that amenities are market driven and would not be chosen by City Council and are added to lure a tenant and make a property more desirable.



Ms. Townley spoke to creative reuse of buildings and new development should be careful not to disconnect existing buildings.



Additional examples of local developments were presented.



Mr. Neubecker added that there needs to be at least minimum standards to avoid blank walls. There are some existing rules in the code to establish architectural styles and design. The Commission can establish additional development guidelines if needed.

Mr. Roth noted that the PUD standards contain specifications for materials and articulation but this may be scaled down for smaller properties.



Street Network

TOD literature recommends relatively smaller block size to create connections to the station and create visual interest. Oxford station has irregular blocks and larger parcels can benefit from creating a street network within the development.



One consideration is to have the consultant develop a street network within the TOD areas in the Next Steps plan. Feedback from the existing property owners will dictate the direction of the development guidelines and requirements.



V. **PUBLIC FORUM**

No members of the public were present.



VI. **ATTORNEY'S CHOICE**

Ms. Reid did not have any topics for the Commission.



VI. **STAFF'S CHOICE**

Chris Neubecker reviewed future agenda items including the PUD review process for the meeting on March 18th and possibly organizing another field trip for the Commissioners. Suggestions for field trip include Golden, Arvada and the redeveloped RINO area where residential areas have been incorporated into an existing industrial area.



VII. **COMMISSIONER'S CHOICE**

The Commissioners did not have any additional comments.

The meeting adjourned at 8:40 p.m.

/s/ Julie Bailey
Recording Secretary

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
City Council Chambers – Englewood Civic Center
March 18, 2014**



I. CALL TO ORDER

The regular meeting of the City Planning and Zoning Commission was called to order at 7:00 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Fish presiding.

Present: Bleile, Brick, Fish, Freemire, Kinton, Knoth, Roth, Townley, Madrid (alternate)

Absent: King (Excused)

Staff: Chris Neubecker, Senior Planner
Brook Bell, Planner II
Nancy Reid, Assistant City Attorney



II. APPROVAL OF MINUTES

March 4, 2014

Roth moved;

Knoth seconded: TO APPROVE THE MARCH 4, 2014 MINUTES

Chair Fish asked if there were any modifications or corrections. There were none.

AYES: Brick, Freemire, Kinton, Knoth, Roth, Townley, Chair Fish

NAYS: None

ABSTAIN: Bleile

ABSENT: King

Motion passes.



III. FINDINGS OF FACT CASE #2013-06 NONCONFORMING STRUCTURES

Roth moved;

Knoth seconded: TO APPROVE FINDINGS OF FACT FOR CASE #2013-06
NONCONFORMING STRUCTURES

AYES: Brick, Freemire, Kinton, Knoth, Roth, Townley, Chair Fish

NAYS: None

ABSTAIN: Bleile

ABSENT: King

Motion passes.



IV. FINDINGS OF FACT CASE #2013-09 SITE IMPROVEMENT PLAN REVIEW

Roth moved;

Brick seconded: TO APPROVE FINDINGS OF FACT FOR CASE #2013-09 SITE IMPROVEMENT PLAN REVIEW

AYES: Brick, Freemire, Kinton, Knoth, Roth, Townley, Chair Fish

NAYS: None

ABSTAIN: Bleile

ABSENT: King

Motion passes.



III. PUBLIC HEARING CASE #2013-02 SMALL LOT DEVELOPMENT STANDARDS (Continued)

Continuation of Public Hearing from March 4, 2014.

Bleile moved;

Freemire seconded: TO RE-OPEN PUBLIC HEARING CASE #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS

AYES: Brick, Freemire, Kinton, Knoth, Roth, Townley, Bleile, Chair Fish

NAYS: None

ABSTAIN: None

ABSENT: King

Motion passes.



Discussion

Ms. Townley asked Ms. Reid for clarification of "arbitrary and capricious". Ms. Reid explained that if the evidence and the ruling are examined and it appears to the appellate body that the board did not have evidence to make a decision or made a decision contrary to the evidence, it would be considered a capricious action.



Mr. Neubecker asked Chair Fish to recognize on the record that someone had signed up to speak to the commission during public comment, but did not present themselves during the public hearing.

Bleile moved;

Knoth seconded: TO CLOSE THE PUBLIC HEARING FOR CASE #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS

AYES: Bleile, Brick, Freemire, Kinton, Knoth, Roth, Townley, Chair Fish
NAYS: None
ABSTAIN: None
ABSENT: King



Mr. Roth moved;

Knoth seconded: TO APPROVE CASE #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS AS WRITTEN

Discussion:



Mr. Bleile asked if there was discussion to change the proposed amendment in order to name City Council as arbiter of appeals rather than the court. Chair Fish recapped the previous study session and subsequent Public Hearing, in which such discussion happened.



Mr. Freemire stated that one amendment was proposed to change the process to include appeals to decisions of the Commission to City Council, as opposed to the court as recommended by the City Attorney. He requested a Friendly Amendment to the motion to remove District Court as arbiter of appeals and add City Council.



Mr. Roth declined the Friendly Amendment stating that his opinion was to send the case to City Council as written, and let them decide if they want to be responsible for appeals.



Freemire moved;

Brick seconded: TO AMEND THE MOTION TO ALLOW FOR APPEALS TO DECISIONS BY THE PLANNING AND ZONING COMMISSION TO GO TO THE CITY COUNCIL IN THE MATTER OF SMALL LOT DEVELOPMENT STANDARDS.



Discussion:



Mr. Knoth – It is appropriate for an appeal to go to City Council to avoid incurring legal expenses for an applicant.



Mr. Brick – There will not be many appeals and agreed with Mr. Freemire that citizens should have the opportunity to appeal to City Council.



Mr. Roth - It was noted by staff that there are 45 properties in the City that would potentially make use of this process, 31 of which are attached townhomes and the remaining 14 properties are not likely to be developed.



Mr. Fish – Per the City Attorney's office, this potential appeal situation is similar to the variance process and the precedent of sending appeals to the Board of Adjustment and Appeals rather than the court; that precedent provides justification for sending appeals to the City Council for resolution.



Mr. Freemire – 1) Cited Colorado law with regard to the right of a citizen to appeal to the governing body; 2) by law, we are to begin with local officials and work up through the system to resolve appeals; and 3) we can never prohibit citizens from presenting their case to an elected or appointed official.



Vote: TO AMEND THE MOTION TO ALLOW FOR APPEALS TO DECISIONS OF THE PLANNING AND ZONING COMMISSION TO GO TO THE CITY COUNCIL IN THE MATTER OF SMALL LOT DEVELOPMENT STANDARDS.

AYES: Bleile, Brick, Freemire, Kinton, Knoth, Townley, Chair Fish
NAYS: Roth
ABSTAIN: None
ABSENT: King

Motion passes.

Motion: TO APPROVE CASE #2013-02 AMENDMENTS TO SMALL LOT DEVELOPMENT STANDARDS AS RECOMMENDED BY STAFF WITH THE PROVISION THAT APPEALS WILL BE ARBITRATED BY CITY COUNCIL.

AYES: Bleile, Brick, Freemire, Kinton, Knoth, Townley, Roth, Chair Fish
NAYS: None
ABSTAIN: None
ABSENT: King



Brick – This amendment will provide opportunities for residents to be current and creative with their properties without causing harm or offense to other residents.

Bleile – There has been much discussion regarding this topic and Mr. Freemire has added to the discussion with his professionalism and insight. Agrees with changing “District Court” to “City Council.”

Brick – The text amendment promotes the general welfare of the community to improve properties.

