

**Agenda for the  
Regular Meeting of the  
Englewood City Council  
Monday, November 3, 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 October 20, 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.)
  - a. The winners of the Fire Prevention Week Poster Contest will be recognized.
  - b. Colleen Mello, Executive Director of the Greater Englewood Chamber of Commerce will be present to request an in-kind donation of the Community Room for the 2014 Chamber Holiday Party.
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.

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.

8. Communications, Proclamations, and Appointments.
  - a. Email from Michael Buchanan announcing his resignation from the Public Library Board effective January 15, 2015.
  - b. Email from Michael Buchanan announcing his resignation from the Liquor and Medical Marijuana Licensing Authority effective January 15, 2015.
  - c. Email from Michael Buchanan announcing his resignation from the Urban Renewal Authority effective January 15, 2015.
  - d. Recommendation from the Public Library Board to remove Cristine Challis as a regular member due to poor attendance.
  - e. Approved minutes from the Code Enforcement Advisory Committee accepting the verbal resignation of Dave Walker.
  
9. Consent Agenda Items
  - a. Approval of Ordinances on First Reading.
    - i. Council Bill No. 65 – Recommendation from the Englewood Water and Sewer Board to adopt a bill for an ordinance authorizing Supplement #38 for inclusion of land within the South Arapahoe Sanitation District. **Staff Source: Stewart H. Fonda, Director of Utilities.**
    - ii. Council Bill No. 66 – Recommendation from the Englewood Water and Sewer Board to adopt a bill for an ordinance authorizing Sanitary Sewer Supplement #5 for inclusion of land within the Cherry Hills Village Sanitation District. **Staff Source: Stewart H. Fonda, Director of Utilities.**
    - iii. Council Bill No. 67 – Recommendation from the Englewood Water and Sewer Board to adopt a bill for an ordinance authorizing approval of the City of Cherry Hills Village Sanitation District Wastewater Connector’s Agreement. **Staff Source: Stewart H. Fonda, Director of Utilities.**
    - iv. Council Bill No. 68 – Recommendation from the Finance and Administrative Services Department to adopt a bill for an ordinance authorizing the execution and delivery of a First Supplement to Financing Agreement for the Boy Scouts of America. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**
  - b. Approval of Ordinances on Second Reading.
    - i. Council Bill No. 60, authorizing Supplement #23 to the Wastewater Connector’s Agreement with the Valley Sanitation District for inclusion of land within the district.

- ii. Council Bill No. 61, approving an intergovernmental agreement accepting ownership and maintenance of a bicycle/pedestrian trail constructed by South Suburban Park and Recreation District through the northwest corner of Belleview Park.
  - iii. Council Bill No. 62, authorizing a license agreement for crossing City Ditch and a construction easement with South Suburban Parks and Recreation District for the Big Dry Creek Trail connection.
  - iv. Council Bill No. 63, authorizing an Encroachment Agreement for the construction of upper level balconies and a canopy with Bannock Club, LLC at 201 Englewood Parkway.
- c. Resolutions and Motions.
- i. Recommendation from the Community Development Department to adopt a resolution authorizing the City of Englewood's participation in LiveWell Colorado's Healthy Eating, Active Living (HEAL) Cities Campaign. **Staff Source: Alan White, Community Development Director.**
  - ii. Recommendation from the Finance and Administrative Services Department to approve a resolution approving changes and updates to the City of Englewood Investment Policy. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**
  - iii. Recommendation from the Englewood Water and Sewer Board to approve, by motion, a contract for the rehabilitation of the McLellan deep well pump. Staff recommends awarding the contract to the lowest acceptable bidder, Colorado Pump Service & Supply Co. in the amount of \$56,044. **Staff Source: Stewart H. Fonda, Director of Utilities.**
10. Public Hearing Items. (None Scheduled)
11. Ordinances, Resolutions and Motions.
- a. Approval of Ordinances on First Reading.
  - b. Approval of Ordinances on Second Reading.
    - i. Council Bill No. 54, adopting the City of Englewood Budget [as amended] for Fiscal Year 2015.
    - ii. Council Bill No. 55, appropriating funds [as corrected] for the City of Englewood for Fiscal Year 2015.
    - iii. Council Bill No. 64, authorizing a User Agreement with the Metropolitan Area Communications Center Authority regarding fire dispatch services.

- c. Resolutions and Motions.
- 
- 12. General Discussion.
    - a. Mayor's Choice.
    - b. Council Members' Choice.
- 
- 13. City Manager's Report.
- 
- 14. City Attorney's Report.
- 
- 15. Adjournment.

October 17, 2014

Michael Buchanan

Mark Adams, Chair  
Englewood Library Board

Sent via email

Dear Mark,

It is with regret that I tender my resignation from the Englewood Library Board, effective January 15, 2015.

Please let me know if you have any questions or if I may provide additional information.

Michael Buchanan

cc: Dorothy Hargrove, Director of Library Services  
Deb Parker, Recording Secretary  
Jill Wilson, City Council Liaison

October 20, 2014

Michael Buchanan

Diane Ostmeier, Chair  
Englewood Liquor and Medical Marijuana Licensing Authority

Sent via email

Dear Diane,

It is with regret that I tender my resignation from the Englewood Liquor and Medical Marijuana Licensing Authority, effective January 22, 2015.

Please let me know if you have any questions or if I may provide additional information.

Sincerely

✓ Michael Buchanan

October 20, 2014

Michael Buchanan

Laura Phelps Rogers, Chair  
Englewood Urban Renewal Authority

Sent via email

Dear Laura,

It is with regret that I tender my resignation from the Englewood Urban Renewal Authority, effective January 15, 2015.

Please let me know if you have any questions or if I may provide additional information.

Sincerely,

Michael Buchanan



*Englewood Public Library Board*

1000 Englewood Parkway, Englewood, CO 80110  
303-762-2572      www.engagewoodgov.org



**Excerpted from minutes:**

**MINUTES  
Englewood Public Library Board  
September 9, 2014**

**Call To Order/Roll Call**

Chair Mark Adams called the meeting to order at 7:00 p.m.

PRESENT: Mark Adams, Michael Buchanan, Philippe Ernewein , Amy Martinez, Melissa Izzo, Jill Wilson (Englewood City Council member), Michelle Mayer, Julie Grazulis, Chad Glover (Youth Member), and Duane Tucker (Englewood Public School Board member)

ABSENT: Cristine Challis (unexcused), Stephanie McNutt (excused)

Also Present: Dorothy Hargrove, Director of Library Services, and Deb Parker, Recording Secretary

**14-12** – A motion was made that the position currently held by our unexcused Board Member be listed as a vacancy for the next application process.

Library Director's Note: The Board member referred to in the motion is Ms.Cristine Challis.

Moved by: Mr. Buchanan

Seconded by: Ms. Martinez

The Motion passed unanimously.

There being no further business, Mr. Adams adjourned the meeting at 8:32 p.m. The next regular meeting will be held on Tuesday, October 14, 2014 at 7:00 p.m.

**Englewood Code Enforcement Advisory Committee  
Meeting Minutes  
Wednesday July 15, 2014**

**I. Call to Order**

Meeting called to order by Interim: M. Berger Time: 6:37 p.m.

**Roll Call**

Members Present: M. Berger, J. Jordan, D. Cohn, A. Fryxell

Members Absent: C. Michels

Alternate Member: Vacant

Council Members Present: B. McCaslin, R. Gillit

Council Member Absent:

Ex-officio Members Present: M. Flaherty, M. McKay, K. Kennedy

Ex-officio Members Absent:

Guests: None

**II. Approval of Minutes**

Member M. Berger made a motion to approve the minutes for May 21, 2014. The motion was seconded by Member A. Fryxell. The minutes were unanimously approved.

**II. Open Public Forum**

Guest: None

Topic:

**IV. New Business**

A. Election of CEAC Chair. Member M. Berger nominated herself as Chair; Member D. Cohn seconded the motion. The motion carried unanimously.

B. Election of CEAC Vice Chair, Member M. Berger nominated Member D. Cohn, Member A. Fryxell, seconded the motion. The motion carried unanimously.

C. Appointment of Alternate A. Fryxell to Board Member and Re-appointment of Member M. Berger.

D. Resignation of Member D. Walker from the CEAC Board.

**V. Unfinished Business**

A. Public Right of Way over 72 hours.

**Discussion:** On the agenda for ETAC consideration.

B. Ordinance regulations for hotel/motel and multi-family residences

**Discussion:** Building and Safety to entertain this issue.

**VI. Code Enforcement May-June Statistical Report**

**VII: Topics for Next Meeting**

A. City Attorney's opinion on publicizing names of adjudicated chronic offenders of code violations.

B. Council response to 14-132, dead trees on private property.

**IX. Adjournment**

Motion by Member M. Berger to adjourn and seconded by Member D. Cohn. The motion unanimously carried. Time Adjourned: 7:30 p.m.

Submitted by: Mark McKay

## COUNCIL COMMUNICATION

|   |  |   |
|---|--|---|
| <b>Date</b><br>November 3, 2014             | <b>Agenda Item</b><br>9 a i                                    | <b>Subject</b><br>S. Arapahoe Sanitation District<br>Supplement #38 |
| <b>INITIATED BY</b><br>Utilities Department | <b>STAFF SOURCE</b><br>Stewart H. Fonda, Director of Utilities |   |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

N/A

### RECOMMENDED ACTION

The Water and Sewer Board, at their September 9, 2014 meeting, recommended Council approval of a bill for an ordinance authorizing the South Arapahoe Sanitation District Supplement #38.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood provides sewage treatment outside of the City of Englewood through contracts with numerous connector districts. By contract, the City of Englewood must approve any additions of land to be served by the districts. These are usually in-fill situations that are within what the City considers to be the area it has committed to serve. Adequate capacity has been provided in the treatment plant to accommodate all such future inclusions. Annexation of this parcel of land will not increase the tap allocation of the South Arapahoe Sanitation District.

A request was made by the South Arapahoe Sanitation District representing the owner, Aspen Academy Investment Fund, for inclusion of Supplement #38 consisting of a parcel totaling 4.047 acres into the South Arapahoe Sanitation District. Through an error, it was believed that this parcel was in the Southgate Sanitation District, but was actually located in the South Arapahoe Sanitation District. The Petition for Exclusion hearing from the Southgate Sanitation District was July 8, 2014, and was recorded on July 15, 2014.

The property is located on the corner of S. University Blvd. and E. Orchard Rd. It is zoned R-1.0 PUD, which is a residential classification, but has a special use permit that allows it to operate as a school. There are no plans to change the zoning.

### FINANCIAL IMPACT

None.

### LIST OF ATTACHMENTS

Approved Water and Sewer Board minutes from September 9, 2014  
Bill for an Ordinance





owners or management to allocate water charges in a more equitable manner instead of using an average, per unit basis, therefore giving the individual units an incentive for water conservation. Englewood's position is for this to be a self-policing water management tool for multi-unit buildings and not intended to be mandatory.



**4. RV SEWER CONNECTION ON A RESIDENTIAL YARD.**

The Board received a memo from Dan Brotzman, City Attorney, noting that RV's connecting to the sewer system is currently prohibited by Englewood Municipal Code 12-2-4G(5) and 12-2-5B(1)(v). A residence is allowed by municipal code to have sewer clean-outs, but it can't be used to dispose of RV waste.

The meeting adjourned at 6:00 p.m.

The next Water and Sewer Board meeting will be Tuesday, October 14, 2014 at 5:00 in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage  
Recording Secretary

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2014 \_\_\_\_\_

COUNCIL BILL NO. 65  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE APPROVING SUPPLEMENT NO. 38 TO THE SOUTH ARAPAHOE  
SANITATION DISTRICT CONNECTOR'S AGREEMENT FOR THE INCLUSION OF LAND  
WITHIN THE DISTRICT BOUNDARIES.

WHEREAS, South Arapahoe Sanitation District recommends the inclusion of Aspen Academy  
Investment Fund Property of approximately 4.047 acres into the District; and

WHEREAS, said inclusion is located on the North West corner of University and Orchard  
Avenue in Greenwood Village; and

WHEREAS, the zoning of this property in Greenwood Village is currently zoned R-1.0 PUD  
which is the proposed use of this property; and

WHEREAS, said inclusion of this parcel of land will not increase or decrease the tap  
allocation to the South Arapahoe Sanitation District; and

WHEREAS, the Englewood Water and Sewer Board recommended approval of this Agreement  
at its September 9, 2014 meeting;

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

Section 1. The Agreement between the City of Englewood and South Arapahoe Sanitation  
District entitled "Supplement No. 38, to Connector's Agreement", for inclusion of the Aspen  
Academy Investment Fund Property consisting of 4.047 acres located on the North West corner of  
University and Orchard Avenue in Greenwood Village, is hereby accepted and approved by the  
Englewood City Council. A copy of said Agreement is attached hereto as "Attachment 1" and  
incorporated herein by reference.

Section 2. The Mayor and City Clerk are hereby authorized to sign and attest, respectively, the  
said Agreement for and on behalf of the City Council and the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 3rd day of November, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 7<sup>th</sup> day of November, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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 3rd day of November, 2014.

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Loucrishia A. Ellis

SUPPLEMENT NO. 38 TO CONNECTOR'S AGREEMENT

THIS AGREEMENT, made and entered into by and between the **CITY OF ENGLEWOOD**, acting by an through its duly authorized Mayor and City Clerk, hereinafter called the "City," and **SOUTH ARAPAHOE SANITATION DISTRICT**, dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ Arapahoe and Douglas Counties, Colorado, hereinafter called the "District,"

WITNESSETH:

WHEREAS, on the 17th day of October, 1988 the City and the District entered into an Agreement in which the city agreed to treat sewage originating from the District's sanitary sewer system within the area served by the District, which Agreement was renewed by Connector's Agreement dated January 17, 2011.

WHEREAS, said Connector's Agreement provides that the district may not enlarge its service area without the written consent of the City;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein set forth, the parties agree as follows:

1. The City hereby consents to the inclusion of certain additional area located in Arapahoe County, Colorado, owned by Aspen Academy, 5859 S. University Blvd., Littleton, CO 80121 and more fully described on Exhibit A attached hereto and incorporated herein by reference, into South Arapahoe Sanitation District. The City agrees that said additional area may be served with the sewer facilities of the district, and that the City will treat the sewage discharged into the City's trunk line from said additional area, all in accordance with the Connector's Agreement dated October 17, 1988 and Amended January 17, 2011. Accordingly, Exhibit A referred to in Paragraph 1 of the Connector's Agreement dated October 17, 1988 and Amended October 17, 2011, is hereby amended to include such additional area.
2. Each and every other provision of the said Connector's Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties have set their hands and seals this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**CITY OF ENGLEWOOD**

BY \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
**CITY CLERK**  
(SEAL)

**SOUTH ARAPAHOE SANITATION  
DISTRICT  
ARAPAHOE COUNTY, COLORADO**

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

ATTEST:

\_\_\_\_\_  
**SECRETARY**  
(SEAL)

ASPEN ACADEMENY INVESTMENT FUND PROPERTY

PARCEL A: A PARCEL OF LAND BEING IN THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF EAST ORCHARD ROAD, BEING 30 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SAID SOUTHEAST 1/4, WITH THE WEST RIGHT OF WAY LINE OF SOUTH UNIVERSITY BOULEVARD BEING 45 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST 1/4; THENCE NORTHERLY ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 178.70 FEET; THENCE WESTERLY AND PARALLEL WITH SAID SOUTH LINE ON AN INTERIOR ANGLE TO THE RIGHT OF 88 DEGREES 41 MINUTES 20 SECONDS A DISTANCE OF

163.70 FEET; THENCE SOUTHERLY AND PARALLEL WITH THE EAST LINE OF THE SAID SOUTHEAST 1/4 ON AN INTERIOR ANGLE TO THE RIGHT OF 91 DEGREES 18 MINUTES 40 SECONDS A DISTANCE OF 178.70 FEET TO A POINT ON THE SAID NORTH RIGHT OF WAY LINE; THENCE EASTERLY ALONG THE SAID NORTH RIGHT OF WAY LINE ON AN INTERIOR ANGLE TO THE RIGHT OF 88 DEGREES 41 MINUTES 20 SECONDS A DISTANCE OF 163.70 FEET TO THE POINT OF BEGINNING, COUNTY OF ARAPAHOE, STATE OF COLORADO.

PARCEL B: A PARCEL OF LAND BEING IN THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT ON THE NORTH RIGHT OF WAY LINE OF EAST ORCHARD ROAD, BEING 30 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST 1/4, 208.7 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE SOUTHEAST 1/4; THENCE NORTHERLY AND PARALLEL TO THE SAID WEST RIGHT OF WAY LINE A DISTANCE OF 178.70 FEET; THENCE WESTERLY AND PARALLEL WITH SAID SOUTH LINE ON AN INTERIOR ANGLE TO THE RIGHT OF 88 DEGREES 41 MINUTES 20 SECONDS A DISTANCE OF 208.70 FEET TO A POINT ON THE EASTERLY BOUNDARY LINE OF THE PARCEL DESCRIBED IN BOOK 814 AT PAGE 585; THENCE SOUTHERLY ALONG SAID EASTERLY BOUNDARY LINE AND PARALLEL WITH THE EAST LINE OF THE SAID SOUTHEAST 1/4, ON AN INTERIOR ANGLE TO THE RIGHT OF 90 DEGREES 18 MINUTES 40 SECONDS A DISTANCE OF 178.70 FEET TO A POINT ON THE SAID NORTH RIGHT OF WAY LINE; THENCE EASTERLY ALONG SAID NORTH RIGHT OF WAY LINE ON AN INTERIOR ANGLE TO THE RIGHT OF 88 DEGREES 41 MINUTES 20 SECONDS A DISTANCE OF 208.70 FEET TO THE POINT OF BEGINNING. COUNTY OF ARAPAHOE, STATE OF COLORADO.

PARCEL C: A PARCEL OF LAND BEING IN THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 500 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 14; THENCE WEST 417.4 FEET TO THE NORTHEAST CORNER OF THE TRACT OF LAND DESCRIBED IN DEED RECORDED MAY 31, 1952 IN BOOK 759 AT PAGE 176; THENCE SOUTH ALONG THE EAST LINE OF SAID TRACT A DISTANCE OF 291.3 FEET; THENCE EAST 417.4 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SECTION 14; THENCE NORTH ALONG THE EAST LINE OF SAID SECTION 14 A DISTANCE OF 291.3 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THAT PART OF SAID TRACT LYING EAST OF THE WEST LINE OF THE PARCEL CONVEYED TO THE DEPARTMENT OF HIGHWAYS IN BOOK 1655 AT PAGE 253, COUNTY OF ARAPAHOE, STATE OF COLORADO.

## COUNCIL COMMUNICATION

|   |  |   |
|---|--|---|
| <b>Date</b><br>November 3, 2014             | <b>Agenda Item</b><br>9 a ii                                   | <b>Subject</b><br>Cherry Hills Village San. District<br>Sanitary Sewer Supplement #5<br>for Harrison Oaks North |
| <b>INITIATED BY</b><br>Utilities Department | <b>STAFF SOURCE</b><br>Stewart H. Fonda, Director of Utilities |   |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

None.

### RECOMMENDED ACTION

The Water and Sewer Board, at their October 7, 2014 meeting, recommended Council approval of a Bill for an Ordinance approving the Cherry Hills Village Sanitation District Sanitary Sewer Supplement #5 for Harrison Oaks North located at 4000 E. Belleview Ave.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood provides sewage treatment to a population of about 80,000 people outside the City through contracts with numerous connector districts. The area is defined by the natural drainage and extends approximately south and east from Broadway to the Valley Highway and from Hampden to Lincoln Ave. excluding Highlands Ranch. By contract the City of Englewood must approve any additions of land to be served by the districts. These are usually in-fill situations that are within what the City considers to be the area it has committed to serve. Adequate capacity has been provided in the treatment plant to accommodate all such future inclusions. Annexation of this parcel of land will not increase the tap allocation of the City of Cherry Hills Village Sanitation District.

A request was made by the City of Cherry Hills Village Sanitation District representing the owner, Harrison Oaks North LLC, for inclusion into the City of Cherry Hills Village Sanitation District. This application is for Tract 215 and Tract 216. Along with portions of Tracts 214, 217 and 218 in South Denver Gardens, Arapahoe County. The site is on 16.269 acres and is zoned R-2.5 residential. The site will be subdivided into 5 to 6 residential sites. The legal is attached as Exhibit A. The property is located at 4000 E. Belleview Ave.

### FINANCIAL IMPACT

None.

### LIST OF ATTACHMENTS

Approved Water and Sewer Board minutes from October 7, 2014  
Bill for Ordinance





which is a residential classification, but has a special use permit that allows it to operation as a school. The property is located on the corner of S. University Blvd. and E. Orchard Rd.

Through an error, it was believed that this parcel was in the Southgate Sanitation District. It is, however, located in the South Arapahoe Sanitation District. The Petition for Exclusion from Arapahoe County District Court with Southgate Sanitation District was granted on July 8, 2014 and recorded on July 15, 2014.

Motion:

To recommend Council approval of Southgate Sanitation District Supplement #171.

Moved:                   Waggner                   Seconded:    Lay

Motion carried.



5.       CITY OF CHERRY HILLS VILLAGE SANITATION DISTRICT WASTEWATER CONNECTOR'S AGREEMENT.

The Littleton/Englewood Wastewater Treatment Plant is able to receive and treat sewage transmitted by various districts. In the City of Cherry Hills Village Sanitation District there are 9,750 taps. The City of Cherry Hills Village Sanitation District will continue to own the lines and will be responsible for capital improvements in its system. The City Attorney's office has reviewed and approved the City of Cherry Hills Village Sanitation District Connector's Agreement.

Motion:

To recommend Council approval of the City of Cherry Hills Village Sanitation District Connector's Agreement.

Moved:                   Penn                   Seconded:    Wiggins

Motion carried.



6.       CHERRY HILLS VILLAGE SAN. DISTRICT SANITARY SEWER SUPPLEMENT #5.

A request was made by the City of Cherry Hills Village Sanitation District representing the owner, Harrison Oaks North LLC, for inclusion into the City of Cherry Hills Village Sanitation District. The site is on 16.269 acres and is zoned R-2.5 residential. The site will be subdivided into 5 to 6 residential sites. The property is located at 4000 E. Belleview Ave.

Motion:

Recommend Council approval of a Bill for an Ordinance approving the City of Cherry Hills Village Sanitation District Sanitary Sewer Supplement #5 for Harrison Oaks North located at 4000 E. Belleview Ave.

Moved: Waggoner                      Seconded: Habenicht

Motion carried.



7. ALLEN PLANT ALUM RESIDUALS REMOVAL AND DISPOSAL.

Tom Brennan discussed.

There are low levels of naturally occurring radionuclides in Englewood's source water that are removed through treatment and ultimately reside in the residuals generated at the plant. The residuals are considered Technologically-Enhanced Naturally Occurring Radioactive Materials (TENORM) and have additional disposal considerations based on the Colorado Department of Public Health and Environment regulatory requirements.

The only current means of residual disposal is for disposal at Clean Harbors Deer Trail Facility. Utilities staff is recommending sending an additional 1000 cubic yards of residuals to Clean Harbors. The current contract with Secure On-Site Services USA is still in force, with the vendor willing to honor his bid price from March. It is expected that the price may increase when bids are received next year.

Motion:

To recommend disposal of 1000 cubic yards of material by Secure On-site Services USA at a price of \$232,007.10 in accordance with the current contract that is in effect.

Moved: Waggoner                      Seconded: Habenicht

Motion carried.

The meeting adjourned at 6:35 p.m.

The next Water and Sewer Board meeting will be Tuesday, November 11, 2014 at 5:00 in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage  
Recording Secretary

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2014

COUNCIL BILL NO. 66  
INTRODUCED BY COUNCIL  
MEMBER

A BILL FOR

AN ORDINANCE APPROVING SUPPLEMENT NO. 5 TO THE CHERRY HILLS VILLAGE SANITATION DISTRICT CONNECTOR'S AGREEMENT FOR THE INCLUSION OF LAND WITHIN THE DISTRICT BOUNDARIES.

WHEREAS, Cherry Hills Village Sanitation District recommends the inclusion of approximately 16.269 acres into the District for residential use; and

WHEREAS, said inclusion is located in the 3800-4000 Blocks of E. Belleview Avenue in Greenwood Village; and

WHEREAS, the proposed inclusion is to install a sewer line and connect to the existing sewer main in the street; and

WHEREAS, the zoning of this property in Greenwood Village is currently zoned Residential which is the proposed use of this property; and

WHEREAS, said annexation of this parcel of land will not increase the tap allocation to the Cherry Hills Village Sanitation District; and

WHEREAS, the Englewood Water and Sewer Board recommended approval of this Agreement at its October 7, 2014 meeting;

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

Section 1. The Agreement between the City of Englewood and Cherry Hills Village Sanitation District entitled "Supplement No. 5, to Connector's Agreement", which includes 16.269 acres located in the 3800-4000 Blocks of E. Belleview Avenue in Greenwood Village, is hereby accepted and approved by the Englewood City Council. A copy of said Agreement is attached hereto as "Attachment 1" and incorporated herein by reference.

Section 2. The Mayor and City Clerk are hereby authorized to sign and attest, respectively, the said Agreement for and on behalf of the City Council and the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 3rd day of November, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 7th day of November, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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 3rd day of November, 2014.

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Loucrishia A. Ellis

**SUPPLEMENT NO. 5 TO CONNECTOR'S AGREEMENT**

THIS AGREEMENT, made and entered into by and between the **CITY OF ENGLEWOOD**, acting by an through its duly authorized Mayor and City Clerk, hereinafter called the "**City**," and the City of Cherry Hills Village Sanitation District, Arapahoe and Douglas Counties, Colorado, hereinafter called the "**District**,"

WITNESSETH:

WHEREAS, on the 2<sup>nd</sup> day of June, 1975 the City and the District entered into an Agreement in which the City agreed to treat sewage originating from the District's sanitary sewer system within the area served by the District, which Agreement was renewed by Connector's Agreement dated May 12, 1997.

WHEREAS, said Connector's Agreement provides that the district may not enlarge its service area without the written consent of the City;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein set forth, the parties agree as follows:

1. The City hereby consents to the inclusion of certain additional area located in Arapahoe County, Colorado, owned by Harrison Oaks North LLC and more fully described on Exhibit A attached hereto and incorporated herein by reference, into the City of Cherry Hills Village Sanitation District. The City agrees that said additional area may be served with the sewer facilities of the district, and that the City will treat the sewage discharged into the City's trunk line from said additional area, all in accordance with the Connector's Agreement dated June 2, 1975, and Amended May 12, 1997. Accordingly, Exhibit A referred to in Paragraph 1 of the Connector's Agreement dated June 2, 1975 and Amended May 12, 1997, is hereby amended to include such additional area.
2. Each and every other provision of the said Connector's Agreement dated June 2, 1975 and Amended May 12, 1997, shall remain unchanged.

**IN WITNESS WHEREOF**, the parties have set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF ENGLEWOOD**

BY \_\_\_\_\_  
**MAYOR**

ATTEST:

\_\_\_\_\_  
**CITY CLERK**  
(SEAL)

**CITY OF CHERRY HILLS VILLAGE  
SANITATION DISTRICT  
ARAPAHOE COUNTY, COLORADO**

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

ATTEST:

✓ **SECRETARY**   
(SEAL)

## EXHIBIT A – LEGAL DESCRIPTION

### CHERRY HILLS VILLAGE SANITATION DISTRICT INCLUSION

#### PROPERTY DESCRIPTION

A PARCEL OF LAND BEING ALL OF AMENDED PLAT OF TRACT 215 AND TRACT 216, SOUTH DENVER GARDENS RECORDED UNDER RECEPTION NO. 94-4907, THAT PORTION OF TRACTS 214, 217, 218 AND THE EAST 48 FEET OF TRACT 213 LYING NORTH OF THE HIGHLINE CANAL RIGHT-OF-WAY ALONG WITH ALL THAT PORTION OF VACATED CHAMBERLIN AVENUE LYING NORTH OF THE HIGHLINE CANAL, SOUTH DENVER GARDENS RECORDED IN PLAT BOOK A2 AT PAGE 32B AND THE WEST HALF OF VACATED COLORADO BOULEVARD VACATED IN BOOK 1620 AT PAGE 526, LYING NORTH OF THE HIGHLINE CANAL, ALL IN SECTION 13, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, ARAPAHOE COUNTY, COLORADO, BEING MONUMENTED AT THE NORTHEAST CORNER BY A 3" ALUMINUM CAP IN A RANGE BOX STAMPED "COLO DEPT OF HIGHWAY 1991 PLS 27278" AND AT THE EAST QUARTER CORNER BY A 2-1/2" ALUMINUM CAP IN A RANGE BOX STAMPED "PLS 25379 2009", BEING ASSUMED TO BEAR S00°15'42"W, A DISTANCE OF 2642.51 FEET.

COMMENCING AT THE NORTHEAST CORNER OF SECTION 13, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN;

THENCE ON THE EAST LINE OF SAID SECTION 13, S00°15'42"W A DISTANCE OF 75.00 FEET, TO THE SOUTHERLY RIGHT-OF-WAY LINE OF EAST BELLEVIEW AVENUE AND THE POINT OF BEGINNING;

THENCE CONTINUING ON SAID EAST LINE, S00°15'42"W A DISTANCE OF 979.13 FEET, TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE HIGHLINE CANAL;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES:

1. N46°40'15"W A DISTANCE OF 36.98 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1030.37 FEET, A CENTRAL ANGLE OF 07°19'00" AND AN ARC LENGTH OF 131.58 FEET, TO A POINT OF TANGENT;
3. N53°59'15"W A DISTANCE OF 228.50 FEET, TO A POINT OF CURVE;

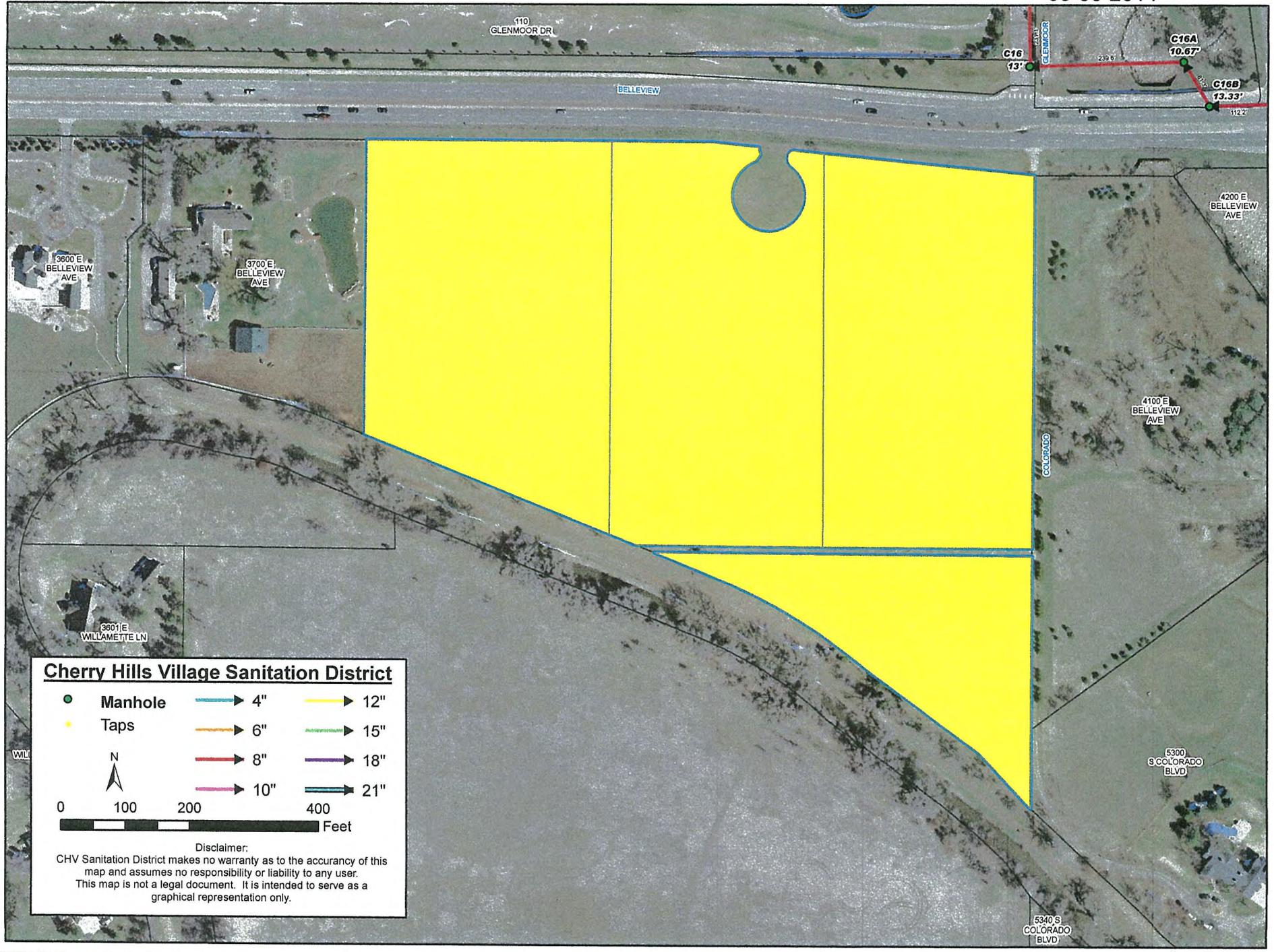
4. THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1030.37 FEET, A CENTRAL ANGLE OF 13°14'00" AND AN ARC LENGTH OF 237.98 FEET, TO A POINT OF TANGENT;
  
5. N67°13'15"W A DISTANCE OF 554.48 FEET, TO A POINT MONUMENTED BY A NO. 5 REBAR WITH NO CAP;

THENCE ON A LINE BEING PARALLEL WITH AND 48.00 FEET WESTERLY OF THE EASTERLY LINE OF TRACT 213, SOUTH DENVER GARDENS, N00°22'37"E A DISTANCE OF 458.30 FEET, TO THE SOUTHERLY RIGHT-OF-WAY LINE OF EAST BELLEVIEW AVENUE MONUMENTED BY A NO. 4 REBAR WITH NO CAP;

THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S89°29'48"E A DISTANCE OF 538.93 FEET;

THENCE CONTINUING ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S84°17'32"E A DISTANCE OF 496.06 FEET, TO THE POINT OF BEGINNING.