Freemire – This is good for the community. It grants equal rights to property owners (to appeal to elected officials) regardless of property size.

Kinton – Anything that can be done at the local level rather than through the courts is beneficial to the citizens of the community.

Knoth – The Commission has been fixing holes in the code and processes and this amendment can help pull those properties that may have had issues back into the code.

Roth – Feels that this is a good fix to the code as this issue has a long history. Ten years ago we had a discussion on this same topic that some properties do not meet all the parameters of the code. This fixes that problem.

Townley – This amendment will help support property owners who want to make improvements.

Chair Fish - Agrees with other Commission member that this is a needed “fix” to the code that was previously omitted. The additions by the Attorney’s office strengthen the code by

adding additional conditions. There is not a compelling reason to alter the traditional appeal process. The subsequent decision by the Commission to have appeals go to City Council is the correct decision.



IV. STUDY SESSION – Policy on Code Amendments

Chris Neubecker, Senior Planner, explained the necessity to administratively make changes to the UDC when an ordinance is adopted. Other elements in the code sometimes refer to an amended section and will also require updating. To date, staff has not brought all of the changes to the Commission in the interest of time and effort.



Bleile – Asked for clarification on what the Commissioners will receive to review the additional changes to the UDC. Mr. Neubecker responded that as proposed, they would not receive the text changes to other parts of the UDC, but would receive the “meat and potatoes”, the significant proposed changes.



Ms. Reid explained the process for correcting the code and that the intention is to make the code as consistent as possible. Mr. Knoth expressed that he would like to see all of the changes. A synopsis of the changes can be supplied to the Commission.



Mr. Freemire suggested that a way to address the process would be to supply the commission with an outline of all the changes and supply city council with an ordinance once a year to “cleanup.”



The consensus of the Commission is to accept Staff recommendations and at the next public hearing, take a vote to adopt the procedural change.



V. PUBLIC FORUM

No Public was present to address the commission



VI. ATTORNEY’S CHOICE

Ms. Reid did not have any further topics for discussion.



VII. STAFF’S CHOICE

Mr. Neubecker – Councilmember Wilson has requested that staff meet with homebuilders in Englewood to share feedback on the development codes and processes. The informal meeting will be held at Civic Center on April 2nd.



VIII. COMMISSIONER’S CHOICE

The next meeting will be April 8, 2014, provided there are items for the agenda.

Meeting adjourned at 8:00 p.m

|

/s/ Julie Bailey
Recording Secretary

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

**IN THE MATTER OF CASE #ZON2013-002)
SMALL LOT DEVELOPMENT STANDARDS,)
FINDINGS OF FACT, CONCLUSIONS)
AND RECOMMENDATIONS RELATING)
TO THE UNIFIED DEVELOPMENT CODE)**

**FINDINGS OF FACT AND
CONCLUSIONS OF THE
CITY PLANNING AND
ZONING COMMISSION**

**INITIATED BY:)
Community Development Department)
1000 Englewood Parkway)
Englewood, CO 80110)**

Commission Members Present: Brick, Knoth, Roth, Fish, Welker, Townley, Kinton

Commission Members Absent: Bleile, King

This matter was heard before the City Planning and Zoning Commission on November 19, 2013 in the City Council Chambers of the Englewood Civic Center. The public hearing was reopened on March 4, 2014 and continued to March 18, 2014.

Testimony was received from staff. The Commission received notice of Public Hearing, the Staff Report, and a copy of the proposed amendments to Title 16 Unified Development Code which were incorporated into and made a part of the record of the Public Hearings.

After considering the statements of the witness and reviewing the pertinent documents, the members of the City Planning and Zoning Commission made the following Findings and Conclusions.

FINDINGS OF FACT

1. **THAT** the Public Hearing on the Unified Development Code (UDC) ZON2013-002 Small Lot Development Standards were brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** Public Notice of the Public Hearing was given by publication in the Englewood Herald on November 8, 2013, and was on the City's website from November 5, 2013, through November 19, 2013. Public Notice of the March 4, 2014 Public Hearing was given by publication in the Englewood Herald on February 21, 2014 and on the City's website from February 19, 2014 through March 4, 2014.
3. **THAT** the Staff report was made part of the record.

4. **THAT** since the UDC was adopted in 2004, it has become apparent that a number of smaller residential properties are not regulated in terms of Development Standards and associated Dimensional Requirements.
5. **THAT** the UDC defines a "small lot" as: "A legal lot of record existing on the effective date of this Title (February 23, 2004) where the lot width or lot area is less than the minimum standard for a one-unit dwelling in the zone district in which the lot is located."
6. **THAT** while the UDC has Dimensional Requirements for "small lots", it does not have requirements for properties that are smaller than the "small lots" described in UDC Table 16-6-1.1.
7. **THAT** from this point forward, these smaller lots will be referred to as "Urban Lots".
8. **THAT** there are approximately 275 of these properties within the City.
9. **THAT** in order to effectively regulate these smaller residential lots, and to provide greater certainty for property owners, the proposed UDC amendments are necessary
10. **THAT** the review process for nonconforming lots will transfer the decision-making authority from the City Manager or designee to the Planning and Zoning Commission.
11. **THAT** including the Planning and Zoning Commission in the decision-making process ensures a public hearing with due process and appropriate public notice.
12. **THAT** Section 5, Objective 1-3 of "Roadmap Englewood: 2003 Englewood Comprehensive Plan" encourages housing investments that improve the housing mix, including both smaller and larger unit sizes.
13. **THAT** Section 5, Objective 2-1 of "Roadmap Englewood: 2003 Englewood Comprehensive Plan" encourages home ownership, property improvements and house additions.
14. **THAT** during preparation of the Bill for an Ordinance the City Attorney indicated that the proposed amendments required some additional review criteria and supplementary language regarding appeals.
15. **THAT** the public hearing was reopened on March 4, 2014 with additional review criteria and supplementary language regarding appeals and that the hearing was continued to March 18, 2014.

CONCLUSIONS

1. **THAT** the Public Hearing on the Unified Development Code ZON2013-002 Small Lot Development Standards Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.
2. **THAT** Public Notice of the Public Hearing was given by publication in the Englewood Herald on November 8, 2013, and was on the City's website from November 5, 2013, through November 19, 2013. Public Notice of the March 4, 2014 Public Hearing was given by publication in the Englewood Herald on February 21, 2014 and on the City's website from February 19, 2014 through March 4, 2014.
3. **THAT** the proposed amendments will effectively regulate smaller residential lots (hereafter called "Urban Lots") that contain or contained a one-unit dwelling existing on or before February 23, 2004, and have 25 ft. or more of Lot Width, and 3000 sq. ft. or more of Lot Area.
4. **THAT** the proposed amendments will establish a process for the possible development of Vacant Urban Lots that legally existed on or before February 23, 2004, and have 25 ft. or more of Lot Width, and 3000 sq. ft. or more of Lot Area.
5. **THAT** the proposed amendments will establish a process for regulating Urban Lots with less than 25 ft. of Lot Width or less than 3,000 sq. ft. of Lot Area.
6. **THAT** additions, redevelopment, or development of these properties will be possible if approved by the Planning and Zoning Commission at a public hearing. Any appeals to the Planning and Zoning Commission's decision will be to City Council.
7. **THAT** the previously discussed amendments be forwarded to City Council.
8. **THAT** Section 5, Objective 1-3 of "Roadmap Englewood: 2003 Englewood Comprehensive Plan" encourages housing investments that improve the housing mix, including both smaller and larger unit sizes.
9. **THAT** Section 5, Objective 2-1 of "Roadmap Englewood: 2003 Englewood Comprehensive Plan" encourages home ownership, property improvements and house additions.
10. **THAT** the Planning and Zoning Commission achieved consensus on the additional review criteria, and that any appeals to the Planning and Zoning Commission's decisions on nonconforming lots be brought to City Council.

DECISION

THEREFORE, it is the decision of the City Planning and Zoning Commission that Case #ZON2013-002 Unified Development Code Small Lot Development Standards Amendments should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on March 18, 2014, by Freemire, seconded by Brick, which motion states:

CASE ZON2013-002, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO SMALL LOT DEVELOPMENT STANDARDS BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH THE PROVISION THAT APPEALS WILL BE ARBITRATED BY CITY COUNCIL.

AYES: Bleile, Townley, Knoth, Chair Fish, Roth, Freemire, Kinton, Brick
NAYS: None
ABSTAIN: None
ABSENT: King

Motion carried.

These Findings and Conclusions are effective as of the meeting on March 18, 2014.

BY ORDER OF THE CITY PLANNING & ZONING COMMISSION

Ron Fish, Chair

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2014

COUNCIL BILL NO. 45
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, CHAPTER 2, SECTION 2; TITLE 16, CHAPTER 6, SECTION 1, PARAGRAPH B; TITLE 16, CHAPTER 9, SECTION 4; AND TITLE 16, CHAPTER 11, SECTION 2, PARAGRAPH B, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO SMALL LOTS.

WHEREAS, the Unified Development Code, adopted in 2004, does not regulate “small lot” residential properties in terms of Development Standards and associated Dimensional Requirements; and

WHEREAS, any residential lot not meeting the minimal dimensional standards is treated as a non-conforming lot; and

WHEREAS, currently the following properties are not effectively regulated:

- In R-1-A and R-1-B Zone Districts: Properties with lot width greater than or equal to 25’, but less than 50’; and with lot area greater than or equal to 3,000 sf, but less than 6,000 sf (+ - 13 Total in the City).
- In R-1-C Zone Districts: Properties with lot width greater than or equal to 25’, but less than 37’; and with lot area greater than or equal to 3,000 sf, but less than 4,500 sf (+ - 40 Total in the City).
- In R-2 or R-3 Zone Districts: Properties with lot width greater than or equal to 25’, but less than 40’; and with lot area greater than or equal 3,000 sf, but less than 4,000 sf (+ - 176 Total in the City).
- In Medical Zone Districts: Properties with lot width greater than or equal to 25’; but less than 40’; and with lot area greater than or equal 3,000 sf, but less than 4,000 sf + - 1 Total in the City).
- In Residential and Medical Zone Districts: Properties with lot width of less than 25’; and with lot area less than 3,000 sf (+ - 45 Total in the City).

WHEREAS, these properties do not fit the “small lot” criteria and do not have any minimum setback, maximum height, or maximum lot coverage requirements. There are approximately 275 of these properties within the City; and

WHEREAS, the nonconforming status of these lot create uncertainty for lenders, who are then reluctant to lend on a property where the entitlements are vague or unknown; and

WHEREAS, these regulations for smaller residential lots, will provide greater certainty for property owners; and

WHEREAS, the Englewood Planning and Zoning Commission held a Public Hearing on November 19, 2013 to consider amendments to the Unified Development Code to establish regulations for smaller lots; and

WHEREAS, the November 19, 2013 Englewood Planning and Zoning Commission Public Hearing was reopened on March 4, 2014 and continued to March 18, 2014; and

WHEREAS, the proposed amendments will effectively regulate smaller residential lots (hereafter called "Urban Lots") that contain or contained a one-unit dwelling existing on or before February 23, 2004, and have 25 feet or more of Lot Width, 3,000 square feet or more of Lot Area, and will establish a process for the possible development of vacant Urban Lots of that size; and

WHEREAS, the proposed amendments will establish criteria and a process for the possible development of Urban Lots with less than 25 feet of Lot Width or less than 3,000 square feet of Lot Area that contain an existing dwelling unit or are vacant; and

WHEREAS, additions, redevelopment, or development of these properties will be possible if approved by the Planning and Zoning Commission at a public hearing which insures due process and appropriate public notice; and

WHEREAS, this proposed amendment is consistent with Roadmap Englewood: 3002 Englewood Comprehensive Plan and. encourages housing investments that improve the housing mix, including both smaller and larger unit sizes; and

WHEREAS, additional review criteria will create a clear basis for development of these small lots; and

WHEREAS, the Planning and Zoning Commission recommended that appeals from the Planning and Zoning Commission's decisions on nonconforming lots be brought to City Council for a de novo determination.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 2, entitled *Summary of Development Review and Decision-Making Procedures* of the Englewood Municipal Code 2000, to read as follows:

16-2-2: Summary Table of Administrative and Review Roles.

The following table summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of the procedures set forth in this Chapter. For purposes of this table, an "(Approval) Lapsing Period" refers to the total time from the application's approval that an applicant has to proceed with, and often complete, the approved action. Failure to take the required action within the specified "lapsing period" will automatically void the approval. See Section 16-2-3.L EMC, "Lapse of Approval," below.

TABLE 16-2-2.1: SUMMARY OF DEVELOPMENT REVIEW AND DECISION-MAKING PROCEDURES

Procedure	Section Ref.	Pre-App Mtg Req'd	Review (R) Decision-Making (D) or Appeal (A) Bodies				Notice Required ¹			Lapsing Period
			CM/D	PC	CC	BAA	Pub	Mail	Post	
Adaptive Reuse of Designated Historical Buildings	16-5-3	✓	R	R	D		✓		✓	None
Administrative Adjustments	16-2-17	✓	D			A				None
Administrative Land Review Permit	16-2-11	✓	D	A						60 days to record
Amendments to the Text of this Title	16-2-6		R	R	D		✓			None
Annexation Petitions	16-2-5	✓	R	R	D		✓		✓	None
Appeals to Board	16-2-18	✓				D	✓			None
Comprehensive Plan Amendments	16-2-4		R	R	D		✓			None
Conditional Use Permits	16-2-12	✓	R	D	A		✓		✓	1 year
Conditional Use - Telecommunication	16-7	✓	R	D	A		✓	✓	✓	None
Development Agreements	16-2-15		R		D					As stated in Agreement
Floodplain Dev't. Permit and Floodplain Variances	See Chapter 16-4 for applicable procedures and standards									
Historic Preservation	16-6-11	✓	R	R	D		✓		✓	None
Landmark Sign	16-6-13	✓		D	A		✓		✓	
Limited Review Use Permits	16-2-13	✓	D	A						1 year
Major Subdivisions	16-2-10									
Preliminary Plat		✓	R	R	D		✓	✓	✓	6 months to submit Final Plat
Final Plat			R	R	D		✓	✓	✓	60 days to record
Simultaneous Review Preliminary Plat/Final		✓	R	R	D		✓	✓	✓	60 days to record

Plat										
Recorded Final Plat										None
Minor Subdivision	16-2-11									
Preliminary Plat		✓	D	A						6 months to submit Final Plat
Final Plat			D	A						60 days to record
Recorded Final Plat										None
<u>Nonconforming Lots</u>	<u>16-9-4</u>	<u>✓</u>	<u>R</u>	<u>D</u>	<u>A</u>		<u>✓</u>		<u>✓</u>	<u>None</u>
Official Zoning Map Amendments (Rezoning)	16-2-7	✓	R	R	D		✓	✓	✓	None
PUD and TSA Rezoning	16-2-7	✓	R	R	D		✓	✓	✓	None
Temporary Use Permits	16-2-14	✓	D	A						As stated in Permit
Unlisted Use Classifications	16-5-1.B	✓	D	A						None
Zoning Site Plan	16-2-9		D	A						3 years
Zoning Variances	16-2-16	✓	R			D	✓		✓	180 days
CM/D = City Manager or Designee (Including the Development Review Team) PC = Planning and Zoning Commission CC = City Council BAA = Board of Adjustment and Appeals										
¹ Notice Required: See Table 16-2-3.1 Summary of Mailed Notice Requirements										