CONTAINING A TOTAL CALCULATED AREA OF 708,679 SQUARE FEET OR 16.269 ACRES.



**Cherry Hills Village Sanitation District**

|           |       |       |
|-----------|-------|-------|
| ● Manhole | → 4"  | → 12" |
| ● Taps    | → 6"  | → 15" |
|           | → 8"  | → 18" |
|           | → 10" | → 21" |

0 100 200 400 Feet

Disclaimer:  
CHV Sanitation District makes no warranty as to the accuracy of this map and assumes no responsibility or liability to any user. This map is not a legal document. It is intended to serve as a graphical representation only.

## COUNCIL COMMUNICATION

|   |  |   |
|---|--|---|
| <b>Date</b><br>November 3, 2014             | <b>Agenda Item</b><br>9 a iii                                  | <b>Subject</b><br>City of Cherry Hills Village<br>Sanitation District Wastewater<br>Connector's Agreement |
| <b>INITIATED BY</b><br>Utilities Department | <b>STAFF SOURCE</b><br>Stewart H. Fonda, Director of Utilities |   |

### **COUNCIL GOAL AND PREVIOUS COUNCIL ACTION**

City Council approved a standard sanitary sewer connector's agreement in January, 1988.

### **RECOMMENDED ACTION**

At their October 7, 2014 meeting, the Englewood Water and Sewer Board recommended Council approval of a bill for an ordinance renewing the City of Cherry Hills Village Sanitation District Wastewater Connector's Agreement.

### **BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED**

Sanitary sewer service is provided to districts outside of the Englewood corporate boundaries through the standard connector's agreement. The Littleton/Englewood Wastewater Treatment Plant is able to receive and treat sewage transmitted by various districts. The attached agreement addresses this service with the district that owns and maintains the sewer mains.

In the City of Cherry Hills Village Sanitation District there are 9,750 taps. The City of Cherry Hills Village Sanitation District will continue to own the lines and will be responsible for capital improvements in its system. The attached map shows the City of Cherry Hills Village Sanitation District.

The City Attorney's office has reviewed and approved the City of Cherry Hills Village Connector's Agreement.

### **FINANCIAL IMPACT**

None.

### **LIST OF ATTACHMENTS**

Approved Water and Sewer Board minutes from October 7, 2014  
City of Cherry Hills Village Resolution  
Bill for an Ordinance





which is a residential classification, but has a special use permit that allows it to operation as a school. The property is located on the corner of S. University Blvd. and E. Orchard Rd.

Through an error, it was believed that this parcel was in the Southgate Sanitation District. It is, however, located in the South Arapahoe Sanitation District. The Petition for Exclusion from Arapahoe County District Court with Southgate Sanitation District was granted on July 8, 2014 and recorded on July 15, 2014.

Motion:

To recommend Council approval of Southgate Sanitation District Supplement #171.

Moved:                   Waggner                   Seconded:   Lay

Motion carried.



5. CITY OF CHERRY HILLS VILLAGE SANITATION DISTRICT WASTEWATER CONNECTOR'S AGREEMENT.

The Littleton/Englewood Wastewater Treatment Plant is able to receive and treat sewage transmitted by various districts. In the City of Cherry Hills Village Sanitation District there are 9,750 taps. The City of Cherry Hills Village Sanitation District will continue to own the lines and will be responsible for capital improvements in its system. The City Attorney's office has reviewed and approved the City of Cherry Hills Village Sanitation District Connector's Agreement.

Motion:

To recommend Council approval of the City of Cherry Hills Village Sanitation District Connector's Agreement.

Moved:                   Penn                   Seconded:   Wiggins

Motion carried.



6. CHERRY HILLS VILLAGE SAN. DISTRICT SANITARY SEWER SUPPLEMENT #5.

A request was made by the City of Cherry Hills Village Sanitation District representing the owner, Harrison Oaks North LLC, for inclusion into the City of Cherry Hills Village Sanitation District. The site is on 16.269 acres and is zoned R-2.5 residential. The site will be subdivided into 5 to 6 residential sites. The property is located at 4000 E. Belleview Ave.

Motion:

Recommend Council approval of a Bill for an Ordinance approving the City of Cherry Hills Village Sanitation District Sanitary Sewer Supplement #5 for Harrison Oaks North located at 4000 E. Belleview Ave.

Moved: Waggoner                      Seconded: Habenicht

Motion carried.



7. ALLEN PLANT ALUM RESIDUALS REMOVAL AND DISPOSAL.

Tom Brennan discussed.

There are low levels of naturally occurring radionuclides in Englewood's source water that are removed through treatment and ultimately reside in the residuals generated at the plant. The residuals are considered Technologically-Enhanced Naturally Occurring Radioactive Materials (TENORM) and have additional disposal considerations based on the Colorado Department of Public Health and Environment regulatory requirements.

The only current means of residual disposal is for disposal at Clean Harbors Deer Trail Facility. Utilities staff is recommending sending an additional 1000 cubic yards of residuals to Clean Harbors. The current contract with Secure On-Site Services USA is still in force, with the vendor willing to honor his bid price from March. It is expected that the price may increase when bids are received next year.

Motion:

To recommend disposal of 1000 cubic yards of material by Secure On-site Services USA at a price of \$232,007.10 in accordance with the current contract that is in effect.

Moved: Waggoner                      Seconded: Habenicht

Motion carried.

The meeting adjourned at 6:35 p.m.

The next Water and Sewer Board meeting will be Tuesday, November 11, 2014 at 5:00 in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage  
Recording Secretary

RESOLUTION NO. \_\_\_\_  
SERIES 2014

INTRODUCED BY:  
SECONDED BY:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHERRY HILLS  
VILLAGE AUTHORIZING THE MAYOR TO EXECUTE A WASTEWATER  
CONNECTOR'S INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF  
ENGLEWOOD ON BEHALF OF THE CITY**

**WHEREAS**, the City of Cherry Hills Village ("City") is authorized to enter into intergovernmental agreements pursuant to C.R.S. § 29-1-201 et seq. and Article XIV, Section 18(2)(a) of the Colorado Constitution; and

**WHEREAS**, Section 13.6 of the City's Home Rule Charter provides that the Council may, by resolution or ordinance, enter into agreements with other governmental units for services; and

**WHEREAS**, the City entered into that certain Wastewater Connector's Agreement with the City of Englewood dated September 30, 1993 (the "Connector's Agreement"); and

**WHEREAS**, the City and Englewood amended the Connector's Agreement on November 15, 1995 (the "1995 Modification") to enlarge the service area under the Connector's Agreement to include the entire geographic area of the City of Cherry Hills Village as the same now exists or may be amended from time to time, and as such service area is more particularly described and set forth in the 1995 Modification; and

**WHEREAS**, the Connector's Agreement, as modified by the 1995 Modification, is set to expire on September 30, 2014; and

**WHEREAS**, the City of Englewood owns and operates a sewage collection system, including the Littleton/Englewood Wastewater Treatment Plant which is located at 2900 S. Platte River Drive and is jointly owned with the City of Littleton; and

**WHEREAS**, Englewood's sewage collection is physically located so as to be able to continue to receive and treat wastewater from the City of Cherry Hills Village; and

**WHEREAS**, the City Council desires to renew the Connector's Agreement with the City of Englewood; and

**WHEREAS**, the City Council desires to authorize the Mayor to execute the Connector's Agreement with Englewood once the same has been reviewed and approved by the City Manager and the City Attorney.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO THAT:**

Section 1. Execution of Connector's Agreement Authorized. The City Council hereby (a) adopts the above recitations as findings of the City Council; (b) approves entering into a Wastewater Connector's intergovernmental agreement with the City of Englewood; (c) authorizes the City Manager and the City Attorney, in consultation with the Mayor, to make such changes as may be needed to the Connector's Agreement to correct any nonmaterial errors or language that do not increase the obligations of the City; and (d) authorizes the Mayor to execute the Connector's Agreement on behalf of the City when in final form.

Section 2. Effective Date. This Resolution shall be effective immediately.

Introduced, passed and adopted at the regular meeting of the City Council this \_\_\_\_ day of September, 2014, by a vote of \_\_\_\_ Yes and \_\_\_\_ No.

\_\_\_\_\_  
Douglas M. Tisdale, Mayor

ATTEST:

Approved as to form:

\_\_\_\_\_  
Laura Smith, City Clerk

\_\_\_\_\_  
Linda C. Michow, City Attorney

(SEAL)

BY AUTHORITY

ORDINANCE NO. \_\_\_\_  
SERIES OF 2014

COUNCIL BILL NO. 67  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE APPROVING A NEW CONNECTOR'S AGREEMENT BETWEEN THE CITY OF CHERRY HILLS VILLAGE AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Englewood City Council approved the original Connector's Agreement between the City of Cherry Hills Village on September 30, 1993; and

WHEREAS, the City and Englewood amended the Connector's Agreement on November 15, 1995 (the "1995 Modification") to enlarge the service area under the Connector's Agreement to include the entire geographic area of the City of Cherry Hills Village as the same now exists or may be amended from time to time, and as such service area is more particularly described and set forth in the 1995 Modification; and

WHEREAS, the Connector's Agreement, as modified by the 1995 Modification, is set to expire on September 30, 2014; and

WHEREAS, the Englewood Water and Sewer Board recommended City Council's approval of this Agreement at the May 13, 1997 meeting of the Board; and

WHEREAS, the City will continue to receive and treat sewage gathered by the City of Cherry Hills Village; and

WHEREAS, the Connector's Agreement enables the City of Cherry Hills Village to utilize the facilities owned by the City and the Bi-City Wastewater Treatment Plant for the treatment of sewage; and

WHEREAS, the City of Englewood Utilities Department will bill the City of Cherry Hills Village users directly for service charges; and

WHEREAS, the Connector's Agreement provides that the City's permitting requirements will be followed by the City of Cherry Hills Village and its users; and

WHEREAS, the Connector's Agreement provides that no permit shall be final or service provided until construction is approved by the City of Englewood; and

WHEREAS, the term of the Connector's Agreement is for a three year period and is automatically renewed for six subsequent three year periods unless either party gives a minimum of six months written notice;

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

Section 1. The Connector's Agreement between City of Cherry Hills Village and the City of Englewood which enables the City of Cherry Hills Village to utilize the facilities owned by the City and the Bi-City Wastewater Treatment Plant for the treatment of sewage; is hereby approved for a three year period and is automatically renewed for six subsequent three year periods unless either party gives a minimum of six months written notice, a copy of said Agreement is attached hereto as Exhibit 1.

Section 2. The Mayor and City Clerk are hereby authorized to sign and attest, respectively, the said Agreement for and on behalf of the City Council and the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 3rd day of November, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 7<sup>th</sup> day of November, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 5<sup>th</sup> day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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 3rd day of November, 2014.

---

Loucrishia A. Ellis

4/19/2012  
Revision

WASTEWATER  
CONNECTOR'S AGREEMENT  
For CITY OF CHERRY HILLS

Sewer Contract No. \_\_\_\_\_

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to be effective as of \_\_\_\_\_, 20\_\_; by and between the CITY OF ENGLEWOOD, COLORADO, a municipal corporation, hereinafter referred to as "City," acting by and through its duly elected, qualified and authorized Mayor and City Clerk, and the CITY OF CHERRY HILLS, a municipal corporation and subdivision of the State of Colorado, hereinafter called "Cherry Hills," acting by and through its authorized Representative.

WITNESSETH

WHEREAS, the City owns and operates a sewage system, including a sewage treatment plant which is jointly owned and operated with the City of Littleton, so situated physically as to be able to receive and treat the sewage from a designated area served by Cherry Hills and gathered by the Cherry Hills' sanitary-sewage system; and

WHEREAS, it is the desire of Cherry Hills to utilize the facilities owned by the City for the treatment of sewage and the City is willing to serve Cherry Hills for treatment of sewage under certain conditions;

NOW, THEREFORE, IN CONSIDERATION of the promises and for other good and valuable consideration hereinafter set forth, it is mutually agreed by the parties as follows:

1. The City hereby agrees under the conditions hereinafter set forth, to treat the sewage originating from the Cherry Hills' sanitary sewer system within the area served by Cherry Hills as approved by the City and as indicated in the description attached hereto, incorporated herein and marked as "Exhibit A."

Cherry Hills specifically agrees to prevent sewage from any area other than that described herein, from being discharged into Cherry Hills' sanitary sewage system connected to the City's trunk line and to prevent connections to the system from or in any area other than those described herein.

2. In the operation of the Cherry Hills sanitary sewer system, Cherry Hills agrees that all applicable Code provisions and rules and regulations of the City, including amendments thereto during the term of the contract, shall be the minimum standards for the Cherry Hills' system. Cherry Hills further agrees to abide by all applicable state and federal laws, rules, regulations, or permits, including those of the Environmental Protection Agency (the EPA) as they become effective or implemented or upon notice from the City. Cherry Hills shall inform all users, contractors and subcontractors of such standards, rules and regulations upon inquiry from such persons, and shall not furnish any information inconsistent therewith. In this regard, it shall be the responsibility of Cherry Hills to obtain the applicable requirements from the appropriate governing body.

The City shall attempt to maintain and provide information on all requirements to Cherry Hills; however, the City does not guarantee the accuracy or completeness of government regulations other than the City's own regulations.

3. Regarding the provision of sewer service, the City's permitting requirements shall be followed by Cherry Hills and its users. All sewer plans, specifications and methods of work within Cherry Hills shall be submitted to the City in writing and approved by the City prior to any construction or tap in Cherry Hills' designated area. No permit shall be final and no service shall be provided to property until construction is approved, in writing by the City.
4. Cherry Hills shall be responsible for the proper maintenance of its sewer system and shall rectify any problems or conditions which have been determined by Cherry Hills or the City to be detrimental to the City's treatment process or system. Should the City determine that any discharge enters the sewer system contrary to applicable laws, ordinances, statutes, rules, regulations or permits; Cherry Hills agrees to proceed at once to take whatever lawful means may be necessary to rectify any such problem or condition.
5. The City shall have the right to allocate service under this Contract, and the City may deny additional service for any utility-related reason, but in no event will the City terminate or refuse any service without cause. The City shall have the right to disconnect service to any area annexed to Cherry Hills when such annexation takes place without prior written City approval.

Within one year of this agreement, Cherry Hills shall provide the City with an estimate of the number of equivalent service taps needed for the next five (5) years under current zoning and planned build out in the Cherry Hills area as shown on Exhibit A. Cherry Hills shall continue to monitor zoning changes within its area to estimate its tap requirements and provide the City with notice of tap requirement for the next five (5) year period which time shall be given to the City on each anniversary date of this Agreement in a form satisfactory to the City.

6. The City may impose and collect reasonable fees, tolls and charges, which shall be uniform as to all outside-City users for the services provided by the City under this Connector's Agreement.

The City shall bill Cherry Hills' users directly for all applicable City charges for services rendered under this Agreement. Should any user not pay the City, the City shall bill Cherry Hills and Cherry Hills shall pay the amount due to City within forty-five (45) days of such billing. These charges are subject to adjustment by the City from time to time. When such adjustment to these charges are made, the City shall give Cherry Hills forty-five (45) days advance written notice.

The City may bill and collect "District Charges" imposed by Cherry Hills as an additional item to be billed and collected by the City along with the City's Treatment charge and other fees. The "District Charges" received by the City shall be remitted by the City to Cherry Hills annually; less an amount equal to the City and Cherry Hills charges which remain delinquent. Cherry Hills shall notify the City of any changes in the Cherry Hills charges to be imposed and the remittance schedule before May 1<sup>st</sup> of each year.

7. Subject to the terms of the Taxpayer's Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time Cherry Hills agrees that all effluent produced from taps within Cherry Hills shall not be in violation of any federal, state or City laws, rules or regulations, or any other applicable governmental regulations or the permits under which the City operates its sewage treatment system. The City agrees, during the term hereof, to treat said effluent and to maintain adequate facilities for treating the same.
8. Cherry Hills agrees that it will maintain, at its own expense, all lines now owned and operated by Cherry Hills, it being specifically agreed that the City assumes no responsibility should any of Cherry Hills' lines become clogged, damaged, or require maintenance. Cherry Hills shall, if it deems necessary, notify its users of Cherry Hills' procedure to remedy service disruption.
9. The City is providing only sewage treatment service and, pursuant thereto; any permits incidental to the use of the City's sewage lines shall be governed only by this individual Contract with Cherry Hills and the City does not, by this Contract, offer treatment service except in strict accordance with the terms hereof. This Contract does not offer, and shall not be construed as offering, sewage treatment service to the public generally or to any area outside the limits of Cherry Hills' service area described in Exhibit A.
10. This Contract may not be assigned, sold or transferred by Cherry Hills without the City's written consent.
11. Should any federal law, rule, permit or regulation or should a decree or order of a court render void or unenforceable any provision of this Contract, in whole or in part, the remainder shall remain in full force and effect.
12. Cherry Hills shall enforce this Agreement and each of its terms and conditions within the area described in "Exhibit A." Cherry Hills shall refuse to serve a user or potential user; disconnect the service of any user pursuant to appropriate law; or take other appropriate action in the event of:
  - a. Nonpayment of such user of any charge made by the City for services;
  - b. Any violation or noncompliance by such user with the terms of this Agreement;
  - c. Any violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, the Department of Health, or other law, rule, permit or applicable regulation.

13. Continued breach of this Agreement by Cherry Hills and/or its users shall be considered cause for the City to terminate this Agreement. Should Cherry Hills fail to promptly rectify a breach of any provisions identified herein, after notice thereof, the City may take such steps and do such work as it deems necessary to enforce this Agreement, including litigation and specifically a right to injunction or specific performance against Cherry Hills or any of its users as is necessary to protect the City's system and operations. The prevailing party shall be entitled to expenses and costs of suit, including attorney fees.
14. Should more than one district or City be connected to a sewer line, all districts or Cities on the sewer line who are in breach of this Agreement shall be jointly and severally liable for any such breach of this Agreement and each such district shall immediately, after notice, rectify any problem or condition detrimental to the treatment process arising within its legal boundaries. When more than one district is connected to a sewer line, and the City discovers any violation of the terms of this connector's agreement; the City shall not be required to prove which district is at fault but shall make available to all such affected districts and Cities all information developed or accumulated by the City pertaining to such breach. Nothing contained herein shall preclude a claim for indemnity or contribution by any District or City against another District or City connected to a common sewer line. CRS-13-21-111.5, as amended shall govern the percentage of liability of any district on a common sewer line in the event the City seeks to impose liability based upon negligence or fault.
15. This Contract shall not be used as a legal defense or prohibition to the mandatory consolidation of facilities by either party as may be required by the laws of the State of Colorado of all existing sewer collection systems and facilities to a governmental entity created to assume responsibility for sewer service in the area in which both the City and State are a part under statutory or constitutional authority.

CITY OF ENGLEWOOD, COLORADO

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

CITY OF CHERRY HILLS VILLAGE, COLORADO

Douglas M. Tisdale, Mayor, authorized pursuant to Resolution No. 17, Series 2014

ATTEST:

Laura Smith, City Clerk

Approved as to form:

By: \_\_\_\_\_  
Linda C. Michow, City Attorney

## EXHIBIT "A"

Geographic boundaries of the City of Cherry Hills Village, County of Arapahoe, State of Colorado:

Commencing at the NW corner of the S 1/2 of the NW 1/4 of the NW 1/4 of Section 2, Township 5 South, Range 68 West of the 6th Principal Meridian; thence East to the SW corner of the NW 1/4 of the NE 1/4 of the NW 1/4, thence North to the NW corner of the NE 1/4 of the NE 1/4 of the NW 1/4 of said Section 2, thence East along the North line of Section 2 to the NW corner of Section 1, Township 5 South, Range 68 West, continuing East along the North line of said Section 1 to the NW corner of Section 6, Township 5 South, Range 67 West of the 6th Principal Meridian, continuing East along the North line of said Section 6 to the NE corner of the NW 1/4 of said Section 6, thence South along the East line of the NW 1/4 of said Section 6 to the center of Section 6, Township 5 South, Range 67 West, thence East along the North line of the SE 1/4 of said Section 6, 2,642.16 feet to the NE corner of the SE 1/4 of said Section 6, thence North along the East line of said Section 6, 10.88 feet to the center line of Happy Canyon Road, thence South 44°35'35" East 3,708.45 feet to the North 1/4 corner of Section 8, Township 5 South, Range 67 West of the 6th Principal Meridian, thence South on the West line of the NE 1/4 of Section 8, Township 5 South, Range 67 West to the center of said Section 8, continuing South along the West line of the SE 1/4 of said Section 8 to the SW corner of the SE 1/4 of said Section 8, thence West to the SE corner of Section 7, Township 5 South, Range 67 West of the 6th Principal Meridian; continuing West along the South line of said Section 7 to the SE corner of Section 12, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing West along the South line of said Section 12 to the SE corner of Section 11, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing West along the South line of said Section 11 to the SW corner of said Section 11, thence North along the west line of said section 11 to the SW corner of Section 2, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing North along the West line of said section 2 to the point of beginning.

EXCLUDING THE PROPERTY ON THE SOUTHEAST CORNER OF UNIVERSITY AND EAST HAMPDEN AVENUE KNOWN AS THE BUELL PROPERTY

LEGAL DESCRIPTION  
OF THE PROPERTY KNOWN AS  
THE BUELL PROPERTY

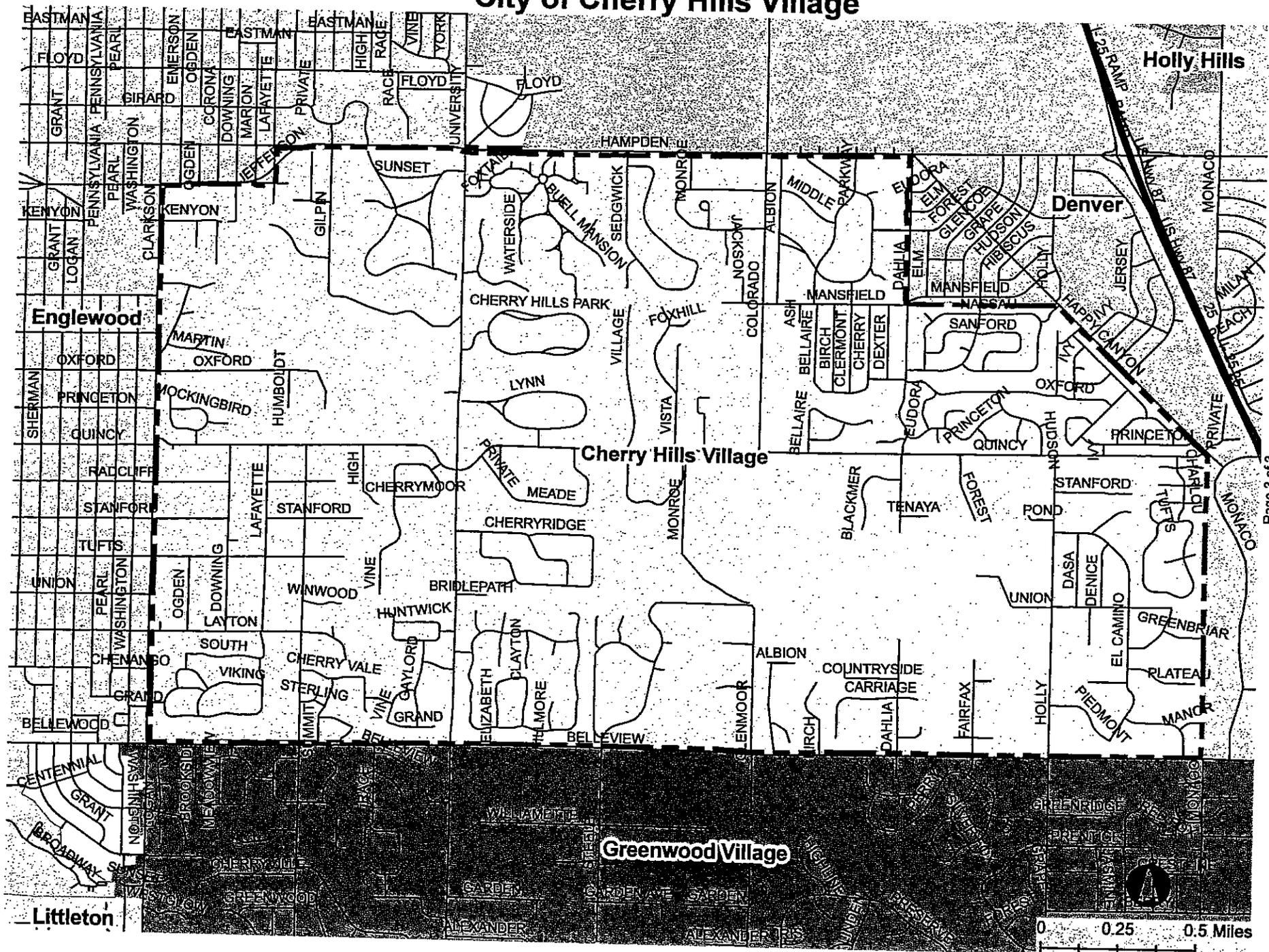
A parcel of land lying in the Northwest one-quarter (NW 1/4) of Section 1, Township 5 South, Range 68 West of the 6th Principal Meridian, City of Cherry Hills Village, County of Arapahoe, State of Colorado, more particularly described as follows:

For the purpose of this description the bearing are based on the easterly line of said NW 1/4 to bear South 00°18'12" West.

Commencing at the Northwest corner of said Section 1;  
Thence South 00°18'00" West along the westerly line of said Section 1 a distance of 75.00 feet to a point;  
Thence North 89°57'19" East parallel with and 75.00 feet southerly of the northerly line of said Section 1 a distance of 87.00 feet to the POINT OF BEGINNING;  
Thence continuing North 89°57'19" East along the southerly right of way of East Hampden Avenue (US 285) as described in Book 1153 at Page 81 a distance of 992.16 feet to a point;  
Thence South 00°02'41" East continuing along said southerly right of way line a distance of 5.00 feet to a point;  
Thence North 89°57'19" East continuing along said southerly right of way line a distance of 826.67 feet to a point;  
Thence South 00°19'29" West a distance of 2077.26 feet to a point;  
Thence North 89°13'30" West a distance of 1165.00 feet to a point on the easterly line of The Reserve at Cherry Hills;  
Thence North 00°18'00" East along said easterly line a distance of 1180.00 feet to the northeast corner of said Reserve;  
Thence North 89°13'30" West a distance of 680.00 feet along the northerly line of said Reserve to a point on the easterly right of way line of South University Avenue as described in Book 1597 at Page 237;  
Thence North 00°18'00" East along said easterly right of way line a distance of 601.03 feet to a point;  
Thence North 07°06'00" East continuing along said easterly right of way line a distance of 100.70 feet to a point;  
Thence North 00°18'00" East continuing along said easterly right of way line a distance of 160.00 feet to a point;  
Thence North 45°27'02" East continuing along said easterly right of way line a distance of 21.27 feet to the POINT OF BEGINNING.

Containing 69.07 acres, more or less.

# City of Cherry Hills Village



## COUNCIL COMMUNICATION

|  |                              |   |
|--|------------------------------|---|
| <b>Date</b><br>November 3, 2014  | <b>Agenda Item</b><br>9 a iv | <b>Subject</b><br>A bill for an ordinance authorizing and approving a First Supplement to the Private Activity Bonds Issued in 2008 for capital improvements at various Boy Scouts of America |
| <b>Initiated By</b><br>City of Englewood, Finance and Administrative Services Department |                              | <b>Staff Source</b><br>Frank Gryglewicz, Director   |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed the request to issue Private Activity Bonds at the August 25, 2008 Study Session. Council agreed to allow staff to move forward on the issuance of these bonds for the Boy Scouts of America (BSA). Council approved Ordinance 56, Series of 2008 on October 6, 2008.

City Council discussed a request to approve a First Supplement to the Financing Agreement at the October 20, 2014 Study Session. Council requested staff prepare a bill for ordinance approving the First Supplemental to Financing Agreement for their consideration at an upcoming regular Council meeting.

### RECOMMENDED ACTION

Staff recommends the City Council approve the attached bill for an ordinance approving the First Amendment to Financing Agreement.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The BSA used the City's tax exempt status to issue debt that pays tax-exempt interest over the life of bonds if strict restrictions are adhered to. The tax exempt status lowers the cost of borrowing, and therefore may provide an incentive to non-profit organizations to take on projects or provide services that might not otherwise be undertaken. Although the issuer uses the tax exempt status of the City of Englewood, the City does not take on any responsibility for the repayment of debt or pledge its credit.

This bill for an ordinance approves the First Amendment To Financing Agreement. Essentially, the Boy Scouts of America have received funds from a donor that will allow them to do a partial redemption of the Bond. Upon the partial redemption of the Bond, the Lender (Colorado State Bank and Trust, N.A.) and the BSA desire to:

- The Bond payment schedule be re-amortized
- The mandatory redemption date of the Bond be extended

Both the re-amortization and extension of the mandatory redemption date will be in accordance with the terms, provisions, and conditions to be set forth in the First Supplement to the Financing Agreement.

**FINANCIAL IMPACT**

The City of Englewood will not see any financial impact from this action as the debt service is solely the responsibility of the Boy Scouts of America.

**LIST OF ATTACHMENTS**

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2014

COUNCIL BILL NO. 68  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENT TO FINANCING AGREEMENT, WHICH RELATES TO THE CITY'S PRIOR ISSUANCE AND SALE OF THAT CERTAIN \$6,724,000 REVENUE BOND (DENVER AREA COUNCIL, BOY SCOUTS OF AMERICA PROJECT) SERIES 2008.