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 1, Paragraph B, Table 1.1, entitled *Summary of Dimensional Requirements for Principal Structures* of the Englewood Municipal Code 2000, to read as follows:

Summary Table of Dimensional Requirements for Principal Uses and Structures. All principal structures and uses shall be subject to the intensity and dimensional standards set forth in the following Table 16-6-1.1. These standards may be further limited by other applicable sections of this Title. Additional regulations for the residential districts, and special dimensional regulations related to lot area, setbacks, height, and floor area are set forth in the subsections immediately following the table. Rules of measurement are set forth in subsection 16-6-1.A EMC. Dimensional requirements for accessory structures are set forth in subsection 16-6-1.I EMC.

TABLE 16-6-1.1: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES								
	Min Lot Area (sq ft)	Max FAR	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Minimum Setbacks (ft)		
						Front	Each Side [1] & [2]	Rear
R-1-A District								
One-Unit Dwelling	9,000	None	35	75	32	25	7	20
One-Unit Dwelling on a Small Lot [5]	6,000 [4]	None	40	50	32	25	5	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000 [7]</u>	<u>None</u>	<u>40</u>	<u>25 [7]</u>	<u>32</u>	<u>25</u>	<u>3</u>	<u>20</u>
All Other Allowed Uses	24,000	None	35	200	32	25	25	25
R-1-B District								
One-Unit Dwelling	7,200	None	40	60	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	6,000 [4]	None	40	50	32	25	5	20

<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000</u> <u>[7]</u>	<u>None</u>	<u>40</u>	<u>25</u> <u>[7]</u>	<u>32</u>	<u>25</u>	<u>3</u>	<u>20</u>
All Other Allowed Uses	24,000	None	40	200	32	25	25	25
R-1-C District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,500 [4]	None	35 <u>40</u>	37	32	25	3	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000</u> <u>[7]</u>	<u>None</u>	<u>40</u>	<u>25</u> <u>[7]</u>	<u>32</u>	<u>25</u>	<u>3</u>	<u>20</u>
All Other Allowed Uses	24,000	None	40	200	32	25	25	25
R-2-A District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35 <u>40</u>	40	32	25	3	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000</u> <u>[7]</u>	<u>None</u>	<u>40</u>	<u>25</u> <u>[7]</u>	<u>32</u>	<u>25</u>	<u>3</u>	<u>20</u>
Multi-Unit Dwelling (Maximum 2 units)	3,000 per unit	None	40	25 per unit [4]	32	25	5	20
All Other Allowed Uses	24,000	None	60	200	32	25	25	25

R-2-B District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35 <u>40</u>	40	32	25	3	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000 [7]</u>	<u>None</u>	<u>40</u>	<u>25 [7]</u>	<u>32</u>	<u>25</u>	<u>3</u>	<u>20</u>
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	3,000 per unit	None	60	25 per unit [4]	32	25	5	20
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
MU-R-3-A District								
One-Unit Dwelling	6,000	None	40	50	32	25	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35 <u>40</u>	40	32	25	3	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000 [7]</u>	<u>None</u>	<u>40</u>	<u>25 [7]</u>	<u>32</u>	<u>25</u>	<u>3</u>	<u>20</u>
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	3,000 per unit	None	60	25 per unit [4]	32	25	5	25

Lot Width)								
Private Off-Street Parking Lots	12,000	None	70	None	n/a	25	15	15
Office, Limited	15,000	1.5 (Excluding the gross floor area of parking structures)	50	None	32	25	15	25
All Other Allowed Uses	24,000	None	60	200	32	25	25	25
MU-R-3-B District (See Additional Regulations Following the Table)								
One-Unit Dwelling	6,000	None	40	50	32	15	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35 <u>40</u>	40	32	25 <u>15</u>	3	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000</u> <u>[7]</u>	<u>None</u>	<u>40</u>	<u>25</u> <u>[7]</u>	<u>32</u>	<u>15</u>	<u>3</u>	<u>20</u>
Multi-Unit Dwelling (Maximum Units Based on Lot Area & Lot Width)	2-4 units: 3,000 per unit; Each additional unit over 4 units: 1,000 per unit [4]	None	75	None	2-4 units: 32 More than 4 units: 60	15	2-4 units: 5 More than 4 units: 15	25
Office, Limited	24,000	1.5 (Excluding the gross floor area of parking structures)	75	None	60	15	15 [3]	25
All Other Allowed Uses	24,000 [4]	None	75	None	60	15	15	25
MU-R-3-C District (See Additional Regulations Following the Table)								

One-Unit Dwelling	6,000	None	40	50	32	15	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	None	35 <u>40</u>	40	32	15	3	20
<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000 [7]</u>	<u>None</u>	<u>40</u>	<u>25 [7]</u>	<u>32</u>	<u>15</u>	<u>3</u>	<u>20</u>
Multi-Unit Dwelling	6,000	None	75	None	40	15	5	20
Office, Limited	6,000	None	75	None	40	15	5	20
All Other Allowed Uses	24,000 [4]	None	75	None	40	15	5	20
M-1, M-2, M-O-2 Districts (See Table 16-6-1.1a)								
MU-B-1 District (See Additional Regulations Following the Table)								
Live/Work Dwelling	None	None	None	None	100	0 and no more than 5 feet	0	5
Multi-Unit Dwelling [4]	None	None	None	None	100	0 and no more than 5 feet	0	5
All Other Allowed Uses	None	None	None	None	100	0 and no more than 5 feet	0	5
MU-B-2 District (See Additional Regulations Following the Table)								
Multi-Unit Dwelling [4]	None	None	None	None	60	0 and no more than 5 feet	0	5
All Other Allowed Uses	None	None	None	None	60	0 and no more than 5 feet	0	5
TSA District								
<i>Please refer to Section 16-6-14 EMC, of this Chapter</i>								

and the applicable Station Area Design Standards and Guidelines <i>for intensity and dimensional standards.</i>						
I-1 AND I-2						
All Allowed Uses Except Manufactured Home Parks	None	2:1	None	None	None	Where a building abuts upon, adjoins, or is adjacent to a residential zone district, minimum setbacks of 10 ft on all sides are required, except as required in Section 16-6-7.G, "Screening Requirements."
Manufactured Home Parks	See Section 16-5-2.A.3, above.					
Notes to Table:						
[1] The minimum side setback stated in this table for one-unit attached and multi-unit dwellings shall apply to the entire dwelling structure, and not to each individual dwelling unit located in the structure.						
[2] The minimum side setback standard for principal residential dwellings in the residential (R) zone districts, as stated in this Table, shall apply to such dwellings that existed on the Effective Date of this Title. However, principal residential dwellings existing on the Effective Date of this Title, and which as of that date are not in compliance with the minimum side setback standards established in this Table, shall not be considered nonconforming structures due solely to the dwelling's noncompliance with the minimum side setback. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. See Section 16-9-3 (Nonconforming Structures), below.						
[3] The minimum separation between principal buildings located on the same or adjoining lots, whether or not the lots are under the same ownership, shall be fifteen feet (15').						
[4] See Section 16-6-1.C for additional dimensional standards appropriate to the zone district.						
[5] Small lot of record on or before February 23, 2004.						
<u>[6] Urban lot of record that contained or contains a one-unit dwelling that existed on or before the Effective Date of this Title (February 23, 2004). Vacant Urban Lots follow same process as Nonconforming Lots, see Section 16-9-4.</u>						
<u>[7] For Urban Lots with less than 3,000 sq. ft. of Lot Area or less than 25 ft. of Lot Width follow same process as Nonconforming Lots, see Section 16-9-4.</u>						