WHEREAS, upon approval as set forth in Ordinance No. 08-56, as adopted by City Council ("*City Council*") of the City of Englewood, Colorado (the "*City*") on October 6, 2008, the City issued and sold that certain \$6,724,000 Revenue Bond (Denver Area Council, Boy Scouts of America Project) Series 2008 (the "*Bond*"), to BOKF, NA, a national banking association dba Colorado State Bank and Trust and successor in interest to Colorado State Bank and Trust, N.A. (the "*Lender*"), pursuant to the terms, provisions, and conditions as set forth in that certain Financing Agreement, dated October 9, 2008 (the "*Financing Agreement*"), by and among the City, the Lender, and Denver Area Council, Boy Scouts of America, a Colorado nonprofit corporation (the "*Borrower*"); and

WHEREAS, representatives of the Lender and the Borrower have informed representatives of the City as to the following matters, on which the Lender and the Borrower have agreed: (1) the Borrower desires to cause a partial redemption of the Bond; and (2) upon the partial redemption of the Bond, the Lender and Borrower desire that (a) the Bond payment schedule be re-amortized and (b) the mandatory redemption date of the Bond be extended, all upon and in accordance with the terms, provisions, and conditions to be set forth in that certain First Supplement to Financing Agreement (the "*First Supplement*"); and

WHEREAS, the form of the First Supplement has been presented to City Council at this meeting; and

WHEREAS, the First Supplement must be executed and delivered by the City to be effective, and the Lender and the Borrower have requested that the City execute and deliver the First Supplement; and

WHEREAS, City Council has considered the request of the Lender and the Borrower and concluded that the City should execute and deliver the First Supplement;

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

Section 1 Approval and Authorization of First Supplement. The First Supplement (attached as Exhibit 1) is approved and authorized. The Mayor is authorized and directed to execute, and

the City Clerk is authorized and directed to affix the seal of the City and to attest, the First Supplement in substantially the form and content as presented to City Council on this date, but with such changes, modifications, additions, and deletions therein as deemed necessary, desirable, or appropriate to the Mayor, upon consultation with the City's counsel and Director of Finance, the execution thereof by the Mayor to constitute conclusive evidence of the City's approval of any and all changes, modifications, additions, and deletions from the form thereof presented to City Council on this date.

Section 2 Authority to Execute and Deliver Additional Documents. The officers, employees, and agents of the City shall, as permitted by the City's home rule charter and other applicable law, execute and deliver such other documents, instruments, and certificates, and take such action, as required by the First Supplement or as otherwise appropriate to consummate the transactions contemplated thereby.

Section 3 Prior Action. All action consistent with the provisions of this Ordinance taken by City Council and the officers of the City prior to the date hereof is ratified and approved.

Section 4 Repealer. All ordinances, codes, or parts thereof inconsistent with this Ordinance are repealed or otherwise modified.

Section 5 Severability. If any provision of this Ordinance is held to be invalid or unenforceable, the invalidity or unenforceability of such provision will not affect the remaining provisions of this Ordinance.

Introduced, read in full, and passed on first reading on the 3rd day of November, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 7th day of November, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of November, 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 3rd day of November, 2014.

---

Loucrishia A. Ellis

**FIRST SUPPLEMENT**

**TO FINANCING AGREEMENT**

**by and among**

**CITY OF ENGLEWOOD, COLORADO,**

**BOKF, NA,**

**and**

**DENVER AREA COUNCIL, BOY SCOUTS OF AMERICA**

*Relating to:*

*\$6,724,000 City of Englewood, Colorado  
Revenue Bond (Denver Area Council, Boy Scouts of America Project) Series 2008*

December 18, 2014

This **FIRST SUPPLEMENT TO FINANCING AGREEMENT** (this "*First Supplement*"), dated December 18, 2014, is by and among the following parties:

*The City:*

City of Englewood, Colorado, a municipal corporation and political subdivision duly organized as a home rule city under the provisions of Article XX of the Constitution, the laws of the State of Colorado, and its home rule Charter;

*The Lender:*

BOKF, NA, a national banking association dba Colorado State Bank and Trust and successor in interest to Colorado State Bank and Trust, N.A.; and

*The Borrower:*

Denver Area Council, Boy Scouts of America, a Colorado nonprofit corporation.

*Recitals*

- A. The City, the Lender, and the Borrower each executed and delivered that certain Financing Agreement, dated as of October 9, 2008 (the "*Financing Agreement*"), by which the City issued its \$6,724,000 Revenue Bond (Denver Area Council, Boy Scouts of America Project) Series 2008 (the "*Bond*").
- B. The City sold the Bond to the Lender and loaned the sales proceeds therefrom to the Borrower pursuant to the terms, provisions, and conditions as set forth in the Financing Agreement (the "*Loan*"). Pursuant to the Financing Agreement, the City assigned all Loan Payments to the Lender to effect repayment of the Bond, and the Borrower made and delivered that certain Note, dated October 9, 2008, in the original principal amount of \$6,724,000.00, payable to the Lender (the "*Promissory Note*"), to evidence repayment of the Loan to the Lender.
- C. The Lender currently owns the Bond, and the outstanding principal balance of the Bond and the Promissory Note as of the date hereof equals \$6,724,000.00.
- D. The Lender and the Borrower have notified the City as to the following matters, on which the Lender and the Borrower have agreed: (1) the Borrower desires to prepay the Loan in part in the principal amount of \$[4,324,000.00], and therefore cause a partial redemption of the Bond in the same principal amount, such that immediately following such prepayment and redemption the outstanding principal balance of the Bond and the Loan will equal \$[2,400,000.00]; and (2) upon the Borrower's partial prepayment of the Loan, and partial redemption of the Bond, and subject to the terms, provisions, and conditions as set forth in this First Supplement, the Lender shall (a) re-amortize the Bond and the Loan on the basis of the \$[2,400,000.00] outstanding principal balance and remaining maturity, (b) extend the date on which the Lender may demand redemption of the Bond, and (c) subject to satisfaction of the Loan to Value covenant as set forth in *Section 4* and as further set forth in *Section 6*, release of the Deed of Trust (Elbert County).
- E. The City, the Lender, and the Borrower execute and deliver this First Supplement to set forth the terms, conditions, and provisions upon which they will consummate the foregoing transactions.

## *Agreement*

The City, the Lender, and the Borrower agree as follows:

**Section 1. Definitions.** Capitalized terms used but not defined in this First Supplement have the respective meanings ascribed to them in the Financing Agreement.

**Section 2. Amendment to Section 3.9.** From and after the date on which all conditions precedent as set forth in *Section 5* are either satisfied or waived as provided in *Section 5* (the “*Effective Date*”), the reference in Section 3.9 of the Financing Agreement to “October 9, 2018” will be deleted and replaced with “October 9, 2024”.

**Section 3. Prepayment/Redemption and Re-Amortization.**

- a. On the Effective Date, the Borrower shall prepay the Loan in part, and cause partial redemption of the Bond, in the principal amount of \$[4,324,000.00].
- b. The City and the Lender each waive any prior notice of prepayment and redemption required of the Borrower under the Financing Agreement in connection with the \$[4,324,000.00] prepayment on the Effective Date.
- c. In conjunction with such prepayment and redemption, (i) Schedule I, Bond Payment Dates, attached to the Bond, will be revised and replaced with the amortization/payment schedule attached hereto as *Exhibit A-1* and (ii) the Lender shall execute the prepayment schedule attached hereto as *Exhibit A-2*, which will be attached to the Bond.
- d. For the sake of clarity, the Lender has agreed to re-amortize the Bond and the Loan pursuant to the terms, provisions, and conditions set forth in this First Supplement as a negotiated exception to the Financing Agreement and the Bond, which provide that partial prepayments the Loan and resulting redemptions of the Bond will not alter the amount of monthly payment installments. Unless the Lender otherwise agrees, subsequent prepayments of the Loan and resulting redemptions of the Bond after the Effective Date will not alter the amount of monthly payment installments.

**Section 4. Loan to Value.** From and after the Effective Date, the Borrower must maintain Loan to Value equal to or less than 75%. “*Loan to Value*” means the quotient, expressed as a percentage, equal to the outstanding principal balance of the Loan *divided by* the Appraised Value. “*Appraised Value*” means the Bank’s most recent appraised value of the land and the improvements encumbered by the deed of trust lien granted by the Borrower for the benefit of the Lender pursuant to the Deed of Trust (Jefferson County) (the “*Appraised Property*”). If at any time and for any reason, including a re-appraisal of the Appraised Property, the Loan to Value is greater than 75%, the Borrower shall prepay the Loan in an amount necessary to satisfy the Loan to Value covenant as set forth in this *Section 4*. The Lender shall notify the Borrower in writing of any failure to satisfy the Loan to Value covenant as set forth in this *Section 4* following the Lender’s receipt, review, and approval of any re-appraisal of the Appraised Property.

**Section 5. Conditions Precedent.** The obligation of the City and the Lender to execute and deliver this First Supplement, and the effectiveness of the amendments and modifications to be provided hereby, is subject to the satisfaction in full of all of the following conditions precedent, or waiver thereof by the City or the Lender, as appropriate:

- a. the City and the Lender will have received from the Borrower an executed original of this First Supplement;
- b. the City and the Lender will have received an opinion of nationally recognized bond counsel to the effect that the amendments and modifications provided by, and the transactions as contemplated by, this First Supplement will not of themselves (i) result in a sale or exchange (i.e., a reissuance) of the Bond for federal income tax purposes, (ii) adversely affect the exclusion from gross income of interest on the Bond for federal income tax purposes, or (iii) cause interest on the Bond to be treated as a matter of tax preference for purposes of the alternative minimum tax under Code Section 57(a)(5);
- c. the Lender will have received an appraisal of the Appraised Property sufficient to satisfy the Loan to Value covenant as set forth in **Section 4** of this Financing Agreement as of the Effective Date (and subsequent to the partial prepayment of the Loan, and the resulting partial redemption of the Bond, as contemplated by this First Supplement);
- d. the Borrower will have prepaid the Loan in part, and therefore caused a partial redemption of the Bond, in the principal amount of \$[4,324,000.00];
- e. the Borrower will have paid the Lender's amendment fee of \$2,500;
- f. no Event of Default will have occurred and be continuing, and no event or occurrence will have occurred and be continuing that with notice, the lapse of time, or both would result in an Event of Default;
- g. the Borrower will have paid or reimbursed the Lender for all reasonable fees, costs, and expenses incurred by the Lender through the Effective Date in the amendment, modification, and administration of the Financing Agreement and the Bond, including the fees, costs, and expenses of the Lender's outside legal counsel; and
- h. the Lender will have received such other documents, instruments, and items as the Lender may reasonably request.

**Section 6. Release of Deed of Trust (Elbert County).** On or promptly after the Effective Date, the Lender shall cause the Release of Deed of Trust attached hereto as **Exhibit B** to be filed with the Clerk and Recorder of Elbert County, Colorado, by which the Lender shall release the Deed of Trust (Elbert County). The Lender shall provide a stamped-filed copy of the Release of Deed of Trust to the Borrower. The parties have not endeavored to delete each reference to the Deed of Trust (Elbert County) in the Financing Agreement, the Promissory Note, and the other Borrower Documents, but each acknowledges that from and after the Effective Date the collateral encumbered by the Deed of Trust (Elbert County) will no longer secure payment and performance of the Secured Obligations (as such term is defined in the Deed of Trust (Elbert County)).

**Section 7. Certification; Representations and Warranties.**

- a. The Borrower certifies, as of the date hereof, that no Event of Default, or any event or occurrence that with notice, the lapse of time, or both would result in an Event of Default, has occurred and is continuing. If the Effective Date is other than the date hereof, the Borrower shall make the foregoing certificate to the City and the Lender in writing as of the Effective Date.
- b. The Borrower re-states, as of the date hereof, for the benefit of the City and the Lender, the Borrower's representations and warranties as set forth in Section 2.2(c) and (g) of the Financing Agreement. If the Effective Date is other than the date hereof, the Borrower shall make the foregoing certificate to the City and the Lender in writing as of the Effective Date.
- c. The Borrower has the full legal right, power, and authority to execute, deliver, and perform this First Supplement, and the Borrower has duly authorized its execution, delivery, and performance hereof. No consent or authorization of, filing with, or notice to any other person is a condition precedent to the Borrower's execution, delivery, and performance of this First Supplement except as have been obtained or made and remain in full force and effect. This First Supplement has been duly executed and delivered by the Borrower and constitutes the legal, valid, and binding agreement of the Borrower enforceable against the Borrower in accordance with its terms except as enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium, or other similar laws affecting or relating to the enforcement of creditor's rights generally or (ii) general principles of equity. The Borrower's execution, delivery, and performance of this First Supplement do not (A) violate or conflict with the Borrower's articles of incorporation, bylaws, or any other governance document with which the Borrower must comply, (B) violate any applicable law, regulation, or rule applicable to the Borrower or its property or assets, (C) violate or result in a breach or default under the terms, conditions, or provisions of any material agreement or instrument to which the Borrower is a party or by which the Borrower or its property or assets are bound, or (D) result in the creation or imposition of any lien, security interest, or other encumbrance upon its property or assets except as provided in the Borrower Documents.

**Section 8. Miscellaneous.**

- a. In consideration of the Lender's covenants and agreements as provided by this First Supplement, the Borrower waives and releases the City and the Lender from any and all claims and defenses, known or unknown, with respect to the Financing Agreement, the Promissory Note, and each of the other Borrower Documents and the transactions contemplated thereby.
- b. The Borrower ratifies and affirms its obligations under, and acknowledges, renews, and extends its continued liability under, the Financing Agreement, the Promissory Note, and each of the other Borrower Documents and agrees that the Financing Agreement, the Promissory Note, and each of the other Borrower Documents remain in full force and effect as they may be amended or modified hereby.
- c. The execution, delivery, and performance of this First Supplement by the Lender does not and will not operate as (i) a modification of, or waiver of any right, power, or remedy of the City or the Lender under, the Financing Agreement, the Promissory Note, or any

other Borrower Document, except as specifically set forth herein, or (ii) a waiver by the City or the Lender of any Event of Default or any event or occurrence that with notice, the lapse of time, or both would result in an Event of Default. The amendments and modifications set forth in this First Supplement are limited to the specifics hereof.

- d. This First Supplement is a Borrower Document.
- e. This First Amendment, as an amendment of the Financing Agreement, is subject to, and will be governed by, those terms and provisions as set forth in Article VIII of the Financing Agreement.

*{Signature Page Follows.}*

**Signature Page**  
***to First Supplement to Financing Agreement***

*Re: \$6,724,000 City of Englewood, Colorado  
Revenue Bond (Denver Area Council, Boy Scouts of America Project) Series 2008*

The City, the Lender, and the Borrower have each caused this First Supplement to be executed and delivered by an authorized officer or representative as of the date first set forth above.

**CITY:**

**CITY OF ENGLEWOOD, COLORADO**

By: \_\_\_\_\_  
Randy P. Penn  
Mayor

[SEAL]

Attest:

\_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

**LENDER:**

**BOKF, NA**

By: \_\_\_\_\_  
Kristen M. Sundin  
Senior Vice President

**BORROWER:**

**DENVER AREA COUNCIL, BOY SCOUTS OF  
AMERICA**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A-1**  
**to First Supplement to Financing Agreement**

*Re: \$6,724,000 City of Englewood, Colorado  
Revenue Bond (Denver Area Council, Boy Scouts of America Project) Series 2008  
December 18, 2014*

*Revised Amortization/Payment Schedule*

**SCHEDULE I**

**BOND PAYMENT DATES**

(Revised December 18, 2014)

[TO BE PROVIDED. REVISED AMORTIZATION/PAYMENT SCHEDULE SHOULD SHOW PAYMENTS MADE THROUGH THE EFFECTIVE DATE AND THE REVISED AMORTIZATION/PAYMENT SCHEDULE FOR THE REMAINDER OF THE TERM.]

\*\*Revised as of December 18, 2014 in accordance with the terms, provisions, and conditions as set forth in that certain First Supplement to Financing Agreement, dated December 18, 2014, by and among the following parties: City of Englewood, Colorado, a municipal corporation and political subdivision duly organized as a home rule city under the provisions of Article XX of the Constitution, the laws of the State of Colorado, and its home rule Charter; BOKF, NA, a national banking association dba Colorado State Bank and Trust and successor in interest to Colorado State Bank and Trust, N.A.; and Denver Area Council, Boy Scouts of America, a Colorado nonprofit corporation.



**Exhibit B**

*to First Supplement to Financing Agreement*

*Re: \$6,724,000 City of Englewood, Colorado  
Revenue Bond (Denver Area Council, Boy Scouts of America Project) Series 2008  
December 18, 2014*

*Form of Release of Deed of Trust*

See next page.

Original Note and Deed of Trust Returned to: Original Note retained by Beneficiary (not paid in full). Original Deed of Trust to be returned to Grantor/Borrower.  
 WHEN RECORDED RETURN TO: Current Holder  
 Prepared/Received by: Dinsmore & Shohl LLP, 1801 Broadway, Suite 1700, Denver, Colorado 80202, Attn: Erich T. Kennedy

REQUEST FOR FULL  / PARTIAL

**RELEASE OF DEED OF TRUST AND RELEASE BY HOLDER OF THE EVIDENCE OF DEBT WITH PRODUCTION OF EVIDENCE OF DEBT PURSUANT TO § 38-39-102 (1) (a), COLORADO REVISED STATUTES**

December 18, 2014 Date  
 Denver Area Council, Boy Scouts of America Original Grantor (Borrower)  
 10455 West 6th Avenue Current Address of Original Grantor,  
 Denver, Colorado 80215 Assuming Party, or Current Owner  
 Check here if current address is unknown  
 Colorado State Bank and Trust, N.A. Original Beneficiary (Lender)  
 October 9, 2008 Date of Deed of Trust  
 October 15, 2008 Date of Recording and/or Re-Recording of Deed  
 497680 of Trust  
 County Rept. No. and/or Film No. and/or Book/Page No. and/or Torrens Reg. No. Recording Information

TO THE PUBLIC TRUSTEE OF Elbert COUNTY (The County of the Public Trustee who is the appropriate grantee to whom the above Deed of Trust should grant an interest in the property described in the Deed of Trust.)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. The indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied in regard to the property encumbered by the Deed of Trust as described therein as to a full release or, in the event of a partial release, only that portion of the real property described as: **(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A FULL RELEASE)**

**BOKF, NA, a national banking association dba Colorado State Bank and Trust and successor in interest to Colorado State Bank and Trust, N.A., 1600 Broadway, 4th Floor, Denver, Colorado 80202**

Name and Address of Current Holder of the Evidence of Debt Secured by Deed of Trust (Lender)

**Kristen M. Sundin, Senior Vice President, BOKF, NA, a national banking association dba Colorado State Bank and Trust, 1600 Broadway, 4th Floor, Denver, Colorado 80202**

Name, Title and Address of Officer, Agent, or Attorney of Current Holder

Signature \_\_\_\_\_ Signature \_\_\_\_\_

State of Colorado, County of Denver  
 The foregoing Request for Release was acknowledged before me  
 on December 18, 2014 (date) by\* \_\_\_\_\_ (Notary seal)

\_\_\_\_\_ Date Commission Expires  
 \*If applicable, insert title of officer and name of current holder Notary Public Witness my hand and official seal

**RELEASE OF DEED OF TRUST**

WHEREAS, the Grantor(s) named above, by Deed of Trust, granted certain real property described in the Deed of Trust to the Public Trustee of the County referenced above, in the State of Colorado, to be held in trust to secure the payment of the indebtedness referred to therein; and

WHEREAS, the indebtedness secured by the Deed of Trust has been fully or partially paid and/or the purpose of the Deed of Trust has been fully or partially satisfied according to the written request of the current holder of the evidence of debt;

NOW THEREFORE, in consideration of the premises and the payment of the statutory sum, receipt of which is hereby acknowledged, I, as the Public Trustee in the County named above, do hereby fully and absolutely release, cancel and forever discharge the Deed of Trust or that portion of the real property described above in the Deed of Trust, together with all privileges and appurtenances thereto belonging.

(Public Trustee use only; use appropriate label)

(Public Trustee's Seal)

\_\_\_\_\_  
 Public Trustee Date  
 \_\_\_\_\_  
 Deputy Public Trustee Date

(If applicable: Notary Seal)

(If applicable, Name and Address of Person Creating New Legal Description as Required by § 38-35-106.5, Colorado Revised Statutes.)

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2014 \_\_\_\_\_

COUNCIL BILL NO. 60  
 INTRODUCED BY COUNCIL  
 MEMBER OLSON

AN ORDINANCE APPROVING SUPPLEMENT NO. 23 TO THE VALLEY SANITATION DISTRICT CONNECTOR'S AGREEMENT WITH THE CITY OF ENGLEWOOD TO INCLUDE ADDITIONAL LAND WITHIN THE DISTRICT BOUNDARIES.

WHEREAS, the Valley Sanitation receives sewage treatment in accordance with a contract with the City of Englewood; and

WHEREAS, Valley Sanitation District has submitted a request for inclusion into Valley Sanitation District of a parcel with an existing address of 5495 Caribou Road in Littleton with the proposed use of R-1 Residential; and

WHEREAS, Supplement No. 23 is for approximately 1/2 acre which is presently zoned R-1 (Residential) and said zoning will remain the same; and

WHEREAS, said annexation of this additional parcel of land will not increase the tap allocation to the Valley Sanitation District; and

WHEREAS it is necessary for said District to amend its contract with the City of Englewood to include this additional land within the District; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended approval of the Valley Sanitation Supplement No. 23 to Connector's Agreement at their July 8, 2014 meeting;

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

Section 1. The Agreement between the City of Englewood and Valley Sanitation District entitled "Supplement No. 23 to Connector's Agreement" is hereby approved. A copy of said Agreement is attached hereto as Exhibit A.

Section 2. The Mayor and City Clerk are hereby authorized to sign and attest, respectively, the said Agreement for and on behalf of the City Council and the City of Englewood.

Introduced, read in full, and passed on first reading on the 20th day of October, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 24th day of October, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 22<sup>nd</sup> day of October, 2014 for thirty (30) days.

Read by title and passed on final reading on the 3rd day of November, 2014.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2014, on the 7th day of November, 2014.

Published by title on the City's official website beginning on the 5<sup>th</sup> day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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

SUPPLEMENT NO. 23 TO CONNECTOR'S AGREEMENT

THIS AGREEMENT, made and entered into by and between the CITY OF ENGLEWOOD, acting by an through its duly authorized Mayor and City Clerk, hereinafter called the "City," and Valley Sanitation District, Arapahoe and Douglas Counties, Colorado, hereinafter called the "District,"

WITNESSETH:

WHEREAS, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ the City and the District entered into an Agreement in which the City agreed to treat sewage originating from the District's sanitary sewer system within the area served by the District, which Agreement was renewed by Connector's Agreement dated January 12, ~~20~~ 1989

WHEREAS, said Connector's Agreement provides that the district may not enlarge its service area without the written consent of the City;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein set forth, the parties agree as follows:

1. The City hereby consents to the inclusion of certain additional area located in Arapahoe County, Colorado, owned by William F Miller Trust and more fully described on Exhibit A attached hereto and incorporated herein by reference, into Valley Sanitation District. The City agrees that said additional area may be served with the sewer facilities of the district, and that the City will treat the sewage discharged into the City's trunk line from said additional area, all in accordance with the Connector's Agreement dated April 18, 1955, ~~20~~ and Amended January 12, 1989, ~~30~~. Accordingly, Exhibit A referred to in Paragraph 1 of the Connector's Agreement dated April 18, 1955, ~~30~~ and Amended January 12, 1989, is hereby amended to include such additional area.

2. Each and every other provision of the said Connector's Agreement dated April 15, 1955 and Amended Jan. 12, 1989, shall remain unchanged.

IN WITNESS WHEREOF, the parties have set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF ENGLEWOOD

BY \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK  
(SEAL)

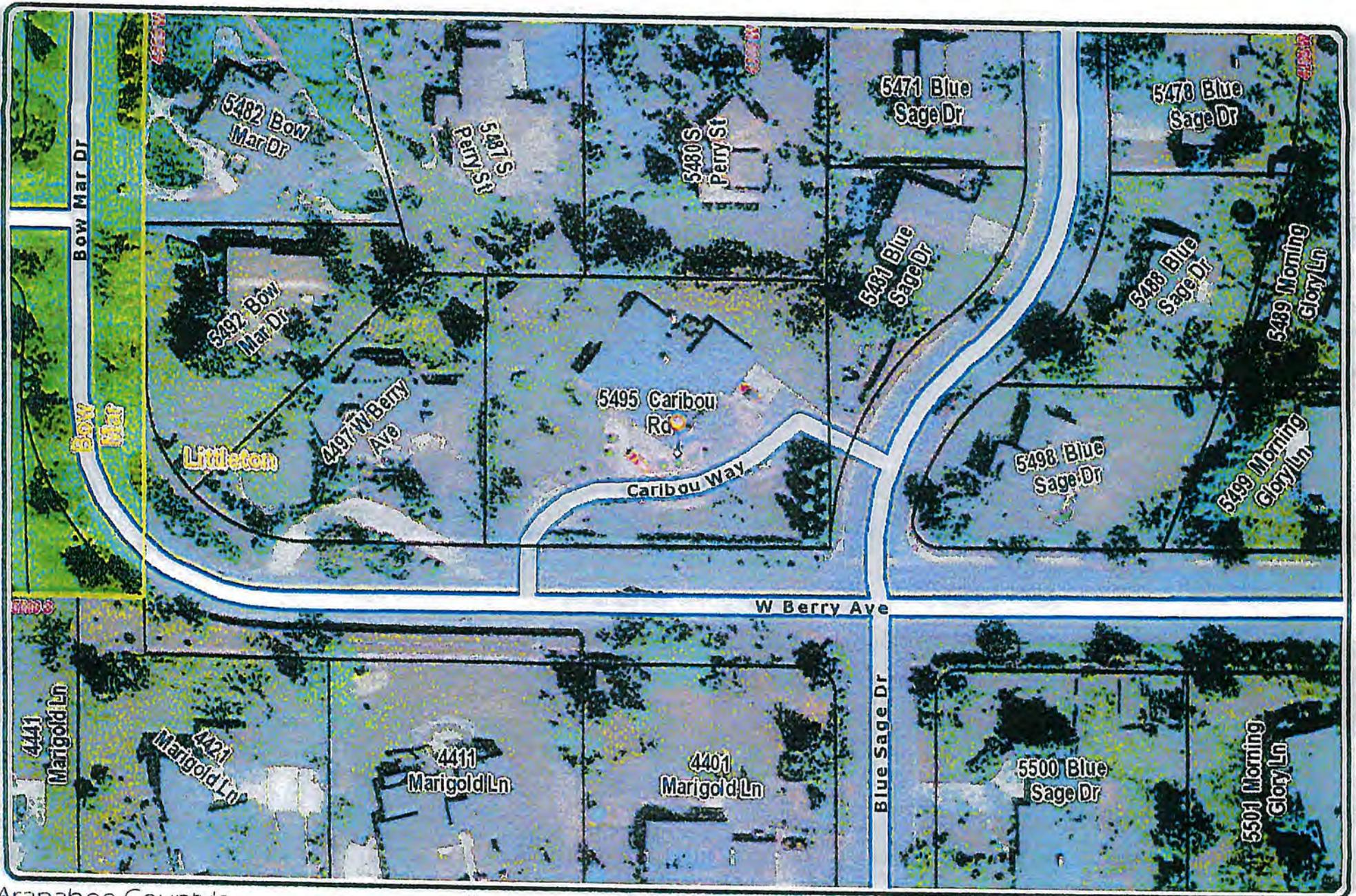
VALLEY \_\_\_\_\_ SANITATION DISTRICT  
ARAPAHOE COUNTY, COLORADO

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

ATTEST:

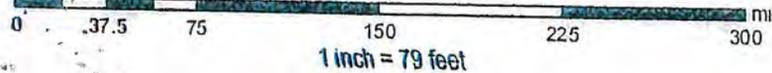
\_\_\_\_\_  
SECRETARY  
(SEAL)





Arapahoe County's  
**ArapaMAP**

Map Generated On: 6/19/2014



ARAPAHOE COUNTY MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF THIS MAP OR THE DATA THAT IT DISPLAYS. ARAPAHOE COUNTY ASSUMES NO RESPONSIBILITY OR LIABILITY TO ANY USER. THIS MAP IS NOT A LEGAL DOCUMENT. IT IS INTENDED TO SERVE AS AN AID IN GRAPHICAL REPRESENTATION ONLY.



Map Location

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2014

COUNCIL BILL NO. 61  
INTRODUCED BY COUNCIL  
MEMBER GILLIT

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ENGLEWOOD, AND SOUTH SUBURBAN PARK AND RECREATION DISTRICT FOR THE CONSTRUCTION OF THE BIG DRY CREEK CONNECTION BICYCLE TRAIL WITHIN CITY OF ENGLEWOOD'S BELLEVUE PARK.

WHEREAS, the City of Englewood is cooperating with the South Suburban Park and Recreation District (SSPRD) in the development, by South Suburban Park and Recreation District of a bike trail within the City of Englewood to connect existing sections of a regional bike trail ; and

WHEREAS, the South Suburban Park and Recreation District submitted a plan to the City of Englewood for constructing a part of that bike trail located in Bellevue Park; and

WHEREAS, the Englewood Park and Recreation Department reviewed South Suburban Park and Recreation District's proposal at their meeting on September 11, 2014 and recommended approval of this Agreement; and

WHEREAS, the City of Englewood owns and controls Bellevue Park; and

WHEREAS, intergovernmental agreements are authorized by Article XIV, Section 18 of the Colorado Constitution and C.R.S. §29-1-203; and

WHEREAS, improvements necessary for the Big Dry Creek Trail Connection Bike Trail at Bellevue Park are outlined in the Agreement and Exhibits; and

WHEREAS, the City will also grant a Temporary Construction Easement for the District to allow construction of this bike trail.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the intergovernmental Agreement between the South Suburban Park and Recreation District and the City of Englewood, Colorado pertaining to a certain section of the proposed Big Dry Creek Trail Connection Bike Trail at Bellevue Park, attached hereto as Exhibit 1.

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

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes a Grant of Temporary Construction Easement for “Big Dry Creek Trail Connection” Bike Trail at Belleview Park pertaining to a certain section of the proposed Big Dry Creek Trail Connection Bike Trail at Belleview Park, attached hereto as Exhibit 2.

Section 4. The Director of Parks and Recreation is hereby authorized to sign said Grant of Temporary Construction Easement for “Big Dry Creek Trail Connection” Bike Trail at Belleview Park for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 20th day of October, 2014.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 24<sup>th</sup> day of October, 2014.

Published as a Bill for an Ordinance on the City’s official website beginning on the 22nd day of October, 2014 for thirty (30) days.

Read by title and passed on final reading on the 3rd day of November, 2014.

Published by title in the City’s official newspaper as Ordinance No. \_\_\_\_, Series of 2014, on the 7th day of November, 2014.

Published by title on the City’s official website beginning on the 5<sup>th</sup> day of November, 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

INTERGOVERNMENTAL AGREEMENT FOR THE CONSTRUCTION OF THE  
“BIG DRY CREEK TRAIL CONNECTION AT BELLEVIEW PARK”

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the CITY OF ENGLEWOOD, a municipal corporation of the State of Colorado, (hereinafter referred to as “the City”); and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, (hereinafter referred to as “District”).

WHEREAS, the City of Englewood and South Suburban Park and Recreation District are cooperating in the development and operations of a pedestrian and bicycle trail within the city limits of Englewood across the City’s Belleview Park (bike trail) to complete connections for the “Big Dry Creek Trail”.

NOW THEREFORE, the City and the District agree as follows:

A. Bike Trail Improvement Plans:

1. The proposed improvements necessary for the Bike Trail (the “Improvements”) are detailed on the plans (the “Plan”) in Exhibit A, attached hereto and incorporated herein by this reference. The City hereby grants to the District the right to access and construct the bike trail and improvements in accordance with the terms of this Agreement and the plans and specifications approved by the City.

B. Construction, Operation and Maintenance of the Bike Trail:

The District will, at its own cost, construct a bike and pedestrian trail across a portion of the City’s Belleview Park for the purpose of connecting the Big Dry Creek Trail and the Littleton Community Trail. This bike trail shall consist of a crusher fines trail as shown on Exhibit A attached hereto.

The District will be responsible for construction of the bike trail and improvements. The District shall endeavor to begin construction upon passage of this Agreement and conclude construction in 2014, provided however, the District shall not be in default hereunder for failure to either begin or end construction by the above-recited dates.

The District agrees to construct this bike trail in a manner consistent with the design plans, specifications and the building permit approved by the City.

The District will provide a one (1) year warranty for construction and design.

As consideration for this Agreement, once the Englewood Director of Public Works has approved and accepted the completed bike trail, the City will accept ownership of and maintain the bike trail and amenities in a manner consistent with the City’s maintenance of its other park facilities for the Bike Trail’s useful life.

Upon acceptance of this bike trail, in writing by the Englewood Director of Public Works, the City agrees that the bike trail has been constructed in accordance with the design plans and specifications that Englewood has reviewed and approved; and all rights and title to the bike trail will be conveyed to the City of Englewood.

From and after the effective date of the conveyance of the bike trail and improvements, City agrees to own, operate, maintain, and replace the bike trail and related improvements. City further agrees that the conveyed bike trail will be available for use by the general public. However, The City reserves the exclusive right to change or remove all bike paths in the City consistent with long range City Parks plans,

From and after the date of conveyance the District will have no further obligation for operations, maintenance or replacement of any portion of the bike trail which is the subject of this Agreement.

C. Miscellaneous Provisions:

1. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a provision that will achieve the original intent of the Parties hereunder.
2. This Agreement may be amended, modified, or changed, in whole or in part, only by written agreement duly authorized and executed by the Parties and the authorized signatories for the Parties.
3. All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, and regardless whether actually received or not, three days after deposit in the United States Mail, first class, postage prepaid, registered or certified addressed as follows:

Englewood:  
City of Englewood  
City Manager  
1000 Englewood Parkway  
Englewood, CO 80110

With a copy to:  
City of Englewood  
City Attorney  
1000 Englewood Parkway  
Englewood, CO 80110

District:  
South Suburban Park and Recreation District  
6631 South University Blvd.  
Centennial, Co. 80121-2913

With a copy to:  
Timothy J. Flynn  
Collins Cockrel & Cole PC  
390 Union Boulevard - Suite 400  
Denver, CO 80228

4. This Agreement shall be governed by, and shall be construed in accordance with the laws of the State of Colorado. Venue for the trial of any action arising out of any dispute hereunder shall be in Arapahoe County District Court, pursuant to the appropriate rules of civil procedure.
5. This Agreement constitutes the entire agreement of the Parties hereto. The parties agree that there have been no representations made regarding the subject matter hereof other than those, if any, contained herein. That this Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration of one another.
6. This Agreement may be executed in counterparts, and upon full execution thereof, such copies taken together shall be deemed to be a full and complete Agreement between the parties.
7. If litigation is commenced by any of the Parties concerning this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs from the other Parties.

IN WITNESS WHEREOF, Englewood and South Suburban Park and Recreation District have executed this Agreement.

CITY OF ENGLEWOOD, COLORADO

By: \_\_\_\_\_  
Randy P. Penn, Mayor

ATTEST:

By: \_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

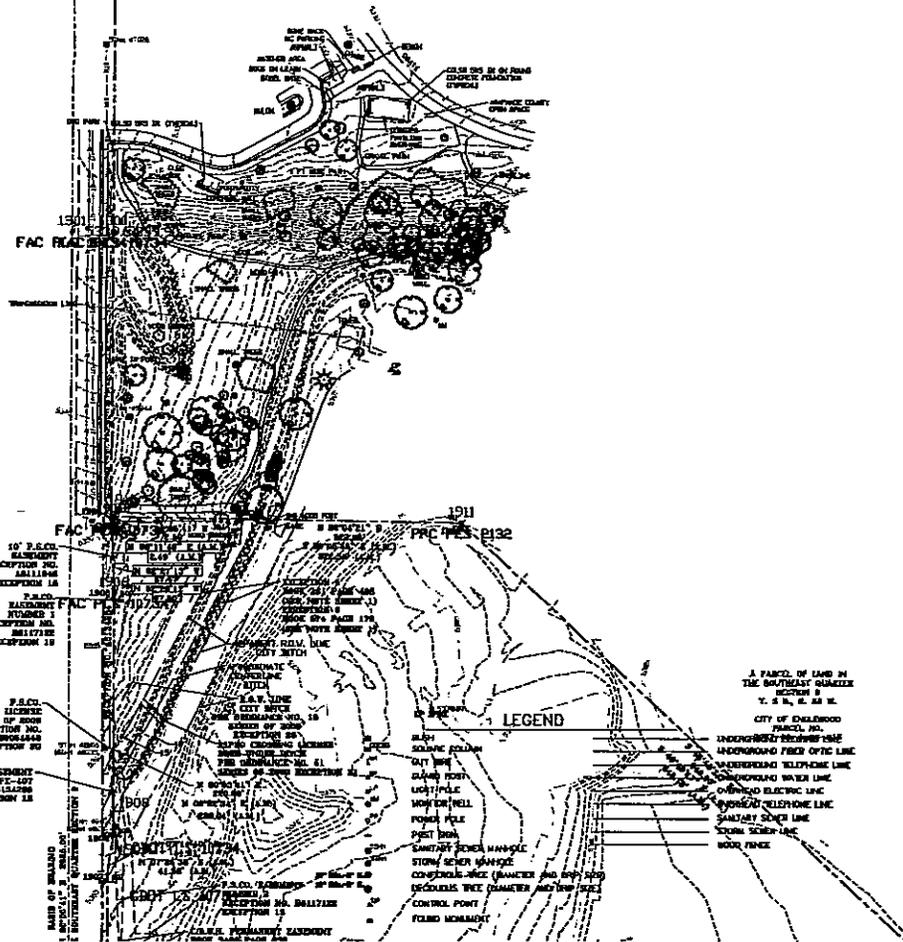
SOUTH SUBURBAN PARK AND RECREATION DISTRICT

By: \_\_\_\_\_  
John K. Ostermiller, President  
6631 South University Blvd.



# TOPOGRAPHIC SURVEY

A PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH P.M.  
COUNTY OF ARAPAHOE, STATE OF COLORADO



### SURVEYOR'S CERTIFICATE

I, Albert V. Vohelski, Jr., a Registered Professional Land Surveyor in the State of Colorado, do hereby certify that I am the author of this map and that the same is a true and correct representation of the actual conditions of the land as shown by my field notes and measurements.

This drawing does not represent a Land Survey, Land Survey Plat, Improvement Land Survey Plat or Improvement Location Certificate and is intended only for use as a reference. The boundary for Cornerstone Park was taken from a previous survey by Western States Surveying, Inc. for 25790. The right of way shown along the east side of S. Broadway Street along the survey field for this survey was obtained from a deed and is the found CDOT maintenance drive on the survey.



WEST Job No. 09945-010  
Prepared For and on behalf of  
WESTERN STATES SURVEYING, INC.  
12733 South Parker Road, Suite 305  
Parker, Colorado 80134  
(303) 641-7436  
By Albert V. Vohelski, Jr., P.L.S. 23624

NOTE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after the date of the certification above herein.

### SURVEYOR'S NOTES

**DATUM AND BENCHMARK**  
THIS SURVEY IS REFERENCED TO MEAN DATUM AND ORIGINATES FROM THE FOLLOWING BENCHMARK: Q 23 ELEVATION = 5365.24 FEET (HAND SET)

**CONTROL POINTS AND DATUM**  
THIS SURVEY IS REFERENCED TO A GEODETIC COORDINATE PROJECT SPECIFIC DATUM AND ORIGINATES FROM THE FOLLOWING CONTROL MONUMENTS:

| POINT | NORTH      | EAST       | ELEV    | DESCRIPTION            |
|-------|------------|------------|---------|------------------------|
| 73    | 1634813.26 | 314746.49  | 5263.94 | 0 11                   |
| 1037  | 1630451.20 | 3138862.87 | 6576.83 | aluminum cap PLS 14115 |
| 1084  | 1632112.26 | 3137747.82 | 5341.88 | aluminum cap PLS 14115 |
| 2010  | 1642143.07 | 3127083.79 | 5381.23 | BM 233                 |

**THE FOLLOWING LOCAL CONTROL MONUMENTS WERE FOUND OR USED DURING THIS SURVEY OR PREVIOUS WESTERN STATES SURVEYING, INC. PROJECT FOR 25790:**

| POINT | NORTH      | EAST       | ELEV    | DESCRIPTION  |
|-------|------------|------------|---------|--|
| 15    | 1631081.03 | 3139730.21 | 5364.40 | 1/2" rubber with 2" aluminum cap stamped "WSS CP 15"                   |
| 1000  | 1632080.06 | 314217.77  | 5175.83 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 2727B"            |
| 1300  | 1634401.59 | 313913.52  | 5338.80 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724"            |
| 1308  | 1634401.60 | 313898.58  | 5338.84 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724"            |
| 1502  | 1631121.26 | 314041.30  | 5388.54 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724"            |
| 1503  | 1631121.26 | 314041.30  | 5378.40 | Hand in wall (appears to be for stony rock cap)                        |
| 1506  | 1634070.17 | 313915.94  | 5353.48 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724 2101"       |
| 1507  | 1633068.01 | 313915.94  | 5364.89 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724 2101"       |
| 1508  | 1633050.18 | 313915.94  | 5343.81 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724 2101"       |
| 1509  | 1634157.08 | 313913.52  | 5350.72 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724 2101"       |
| 1811  | 1634151.09 | 3140283.74 | 6371.77 | 1/2" rubber with 1 1/2" yellow plastic cap stamped "Robinson PLS 2312" |
| 1812  | 1633262.60 | 3140724.17 | 6196.35 | 1/2" rubber (not used)   |
| 1813  | 1633262.67 | 3140724.17 | 6268.28 | 1/2" rubber  |
| 1100  | 1633084.03 | 3138862.87 | 5370.04 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 2579 1819"        |
| 1104  | 1633718.04 | 3138862.87 | 5341.55 | 3 1/2" aluminum cap in survey hole stamped "CDOT PLS 10724 1817"       |

**THE FOLLOWING LOCAL CONTROL MONUMENTS WERE SET DURING THIS SURVEY OR PREVIOUS WESTERN STATES SURVEYING, INC. PROJECT FOR 25790:**

| POINT | NORTH      | EAST       | ELEV    | DESCRIPTION  |
|-------|------------|------------|---------|--|
| 30    | 1634082.03 | 3140283.84 | 6151.22 | 1/2" rubber with 2" aluminum cap stamped "WSS CP 30" |
| 31    | 1633981.18 | 3140283.84 | 6171.15 | 1/2" rubber with 2" aluminum cap stamped "WSS CP 31" |
| 32    | 1634278.87 | 3140189.03 | 5361.37 | CP spike   |
| 804   | 1632112.13 | 3140724.17 | 5371.70 | 1" brass leg stamped "WSS PLS 2305-C"                |
| 802   | 1632112.43 | 314041.30  | 5388.64 | 1" brass leg stamped "WSS PLS 2305-C"                |
| 804   | 1631124.26 | 313915.94  | 5372.54 | 1" Red plastic cap on a 1/2" rubber WSS PLS 23024    |
| 808   | 1631124.26 | 313915.94  | 5371.15 | 1" Red plastic cap on a 1/2" rubber WSS PLS 23024    |
| 810   | 1634160.14 | 313913.52  | 5351.07 | 1" Red plastic cap on a 1/2" rubber WSS PLS 23024    |
| 812   | 1633891.28 | 3140724.17 | 5368.25 | 1" Red plastic cap on a 1/2" rubber WSS PLS 23024    |
| 1017  | 1634024.62 | 3140724.17 | 5374.23 | Cornerstone CP 1017                                  |
| 3795  | 1633040.06 | 3140283.84 | 5361.10 | CP spike   |
| 3797  | 1633484.79 | 3140384.79 | 5364.20 | CP spike   |
| 4887  | 1633863.03 | 3140283.84 | 5378.87 | CP spike   |
| 4688  | 1633084.03 | 3140283.84 | 5361.54 | CP spike   |

**COORDINATE SYSTEM DETAILS**  
MODIFIED GEODETIC SYSTEM U.S. STATE PLANE (NAD 83), COORDINATE ZONE (NAD 83), HAD LMS (CONUS), GEODETIC PROJECT DATUM: 25790-25-830000  
PROJECT UTM ZONE: 10T0758-022800W  
PROJECT HEIGHT: 5307.885 FT  
DESIRED SCALE FACTOR: 1.00000000  
FALSE NORTHING OFFSET: -486.337 FT  
FALSE EASTING OFFSET: -844.922 FT

**PUBLISHED DATA**

| NAME | LATITUDE        | LONGITUDE        | ELLIPSOID HEIGHT |
|------|-----------------|------------------|------------------|
| Q 23 | 39°24'36.4807"N | 106°07'38.4619"W | 6240.72          |
| 1084 | 39°27'07.5163"N | 106°07'38.4619"W | 6268.96          |

- UTILITIES**
- The utilities which are readily visible upon the ground, such as excavation, power and light poles, lines, etc. were located by field surveys and shown hereon.
  - Underground utilities if shown are based on maps provided by others. No guarantee is made of the accuracy of these maps.
  - No record search was made to determine utility ownership or encumbrances, recorded or unrecorded.
- SEE CONDITIONS AT THE TIME OF THE SURVEY.**

**CERTIFICATION DENIED**  
Pursuant to Rule 6.5-Land Surveyors' Certification of the State Board of Registrars for Professional Engineers and Land Surveyors, I do not believe in a direct or a significant and material statement representing that the surveying services herein have been performed by or under the responsible direction of the Professional Land Surveyor. It accords with customary standards of practice and is not a warranty or warranty, either expressed or implied.

WESTERN STATES SURVEYING, INC.  
REGISTERED PROFESSIONAL LAND SURVEYORS  
STATE OF COLORADO

TOPOGRAPHIC SURVEY  
DHM DESIGN  
SECTION 9, T. 5 S., R. 68 W.

| DATE     | BY | DATE | BY |
|----------|----|------|----|
| 02/14/13 | AV |      |    |
|          | AV |      |    |
|          | AV |      |    |
|          | AV |      |    |

SHEET 5 of 5

JOB NUMBER: 09845-010



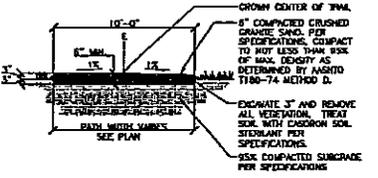




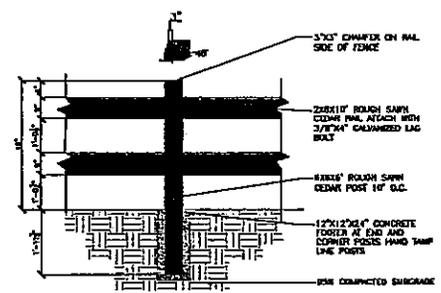
100 E. Broadway  
 Littleton, CO 80120  
 303.785.2500  
 www.dwvdesign.com

**REUSE OF INFORMATION**

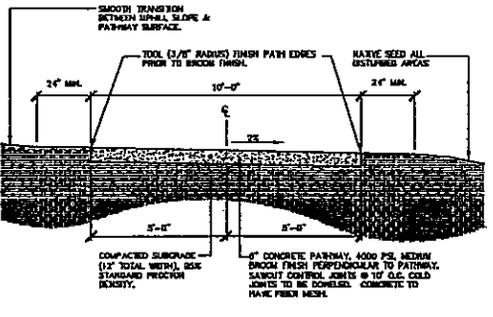
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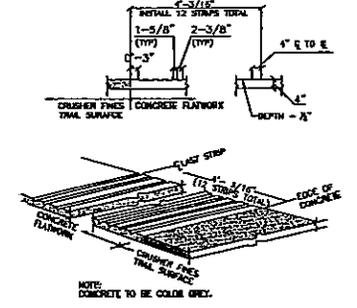
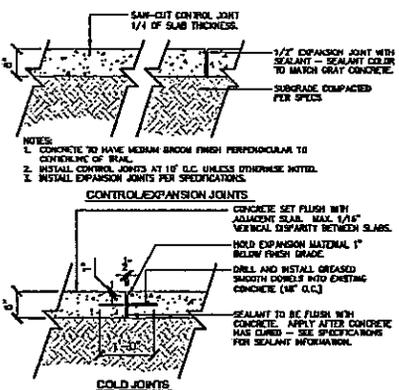
**1 CRUSHER FINES TRAIL** SCALE: NTS



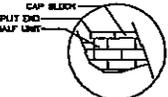
**2 2-RAIL WOOD FENCE** SCALE: NTS



**3 CONCRETE TRAIL/PAVING** SCALE: NTS

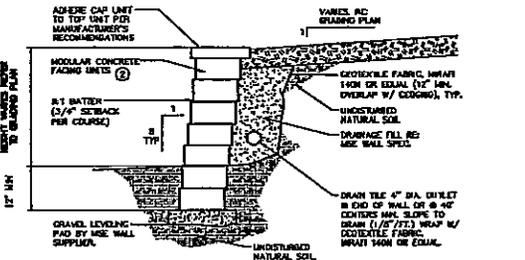


**4 CONCRETE TRANSITION** SCALE: NTS



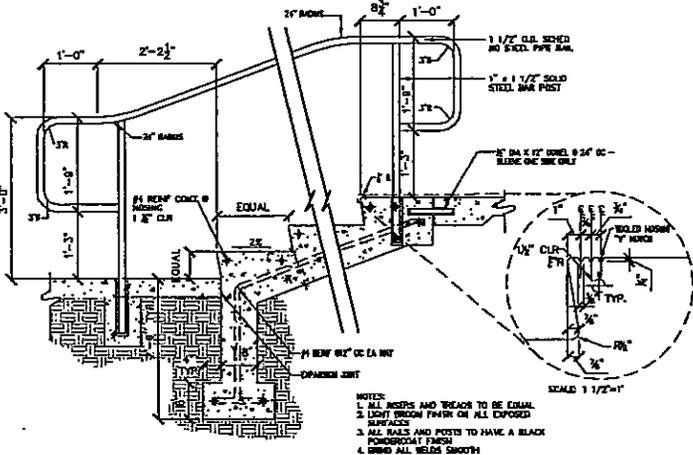
**CAPPING DETAIL** SCALE: NONE

**GENERAL NOTES FOR CAPPING:**  
 1. CAPS SHALL BE PLACED ON ALL WALLS.  
 2. CAPS SHALL BE ADHERED TO WALL USING CONCRETE ADHESIVE AND PER MANUFACTURER'S RECOMMENDATIONS.  
 3. WHEN CUTTING CAP UNIT FOR WALL DIM DO NOT USE A CAP SECTION LESS THAN 8\"/>

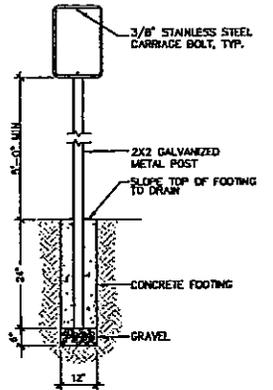


**GENERAL NOTES:**  
 1. MINIMUM EMBEDMENT OF WALL BELOW FINISH GRADE SHALL BE 10\"/>

**5 MSE WALL** SCALE: NTS



**6 CONCRETE STAIRS** SCALE: NTS



**7 TRAIL SIGN** SCALE: NTS



**C1-L-BOC** 18x12 WHITE ON GREEN

**C1-L-CP** 18x12 WHITE ON GREEN

AREA B'

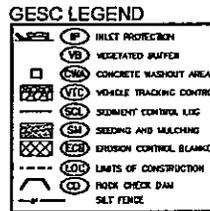
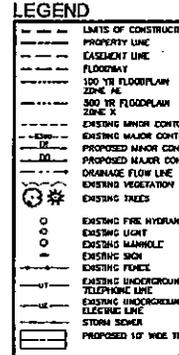
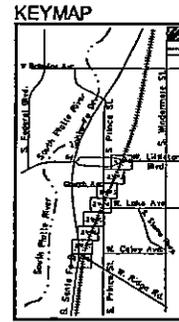
**D21**  
 SHEET OF

**Big Dry Creek Trail Connection**  
 Englewood, Colorado

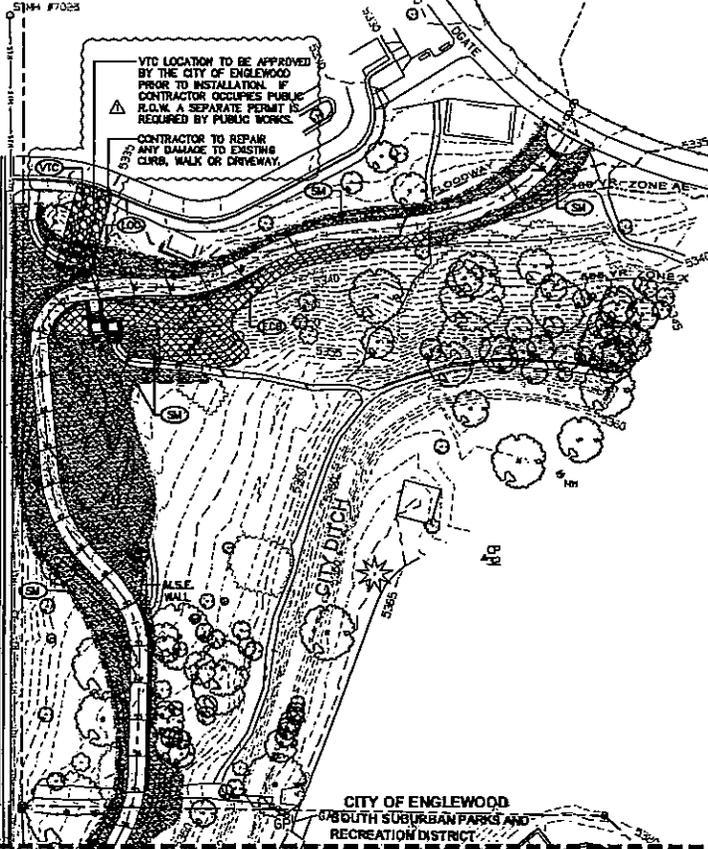
|                |         |
|----------------|---------|
| PROJECT NAME   | DATE    |
| 14167AD        | 0523-14 |
| DESIGNED BY    |         |
| SCHEMATIC      |         |
| DRAWN BY       |         |
| DATE: 05/23/14 |         |
| SCALE:         |         |
| DATE:          |         |
| SCALE:         |         |
| DATE:          |         |
| SCALE:         |         |
| DATE:          |         |
| SCALE:         |         |



- NOTES:**
1. THIS PLAN IS CONCEPTUAL AND OUTLINES THE ELEMENTS REQUIRED FOR A PROPER SWAMP. HOWEVER IT IS OBLIGATORY ON THE CONTRACTOR TO DEVELOP AND SUBMIT A PLAN TO THE CODE AT THE TIME OF PERMIT APPLICATION.
  2. ALL CONCRETE MUST MEET CITY OF ENGLEWOOD STANDARDS.
  3. ALL WORK IN THE PUBLIC RIGHT-OF-WAY REQUIRES PERMITS FROM PUBLIC WORKS.
  4. PRE-EXISTING DAMAGE SHALL BE DOCUMENTED PRIOR TO START OF CONSTRUCTION. ALL CONCRETE BROKEN DURING CONSTRUCTION MUST BE REPLACED.
  5. ERECT AND MAINTAIN ADEQUATE EROSION PROTECTION FOR THE DURATION OF THE PROJECT. NO MATERIAL WILL BE ALLOWED TO LEAVE SITE.
  6. ACCESS ROADS, TEMPORARY OR OF PERMANENT TYPE, SHALL AT NO TIME HAVE THE MINIMUM REQUIRED WIDTH OF 26' AND FOR THE OVERHEAD VERTICAL CLEARANCE OF 13'6" OBSTRUCTED (EXISTING PARKING LOT).



S. WINDERMERE STREET



MATCHLINE - SEE SHEET SMP2-BDC

CITY OF ENGLEWOOD  
SOUTH SUBURBAN PARKS AND RECREATION DISTRICT



AREA 'B'  
Scale: 1" = 30'

**DHW DESIGN**  
1111 Broadway  
Suite 200  
Englewood, CO 80150  
Phone: 303.733.8888  
www.dhwdesign.com

**RELISE OF DOCUMENT**  
This document is the property of the City of Englewood. It is loaned to you for your use only. It is not to be reproduced or distributed without the written permission of the City of Englewood.

**Big Dry Creek Trail Connection**  
Englewood, Colorado

PROJECT NUMBER: 14107.00 DATE: 05-23-14  
DESIGNED BY: ES  
DRAWN BY: KD  
CHECKED BY: EN

REVISIONS:  
06-19-14  
07-03-14

IN RESPONSE TO:  
Contractor  
Discussion

SHEET SIZE:  
Stormwater Management Plan

SHEET NUMBER:  
**SMPI-BDC**  
SHEET 01 OF 01



GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR "BIG DRY CREEK TRAIL CONNECTION" BIKE TRAIL AT BELLEVIEW PARK

THIS TEMPORARY CONSTRUCTION EASEMENT is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the CITY OF ENGLEWOOD, a municipal corporation of the State of Colorado, ("Grantor"); and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, ("Grantee").

WHEREAS, Grantor owns Belleview Park in the City of Englewood, Colorado; and

WHEREAS, Grantee desires to install a bike trail within the Park pursuant to an intergovernmental agreement between the parties executed \_\_\_\_\_, 2014;

NOW THEREFORE, in consideration of the mutual covenants of the parties, more particularly hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Temporary Construction Easement. Grantor hereby grants to Grantee, its successors, assigns, contractors, and sub-contractors, a non-exclusive temporary construction easement through, over, under and across the City property for the construction of a Bike Trail pursuant to the Intergovernmental Agreement (the "Project"), attached as Attachment 1.
2. Term of Easement. The Project will begin no sooner than November 1, 2014 and will be completed no later than December 31, 2014. Completion of the Project will be deemed to have occurred upon inspection and approval of the Project by Grantor, and this Temporary Easement will be deemed to have terminated upon such completion.
3. Access. Grantee shall have the temporary non-exclusive right to enter the City property for any reasonable purpose necessary or prudent for the construction of the Project subject to the following restrictions: 1) Normal working hours shall be consistent with CDOT construction hours, Monday through Friday; and 2) the operation of the equipment and heavy trucks will be permitted on the Englewood City property R-O-W only during normal working hours.
4. Restoration. Upon completion of the Project, Grantee will perform such restoration and regarding as is necessary or prudent to restore the surface of the City property to its original condition including irrigation facilities.
5. Insurance. South Suburban Park and Recreation District is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. The South Suburban Park and Recreation District shall show proof of such insurance satisfactory to the City, if requested by the City. The South Suburban Park and Recreation District shall require each Agreement with their Consultant and Contractor, that are providing Goods or Services hereunder, to include the insurance requirements necessary to meet Consultant or Contractor liabilities under the GIA.

6. Assignment. This Temporary Construction Easement is assignable only with the written permission of the Grantor, which permission will not be unreasonably withheld, conditioned, or delayed.

IN WITNESS WHEREOF, the parties hereto have executed this Temporary Construction Easement on the date and day first written above.

CITY OF ENGLEWOOD, COLORADO

By: \_\_\_\_\_  
Jerrell Black, Director of Parks & Recreation

The undersigned officer of Grantee has read the foregoing Temporary Construction Easement and agrees for on behalf of said Grantee that it will accept and will abide by all the terms and conditions thereof.

GRANTEE:  
SOUTH SUBURBAN PARK AND RECREATION DISTRICT

By  
John K. Ostermiller, President  
6631 South University Blvd.  
Centennial, Co. 80121-2913  
303 798-5131

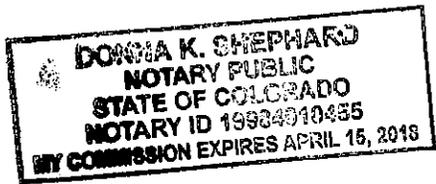
STATE OF COLORADO     )  
  ) ss.  
COUNTY OF ARAPAHOE    )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of October, 2014, by John K. Ostermiller, President of South Suburban Park and Recreation District.

WITNESS my hand and seal.

Notary Public

My Commission expires:  
April 15, 2018.



INTERGOVERNMENTAL AGREEMENT FOR THE CONSTRUCTION OF THE  
"BIG DRY CREEK TRAIL CONNECTION AT BELLEVIEW PARK"

THIS AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2014, between the CITY OF ENGLEWOOD, a municipal corporation of the State of Colorado, (hereinafter referred to as "the City"); and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, (hereinafter referred to as "District").

WHEREAS, the City of Englewood and South Suburban Park and Recreation District are cooperating in the development and operations of a pedestrian and bicycle trail within the city limits of Englewood across the City's Belleview Park (bike trail) to complete connections for the "Big Dry Creek Trail".

NOW THEREFORE, the City and the District agree as follows:

A. Bike Trail Improvement Plans:

1. The proposed improvements necessary for the Bike Trail (the "Improvements") are detailed on the plans (the "Plan") in Exhibit A, attached hereto and incorporated herein by this reference. The City hereby grants to the District the right to access and construct the bike trail and improvements in accordance with the terms of this Agreement and the plans and specifications approved by the City.

B. Construction, Operation and Maintenance of the Bike Trail:

The District will, at its own cost, construct a bike and pedestrian trail across a portion of the City's Belleview Park for the purpose of connecting the Big Dry Creek Trail and the Littleton Community Trail. This bike trail shall consist of a crusher fines trail as shown on Exhibit A attached hereto.

The District will be responsible for construction of the bike trail and improvements. The District shall endeavor to begin construction upon passage of this Agreement and conclude construction in 2014, provided however, the District shall not be in default hereunder for failure to either begin or end construction by the above-recited dates.

The District agrees to construct this bike trail in a manner consistent with the design plans, specifications and the building permit approved by the City.

The District will provide a one (1) year warranty for construction and design.

As consideration for this Agreement, once the Englewood Director of Public Works has approved and accepted the completed bike trail, the City will accept ownership of and maintain the bike trail and amenities in a manner consistent with the City's maintenance of its other park facilities for the Bike Trail's useful life.

Upon acceptance of this bike trail, in writing by the Englewood Director of Public Works, the City agrees that the bike trail has been constructed in accordance with the design plans and specifications that Englewood has reviewed and approved; and all rights and title to the bike trail will be conveyed to the City of Englewood.

From and after the effective date of the conveyance of the bike trail and improvements, City agrees to own, operate, maintain, and replace the bike trail and related improvements. City further agrees that the conveyed bike trail will be available for use by the general public. However, The City reserves the exclusive right to change or remove all bike paths in the City consistent with long range City Parks plans,

From and after the date of conveyance the District will have no further obligation for operations, maintenance or replacement of any portion of the bike trail which is the subject of this Agreement.

C. Miscellaneous Provisions:

1. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a provision that will achieve the original intent of the Parties hereunder.
2. This Agreement may be amended, modified, or changed, in whole or in part, only by written agreement duly authorized and executed by the Parties and the authorized signatories for the Parties.
3. All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, and regardless whether actually received or not, three days after deposit in the United States Mail, first class, postage prepaid, registered or certified addressed as follows:

Englewood:  
City of Englewood  
City Manager  
1000 Englewood Parkway  
Englewood, CO 80110

With a copy to:  
City of Englewood  
City Attorney  
1000 Englewood Parkway  
Englewood, CO 80110

District:  
South Suburban Park and Recreation District  
6631 South University Blvd.  
Centennial, Co. 80121-2913

With a copy to:  
Timothy J. Flynn  
Collins Cockrel & Cole PC  
390 Union Boulevard - Suite 400  
Denver, CO 80228

4. This Agreement shall be governed by, and shall be construed in accordance with the laws of the State of Colorado. Venue for the trial of any action arising out of any dispute hereunder shall be in Arapahoe County District Court, pursuant to the appropriate rules of civil procedure.
5. This Agreement constitutes the entire agreement of the Parties hereto. The parties agree that there have been no representations made regarding the subject matter hereof other than those, if any, contained herein. That this Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration of one another.
6. This Agreement may be executed in counterparts, and upon full execution thereof, such copies taken together shall be deemed to be a full and complete Agreement between the parties.
7. If litigation is commenced by any of the Parties concerning this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs from the other Parties.