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 6, Section 1, Paragraph B, Table 1.a, entitled *Summary of Dimensional Requirements for Principal Structures Located Within Medical Zone Districts and Overlays* of the Englewood Municipal Code 2000, to read as follows:

TABLE 16-6-1.1a: SUMMARY OF DIMENSIONAL REQUIREMENTS FOR PRINCIPAL STRUCTURES LOCATED WITHIN MEDICAL ZONE DISTRICTS AND OVERLAYS												
	Min Lot Area (sq ft)	Max Lot Coverage (%)	Min Lot Width (ft)	Max Height (ft)	Max Retail Gross Floor Area (sq ft)	Minimum Setbacks (ft)						
						Front	Front Upper Story Setback Above 60 Feet	Side: Adjacent Street [1] & [2]	Side: Adjacent Alley [1] & [2]	Side: Adjacent Side [1] & [2] (Lots fronting Hampden, Jefferson or the 3500 blocks of Logan and Clarkson)	Side: Adjacent Side [1] & [2] (Lots fronting all other streets)	Rear
M-1 and M-2 Districts and M-O-2 Overlays (See Additional Regulations Following the Table)												
Live/Work Dwelling	6,000 [4]	None	None	32	10,000 [4]	0 and no more than 10	NA	0 and no more than 10	5	0	5	5 [4]
One-Unit Dwelling	6,000	40	50	32	NA	15	NA	5	5	5	5	20
One-Unit Dwelling on a Small Lot [5]	4,000	35 40	40	32	NA	15	NA	3	3	3	3	20

<u>One-Unit Dwelling on an Urban Lot [6]</u>	<u>3,000</u> [7]	<u>40</u>	<u>25</u> [7]	<u>32</u>	<u>NA</u>	<u>15</u>	<u>NA</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>3</u>	<u>20</u>
All Other Allowed Uses	6,000 [4]	None	None	Height Zone 1:145 Height Zone 2:60 Height Zone 3:32 [4]	10,000 [4]	0 and no more than 10	20 [4]	0 and no more than 10	5	0	5	5 [4]

Notes to Table:

[1] The minimum side setback stated in this table for one-unit attached and multi-unit dwellings shall apply to the entire dwelling structure, and not to each individual dwelling unit located in the structure.

[2] The minimum side setback standard for principal residential dwellings in the residential (R) zone districts, as stated in this table, shall apply to such dwellings that existed on the effective date of this Title. However, principal residential dwellings existing on the effective date of this Title, and which as of that date are not in compliance with the minimum side setback standards established in this table, shall not be considered non-conforming structures due solely to the dwelling's non-compliance with the minimum side setback. Such dwellings are "grandfathered," and shall be considered legal, conforming structures for the purposes of sale and development under this Title and other City building and safety regulations. See section 16-9-3 (Non-Conforming Structures), below.

[3] The minimum separation between principal buildings located on the same or adjoining lots, whether or not the lots are under the same ownership, shall be fifteen feet (15').

[4] See section 16-6-1.C for additional dimensional standards appropriate to the zone district.

[5] Small lot of record on or before February 23, 2004.

[6] Urban lot of record that contained or contains a one-unit dwelling that existed on or before the Effective Date of this Title (February 23, 2004). Vacant Urban Lots follow same process as Nonconforming Lots, see Section 16-9-4.

[7] For Urban Lots with less than 3,000 sq. ft. of Lot Area or less than 25 ft. of Lot Width follow same process as Nonconforming Lots, see Section 16-9-4.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 9, Section 4, entitled *Nonconforming Lots* of the Englewood Municipal Code 2000, to read as follows:

16-9-4: Nonconforming Lots.

A. Nonconforming ~~Vacant~~-Lot.

1. A nonconforming ~~vacant~~ lot may be used only for a use permitted in the zone district in which the lot is located. ~~The City Manager or designee~~ Planning and Zoning Commission may waive or modify minimum open-space lot coverage, parking lot area, bulk plane, height, setback, or lot width, or other requirements for any nonconforming lot if ~~he/she~~ it finds that the proposed development meets the criteria listed below:
 - a. The lot cannot otherwise be used for any purpose permitted within the zone district applicable to the property; and
 - b. The waiver, or modification, if granted, is necessary to afford relief with the least modification possible of the development or dimensional standards otherwise applicable to the property; and
 - c. The proposed development is consistent with the spirit and intent of the Comprehensive Plan; and
 - d. The lot coverage, bulk plane, height, setbacks, and massing of the proposed development will not vary substantially from the surrounding properties or alter the essential character of the neighborhood; and
 - e. The proposed development is compatible with the established development patterns and intent of the zone district.
2. ~~Any appeal from the City Manager or designee's decision shall be to the Board.~~ The Planning and Zoning Commission's decision on any development of a nonconforming lot shall be made at a public hearing that has been published and posted as required in Section 16-2-3(G) of this Title.
3. Any appeal from the Planning and Zoning Commission's decision shall be to City Council as a de novo review. Such appeal shall be filed no more than thirty (30) days from the date of the Planning and Zoning Commission's final decision.
- ~~3~~ 4. No nonconforming lot shall be further subdivided or shall have its boundaries altered in any manner that would compound, expand, or extend the nonconforming characteristic(s) of the lot.

Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 2(B), entitled *Definitions of Words, Terms, and Phrases* of the Englewood Municipal Code 2000, by the addition of the following definition in alphabetical order to read as follows:

Lot. Urban: A legal lot of record existing on the effective date of this Title (February 23, 2004) where the lot width or lot area is less than the minimum standard for a one-unit dwelling on a small lot in the zone district in which the lot is located.

Section 6. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 8. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 9. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 10. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 21st of July, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25th of July, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of July, 2014 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 21st day of July, 2014.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date: August 4, 2014	Agenda Item: 11 c i	Subject: Award Contract for Recreation Center Track Replacement
Initiated By: Public Works Parks & Recreation		Staff Source: Michael Hogan, Facilities and Operations Manager Joe Sack, Recreation Services Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Project approved through 2014 CTF budgeting process.