IN WITNESS WHEREOF, Englewood and South Suburban Park and Recreation District have executed this Agreement.

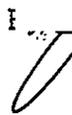
CITY OF ENGLEWOOD, COLORADO

By: \_\_\_\_\_  
Randy P. Penn, Mayor

ATTEST:

By: \_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

SOUTH SUBURBAN PARK AND RECREATION DISTRICT

 John K. Ostermiller, President  
6631 South University Blvd.

Centennial, Co. 80121-2913  
303 798-5131

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF ARAPAHOE   )

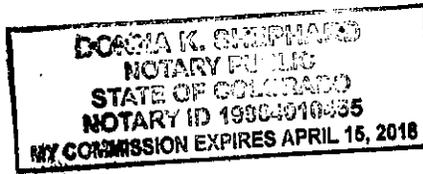
The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of October, 2014, by John K. Ostermiller, President of South Suburban Park and Recreation District.

WITNESS my hand and seal.

*h*  
Notary Public

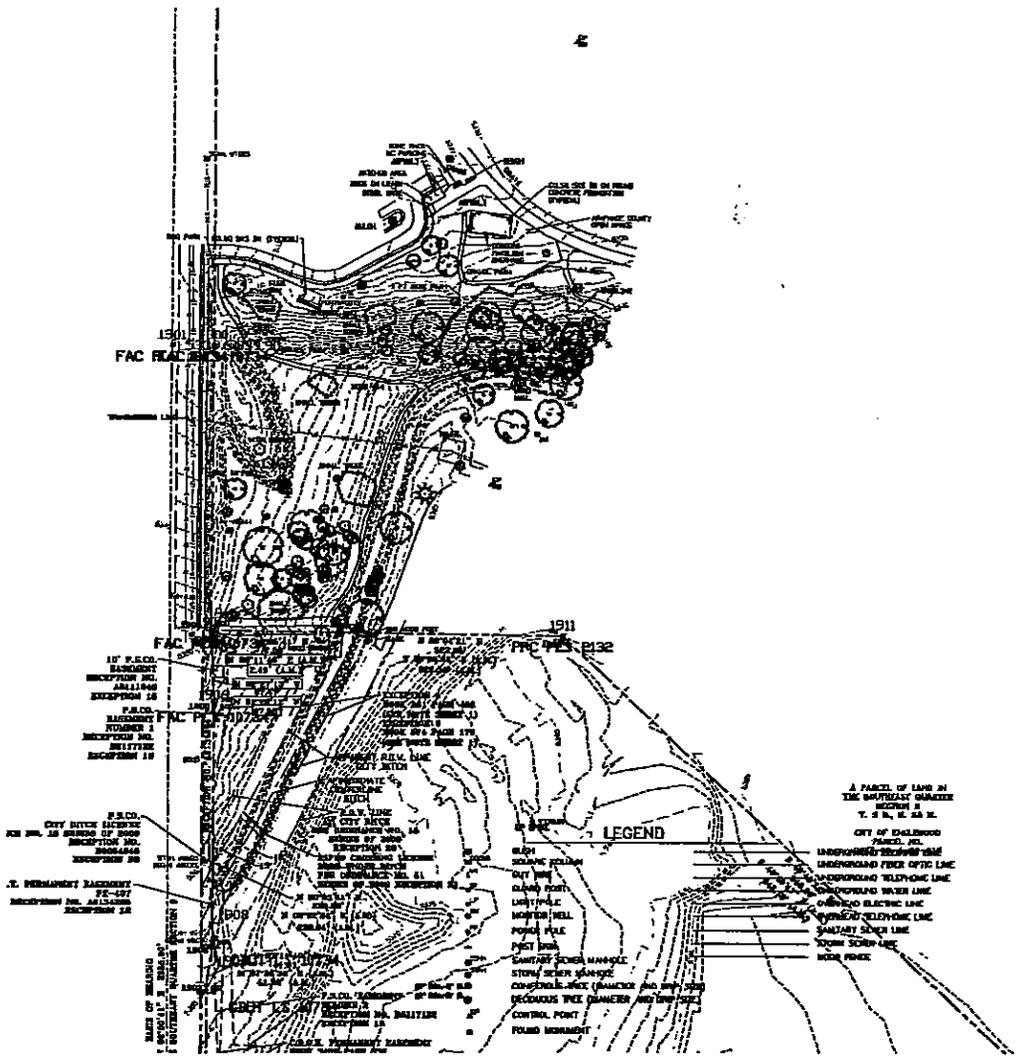
My Commission expires:

April 15, 2018



# TOPOGRAPHIC SURVEY

A PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6TH P.M.  
COUNTY OF ARAPAHOE, STATE OF COLORADO



**SURVEYOR'S CERTIFICATE**

I, Albert V. Vothel, Jr., a Registered Professional Land Surveyor in the State of Colorado, do hereby certify that on the 14th day of May, 1914, a topographic survey was conducted under my supervision using the standard standards of care of a Professional Land Surveyor practicing in Arapahoe County, Colorado and the same survey contains the following description of the land surveyed.

This drawing does not represent a Land Survey, Land Survey Plat, Improvement Land Survey Plat or Improvement Land Certificate and any provisions of law or any other law which may be enacted in the future shall not apply to this drawing. The boundary for this survey was taken from a previous survey by Western States Surveying, Inc. for 20761. The height of this survey was taken from the 5th Standard Meridian along the survey line for this survey was established from the same and by the same COG's monuments shown on this survey.



NSD Job No. 09945(10)  
Prepared For and on behalf of  
WESTERN STATES SURVEYING, INC.  
12733 South Parker Road, Suite 205  
Parker, Colorado 80134  
(303) 841-7436  
By: Albert V. Vothel, Jr., P.L.S. 23324

**NOTICE:** According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.

**SURVEYOR'S NOTES:**

**DATA AND MONUMENTS:**  
THIS SURVEY IS REFERENCED TO THE MEAN BARRIN AND ORIGINATES FROM THE FOLLOWING MONUMENTS: U.S. ELEVATION - 5285.24 FEET (MAD 88).

**CONTROL POINTS AND DATUM:**  
THIS SURVEY IS REFERENCED TO A SPHERICAL COORDINATE PROJECT SPECIFIC DATUM AND ORIGINATES FROM THE FOLLOWING CONTROL MONUMENTS:

| POINT | NORTH     | EAST     | ELEV.   | DESCRIPTION   |
|-------|-----------|----------|---------|---|
| 13    | 163304.88 | 32326.49 | 5283.54 | 0.25  |
| 1027  | 163049.30 | 32380.87 | 5278.23 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 14115" |
| 1084  | 163049.30 | 31772.52 | 5244.86 | aluminum cap PLS 14115                                      |
| 2016  | 164243.07 | 31783.79 | 5251.22 | Iron 2 1/2"   |

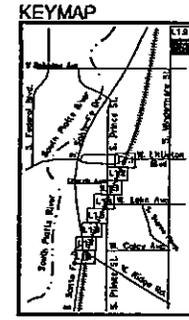
**THE FOLLOWING LOCAL CONTROL MONUMENTS WERE FOUND OR LEGAL DURING THIS SURVEY ON PREVIOUS WESTERN STATES SURVEYING, INC. PROJECT FOR SECTION 9:**

| POINT | NORTH     | EAST      | ELEV.   | DESCRIPTION   |
|-------|-----------|-----------|---------|---|
| 15    | 163103.23 | 323730.53 | 5284.40 | 3/4" rubber with 2" aluminum cap stamped "NSD CP 15"        |
| 1000  | 163306.06 | 31421.77  | 5278.23 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 17219" |
| 1200  | 163440.55 | 32383.52  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 130   | 163440.55 | 32383.52  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1802  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
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| 1897  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1898  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1899  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1900  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1901  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1902  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1903  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1904  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1905  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1906  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1907  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1908  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1909  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1910  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1911  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1912  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1913  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1914  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1915  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1916  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1917  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1918  | 163512.29 | 32403.19  | 5283.54 | 3 1/4" aluminum cap to survey line stamped "COOT PLS 10754" |
| 1919  | 163512.29 | 32403.19  |         |   |





MATCHLINE - SEE SHEET L1.9



**DMW DESIGN**  
 300 E. Broadway  
 Englewood, CO 80120  
 303.733.8800  
 WWW.DMWDESIGN.COM

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**Big Dry Creek Trail Connection**  
 Englewood, Colorado

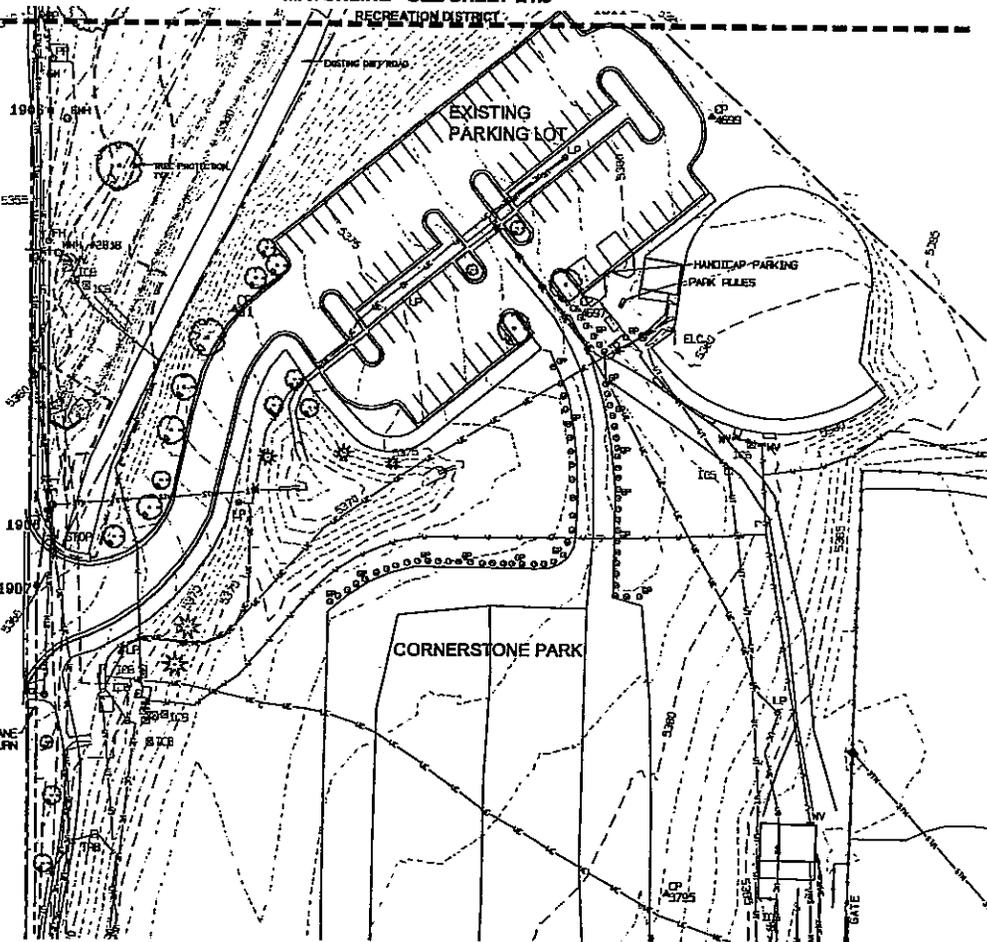
PROJECT NAME: Big Dry Creek Trail Connection  
 DATE: 05/23/14  
 DESIGNED BY: JEB  
 CHECKED BY: JEB  
 DRAWN BY: JEB

DATE OF ORIGINAL DOCUMENT: 05/23/14

SHEET FILE: Existing Conditions & Demolition Plan

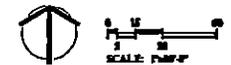
SHEET NUMBER: **L1.10**  
 SHEET OF

S. WINDERMERE STREET  
 BASIS OF BEARING N 0°00'41" E 2635.00'  
 LITTLETON  
 SOUTHWEST QUARTER SECTION 9  
 ENGINEERING



**LEGEND**

|  |                              |
|--|------------------------------|
|  | LIMITS OF CONSTRUCTION       |
|  | PROPERTY LINE                |
|  | EASEMENT LINE                |
|  | EXISTING MINOR CONTOUR       |
|  | EXISTING MAJOR CONTOUR       |
|  | FLOODWAY                     |
|  | 100 YEAR FLOODPLAIN ZONE A1  |
|  | 500 YEAR FLOODPLAIN ZONE X   |
|  | EXISTING VEGETATION          |
|  | EXISTING DECIDUOUS TREE      |
|  | EXISTING EVERGREEN TREE      |
|  | VEGETATION TO BE REMOVED     |
|  | DECIDUOUS TREE TO BE REMOVED |
|  | EVERGREEN TREE TO BE REMOVED |
|  | EXISTING FIRE HYDRANT        |
|  | EXISTING LIGHT               |
|  | EXISTING MANHOLE             |
|  | EXISTING SIGN                |
|  | CABLE TV RISE                |
|  | ELECTRICAL CONNECTION        |
|  | ELECTRIC METER               |
|  | CITY WELL                    |
|  | POWER POLE                   |
|  | SANITARY SEWER MANHOLE       |
|  | STORM SEWER MANHOLE          |
|  | TRAFFIC CONTROL BOX          |
|  | TELEPHONE BASE BOX           |
|  | WATER VALVE                  |
|  | CONTROL POINT                |
|  | FOUND MONUMENT               |
|  | UNDERGROUND ELECTRIC LINE    |
|  | UNDERGROUND FIBER OPTIC LINE |
|  | UNDERGROUND TELEPHONE LINE   |
|  | UNDERGROUND WATER LINE       |
|  | OVERHEAD ELECTRIC LINE       |
|  | EXISTING FENCE               |
|  | STORM SEWER                  |
|  | SURFACE TO BE REMOVED        |
|  | DRAINAGE PROTECTIVE FENCING  |



AREA 8'

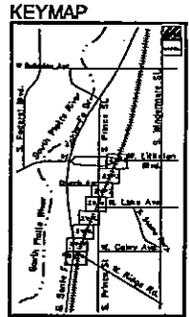
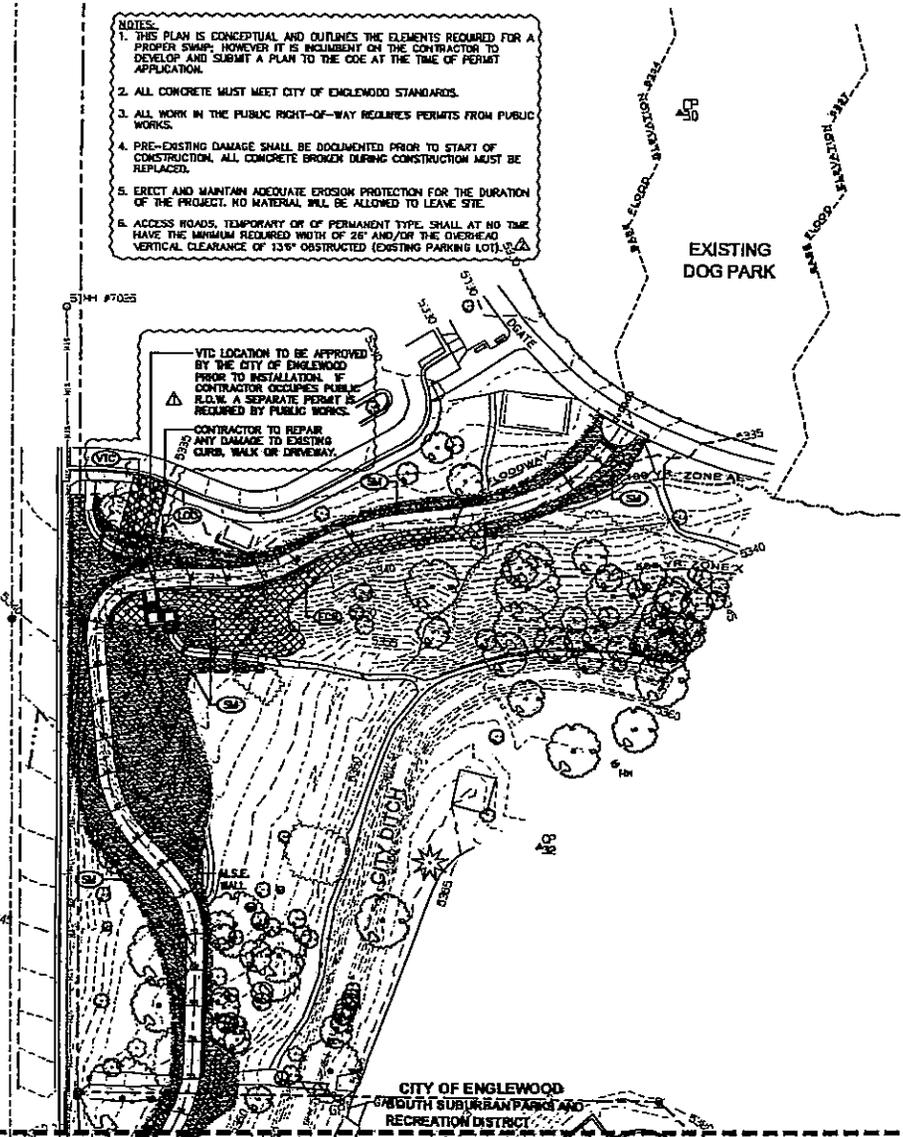




- NOTES:**
1. THIS PLAN IS CONCEPTUAL AND OUTLINES THE ELEMENTS REQUIRED FOR A PROPER SWAP; HOWEVER IT IS INCUMBENT ON THE CONTRACTOR TO DEVELOP AND SUBMIT A PLAN TO THE COE AT THE TIME OF PERMIT APPLICATION.
  2. ALL CONCRETE MUST MEET CITY OF ENGLEWOOD STANDARDS.
  3. ALL WORK IN THE PUBLIC RIGHT-OF-WAY REQUIRES PERMITS FROM PUBLIC WORKS.
  4. PRE-EXISTING DAMAGE SHALL BE DOCUMENTED PRIOR TO START OF CONSTRUCTION. ALL CONCRETE BROKEN DURING CONSTRUCTION MUST BE REPLACED.
  5. ERECT AND MAINTAIN ADEQUATE EROSION PROTECTION FOR THE DURATION OF THE PROJECT. NO MATERIAL WILL BE ALLOWED TO LEAVE SITE.
  6. ACCESS ROADS, TEMPORARY OR OF PERMANENT TYPE, SHALL AT NO TIME HAVE THE MINIMUM REQUIRED WIDTH OF 26' AND/OR THE OVERHEAD VERTICAL CLEARANCE OF 13'6" OBSTRUCTED (EXISTING PARKING LOT).

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000

S. WINDERMERE STREET



- LEGEND**
- LIMITS OF CONSTRUCTION
  - PROPERTY LINE
  - EASEMENT LINE
  - FLOODWAY
  - 100 YR FLOODPLAIN ZONE #1
  - 500 YR FLOODPLAIN ZONE #2
  - EXISTING MINOR CONTOUR
  - EXISTING MAJOR CONTOUR
  - PROPOSED MINOR CONTOUR
  - PROPOSED MAJOR CONTOUR
  - DRAINAGE FLOW LINE
  - EXISTING VEGETATION
  - EXISTING TREES
  - EXISTING FIRE HYDRANT
  - EXISTING LIGHT
  - EXISTING BANNICLE
  - EXISTING SIGN
  - EXISTING FENCE
  - EXISTING UNDERGROUND TELEPHONE LINE
  - EXISTING UNDERGROUND ELECTRIC LINE
  - STORM SEWER
  - PROPOSED 10' WIDE TRAIL

- GESC LEGEND**
- VEGETATED BUFFER
  - CONCRETE WASHOUT AREA
  - VEHICLE TRACKING CONTROL
  - SEDIMENT CONTROL LOC
  - STORM AND WASHING
  - EROSION CONTROL BARRIET
  - LIMITS OF CONSTRUCTION
  - ROCK CHECK DAM
  - SILT FENCE

**BDM DESIGN**  
 1001 S. Broadway  
 Suite 100, Englewood, CO 80110  
 303.786.1111  
 www.bdmdesign.com

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**Big Dry Creek Trail Connection**  
 Englewood, Colorado

PROJECT NUMBER: 14107.00 DATE: 05/23/14  
 DESIGNER: ES  
 SCALE: N/D  
 CHECKER: SN

REVISIONS:  
 06-19-14  
 07-03-14

THE INFORMATION CONTAINED HEREIN IS FOR GENERAL INFORMATION ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN CONSENT OF BDM DESIGN, INC.

SHEET TITLE: Stormwater Management Plan

DIST. NUMBER: SMP1-BDC

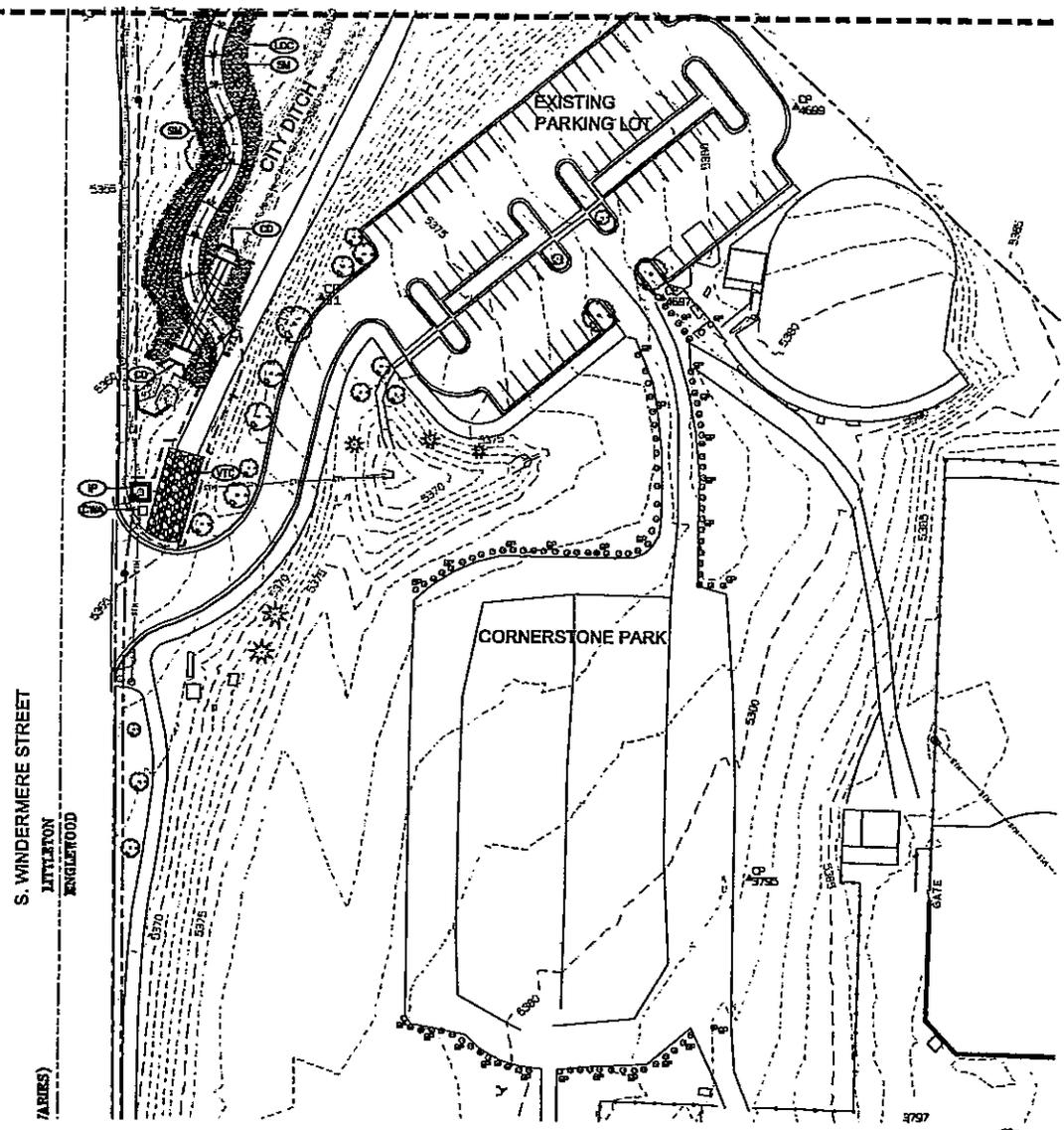
AREA 'B'  
 Scale: 1"=50'-0"

**SMP1-BDC**  
 SHEET 07

811

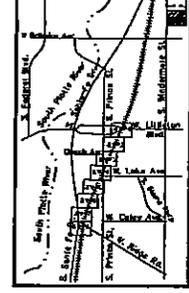
Call before you dig.

MATCHLINE - SEE SHEET SMP1-BDC



S. WINDERMERE STREET  
LITTLETON  
ENGLEWOOD  
(ARBS)

KEYMAP



LEGEND

- LIMITS OF CONSTRUCTION
- PROPERTY LINE
- EASEMENT LINE
- FLOODWAY
- 100 YR FLOODPLAIN ZONE #4
- 500 YR FLOODPLAIN ZONE #4
- EXISTING MAJOR CONTOUR
- EXISTING MAJOR CONTOUR
- PROPOSED MAJOR CONTOUR
- DRAINAGE FLOW LINE
- EXISTING VEGETATION
- EXISTING TREES
- EXISTING FIRE HYDRANT
- EXISTING LIGHT
- EXISTING MANHOLE
- EXISTING SIGN
- EXISTING FENCE
- EXISTING UNDERGROUND TELEPHONE LINE
- EXISTING UNDERGROUND CABLED LINE
- STORM SEWER
- PROPOSED 10' WIDE TRAIL

GESC LEGEND

- (V) VEGETATED BUFFER
- (C) CONCRETE WASHOUT AREA
- (V) VEHICLE TRACKING CONTROL
- (S) SEDIMENT CONTROL LOG
- (S) SEEDING AND MULCHING
- (S) EROSION CONTROL BLANKET
- (C) LIMITS OF CONSTRUCTION
- (C) POOR CHECK DAM
- (S) SILT FENCE



0 15 30 45  
SCALE: 1"=30'

AREA 13'  
SMP2-BDC

OHM DESIGN

WEI L. Shook  
3141 E. 10th Ave  
Suite 100  
Englewood, CO 80110  
303.733.8888  
www.ohmdesign.com

STATE OF COLORADO  
PLANNING AND COMMUNITY DEVELOPMENT  
DIVISION  
OFFICE OF THE PLANNING DIRECTOR  
1500 COURTNEY PLAZA, SUITE 200  
DENVER, CO 80202  
303.866.3100  
www.colorado.gov

Big Dry Creek Trail Connection  
Englewood, Colorado

PROJECT NUMBER: 14107-00  
DATE: 05-23-14  
DESIGNED BY: JES  
CHECKED BY: MD  
DRAWN BY: EN

ALL REVISIONS  
CONSTRUCTION  
DISCUSSIONS

SHEET TITLE  
Stormwater  
Management Plan

SHEET NUMBER  
SMP2-BDC  
SHEET 01 OF 01

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2014

COUNCIL BILL NO. 62  
 INTRODUCED BY COUNCIL  
 MEMBER GILLIT

AN ORDINANCE AUTHORIZING A "LICENSE FOR A CITY DITCH CROSSING AGREEMENT", AND A "TEMPORARY CONSTRUCTION EASEMENT" WITH SOUTH SUBURBAN PARK AND RECREATION DISTRICT FOR THE INSTALLATION OF A BIKE TRAIL CROSSING CALLED "BIG DRY CREEK TRAIL CONNECTION" CROSSING ENGLEWOOD'S CITY DITCH RIGHT-OF-WAY AT SOUTH WINDERMERE.

WHEREAS, South Suburban Park and Recreation District submitted a License for a City Ditch Crossing Agreement and a Temporary Construction Easement to the City; and

WHEREAS, the License Agreement and the Temporary Construction Easement will allow South Suburban to install a Bike Trail across Englewood's City Ditch Right-of-Way at the location of South Windermere - Cornerstone Park; and

WHEREAS, the Englewood Director of Utilities recommended approval of the "License-City Ditch Crossing Agreement", and a "Temporary Construction Easement" to South Suburban Park and Recreation District at the Board's October 7, 2014, meeting; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended approval of the "License-City Ditch Crossing Agreement", and a "Temporary Construction Easement" to City Council at their October 7, 2014 meeting.

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

Section 1. The License Agreement for a City Ditch Crossing, attached hereto as "Exhibit 1," is hereby approved by the Englewood City Council.

Section 2. The Director of Utilities is hereby authorized to execute the License Agreement for a City Ditch Crossing and the Temporary Construction Easement for and on behalf of the City of Englewood, Colorado.

Section 3. The Temporary Construction Easement, attached hereto as "Exhibit 2" is hereby approved by the Englewood City Council.

Section 4. The Director of Utilities is hereby authorized to sign the Temporary Construction Easement for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 20th day of October, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 24th day of October, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of October, 2014 for thirty (30) days.

Read by title and passed on final reading on the 3rd day of November, 2014.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2014, on the 7th day of November, 2014.

Published by title on the City's official website beginning on the 5<sup>th</sup> day of November, 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

LICENSE AGREEMENT FOR A CITY DITCH CROSSING  
OF THE "BIG DRY CREEK TRAIL CONNECTION"  
BIKE TRAIL

THIS LICENSE AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF ENGLEWOOD, a municipal corporation of Colorado, whose address is 1000 Englewood Parkway, Englewood, CO. 80110 hereinafter referred to as "City", and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, whose address is 6631 South University Boulevard, Centennial, CO. 80121, hereinafter referred to as "Licensee."

WITNESSETH

The City, without any warranty of its title or interest whatsoever, hereby authorizes Licensee, its successor or assigns, to install a Bike Trail crossing over the City's Right-of-Way for the City Ditch, in the County of Arapahoe, State of Colorado, described as a parcel of land situated in the:

South East ¼ of Section 9, Township 5 South, Range 68 West, of the 6<sup>th</sup> P.M., City of Englewood, County of Arapahoe, State of Colorado. Being more particularly described in the attached hereto Exhibit A.

The above-described parcel contains 0.093 acres (4,052 square feet) more or less.

1. Any construction contemplated or performed under this License shall comply with and conform to reasonable standards formulated by the Director of Utilities of the City; and such construction shall be performed and completed in substantial conformance with the approved plans, consisting of two sheets, a copy of which is attached as (Exhibit B), and made a part hereof.
2. Licensee shall notify the City's Director of Utilities at least three (3) days prior to the time of commencement of the construction of, or any repairs made to, Licensee's Bike Trail Crossing so that the City may, in its discretion, inspect such operations.
3. Within sixty (60) days from the date of the commencement of construction of said Bike Trail Crossing, the Licensee shall complete such construction, and shall clear the crossing area of all construction debris and restore the area to its previous condition as nearly as may be reasonable. In the event the clearing and restoration of the crossing area is not completed within the time specified, City may complete the work at the sole expense of Licensee. Construction shall be deemed completed upon written acceptance by the Englewood Director of Utilities.