Goals met by this project include:

- A city that provides and maintains quality infrastructure
- A city that provides diverse cultural, recreational and entertainment opportunities
- A safe clean and attractive city

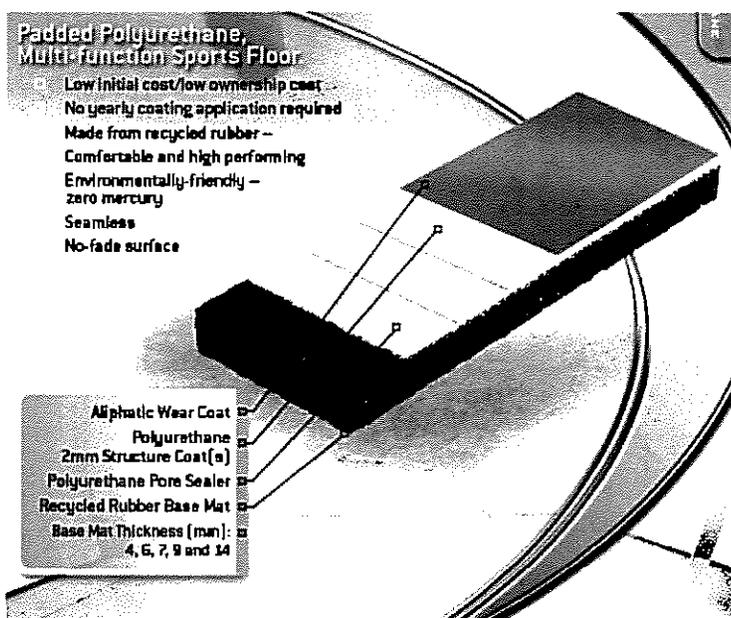
RECOMMENDED ACTION

Staff recommends that City Council approve, by motion, a construction contract for ITB-14-010 **“Recreation Center Track Replacement Project”**, in the amount of **\$52,924.00** to the lowest responsible bidder, **Rocky Mountain Decks & Floors Inc.**

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Englewood Recreation Center running/walking track is the largest track of its type in the metro area and is one of the most popular amenities that the Center offers. The track surface has proved to be of high quality and very durable lasting 29 years. This project replaces the original track surface from 1985 and allows the Englewood Recreation Center to improve the surface and continue to offer a safe, attractive and popular recreational amenity.

Multiple track surfacing options were identified and considered. Bidders were required to bid Horner Sports Flooring – Cushion Court series flooring or similar. Rocky Mountain Decks & Floors was the original installer of the current track surface in 1985 and supports the Horner Sports Flooring



Line. The standard Cushion Court system is the ultimate in multi-function performance. While providing the shock absorption and frictional characteristics of traditional wood floors, it allows end users to utilize their floors for a much broader spectrum of activities. Available in shock absorption levels ranging from 15% to 35%, Cushion Court provides great participant safety and ergonomic comfort while providing facility owners and managers with great versatility.

FINANCIAL IMPACT

One Bid was received and opened on June 25th as detailed in the attached Bid Tabulation. Rocky Mountain Decks & Floors submitted the bid. This firm has worked for Englewood in the past including installing the current floor in 1985 and helping with periodic maintenance over the last 29 years. Our reference check and research finds their qualifications acceptable. They have successfully completed a similar track type installation projects for local school districts.

Costs associated with the project are as follows:

Rocky Mountain Decks & Floors (Construction)	\$ 52,924.00
Construction contingency	\$ <u>2,000.00</u>
Total Estimated Cost	\$ 54,924.00

Funding for the project is proposed as follows:

Conservation Trust Funds Budgeted (1301-0005)	\$ <u>55,000.00</u>
Total Proposed Funding	\$ 55,000.00

LIST OF ATTACHMENTS

- Invitation to Bid
- Bid Tabulation
- Contract



CITY OF ENGLEWOOD
PURCHASING DIVISION

REQUEST NO. ITB-14-010
DATE: June 2, 2014

INVITATION TO BID
Recreation Center Track Replacement Project

The City of Englewood will receive sealed bids for supplying "**Recreation Center Track Replacement Project**" as per specifications no later than Wednesday, June 25, 2014 **prevailing time, 2:00 P.M. MDT**. Bids will be received at the Englewood Civic Center 3rd Floor Central Cashiering Attention: Procurement Division 1000 Englewood Parkway, Englewood, CO 80110-2373. Bids will be publicly opened and read aloud at 2:00 P.M. in the Public Works Conference Room located on the 3rd floor of the Englewood Civic Center.

Bidding firms are asked to mark envelope "**Recreation Center Track Replacement**" in lower left hand corner with the **Bid #ITB-14-010** shown on the front of the envelope in which the bid is submitted. The City of Englewood assumes no responsibility for unmarked envelopes being considered for award. If City offices are closed due to inclement weather, an amendment will be issued with a new date, time and address of the bid opening.

At time, date, and place above, bids will be publicly opened and read out loud. Late bids will not be accepted under any circumstance, and any bid so received shall be returned to the bidding firm unopened. In addition, telegraphic and/or bids sent by electronic devices are not acceptable and will be rejected upon receipt. Bidding firms will be expected to allow adequate time for delivery of their bid either by air freight, postal service, or other means. Bidding firms are invited to, but not required to attend the bid opening.

The City of Englewood has contracted with BidNet that utilizes a central bid notification system created for the City of Englewood. This system allows vendors to register online and receive notification of new bids, amendments and awards. If you do not have internet access, please call the BidNet support group at (800) 677-1997 extension #214. Vendors with internet access should review the registration options at the following website:

<http://www.RockyMountainBidSystem.com>

The City of Englewood cannot guarantee accurate information of plans and specifications obtained from sources other than the Rocky Mountain E-Purchasing System (RMEPS).

Any questions or clarifications concerning this bid shall be submitted in writing by e-mail to astutz@englewoodgov.org at the City of Englewood, Procurement Division, 1000 Englewood Parkway, Englewood, CO 80110. The bid title and number should be referenced on all correspondence. **All questions must be received no later than 10:00 A.M. MDT Wednesday, June 18th.** All responses to questions/clarifications will be listed on the Rocky Mountain E-Purchasing Site as listed above in the form of an addendum no later than Friday, June 20, 2014. The City will not be bound nor responsible for any explanations or interpretations other than those given in writing as set forth in this invitation for bid. No oral interpretations shall be binding on the City.

All material submitted in connection with this bid becomes the property of the City of Englewood. Any and all bids received by the City shall become public record and shall be open to public inspection after the award of a contract, except to the extent the bidding entity designates trade secrets or other proprietary data to be confidential.

The successful bidding entity agrees to comply with all applicable Federal, State, County and City laws, ordinances, rules and regulations that in any manner affect the items covered herein and agrees to secure all necessary licenses and permits in connection with this invitation and any goods or services to be provided.

Where bidding entities are required to enter City of Englewood property to deliver materials or perform work or services as a result of an award, the entity will assume the obligation and expense of obtaining all necessary licenses, permits and insurance. The bidding entity shall be required to have property, liability, and workers compensation insurance with minimum limits of \$1,000,000.00 and to provide the City with copies of the certificate of insurance.

The successful bidding entity will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin and will comply with the Americans with Disabilities Act.

By submission of the bid, the bidding firm certifies that the bid has been developed independently and submitted without coordination with any other bidding entity.

The City of Englewood shall have the right to reject any or all bids, and to waive any informalities or irregularities therein and request new bids when required. In addition, the City reserves the right to accept the bid deemed most advantageous to the best interest of the City. Any award made in response to this Invitation to Bid will be made to that responsible bidding entity whose offer will technically be most advantageous to the City- price, delivery, estimated cost of transportation, and other factors considered. The option of selecting a partial or complete bid shall be at the discretion of the City of Englewood.

BIDDERS MUST SUBMIT PROPOSALS ON THE ATTACHED BID PROPOSAL FORM AND INCLUDE ONE (1) COPY MARKED (COPY)

Alicia Stutz, CPPB
Procurement Specialist
City of Englewood, CO

GENERAL INFORMATION
ITB-14-010
Recreation Center Track Replacement Project

The City of Englewood's objective is to hire a qualified and competent Contractor to provide all labor, materials and equipment necessary to replace the existing indoor running surface located at the Englewood Recreation Center which is located at 1155 W Oxford Avenue, Englewood, Colorado 80110. The current surface is original to the building which was constructed in 1985. The current surface is to be removed and a new indoor running surface will be installed.

Project Scope:

- A. Area Security including any barricades and safety devices needed to ensure the project provides for public safety and work area security.
- B. Removal of all existing track and components including but not limited to the following:
 - a. Removal of existing cove base
 - b. Removal of existing track surface
 - c. Clean and prep for new install
- C. Installation of new track surface and finishing details including but not limited to the following:
 - a. Track surface should be Horner Sports Flooring Cushion Court™ padded polyurethane system or similar product.
 - b. New cove base product installed
 - c. New transition pieces installed and ADA compliant

High Level Requirements:

- A. Padded Running Surface
- B. Resistance to UV light damage
- C. Environmentally Friendly

Project Timeline/Deadline:

- A. Work will be completed during the weeks of August 15th through September 1th.

Affected Business Processes:

- A. Vendor will provide barricades and safety devices to ensure work area provides for public safety and work area security. Building will be shut down for annual maintenance during the last week of the construction window and open for operations during all other times. Access to the building areas will not be impeded by the closures of the track however foot traffic will need to be directed to other routes.

Project Schedule:

- a. Bid Package Available: Monday, June 2, 2014
- b. Pre-Bid Meeting: Monday, June 9, 2014 – 2:00 P.M. at The Englewood Recreation Center - 1155 W Oxford Ave. Englewood, CO 80110
- c. Questions Due: 10:00 A.M. Wednesday, June 18, 2014
- d. Bids Due: 2:00 P.M. Wednesday, June, 25, 2014
- e. Work Timeline – August 15, 2014 with completion by September 1, 2014

Documents becoming part of the contract documents are:

- a. The ITB
- b. The SOQ (statement of qualifications)
- f. Scope of Work
- g. Drawings 2nd FI Plan E and W

The Contractor is responsible for obtaining all required permits prior to commencement of any work on the project.

The Contractor shall be allowed to work between the hours of 8:00 A.M. to 5:00 P.M. MDT, Monday through Friday. The Contractor shall not carry on construction operations on Saturdays, Sundays, or holidays unless previously authorized by the Project Manager.

Recommended Pre-Bid Meeting: There will be a pre-bid meeting/Job Walk-Thru on Monday, June 9, 2014 at 2:00 P.M. MDT at the Englewood Recreation Center located at 1155 W Oxford Ave., Englewood, Colorado, 80110.

There is a 5% bid bond required for this project. Each Bid shall be accompanied by an appropriate guarantee in the form of a Bid Bond, Certified Check or Cashier's Check made payable to the City of Englewood in an amount of not less than 5% of the bid amount.

The awarded Contractor will be required to have ready and furnish a "**Performance, Payment and Maintenance Bond**" in the amount of **100%** (copy attached) executed by a surety company acceptable to the City of Englewood within 10 days of Notice of Award.

Sample Contract: a sample contract, which the City of Englewood intends to use with the successful contractor is attached to this ITB and identified as "Sample Contract". Exceptions to the contract should be identified and submitted with the contractor's proposal. Proposed exceptions must not conflict with or attempt to preempt mandatory requirements.

The Contractor will be required to have a City of Englewood License and pay fees based on the license type. **All bids to include 3½% Sales and Use Tax, and a ¼% Arapahoe County Open Space Tax, on materials incorporated into the project.**

Liquidated Damages:

There will be no liquidated damages for this project, however, there is a deadline of September 1, 2014.

Statement of Qualifications: Included in the bid documents is a Statement of Qualifications form that must be completed and submitted with bid proposals.

Insurance – See “Insurance” document (attached) for required insurance which must be kept in effect during the performance of this work. Certificates must be provided to the City prior to undertaking any work.

All work performed under this solicitation will be performed in a manner that will protect the public and workers during the construction and comply with all applicable laws and regulations.

The Contractor shall be solely, and completely responsible for the conditions at, and adjacent to, the job site, including safety of all persons and property, during the performance of the work. This requirement shall apply continuously and shall not be limited to normal working hours. The duty of the City to conduct construction review of the Contractor’s performance and is not intended to include review of the adequacy of the Contractor’s safety measures in, on, or near the construction site.

The disposal of all waste material during the project shall be the responsibility of the Contractor. The contractor shall supply a dumpster or dump truck to haul away all trash and debris. The work site must be kept neat and orderly while the work is done. The Contractor shall not store debris on site nor use any dumpster except his own.

No reimbursement will be made by the City of Englewood for any costs incurred prior to a formal “Notice to Proceed” or purchase order being issued. The Contractor shall commence work under the contract on or before the 10th day following the “Notice to Proceed” unless such time for beginning the work shall be changed by the City of Englewood’s Project Manager for this Project in the “Notice to Proceed.”

The successful bidder upon Notice of Award will execute the contract and furnish required insurance certificates to the City of Englewood.

The Contractor shall be responsible for any sub-contractor brought in by the Contractor and insure all sub-contractors comply with all insurance & licensing requirements.

All work shall be made in accordance with good commercial practice and shall be adhered to by the successful Contractor(s), except in such cases where the delivery will be delayed due to acts of God, strikes, or other causes beyond the control of the Contractor. In these cases, the Contractor shall notify the City of the delays in advance of the delivery date so that a revised delivery schedule can be negotiated.

Should anything be omitted from the Contract Documents which is necessary to a clear understanding of the work, or should it appear that various instructions are in conflict, then the Contractor shall secure written instructions from the Owner before proceeding with the construction affected by such omissions or discrepancies. The Contractor shall furnish all materials, labor, equipment and perform all operations required to complete the work in accordance with the intent of the Contract, Drawings and Specifications.

A listing should be provided of all sub-contractors and additional qualification information should be provided as to the experience of the firm that will remove existing and construct the new indoor running track. Identify the contact person and supervisory personnel who will work on the project. Resumes of each person should be provided with emphasis on their experience with similar work.

Bid Tabulation

City of Englewood Bid Tabulation Sheet

Bid Opening Date: June 25, 2014 2:00 P.M. MDT

ITEM BID: ITB-14-010 Recreation Center Track Replacement Project

Vendor	Bid Bond Y/N	SOQ Y/N	Total Bid	Exceptions/Comments
Rocky Mountain Decks & Floors, Inc.				There is NO removal of the existing materials in this bid. Preparation of the surface will be done and new adhesion overlay will be administered as it was determined the existing floor resin in firm. *per document
4363 E 17th Avenue Parkway				
Denver, CO 80220				
303-322-3119				
Terry Hanson - President	Y	Y	\$ 52,924.00	

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CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this 4 day of Aug, 2014, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and Rocky Mountain Decks & Floors Inc., whose address is 4363 East 17th Ave. Denver, CO 80220, ("Contractor"), commencing on the day of June 4th, 2014, and continuing for at least ten (10) days thereafter the City advertised that sealed proposals would be received for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

PROJECT: Recreation Center Track Replacement Project

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Public Works to the Mayor and City Council with a recommendation that a contract for work be awarded to the above named Contractor who was the lowest reliable and responsible bidder therefore, and

WHEREAS, pursuant to said recommendation, the Contract has been awarded to the above named Contractor by the Mayor and City Council and said Contractor is now willing and able to perform all of said work in accordance with said advertisement and his proposal.