4. City shall have the right to maintain, install, repair, remove or relocate the City Ditch or any other of its facilities or installations within City's Right-of-Way at any time and in such manner as City deems necessary or convenient. City reserves the exclusive right to control all easements and installations. In the event the Bike Trail Crossing should interfere with any future use of the City City Ditch Right-of-Way by the City, the Licensee shall, upon request and at its sole expense, relocate, rearrange, or remove its installations so as not to interfere with any such use.
5. Any repair or replacement of any City installation made necessary, in the opinion of the City's Director of Utilities because of the construction of the Bike Trail Crossing or other appurtenant installation thereof shall be made at the sole expense of the Licensee.
6. The stipulations and conditions of this License shall be incorporated into contract documents with any third party contractors.
7. The rights and privileges granted in this License shall be subject to prior agreements, licenses and/or grants, recorded or unrecorded, and it shall be Licensee's sole responsibility to determine the existence of said documents or conflicting uses or installations.
8. Licensee shall contact and fully cooperate with City's personnel, and the construction shall be completed without interference with any lawful, usual or ordinary flow of water through the City ditch. Licensee shall assume all risks incident to the possible presence of such waters, or of storm waters, or of surface waters in the City Ditch
9. All trenches or holes within City Ditch Right-of-Way shall be backfilled and tamped to the original ground line consistent with the City's construction standards.
10. As between the City and Licensee, Licensee by acceptance of this License, expressly assumes full and strict liability for any and all damages of every nature to person or property caused by water from the ditch leaking through the ditch banks or pipeline at the point or points where the Licensee performs any work in connection with the crossing provided by this License. The Licensee assumes all responsibility for maintenance of the installation.
11. It is expressly agreed that in case of Licensee's breach of any of the within promises, City may, at its option, have specific performance thereof, or sue for damages resulting from such breach.
12. Insurance. South Suburban Park and Recreation District is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. The South Suburban Park and Recreation District shall show proof of such insurance satisfactory to the City, if requested by the City.

The South Suburban Park and Recreation District shall require each Agreement with their Consultant and Contractor that are providing Goods or Services hereunder, to include the insurance requirements necessary to meet Consultant or Contractor liabilities under the GIA.

13. As consideration for this License, Licensee shall pay for all costs for construction of this Bike Trail Crossing, including enclosing the City Ditch in pipe in this area consistent with the drawings attached as Exhibit B.
14. Licensee assumes all responsibility for maintenance of the Bike Trail Crossing in accordance with the standards and practices of South Suburban Parks and Recreation District and consistent with other South Suburban Parks and Recreation District facilities including:
  - a. Removal of litter and debris from the Bike Trail;
  - b. Managing vegetation along the Bike Trail, including mowing of Bike Trail shoulders, trimming of hazardous limbs from trees, maintenance of irrigation systems and removal of noxious weeds along the Bike Trail using a method approved for use near drinking water source;
  - c. Maintaining Bike Trail surfaces, signage, rest areas, furnishings, and trash receptacles;
  - d. Removal or painting over graffiti;
  - e. Repairing structural damage to Bike Trail surfaces, retaining walls, and fences; and
  - f. Use reasonable measures to control vandalism and dumping along the Bike Trail.
15. South Suburban Park and Recreation District is hereby acknowledges that the Trail is incidental to the priority use of the City Ditch and agrees that should there be a conflict between the priority use of the City Ditch and South Suburban Park and Recreation District's recreational use, the safety and continuation of the City's use shall control.

In granting the above authorization, City reserves the right to make full use of the property involved as may be necessary or convenient in the operation of the water works plant and system under control of City.

IN WITNESS WHEREOF this instrument has been executed as of the day and year first



**EXHIBIT "A"****LEGAL DESCRIPTION**

A TRAIL EASEMENT OVER AND ACROSS A PORTION OF THE ENGLEWOOD CITY DITCH LOCATED IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6<sup>th</sup> PRINCIPAL MERIDIAN; CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, HAVING AN ASSUMED BEARING OF NORTH 00°05'41" EAST.

COMMENCING AT THE SOUTH QUARTER OF SAID SECTION 9;

THENCE NORTH 03°37'08" EAST A DISTANCE OF 743.96 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF THE ENGLEWOOD CITY DITCH, ALSO BEING THE POINT OF BEGINNING;

THENCE THE FOLLOWING SIX (6) COURSES;

1. NORTH 13°10'20" EAST, A DISTANCE OF 56.54 FEET;
2. NORTH 25°12'18" EAST, A DISTANCE OF 41.45 FEET;
3. NORTH 26°08'43" EAST, A DISTANCE OF 3.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 16.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 65°02'04" WEST;
4. NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°14'36", AN ARC LENGTH OF 19.89 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 50.00 FEET;
5. NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39°37'11", AN ARC LENGTH OF 34.57 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 62.00 FEET;
6. NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23°13'41", AN ARC LENGTH OF 25.14 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF SAID ENGLEWOOD CITY DITCH;

THENCE NORTH 27°44'02" EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY, A DISTANCE OF 79.23 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 45.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 62°15'36" WEST;

THENCE THE FOLLOWING FIVE (5) COURSES;

1. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°56'19", AN ARC LENGTH OF 47.86 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 174.00 FEET;
2. SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°30'10", AN ARC LENGTH OF 28.86 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE EASTERLY HAVING A RADIUS OF 42.00 FEET;

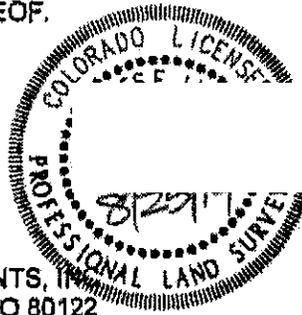
V:\54214-02 - City Ditch Easement\Legals\Trail Easement.docx

3. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 32°00'18", AN ARC LENGTH OF 23.46 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 30.00 FEET;
4. SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 53°57'26", AN ARC LENGTH OF 28.25 FEET;
5. SOUTH 62°15'58" EAST, A DISTANCE OF 13.75 FEET TO A POINT ON SAID SOUTHERLY RIGHT-OF-WAY OF ENGLEWOOD CITY DITCH;

THENCE SOUTH 27°44'02" WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 132.43 FEET TO THE POINT OF BEGINNING.

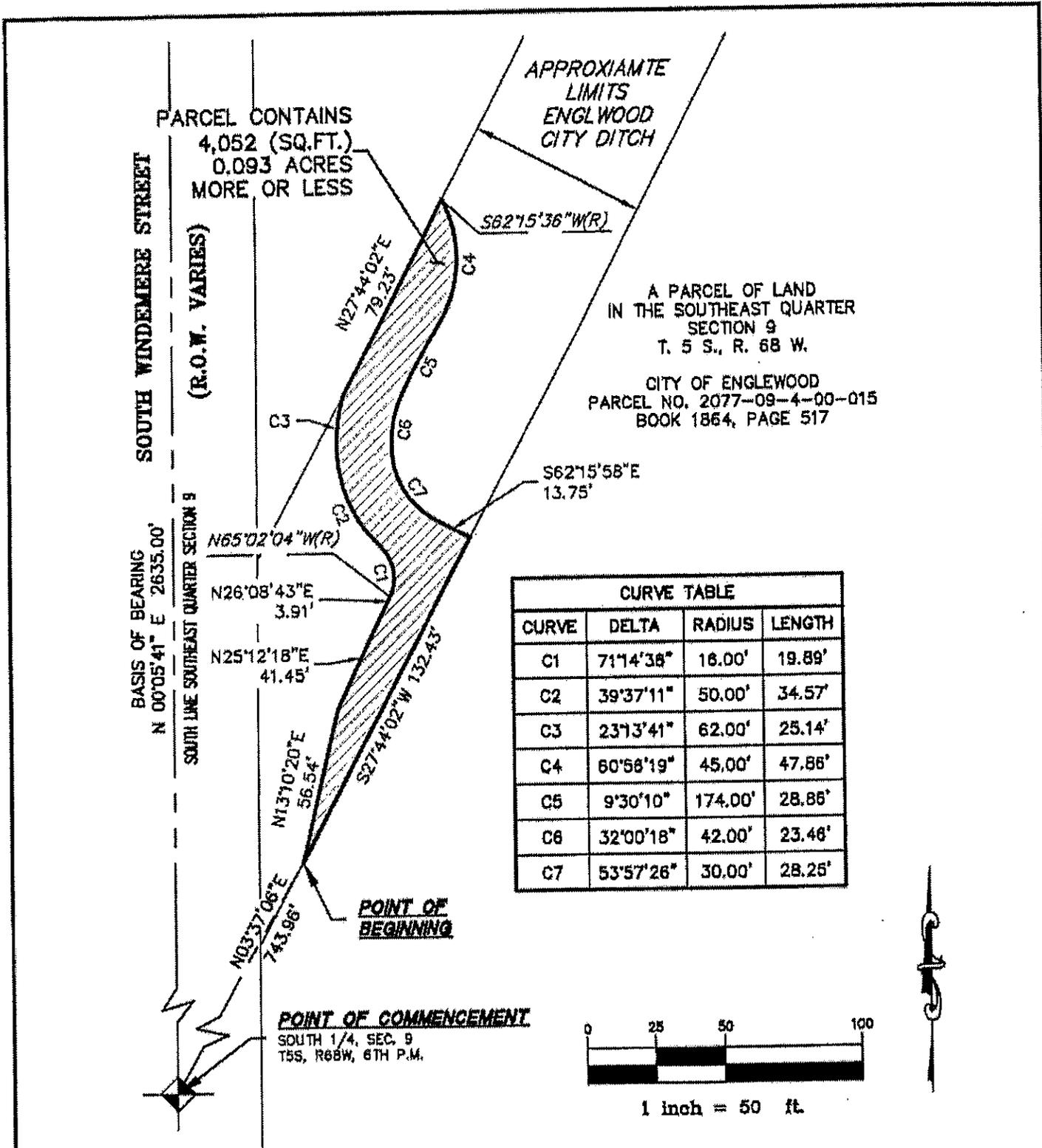
CONTAINING AN AREA OF 0.093 ACRES, (4,052 SQUARE FEET), MORE OR LESS.

EXHIBIT ATTACHED AND MADE A PART HEREOF.



JAMES E. LYNCH, PLS NO. 37933  
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.  
300 E. MINERAL AVE., SUITE 1, LITTLETON, CO 80122  
303-713-1898

# ILLUSTRATION TO EXHIBIT A



NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

PATH: H:\54214-02 - City Ditch Easement.Dwg  
 DWG NAME: 54214-02 Ditch Easement.DWG  
 DWG: JEL CHK:  
 DATE: 8/25/14  
 SCALE: 1" = 50'



300 East Mineral Ave.  
 Suite 1  
 Littleton, Colorado 80122  
 Phone: (303)715-1898  
 Fax: (303)713-1897  
 www.aztecconsultants.com

**EASEMENT EXHIBIT**  
 SE 1/4, SEC. 9, T5S, R68W, 6TH P.M.  
 COUNTY OF ARAPAHOE, COLORADO  
 JOB NUMBER 54214-02 3 of 3 SHEETS



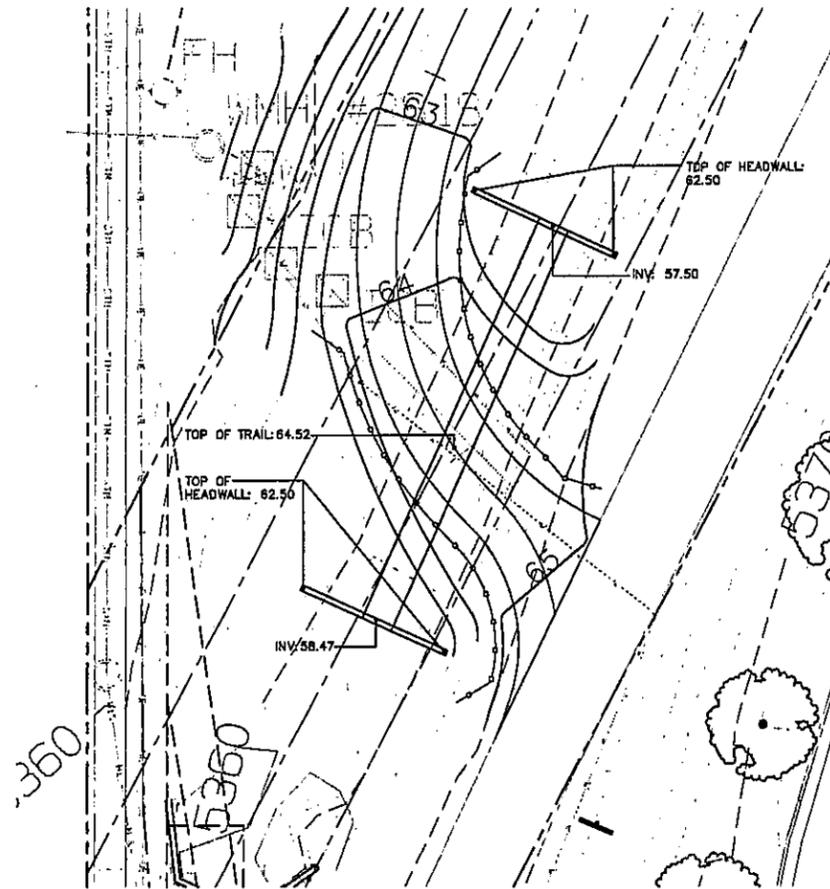
Know what's below.  
Call before you dig.

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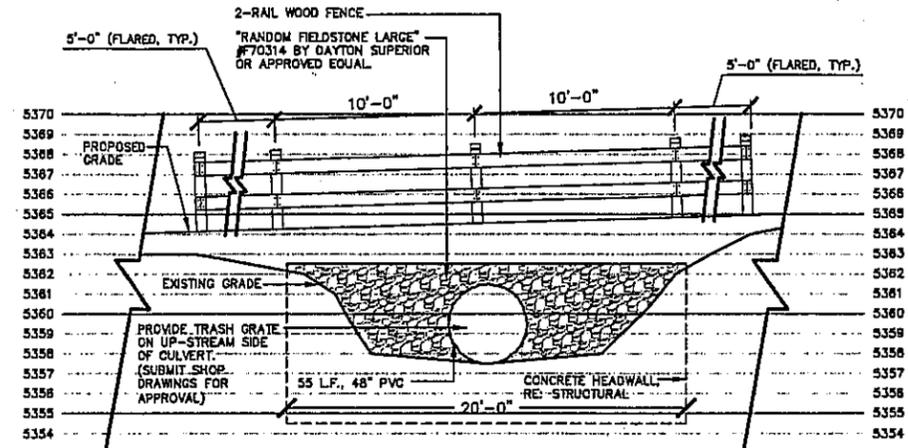
900 S. Broadway  
Suite 300  
Denver, CO 80209  
303.892.5584  
www.dhmdesign.com

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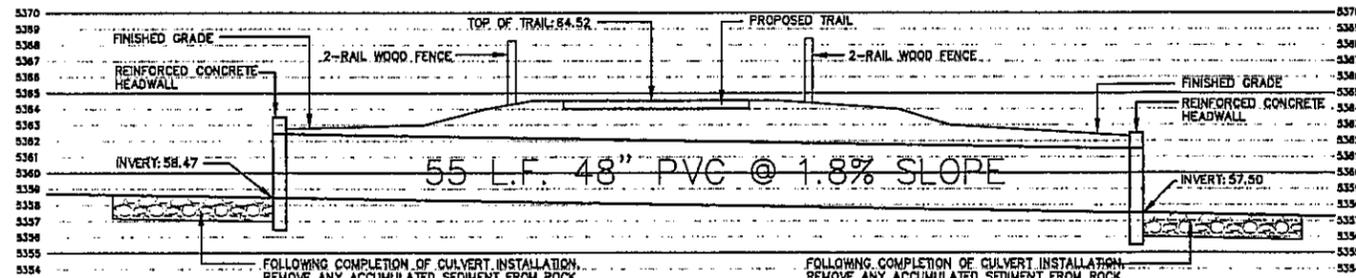


1 CITY DITCH CROSSING - PLAN  
SCALE: NTS

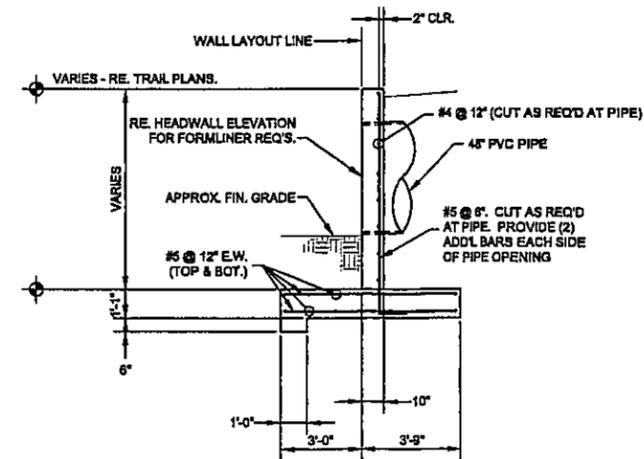


2 HEADWALL ELEVATION - TYPICAL  
SCALE: NTS

NOTE:  
PVC PIPE SHALL MEET THE REQUIREMENTS OF ASTM F794 (DUAL WALL CORRUGATED PIPE) OR ASTM F1803 (CLOSED PROFILE) WITH CELL CLASSIFICATION 12434, PIPE STIFFNESS = 48, SMOOTH INSIDE WALL AND GASKETED JOINTS.



3 CITY DITCH CROSSING - SECTION  
SCALE: NTS



4 CONCRETE HEADWALL - TYPICAL  
SCALE: NTS

Big Dry Creek Trail Connection  
Englewood, Colorado

PROJECT NUMBER: 14107.00  
DATE: 05-23-14  
DESIGNED: BN  
DRAWN: KD  
CHECKED: BN

REVISIONS:

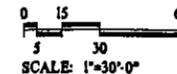
JOB DESCRIPTION:  
Construction Documents

SHEET TITLE:  
Trail Crossing Profile and Details

SHEET NUMBER:

TC1.1

SHEET OF



Vertical text on the left margin containing project details and revision notes.

15-1-B-1-B



GRANT OF TEMPORARY CONSTRUCTION EASEMENT FOR CITY DITCH CROSSING  
BY "BIG DRY CREEK TRAIL CONNECTION" BIKE TRAIL

THIS EASEMENT AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the CITY OF ENGLEWOOD, a municipal corporation of the State of Colorado, acting through its Water and Sewer Board ("Grantor") (hereinafter referred to as "the City"); and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, ("Grantee").

WHEREAS, Grantor owns a Right-of-Way for the City Ditch, a carrier ditch ("City Ditch" R-O-W"), which is located as described as Exhibits A and B; and

WHEREAS, Grantee desires to install a Bike Trail Crossing within the City Ditch Right-of-Way pursuant to a License between the parties executed \_\_\_\_\_, 2014;

NOW THEREFORE, in consideration of the mutual covenants of the parties, more particularly hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Temporary Construction Easement. Grantor hereby grants to Grantee, its successors, assigns, contractors, and sub-contractors, a non-exclusive temporary construction easement through, over, under and across the City Ditch R-O-W for the installation of a Bike Trail Crossing pursuant to the License Agreement (the "Project"), attached as Attachment 1.
2. Term of Easement. The Project will begin no sooner than November 2, 2014 and will be completed no later than December 31, 2014. Completion of the Project will be deemed to have occurred upon inspection and approval of the Project by Grantor, and this Temporary Easement will be deemed to have terminated upon such completion.
3. Access. Grantee shall have the temporary non-exclusive right to enter the City Ditch R-O-W for any reasonable purpose necessary or prudent for the construction of the Project subject to the following restrictions: 1) Normal working hours shall be consistent with CDOT construction hours, Monday through Friday; and 2) the operation of the equipment and heavy trucks will be permitted on the Englewood City Ditch R-O-W only during normal working hours.
4. Restoration. Upon completion of the Project, Grantee will perform such restoration and regarding as is necessary or prudent to restore the surface of the City Ditch R-O-W to its original condition.
5. Liability. Grantee hereby acknowledges that it understands that there is water flow in the City Ditch from April 1 to November 1 of each year, and Grantee will assume liability for any damage to adjoining property caused by water flow from the City Ditch or Pipeline at the point where the work is to be performed.
6. Insurance. South Suburban Park and Recreation District is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. The South Suburban Park and Recreation District shall show proof of such insurance satisfactory to the City,



LICENSE AGREEMENT FOR A CITY DITCH CROSSING  
OF THE "BIG DRY CREEK TRAIL CONNECTION"  
BIKE TRAIL

THIS LICENSE AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY OF ENGLEWOOD, a municipal corporation of Colorado, whose address is 1000 Englewood Parkway, Englewood, CO. 80110 hereinafter referred to as "City", and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, whose address is 6631 South University Boulevard, Centennial, CO. 80121, hereinafter referred to as "Licensee."

WITNESSETH

The City, without any warranty of its title or interest whatsoever, hereby authorizes Licensee, its successor or assigns, to install a Bike Trail crossing over the City's Right-of-Way for the City Ditch, in the County of Arapahoe, State of Colorado, described as a parcel of land situated in the:

South East ¼ of Section 9, Township 5 South, Range 68 West, of the 6<sup>th</sup> P.M., City of Englewood, County of Arapahoe, State of Colorado. Being more particularly described in the attached hereto Exhibit A.

The above-described parcel contains 0.093 acres (4,052 square feet) more or less.

1. Any construction contemplated or performed under this License shall comply with and conform to reasonable standards formulated by the Director of Utilities of the City; and such construction shall be performed and completed in substantial conformance with the approved plans, consisting of two sheets, a copy of which is attached as (Exhibit B), and made a part hereof.
2. Licensee shall notify the City's Director of Utilities at least three (3) days prior to the time of commencement of the construction of, or any repairs made to, Licensee's Bike Trail Crossing so that the City may, in its discretion, inspect such operations.
3. Within sixty (60) days from the date of the commencement of construction of said Bike Trail Crossing, the Licensee shall complete such construction, and shall clear the crossing area of all construction debris and restore the area to its previous condition as nearly as may be reasonable. In the event the clearing and restoration of the crossing area is not completed within the time specified, City may complete the work at the sole expense of Licensee. Construction shall be deemed completed upon written acceptance by the Englewood Director of Utilities.

4. City shall have the right to maintain, install, repair, remove or relocate the City Ditch or any other of its facilities or installations within City's Right-of-Way at any time and in such manner as City deems necessary or convenient. City reserves the exclusive right to control all easements and installations. In the event the Bike Trail Crossing should interfere with any future use of the City City Ditch Right-of-Way by the City, the Licensee shall, upon request and at its sole expense, relocate, rearrange, or remove its installations so as not to interfere with any such use.
5. Any repair or replacement of any City installation made necessary, in the opinion of the City's Director of Utilities because of the construction of the Bike Trail Crossing or other appurtenant installation thereof shall be made at the sole expense of the Licensee.
6. The stipulations and conditions of this License shall be incorporated into contract documents with any third party contractors.
7. The rights and privileges granted in this License shall be subject to prior agreements, licenses and/or grants, recorded or unrecorded, and it shall be Licensee's sole responsibility to determine the existence of said documents or conflicting uses or installations.
8. Licensee shall contact and fully cooperate with City's personnel, and the construction shall be completed without interference with any lawful, usual or ordinary flow of water through the City ditch. Licensee shall assume all risks incident to the possible presence of such waters, or of storm waters, or of surface waters in the City Ditch
9. All trenches or holes within City Ditch Right-of-Way shall be backfilled and tamped to the original ground line consistent with the City's construction standards.
10. As between the City and Licensee, Licensee by acceptance of this License, expressly assumes full and strict liability for any and all damages of every nature to person or property caused by water from the ditch leaking through the ditch banks or pipeline at the point or points where the Licensee performs any work in connection with the crossing provided by this Licensee. The Licensee assumes all responsibility for maintenance of the installation.
11. It is expressly agreed that in case of Licensee's breach of any of the within promises, City may, at its option, have specific performance thereof, or sue for damages resulting from such breach.
12. Insurance. South Suburban Park and Recreation District is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. The South Suburban Park and Recreation District shall show proof of such insurance satisfactory to the City, if requested by the City.

The South Suburban Park and Recreation District shall require each Agreement with their Consultant and Contractor that are providing Goods or Services hereunder, to include the insurance requirements necessary to meet Consultant or Contractor liabilities under the GIA.

13. As consideration for this License, Licensee shall pay for all costs for construction of this Bike Trail Crossing, including enclosing the City Ditch in pipe in this area consistent with the drawings attached as Exhibit B.
14. Licensee assumes all responsibility for maintenance of the Bike Trail Crossing in accordance with the standards and practices of South Suburban Parks and Recreation District and consistent with other South Suburban Parks and Recreation District facilities including:
  - a. Removal of litter and debris from the Bike Trail;
  - b. Managing vegetation along the Bike Trail, including mowing of Bike Trail shoulders, trimming of hazardous limbs from trees, maintenance of irrigation systems and removal of noxious weeds along the Bike Trail using a method approved for use near drinking water source;
  - c. Maintaining Bike Trail surfaces, signage, rest areas, furnishings, and trash receptacles;
  - d. Removal or painting over graffiti;
  - e. Repairing structural damage to Bike Trail surfaces, retaining walls, and fences; and
  - f. Use reasonable measures to control vandalism and dumping along the Bike Trail.
15. South Suburban Park and Recreation District is hereby acknowledges that the Trail is incidental to the priority use of the City Ditch and agrees that should there be a conflict between the priority use of the City Ditch and South Suburban Park and Recreation District's recreational use, the safety and continuation of the City's use shall control.

In granting the above authorization, City reserves the right to make full use of the property involved as may be necessary or convenient in the operation of the water works plant and system under control of City.

IN WITNESS WHEREOF this instrument has been executed as of the day and year first



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

A TRAIL EASEMENT OVER AND ACROSS A PORTION OF THE ENGLEWOOD CITY DITCH LOCATED IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6<sup>th</sup> PRINCIPAL MERIDIAN; CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, HAVING AN ASSUMED BEARING OF NORTH 00°05'41" EAST.

COMMENCING AT THE SOUTH QUARTER OF SAID SECTION 9;

THENCE NORTH 03°37'06" EAST A DISTANCE OF 743.96 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF THE ENGLEWOOD CITY DITCH, ALSO BEING THE POINT OF BEGINNING;

THENCE THE FOLLOWING SIX (6) COURSES;

1. NORTH 13°10'20" EAST, A DISTANCE OF 56.54 FEET;
2. NORTH 25°12'18" EAST, A DISTANCE OF 41.45 FEET;
3. NORTH 26°08'43" EAST, A DISTANCE OF 3.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 16.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 65°02'04" WEST;
4. NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°14'36", AN ARC LENGTH OF 19.89 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 50.00 FEET;
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THENCE THE FOLLOWING FIVE (5) COURSES;

1. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°56'19", AN ARC LENGTH OF 47.86 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 174.00 FEET;
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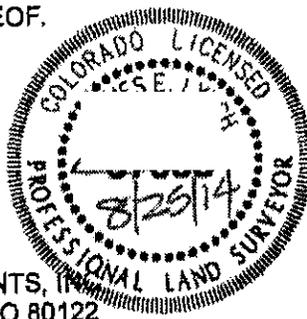
V:\54214-02 - City Ditch Easement\Legals\Trail Easement.docx

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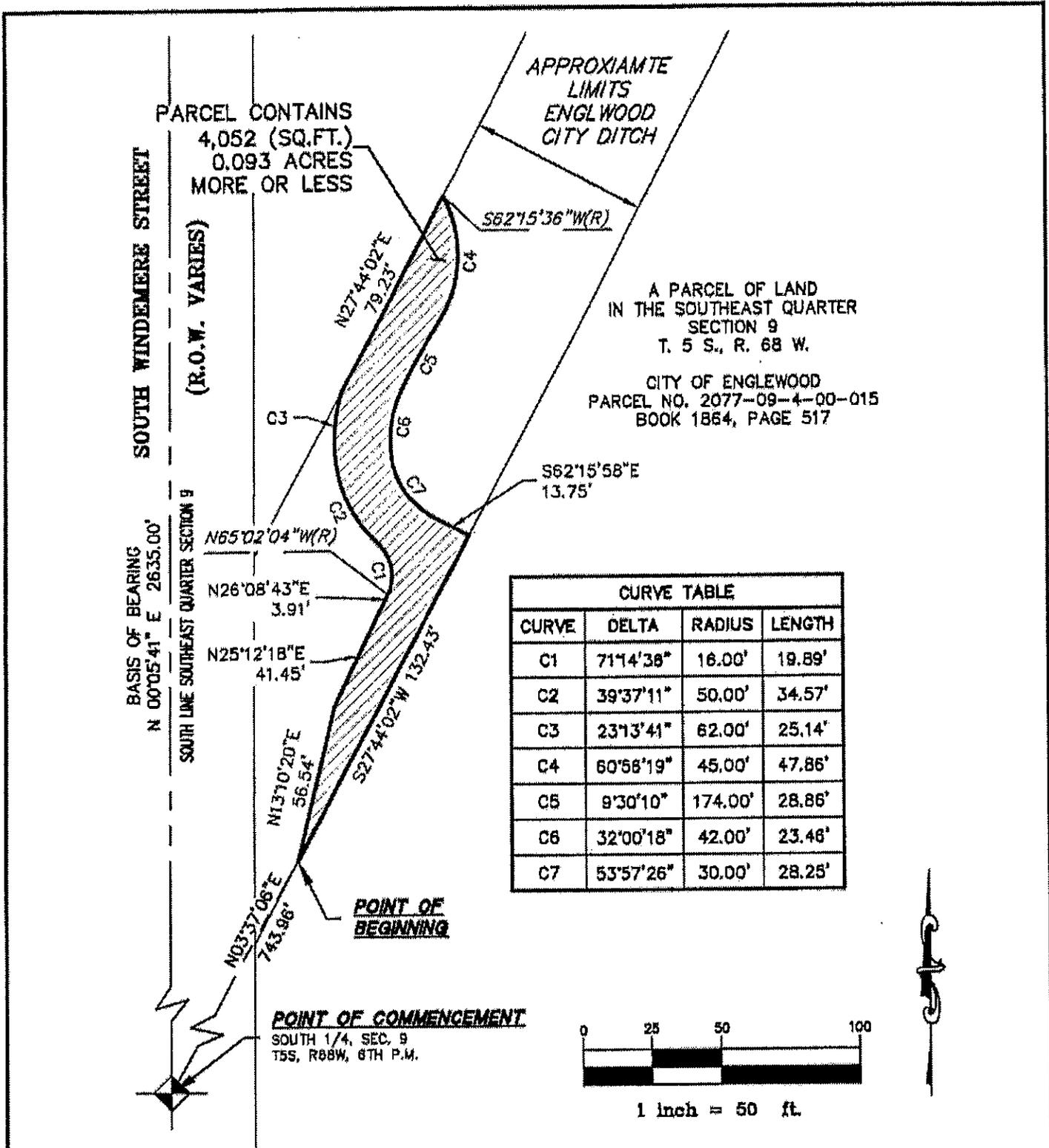
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EXHIBIT ATTACHED AND MADE A PART HEREOF.