NOW THEREFORE, in consideration of the compensation to be paid and the work to be performed under this contract, the parties mutually agree as follows:

- A. Contract Documents: It is agreed by the parties hereto that the following list of instruments, drawings and documents which are attached or incorporated by reference constitute and shall be referred to either as the Contract Documents or the Contract and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto and they are as fully a part of this agreement as if they were set out verbatim and in full:

- Invitation to Bid
- Contract (this instrument)
- Insurance
- Performance Payment Maintenance Bond
- Technical Specifications
- Drawings sheets

- B. Scope of Work: The Contractor agrees to and shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete all the work described, drawn, set forth, shown and included in said Contract Documents.
- C. Terms of Performance: The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works and agrees to fully complete said work by **September 1st 2014**, plus such extension or extensions of time as may be granted by the Director of Public Works in accordance with the provisions of the Contract Documents and Specifications.
- D. Indemnification: The city cannot and by this Agreement/Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity, for any purpose. The Contractor shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature including Worker's Compensation claims, in any way resulting from or arising out of this Agreement/Contract:

provided, however, that the Contractor need not indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and Employees.

- E. Termination of Award for Convenience: The City may terminate the award at any time by giving written notice to the Contractor of such termination and specifying the effective date of such termination, at least thirty (30) days before the effective date of such termination. In that event all finished or unfinished service, reports, material (s) prepared or furnished by the Contractor after the award shall, at the option of the City, become its property. If the award is terminated by the City as provided herein, the Contractor will be paid that amount which bears the same ratio to the total compensation as the services actually performed or material furnished bear to the total services/materials the successful firm agreed to perform under this award, less payments of compensation previously made. If the award is terminated due to the fault of the Contractor the clause relating to termination of the award for cause shall apply.
- F. Termination of Award for Cause: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the covenants, agreements or stipulations of the award, the City shall have the right to terminate the award by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, all furnished or unfinished services, at the option of the City, become its property, and the Contractor shall be entitled to receive just, equitable compensation for any satisfactory work documents, prepared completed or materials as furnished.

Notwithstanding the above, the Contractor shall not be relieved of the liability to the City for damages sustained by the City by virtue of breach of the award by the Contractor and the City may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the City from the Contractor is determined.

- G. Terms of Payment: The City agrees to pay the Contractor for the performance of all the work required under this contract, and the Contractor agrees to accept as his full and only compensation therefore, such sum or sums of money as may be proper in accordance with the price or prices set forth in the Contractor's proposal attached and made a part hereof, the total estimated cost thereof being Fifty two thousand nine hundred twenty four dollars (\$52,924). A 5% retainage of the awarded project amount will be withheld until final inspection and acceptance by the Project Manager.
- H. Appropriation of Funds: At present, **\$55,000** has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, the parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement/Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated. The City shall immediately notify the Contractor or its assignee of such occurrence in the event of such termination.

- I. **Assignment:** Contractor shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of the City specifically including, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Any attempted assignment which is not in compliance with the terms hereof shall be null and void. Unless specifically stated to the contrary in any written consent to an Assignment, no Assignment will release or discharge the Assignor from any duty or responsibility under the Contract Documents.
- J. **Contract Binding:** It is agreed that this Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns, and successors.
- K. **Contractors Guarantee:** The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of two (2) years from all causes arising from defective workmanship and materials, and to make all repairs arising from said causes during such period without further compensation. The determination of the necessity for the repair or replacement of said project, and associated incidentals or any portion thereof, shall rest entirely with the Director of Public Works whose decision upon the matter shall be final and obligatory upon the Contractor.

VERIFICATION OF COMPLIANCE WITH C.R.S. 8-17.5-101 ET.SEQ. REGARDING HIRING OF ILLEGAL ALIENS

- (a) **Employees, Contractors and Subcontractors:** Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not contract with a subcontractor that fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]
- (b) **Verification:** Contractor will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7) respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract. Contractor is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.
- (c) **Duty to Terminate a Subcontract:** If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall:
 - (1) notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (2) terminate the sub-contract with the subcontractor if, within three days of receiving notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with the illegal alien.
- (d) **Duty to Comply with State Investigation:** Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5).
- (e) **Damages for Breach of Contract:** The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's breach of any section of this paragraph or provisions required pursuant to C.R.S. 8-17.5-102. Contractor shall be liable for actual and consequential damages to the City in addition to

any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first written above.

CITY OF ENGLEWOOD

By: _____

Date: _____

ATTEST: _____

City Clerk

ROCKY MOUNTAIN DECKS & FLOORS, INC.
Contractor (print company name)

By: _____

Date: 7/12/14

(Signature)

TERRY HANSON PRESIDENT
(Print name and Title)

STATE OF Colorado

COUNTY OF Denver) ss.

On this 12TH day of JULY, 2014, before me personally appeared TERRY HANSON, known to me to be the President of

Rocky Mountain Decks and Floors Inc., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

My commission expires: 04/10/2017

[Signature]
NOTARY

SEAN STOKES
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134000570
MY COMMISSION EXPIRES 04/10/2017

PROJECT SCOPE

GENERAL INFORMATION

ITB-14-010

Recreation Center Track Replacement Project

The City of Englewood's objective is to hire a qualified and competent Contractor to provide all labor, materials and equipment necessary to replace the existing indoor running surface located at the Englewood Recreation Center which is located at 1155 W Oxford Avenue, Englewood, Colorado 80110. The current surface is original to the building which was constructed in 1985. The current surface is to be removed and a new indoor running surface will be installed.

Project Scope:

- A. Area Security including any barricades and safety devices needed to ensure the project provides for public safety and work area security.
- B. Removal of all existing track and components including but not limited to the following:
 - a. Removal of existing cove base
 - b. Removal of existing track surface
 - c. Clean and prep for new install
- C. Installation of new track surface and finishing details including but not limited to the following:
 - a. Track surface should be Horner Sports Flooring Cushion Court™ padded polyurethane system or similar product.
 - b. New cove base product installed
 - c. New transition pieces installed and ADA compliant

High Level Requirements:

- A. Padded Running Surface
- B. Resistance to UV light damage
- C. Environmentally Friendly

Project Timeline/Deadline:

- A. Work will be completed during the weeks of August 15th through September 1st.

Affected Business Processes:

- A. Vendor will provide barricades and safety devices to ensure work area provides for public safety and work area security. Building will be shut down for annual maintenance during the last week of the construction window and open for operations during all other times. Access to the building areas will not be impeded by the closures of the track however foot traffic will need to be directed to other routes.

Project Schedule:

- a. Bid Package Available: Monday, June 2, 2014
- b. Pre-Bid Meeting: Monday, June 9, 2014 – 2:00 P.M. at The Englewood Recreation Center - 1155 W Oxford Ave. Englewood, CO 80110
- c. Questions Due: 10:00 A.M. Wednesday, June 18, 2014
- d. Bids Due: 2:00 P.M. Wednesday, June, 25, 2014
- e. Work Timeline – August 15, 2014 with completion by September 1, 2014

Documents becoming part of the contract documents are:

- a. The ITB
- b. The SOQ (statement of qualifications)
- f. Scope of Work
- g. Drawings 2nd Floor Plan E and W

Recommended Pre-Bid Meeting: There will be a pre-bid meeting/Job Walk-Thru on Monday, June 9, 2014 at 2:00 P.M. MDT at the Englewood Recreation Center located at 1155 W Oxford Ave., Englewood, Colorado, 80110.

There is a 5% bid bond required for this project. Each Bid shall be accompanied by an appropriate guarantee in the form of a Bid Bond, Certified Check or Cashier's Check made payable to the City of Englewood in an amount of not less than 5% of the bid amount. The awarded Contractor will be required to have ready and furnish a "**Performance, Payment and Maintenance Bond**" in the amount of **100%** (copy attached) executed by a surety company acceptable to the City of Englewood within 10 days of Notice of Award.

The Contractor will be required to have a City of Englewood License and pay fees based on the license type. **All bids to include 3½% Sales and Use Tax, and a ¼% Arapahoe County Open Space Tax, on materials incorporated into the project.**