JAMES E. LYNCH, PLS NO. 37933  
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.  
300 E. MINERAL AVE., SUITE 1, LITTLETON, CO 80122  
303-713-1898

# ILLUSTRATION TO EXHIBIT A



NOTE: THIS DRAWING DOES NOT REPRESENT A FIELD MONUMENTED SURVEY AND IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

PATH: 9354214-02 - City Ditch Easement/Draw  
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 DWG: JEL CHK:  
 DATE: 8/25/14  
 SCALE: 1" = 50'

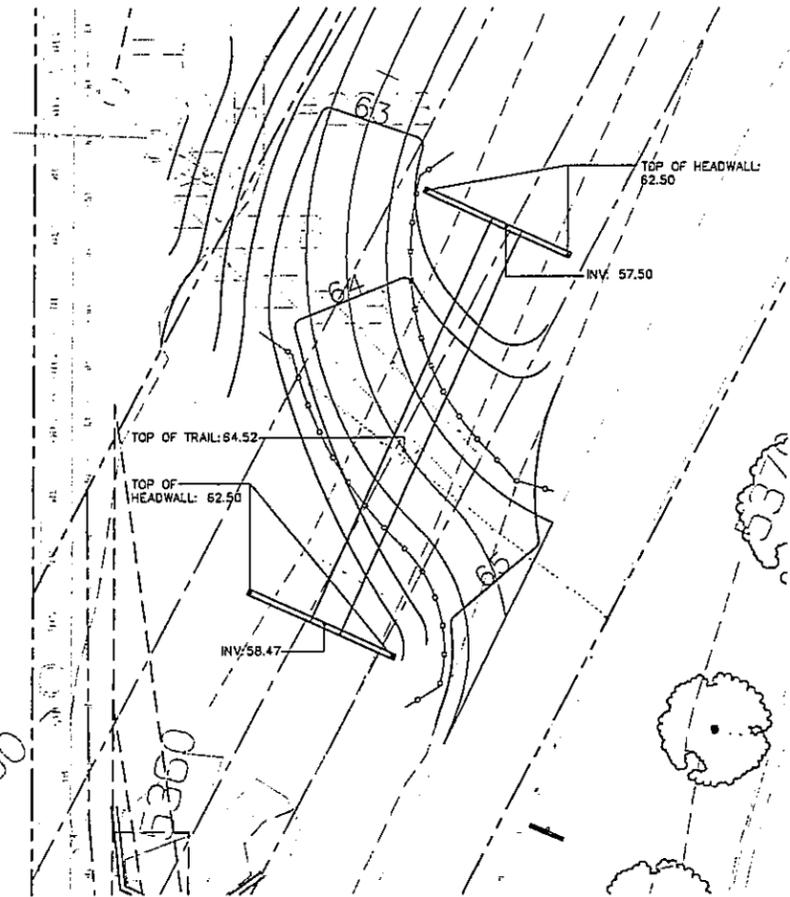


300 East Mineral Ave.  
 Suite 1  
 Littleton, Colorado 80120  
 Phone: (303)713-1898  
 Fax: (303)713-1897  
 www.aztecconsultants.com

**EASEMENT EXHIBIT**  
 SE 1/4, SEC. 9. T5S, R68W, 6TH P.M.  
 COUNTY OF ARAPAHOE, COLORADO  
 JOB NUMBER 54214-02 3 OF 3 SHEETS

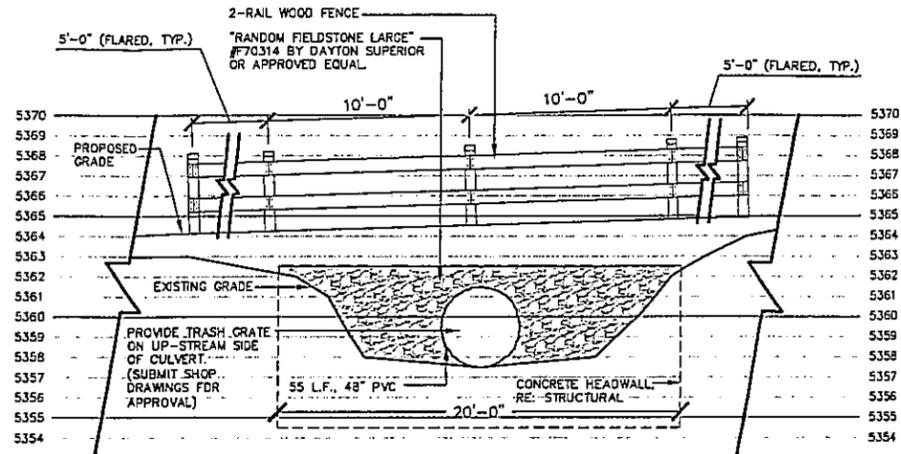


Know what's below.  
Call before you dig.



1 CITY DITCH CROSSING - PLAN

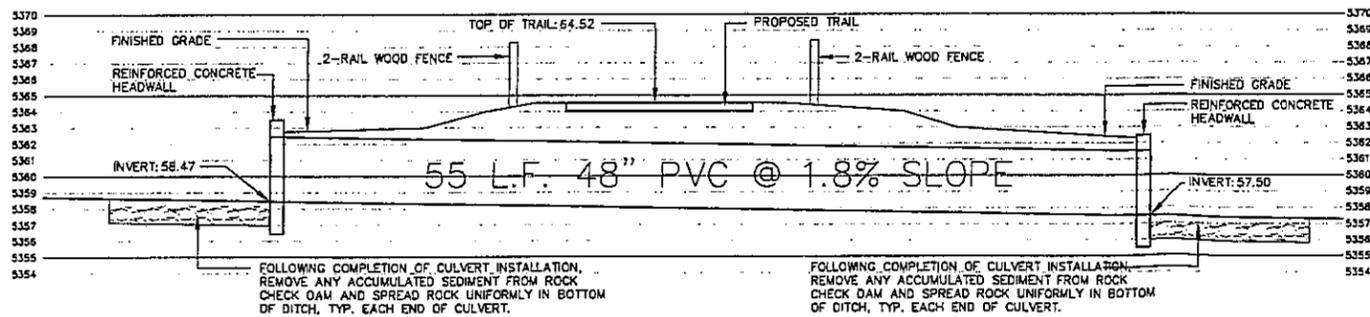
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2 HEADWALL ELEVATION - TYPICAL

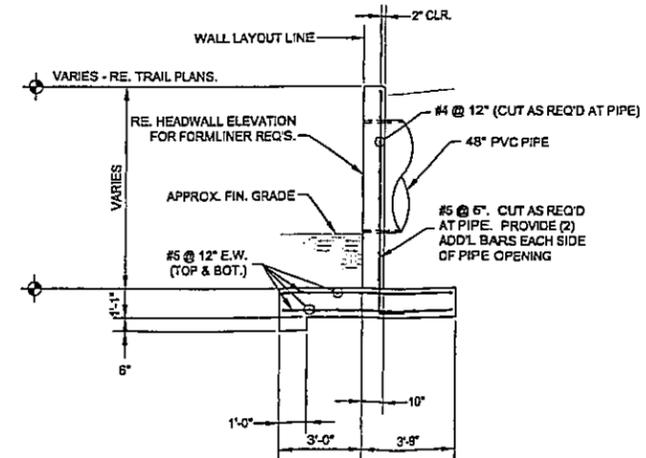
SCALE: NTS

NOTE:  
PVC PIPE SHALL MEET THE REQUIREMENTS OF ASTM F794 (DUAL WALL CORRUGATED PIPE) OR ASTM F1803 (CLOSED PROFILE) WITH CELL CLASSIFICATION 12454. PIPE STIFFNESS = 46, SMOOTH INSIDE WALL AND GASKETED JOINTS.



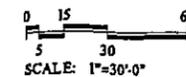
3 CITY DITCH CROSSING - SECTION

SCALE: NTS



4 CONCRETE HEADWALL - TYPICAL

SCALE: NTS



AREA 'B'

TC1.1

SHEET OF

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Big Dry Creek Trail Connection  
Englewood, Colorado

PROJECT NUMBER: 14107.00  
DATE: 05-23-14  
DESIGNED: EN  
DRAWN: KD  
CHECKED: EN

JOB DESCRIPTION:  
Construction Documents

SHEET TITLE:  
Trail Crossing Profile and Details

SHEET NUMBER:

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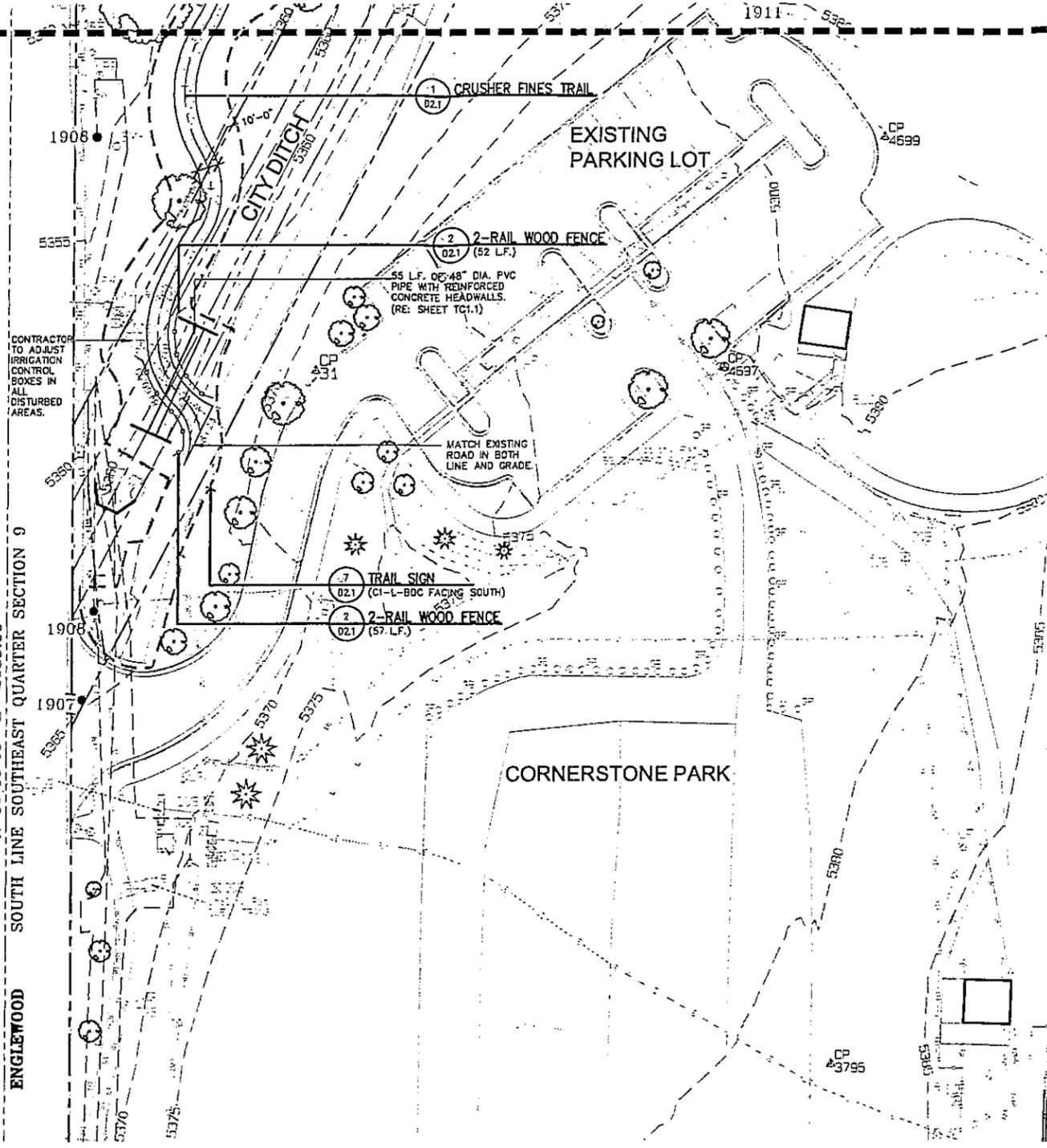
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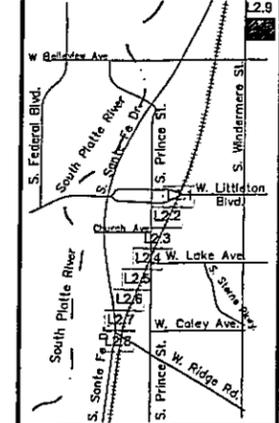
Know what's below.  
Call before you dig.

MATCHLINE - SEE SHEET L2.9

S. WINDERMERE STREET  
LITTLETON  
ENGLEWOOD  
BASIS OF BEARING  
N 00°05'41" E 2635.00'  
SOUTH LINE SOUTHEAST QUARTER SECTION 9



KEYMAP



LEGEND

|  |                                       |
|--|---------------------------------------|
|  | LIMITS OF CONSTRUCTION                |
|  | PROPERTY LINE                         |
|  | EASEMENT LINE                         |
|  | EXISTING MINOR CONTOUR                |
|  | EXISTING MAJOR CONTOUR                |
|  | FLOODWAY                              |
|  | 100 YR FLOODPLAIN ZONE AE             |
|  | 500 YR FLOODPLAIN ZONE X              |
|  | EXISTING VEGETATION                   |
|  | EXISTING DECIDUOUS TREE               |
|  | EXISTING EVERGREEN TREE               |
|  | EXISTING FIRE HYDRANT                 |
|  | EXISTING LIGHT                        |
|  | EXISTING MANHOLE                      |
|  | EXISTING SIGN                         |
|  | EXISTING FENCE                        |
|  | EXISTING UNDERGROUND TELEPHONE LINE   |
|  | EXISTING UNDERGROUND ELECTRIC LINE    |
|  | STORM SEWER                           |
|  | PROPOSED 10' WIDE CRUSHER FINES TRAIL |
|  | PROPOSED 10' MOE CONCRETE TRAIL       |
|  | PROPOSED TRAIL CENTER LINE            |

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Big Dry Creek Trail Connection  
Englewood, Colorado

PROJECT NUMBER: 14107.00  
DATE: 05-23-14  
DESIGNED: BN  
FRAME: KD  
CHECKED: BN

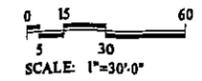
REVISIONS:

JOB DESCRIPTION: Construction Documents

SHEET TITLE: Layout & Materials Plan

SHEET NUMBER

AREA 'B'  
L2.10  
SHEET OF



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15. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING DWM DESIGN CORP. OF ANY DISCREPANCIES BETWEEN THE FIELD DATA AND THE FINAL AS-BUILT DOCUMENTS.

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2014

COUNCIL BILL NO. 63  
INTRODUCED BY COUNCIL  
MEMBER WILSON

AN ORDINANCE APPROVING AN ENCROACHMENT AND INDEMNITY AGREEMENT PERTAINING TO THE CONSTRUCTION OF UPPER LEVEL BALCONIES EXTENDING OVER THE PUBLIC RIGHT-OF-WAY, AN ARCHITECTURAL CANOPY EXTENDING OVER THE PUBLIC RIGHT-OF-WAY, A HALLWAY EXTENDED INTO THE PUBLIC RIGHT-OF-WAY, AND A WHEEL CHAIR RAMP EXTENDING INTO THE PUBLIC RIGHT-OF-WAY.

WHEREAS, Section 11-3-4 of the Englewood Municipal Code 2000 provides that an encroachment into public right-of-way may be granted upon compliance with certain terms and conditions and the issuance of an encroachment permit and indemnity agreement by the City; and

WHEREAS, the property owner “Bannock Club, LLC” of 201 Englewood Parkway wishes to construct a 30 unit apartment building with two ground floor live/work units; and

WHEREAS, the property owner was notified that the construction was in violation of the Englewood Municipal Code because it encroached into the Public Right-of-Way in several areas, and that an encroachment permit would need to be obtained; and

WHEREAS, the City of Englewood received an application for an encroachment permit from the Owner of 201 Englewood Parkway for the construction of a 30 unit apartment building for:

- Twenty-four (24) Upper level balconies extending 4 feet into the Public Right-of-Way on 3 sides of the proposed building; and
- An architectural canopy extending 4.5 feet over and 114.8 feet along the Public Right-of-Way; and
- A wheel chair ramp extending 4 feet into the Public Right-of-Way; and
- An extended hallway (bunip out) extending 2.3 feet into the Public Right-of-Way; and

WHEREAS, approval of this Ordinance will authorize an “Encroachment Permit and Indemnity Agreement” formally recognizing the dimensions of the encroachment;

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

Section 1 The “Encroachment Permit and Indemnity Agreement” attached hereto as “Exhibit A” is hereby accepted and approved by the City Council of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 20th of October

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 24<sup>th</sup> of October

Published as a Bill for an Ordinance on the City’s official website beginning on the 22<sup>nd</sup> day of October, 2014 for thirty (30) days.

Read by title and passed on final reading on the 3rd day of November, 2014.

Published by title in the City’s official newspaper as Ordinance No. \_\_\_\_, Series of 2014, on the 7th day of November, 2014.

Published by title on the City’s official website beginning on the 5<sup>th</sup> day of November, 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

**ENCROACHMENT PERMIT AND INDEMNITY AGREEMENT**

**THIS AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between the City of Englewood, Colorado, a municipal corporation, and Bannock Club L.L.C., a Colorado limited liability company, whose address is 5353 West Dartmouth Avenue - #508, Denver, CO. 80227, as the owner(s) of a certain parcel of real property legally described as:

Lot 3 & N 37.5 Ft  
of Lot 4 Blk 1 Floods Add  
County of Arapahoe  
State of Colorado

Commonly known as: 201 Englewood Parkway .

The City of Englewood, Colorado, pursuant to 11-3-4 EMC, hereby grants to Bannock Club L.L.C. at the above described location, permission to: encroach upon the City's property for the sole purpose of constructing the building at 201 Englewood Parkway, as shown on the attached drawings labeled as Attachment 1, specifically twenty-four (24) balconies over three public Right-of-Ways, an awning, an extended hallway, and a wheel chair ramp attached as Attachment 1, with said encroachment consisting of approximately 1,073 square feet.

The property owners and its heirs and assigns understand and agree that:

1. It will construct no other permanent structure, nor any plantings which will interfere with the City's full use and enjoyment of its property.
2. That this permission is a revocable license and is revocable at will and without cause by the City of Englewood, Colorado without hearing and without notice other than Notice of Revocation.
3. That the property Owner shall remove any structure including balconies, awnings, hallway, bump out and wheelchair ramps after receiving Notice of Revocation by personal service or certified mail.
4. That the property Owner is estopped to deny the right of the City of Englewood, Colorado, to revoke the Encroachment Permit or to deny the property rights of said City.
5. That the property Owner agrees to reimburse and indemnify the City of Englewood, Colorado, for all necessary expenses of whatever nature that may be incurred in revoking this Permit, removing the structure(s) or any other expense as a result of granting the Encroachment Permit.
6. That the property Owner shall maintain insurance coverage sufficient to satisfy any liability arising as a result of this Encroachment Permit and Indemnity Agreement, and the City of Englewood shall be held harmless from any and all liabilities arising from this action and proof of such continuing insurance shall be provided to the City's Risk Management Division on an annual basis.

- 7. That the property owner shall pay all reasonable expenses of preparing and recording this Agreement.
- 8. That this agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, assigns, and successors of the respective parties.

The party signing for Bannock Club LLC affirms that he/she has full authority to sign and bind the property Owner by this Agreement.

IN WITNESS WHEREOF, the parties have set their hands the day and year first written above.

**CITY OF ENGLEWOOD**  
a municipal corporation

By: \_\_\_\_\_  
Randy P. Penn, Mayor

ATTEST:

By: \_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

**BANNOCK CLUB, LLC**  
Property Owner

B. \_\_\_\_\_  
Nanna Nielsen Smith, Manager

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF                    )

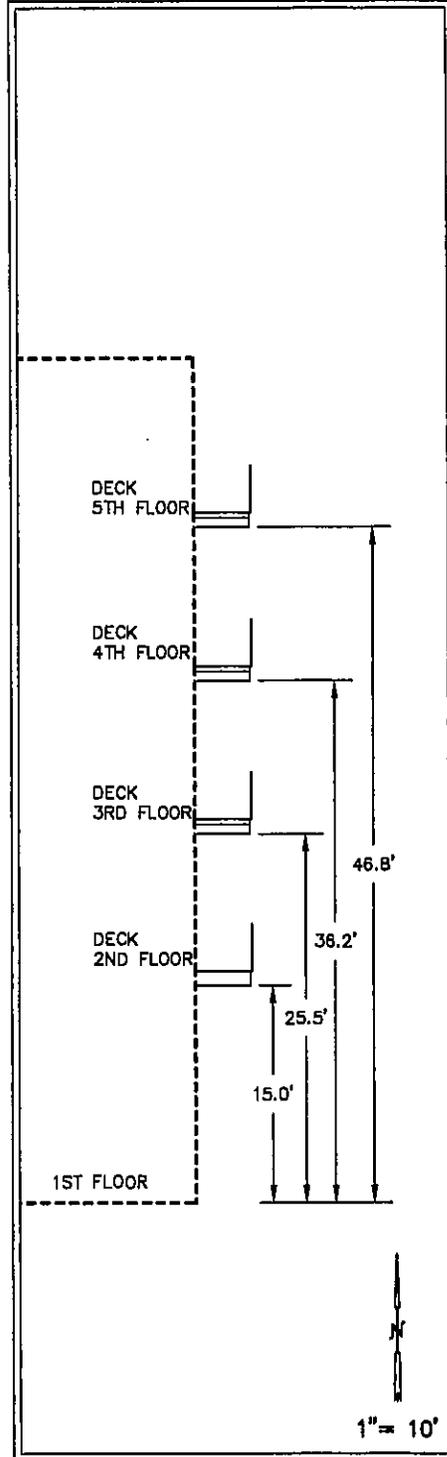
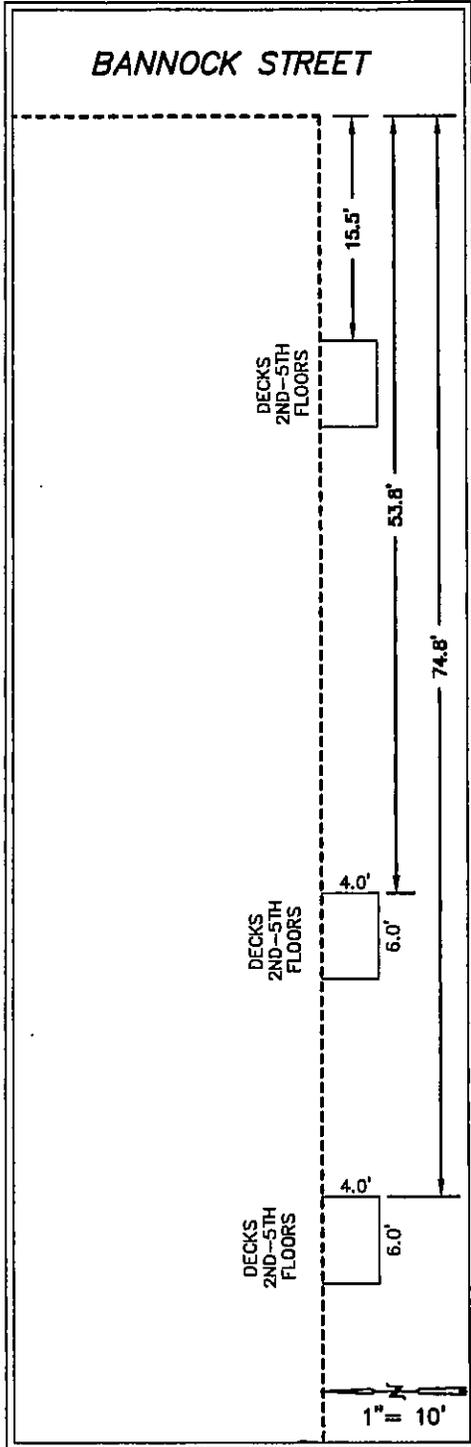
The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of October, 2014, by Nanna Nielsen Smith as Manager of the Bannock Club, LLC property owner of 201 Englewood Parkway, Englewood, Colorado 80110.

My Commission expires: 5/30/15

Notary Public



# EXHIBIT SOUTH



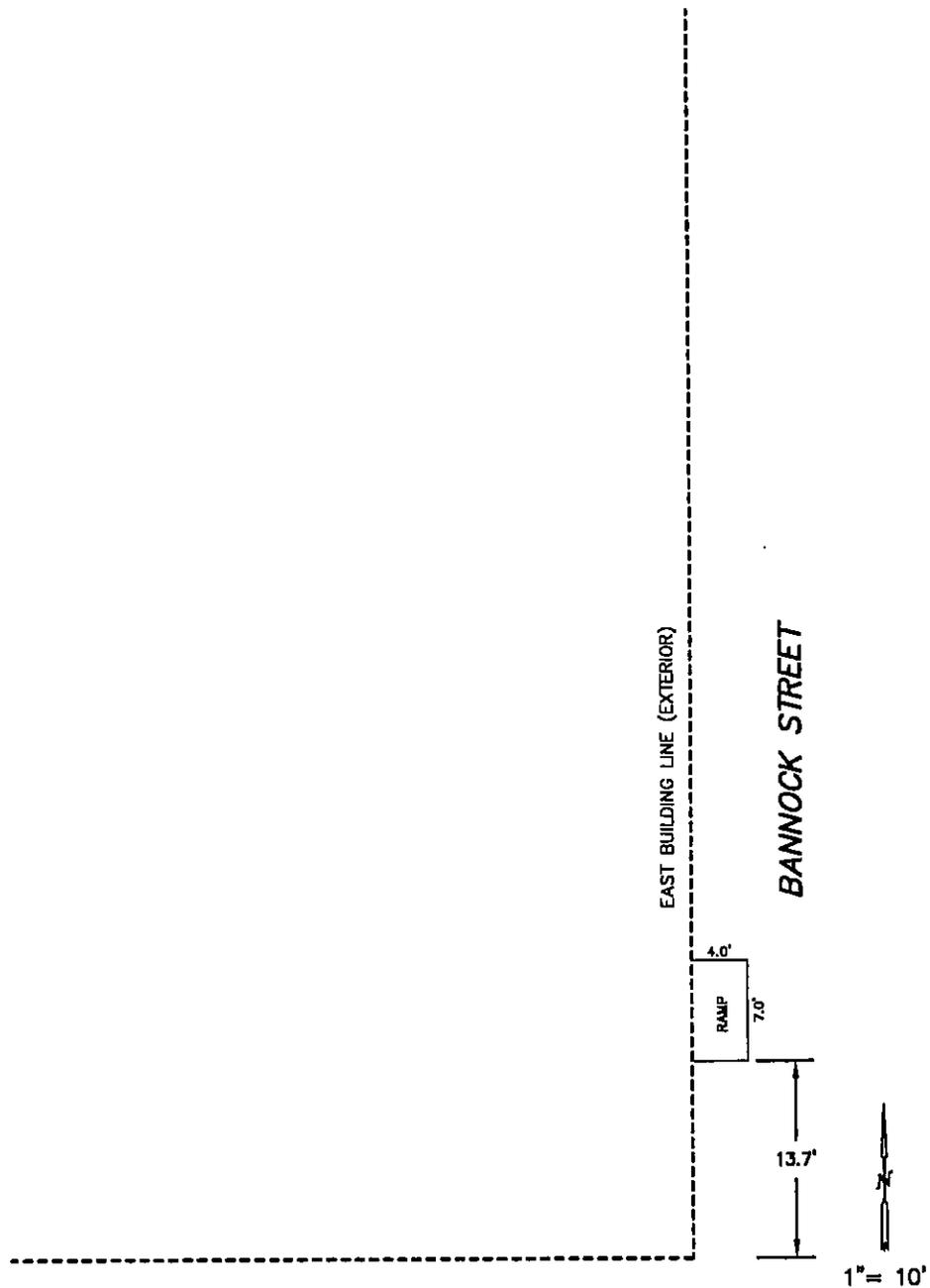
### DECKS DESCRIPTION:

4' x 8' DECKS (2ND TO 5TH FLOOR) EXTENDING 4 FEET SOUTH OF THE EXISTING BUILDING BEING 15.5 FEET, 53.8 FEET & 74.8 FEET WEST OF THE SOUTHEAST CORNER OF THE EXISTING BUILDING.

GORDON S. PAGE III  
PLS 29D48  
KURT LINN & ASSOCIATES JOB # 1410-04

ALL FEATURES AND ELEVATIONS WERE PLACED AND OR SCALED PER PROVIDED ARCHITECTURAL PLANS (PDF) PROVIDED.

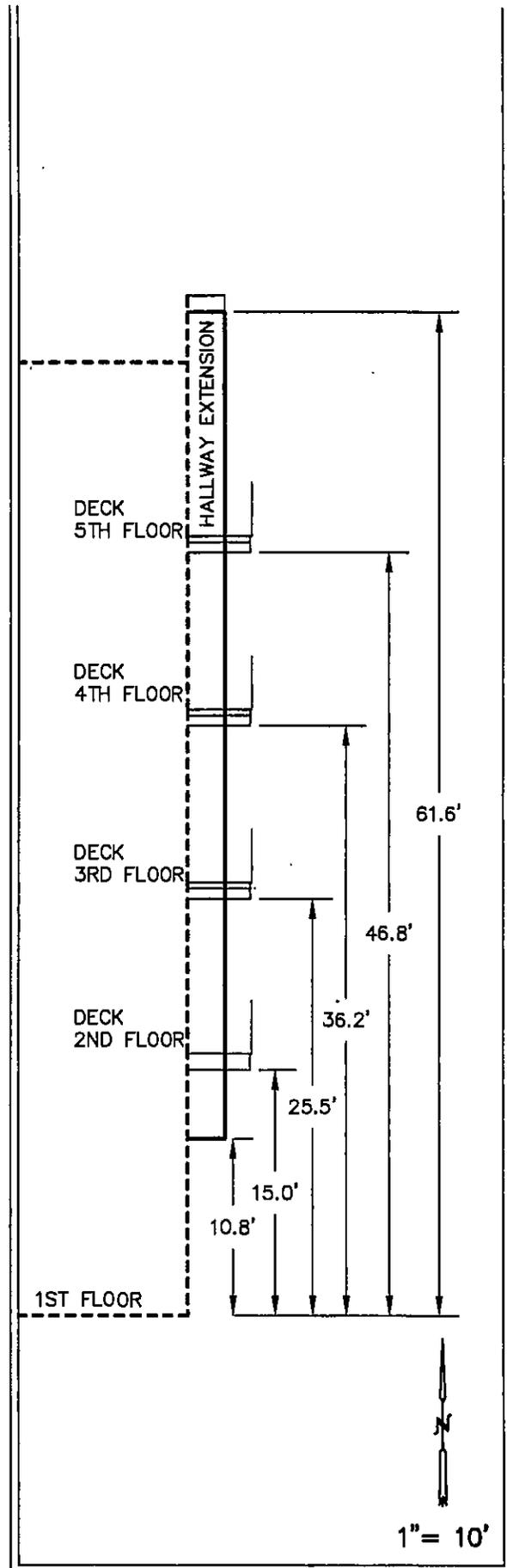
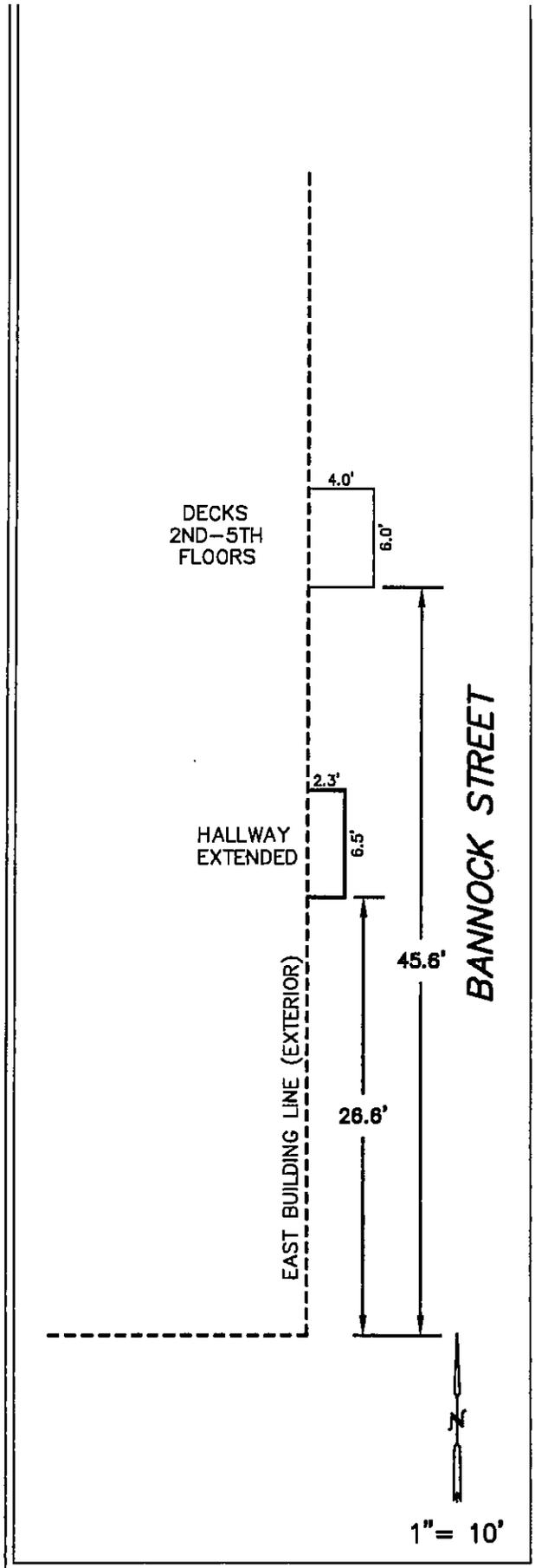
# EXHIBIT RAMP



## RAMP DESCRIPTION:

4' x 7' RAMP EXTENDING 4 FEET EAST OF THE EXISTING BUILDING  
BEING 13.7 FEET NORTH OF THE SOUTHEAST CORNER OF THE EXISTING BUILDING.

GORDON S. PAGE III  
PLS 29048  
KURT LINN & ASSOCIATES JOB # 1410-04



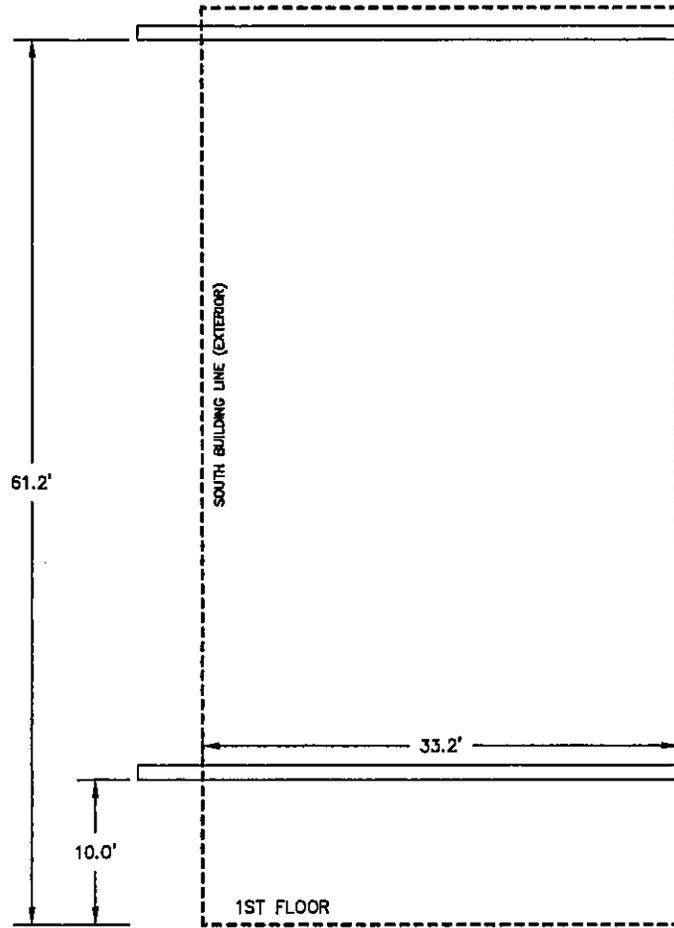
**DECKS DESCRIPTION:**

4' x 6' DECKS (2ND TO 5TH FLOOR) EXTENDING 4 FEET EAST OF THE EXISTING BUILDING BEING 45.6 FEET NORTH OF THE SOUTHEAST CORNER OF THE EXISTING BUILDING.

**HALLWAY EXTENSION DESCRIPTION:**

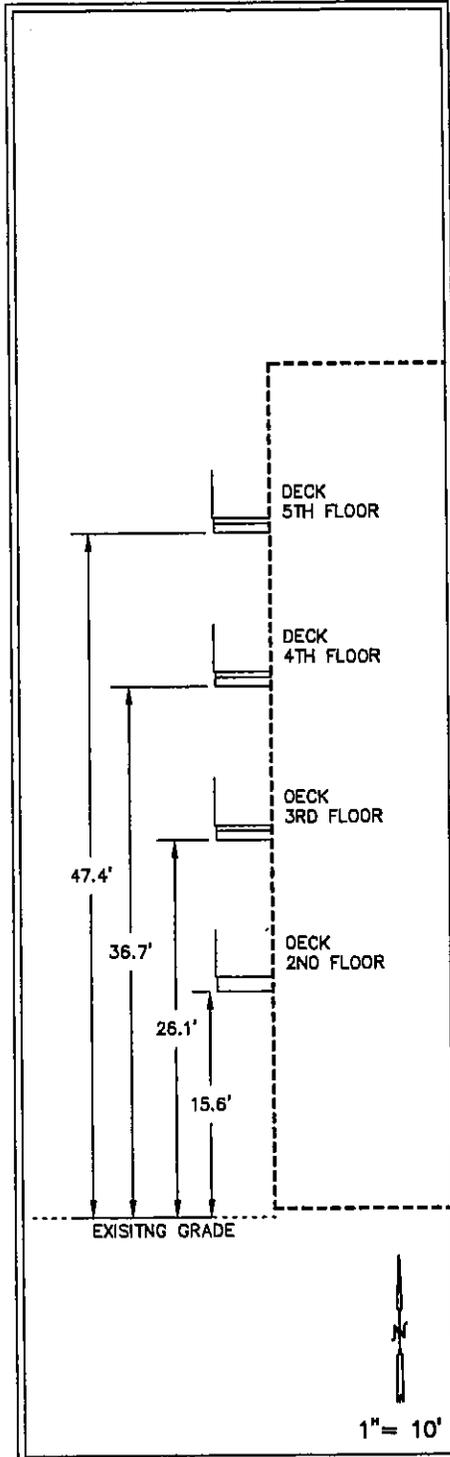
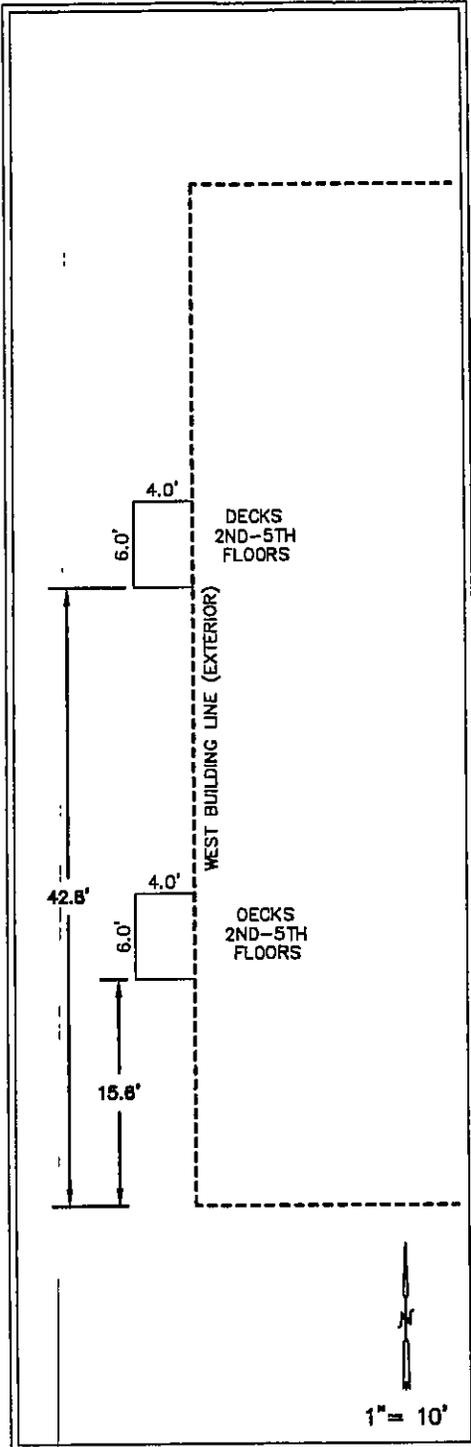
A 2.3' x 6.5' HALLWAY EXTENSION EXTENDING 2.3' EAST OF THE EXISTING BUILDING BEING 26.8' NORTH OF THE SOUTHEAST CORNER OF THE EXISTING BUILDING.

# EXHIBIT CANOPIES ELEVATIONS



ALL FEATURES AND ELEVATIONS WERE PLACED AND OR SCALED PER PROVIDED ARCHITECTURAL PLANS (PDF-CAD) PROVIDED.

# EXHIBIT WEST



**DECKS DESCRIPTION:**

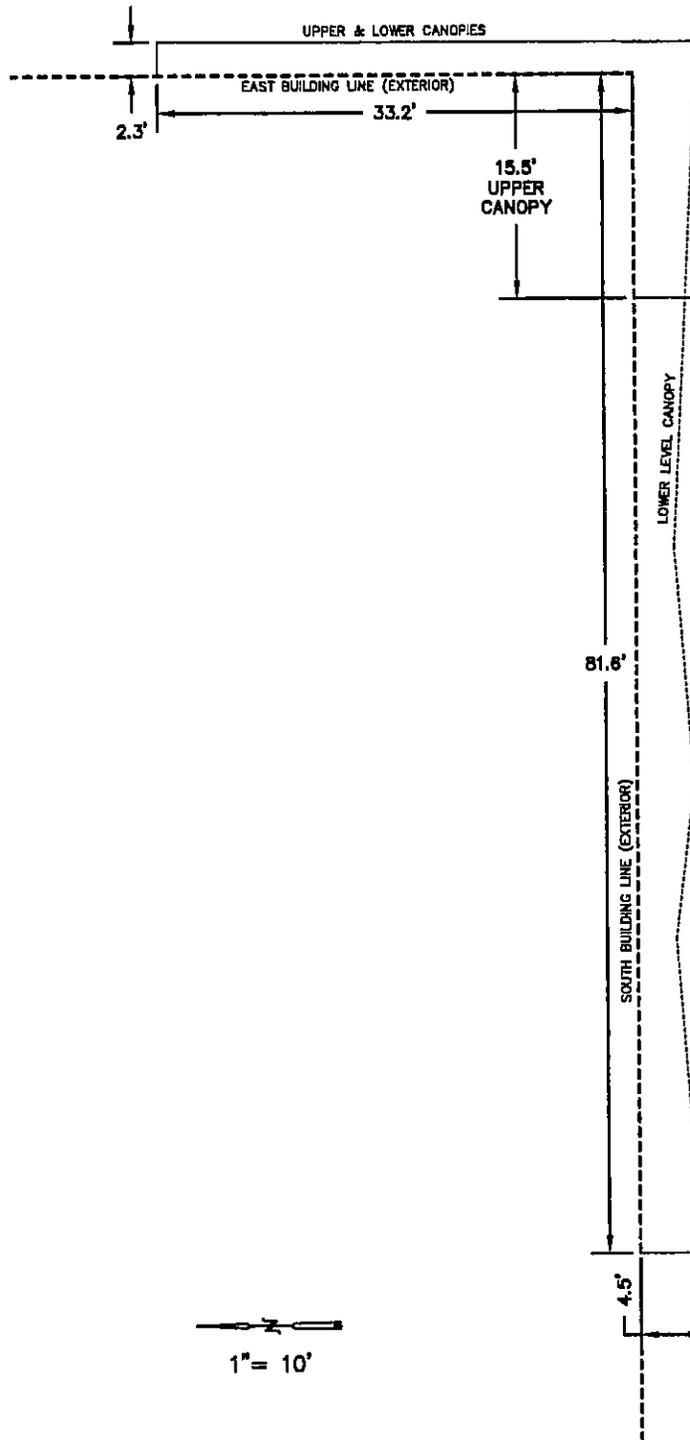
4' x 6' DECKS (2ND TO 5TH FLOOR) EXTENDING 4 FEET WEST OF THE EXISTING BUILDING BEING 15.6 FEET & 42.85 FEET NORTH OF THE SOUTHWEST CORNER OF THE EXISTING BUILDING.

GORDON S. PAGE III  
 PLS 29048  
 KURT LINN & ASSOCIATES JOB # 0901-03

ALL FEATURES AND ELEVATIONS WERE PLACED AND OR SCALED PER PROVIDED ARCHITECTURAL PLANS (PDF) PROVIDED.

# EXHIBIT CANOPIES

## BANNOCK STREET



### CANOPIES DESCRIPTION:

CANOPIES EXTENDING 2.3 FEET EAST AND 4.5 SOUTH OF THE EXISTING BUILDING BEING 33.2 FEET NORTH, 15.5 FEET SOUTH (UPPER CANOPY) & 81.6' (LOWER CANOPY FEET WEST OF THE SOUTHEAST CORNER OF THE EXISTING BUILDING.

GORDON S. PAGE III  
PLS 29048  
KURT LINN & ASSOCIATES JOB # 1410-04

ALL FEATURES AND ELEVATIONS WERE PLACED AND OR SCALED PER PROVIDED ARCHITECTURAL PLANS (PDF) PROVIDED.

## COUNCIL COMMUNICATION

|   |                              |   |
|---|------------------------------|---|
| <b>Date:</b><br>November 3, 2014              | <b>Agenda Item:</b><br>9 c i | <b>Subject:</b><br>Englewood LiveWell Colorado Healthy Eating Active Living (HEAL) Cities and Towns Campaign Resolution |
| <b>Initiated By:</b><br>Community Development |                              | <b>Staff Source:</b><br>John Voboril, Long Range Planner II   |

### PREVIOUS COUNCIL ACTION

City Council gave consent to the Community Development Department to apply to Kaiser Permanente for a Walk and Wheel grant in order to produce a new master bicycle and pedestrian plan for the City, replacing the completed 2004 master bicycle plan, at the September 16, 2013 Council study session. In order to receive a Walk and Wheel grant, the City was asked to agree to approving a Healthy Eating Active Living (HEAL) resolution, and thus becoming a Colorado LiveWell HEAL community. A HEAL resolution modified by City staff to reflect past City Council actions and current City initiatives was presented to Council at the October 20, 2014 Council Study Session.

### RECOMMENDED ACTION

Staff recommends Council approve a resolution affirming past City actions and current City initiatives that support HEAL principles.

### BACKGROUND AND ANALYSIS

HEAL principles include emphasizing capital improvements that increase physical activity; improving connectivity of the walking and bicycling network; revising City plans and zoning ordinances to include support for HEAL policies, goals, and regulations in the form of complete streets, compact mixed-use and transit-oriented development, and healthy food production and retailing; and supporting the siting of healthy food retailers, community gardens, and farmer's markets throughout the community to improve access to healthy foods. The City can also promote HEAL principles by setting examples for workplace wellness, including offering employee fitness activities, free employee access to the Englewood Recreation Center, and exploring access to healthy food offerings and education in the workplace.

### FINANCIAL IMPACT

Adoption of the Englewood LiveWell Colorado HEAL Cities and Towns Campaign resolution will have no immediate financial impact on the City. Failure to approve the HEAL resolution would jeopardize funding (\$99,999) from Kaiser Permanente for the Walk and Wheel Master Plan and Program project currently underway.

### LIST OF ATTACHMENTS

Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2014

A RESOLUTION BY THE ENGLEWOOD CITY COUNCIL SETTING FORTH THE CITY'S COMMITMENT TO OBESITY PREVENTION AND LIVEWELL COLORADO'S HEALTHY EATING, ACTIVE LIVING (HEAL) CITIES AND TOWNS CAMPAIGN.

WHEREAS, although Colorado is the "leanest" state in the country, fifty-eight percent (58%) of Colorado adults and a quarter of Colorado children are overweight or obese; and

WHEREAS, the adult obesity rate has doubled in Colorado since 1995 and, if trends continue, only thirty-three percent (33%) of Colorado adults will be a healthy weight by 2020; and

WHEREAS, more children are being diagnosed with diseases linked to overweight and obesity previously seen only in adults, such as Type 2 diabetes and heart disease; and

WHEREAS, Colorado has the second fastest rate of increase in childhood obesity in the nation; and

WHEREAS, the current generation of children are expected to have shorter lives than their parents due to consequences of obesity; and

WHEREAS, the annual cost to Colorado in medical bills, workers compensation and lost productivity due to citizens being overweight or obese and lacking in physical activity exceeds \$1.6 billion; and

WHEREAS, obesity has been identified by the Colorado Department of Public Health and Environment as one of ten winnable battles in Colorado; and

WHEREAS, cities and towns have the ability to impact opportunities for healthy eating and active living; and

WHEREAS, in November of 2012 the Colorado Municipal League Board of Directors entered into a memorandum of understanding with LiveWell Colorado to work collaboratively on the HEAL Cities and Towns Campaign; and

WHEREAS, LiveWell Colorado is a nonprofit organization committed to preventing and reducing obesity in the state by promoting healthy eating and active living in the places we live, work, learn, and play; and

WHEREAS, the City of Englewood has shown a commitment to HEAL principles and activities including bicycle and pedestrian infrastructure planning and promotion, community gardens, and employee wellness initiatives.

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 hereby recognizes that obesity and being overweight is a serious threat to the health and well-being of residents and employees of the City. While individual lifestyle changes are necessary, individual efforts alone are insufficient to combat obesity's rising challenges. Significant societal and environmental changes are needed to

support individual efforts to make healthier choices. It is to that end that the City adopts this HEAL Cities and Towns Campaign resolution.

Section 2. The City will make efforts to promote healthy eating and active living through the following policy and action recommendations that will be discussed and detailed in the final Englewood Walk and Wheel Master Plan and Program:

- a. Emphasizing capital improvement projects that increase the opportunities for physical activity, as funding allows;
- b. Planning and securing grant funding for a built environment that encourages walking, biking, and other forms of physical activity;
- c. Improving connectivity of walking a bicycle networks between residential neighborhoods and schools, parks, recreational resources, and retail businesses;
- d. Revising the comprehensive plan, sub-area plans, relevant master plans, and zoning ordinances to increase opportunities for physical activity wherever and whenever possible, through the adoption of healthy eating and active living goals, policies, and regulations including support for complete streets and compact mixed-use and transit-oriented development, and healthy local food production and retailing;
- e. Encouraging the siting of health food retailers, community gardens or farms and farmer's markets to increase access to healthy food, including fresh fruits and vegetables.

Section 3. In order to promote wellness in the City, and to set an example for residents and businesses, the City hereby pledges to continue to advance workplace wellness initiatives that:

- a. Continue to promote employee wellness activities including employee hiking, cycling and yoga clubs, Bike to Work Day, and other active programs; and
- b. Explore new initiatives for employees, including active commuter clubs, healthy vending options, nutrition classes, fresh fruit in common areas, and healthy cooking classes.

Section 4. An annual report will be made to the City Council regarding actions taken to implement this resolution, additional actions planned, and any desired actions that may require City Council approval.

ADOPTED AND APPROVED this 3rd day of November, 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

|  |   |  |
|--|---|--|
| <b>Date</b><br>November 3, 2014  | <b>Agenda Item</b><br>9 c ii                      | <b>Subject</b><br>Resolution Approving Proposed Changes to the City of Englewood Investment Policy |
| <b>Initiated By</b><br>Department of Finance and Administrative Services | <b>Staff Source</b><br>Frank Gryglewicz, Director |  |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

- City Council approved Resolution 79, Series of 2006 accepting changes and updates to the City's Investment Policy on October 16, 2006.
- City Council approved Resolution 84, Series of 2011 accepting changes and updates to the City of Englewood's Investment Policy
- On October 20, 2014 City Council discussed proposed changes and updates to the existing Investment Policy and requested staff prepare and present a resolution accepting the proposed changes.

### RECOMMENDED ACTION

Staff recommends Council adopt a resolution approving the changes and updates to the attached Investment Policy. The Investment Policy is applicable to the investment of all funds not immediately needed for the operating expenditures/expenses of the City, except for the Firefighters Pension Fund, the Volunteer Firefighters Fund, the Police Officers Pension Fund, and the Non-Emergency Employees Pension Fund.

The Investment Policy focuses on four main tenets:

- Preservation of Capital
- Liquidity to Meet Disbursement Needs
- Diversification to Reduce Risk
- Obtain a Market Rate of Return

The changes involve clarifying language, restricting over-investing in one issuer, adding additional investment opportunities, and requiring broker/dealers provide financial information. These changes support or strengthen the four main tenets of the Investment Policy.

### FINANCIAL IMPACT

There is no direct financial impact to the City from adopting the proposed changes to the Investment Policy.

### LIST OF ATTACHMENTS

Proposed Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2014

A RESOLUTION APPROVING AMENDING THE CITY OF ENGLEWOOD INVESTMENT POLICY.

WHEREAS, the Englewood City Council approved Resolution No. 79, Series of 2006, accepting changes and updates to the City's Investment Policy; and

WHEREAS, the Englewood City Council approved Resolution No. 84, Series of 2011, accepting changes and updates to the City of Englewood's Investment Policy; and

WHEREAS, the passage of this proposed Resolution amends the existing Investment Policy with changes and updates; and

WHEREAS, the Investment Policy is applicable to the investment of all funds not immediately needed for the operating expenditures/expenses of the City, except for the Firefighters Pension Fund, the Volunteer Firefighters Fund, the Police Officers Pension Fund and the Non-Emergency Employees Pension Fund; and

WHEREAS, the Investment Policy focuses on four main tenets:

- Preservation of Capital
- Liquidity to Meet Disbursement Needs
- Diversification to Reduce Risk
- Obtain a Market Rate of Return; and

WHEREAS, the changes involve clarifying language, restricting over-investing in one issuer, adding additional investment opportunities, and requiring broker/dealers provide financial information.

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 approves amending the City of Englewood Investment Policy, attached hereto as Exhibit A.

ADOPTED AND APPROVED this 3rd of November, 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.

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Loucrishia A. Ellis, City Clerk

# City of Englewood, Colorado

## INVESTMENT POLICY

The Director of Finance and Administrative Services of the City of Englewood, Colorado is charged with the responsibility to prudently and properly manage any and all funds of the City. Because these funds may be called upon, it is essential that absolute maturity horizons are identifiable for the purpose of liquidity. Moreover, these funds must be fully collateralized and appropriately authorized. The following Investment Policy addresses the methods, procedures and practices which must be exercised to ensure effective and sound fiscal management.

### **SCOPE**

This Investment Policy shall apply to the investment of all financial assets and all funds of the City of Englewood (hereafter referred to as the "City") over which it exercises financial control, except the City of Englewood Firefighters Pension Fund, Volunteer Firefighters Pension Fund, Police Officers Pension Fund, the Non-Emergency Employees Retirement Plan Fund and other City employee retirement plans.

In order to effectively make use of the City's cash resources, all monies shall be pooled into one investment account and accounted for separately. The investment income derived from this account shall be distributed to the various City funds in accordance with Englewood Municipal Code, 4-1-2-A.

### **OBJECTIVES**

The City's funds shall be invested in accordance with all applicable City policies, Colorado statutes, and Federal regulations, and in a manner designed to accomplish the following objectives, which are listed in priority order:

- Preservation of capital and the protection of investment principal.
- Maintenance of sufficient liquidity to meet anticipated disbursements and cash flows.
- Diversification to avoid incurring unreasonable risks regarding securities owned.
- Attainment of market rate of return equal to or higher than the performance measure established by the Director of Finance and Administrative Services.

### **DELEGATION OF AUTHORITY**

The ultimate responsibility and authority for investment transactions involving the City resides with the Director of Finance and Administrative Services (hereinafter referred to as the "Director") who has been designated by the City Manager as the Investment Officer in accordance with Englewood Municipal Code. The Director may appoint other members of the City staff to assist him in the cash management and investment function. Persons who are authorized to transact business and wire funds on behalf of the City will be designated by the Director by the wire transfer agreement executed with the City's approved depository for bank services (see Appendix I).

The Director shall be responsible for all investment decisions and activities, and shall establish written administrative procedures for the operation of the City's investment program consistent with this Investment Policy. The Investment Officer acting within these procedures shall not be held personally liable for specific investment transactions.

The Director may in his discretion appoint one or more Investment Advisors, registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940, to manage a

portion of the City's assets. An appointed Investment Advisor may be granted limited investment discretion within the guidelines of this Investment Policy with regard to the City's assets placed under its management. An Investment Advisor can only be appointed after consultation with and approval by the City Manager.

### **PRUDENCE**

The standard of prudence to be used for managing the City's assets is the "prudent investor" rule, which states that a prudent investor "shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital." (CRS 15-1-304, Standard for Investments.)

The City's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The City recognizes that no investment is totally without risk and that the investment activities of the City are a matter of public record. Accordingly, the City recognizes that occasional measured losses may occur in a diversified portfolio and shall be considered within the context of the portfolio's overall return, provided that adequate diversification has been implemented and that the sale of a security is in the best long-term interest of the City.

The Director and other authorized persons acting in accordance with established procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion to the City Council and appropriate action is taken to control adverse developments.

### **ETHICS AND CONFLICTS OF INTEREST**

All City employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Manager any material financial interest in financial institutions that conduct business with the City, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio. Employees shall subordinate their personal investment transactions to those of the City particularly with regard to the timing of purchases and sales.

### **ELIGIBLE INVESTMENTS AND TRANSACTIONS**

All investments will be made in accordance with the Colorado Revised Statutes (CRS) as follows: CRS 11-10.5-101, et seq. Public Deposit Protection Act; CRS 11-47-101, et seq. Savings and Loan Association Public Deposit Protection Act; CRS 24-75-601, et seq. Funds-Legal Investments; CRS 24-75-603, et seq. Depositories; and CRS 24-75-701, et seq. Local governments – authority to pool surplus funds. Any revisions or extensions of these sections of the CRS will be assumed to be part of this Investment Policy immediately upon being enacted.

As a home rule City, Englewood may adopt a list of acceptable investment instruments differing from those outlined in CRS 24-75-601, et seq. Funds-Legal Investments. Funds of the City of Englewood covered by this Investment Policy may be invested in the following types of securities and transactions:

1. U.S. Treasury Obligations: Treasury Bills, Treasury Notes and Treasury Bonds with maturities not exceeding five years from the date of trade settlement.

2. Treasury Strips (book-entry U.S. Treasury securities whose coupons have been removed) with maturities not exceeding five years from the date of trade settlement.
3. Federal Instrumentalities - Debentures, Discount Notes, Medium-Term Notes, Callable Securities and Step-up Securities issued by the following only: Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Home Loan Mortgage Corporation (FHLMC) and Federal Farm Credit Banks (FFCB), with maturities not exceeding five years from the date of trade settlement. Subordinated debt may not be purchased.
4. Repurchase Agreements with a termination date of 90 days or less utilizing U.S. Treasury and Federal Instrumentality securities listed above, collateralized at a minimum market value of 102 percent of the dollar value of the transaction with the accrued interest accumulated on the collateral included in the calculation.

Repurchase agreements shall be entered into only with dealers who:

- a) are recognized as Primary Dealers by the Federal Reserve Bank of New York, or with firms that have a primary dealer within their holding company structure; and
- b) have executed a City approved Master Repurchase Agreement (see Appendix II). The Director shall maintain a file of all executed Master Repurchase Agreements.

Collateral (purchased securities) shall be held by the City's custodian bank as safekeeping agent, and the market value of the collateral securities shall be marked-to-the-market daily.

For the purposes of this section, the term "collateral" shall mean "purchased securities" under the terms of the City approved Master Repurchase Agreement. In no case will the maturity of the collateral exceed 10 years.

5. Reverse Repurchase Agreements with a maturity of 90 days or less executed only against securities owned by the City and collateralized by the same type of security reversed.
6. Flexible Repurchase Agreements with a final maturity of 10 years or less entered into by the City with approved counterparties. These flexible repurchase agreements may be closed out in varying amounts and at varying times at the option of the City. These agreements are deemed by both parties to be purchases and sales of securities and are not loans.

All such flexible repurchase agreements shall meet the following criteria:

- Be determined as legal and valid for both parties;
- Collateral shall be limited to:
  - a) Securities issued by, guaranteed by, or for which the credit of any of the following is pledged for payment: the United States, Federal Farm Credit Bank, Federal Land Bank, Federal Home Loan Bank, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Export Import Bank or the Government National Mortgage Association; or
  - b) Securities issued by, guaranteed by, or for which the credit of the following is pledged for payment: An entity or organization which is not listed in paragraph a) above, but which is (1) created by, or the creation of which is authorized by, legislation enacted by the United States Congress and which is subject to control by the federal government which is at least as extensive as that which governs an entity or organization listed in paragraph a) above, and (2) rated in its highest rating category by one or more nationally recognized organizations which regularly rate such obligations.
- Have a fixed rate during the entire life of the agreement;
- The dollar amounts and periods of time when the City may draw funds out of the repurchase agreement shall be agreed upon in writing by both parties and shall be part of the written repurchase agreement exercised by the City and the approved counterparty;

- The City has the option of varying the dollar amount and the timing of the draw down by an agreed upon percentage of the anticipated draw down and a specified number of days. The City and the counterparty to the agreement will specify the details of the allowable variance when the agreement is structured. In addition, the City may draw down in excess of the variance up to the remaining balance in the agreement for a bona fide, unanticipated cash need;
- Collateral shall have a minimum market value (including accrued interest accumulated) of at least 102 percent of the dollar value of the transaction;
- Repurchase agreements shall be entered into only with dealers who are authorized by the Director and have executed a City approved Master Repurchase Agreement;
- The Director shall maintain a file of all executed Master Repurchase Agreements;
- The title to or a perfected security interest in securities, along with any necessary transfer documents, must be transferred and actually delivered to, and shall be held by, the City's third-party custodian bank acting as safekeeping agent. The market value of the collateral securities shall be marked-to-the-market at least weekly based on the closing bid price at the time the custodian for the collateral issues its monthly statement to the City.

For the purpose of the section, the term "collateral" shall mean "purchased securities" under the terms of the City approved Master Repurchase Agreement. In no case will the maturity of the collateral exceed 10 years.

7. Time Certificates of Deposit with a maximum maturity of five years or savings accounts in state or national banks or state or federally chartered savings banks operating in Colorado that are state approved depositories (as evidenced by a certificate issued by the State Banking Board) and are insured by the FDIC. Certificates of deposit that exceed the FDIC insured amount shall be collateralized in accordance with the Colorado Public Deposit Protection Act. The collateral shall have a market value equal to or exceeding 102 percent of the difference between the insured amount and the City's total deposits for all funds within the institution.
8. Money Market Mutual Funds registered under the Investment Company Act of 1940 that: 1) are "no-load" (i.e.: no commission or fee shall be charged on purchases or sales of shares); 2) have a constant net asset value per share of \$1.00; 3) limit assets of the fund to securities authorized by state statute; 4) have a maximum stated maturity and weighted average maturity in accordance with Rule 2a-7 of the Investment Company Act of 1940; and 5) have a rating of AAAM by Standard and Poor's, Aaa by Moody's or AAA/V1+ by Fitch.
9. Local Government Investment Pools as authorized under CRS 24-75-702.
10. Prime Bankers Acceptances, rated at least A-1 by Standard & Poor's, P-1 by Moody's, or F1 by Fitch at the time of purchase by at least two services that rate them, with a maturity of six months or less issued on domestic banks or branches of foreign banks domiciled in the U.S. and operating under U.S. banking laws. Accepting banks must have a senior debt rating of A2 by Moody's and A by Standard & Poor's.
11. Prime Commercial Paper with a maturity of 270 days or less which, at the time of purchase, is rated at least A-1 by Standard & Poor's, P-1 by Moody's, or F-1 by Fitch.
  - a) At the time of purchase, the commercial paper must be rated by at least two of the above stated rating agencies at the stated minimum rating.
  - b) If the commercial paper issuer has senior debt outstanding, the senior debt must be rated at least A2 by Moody's, A by Standard and Poor's, or A by Fitch.
12. Corporate Bonds issued by a corporation or bank with a final maturity not exceeding three years from the date of trade settlement, rated at least AA- by Standard & Poor's, Aa3 by

Moody's, or AA- by Fitch at the time of purchase by at least two services. Authorized corporate bonds shall be U.S. dollar denominated and issued by corporations organized and operating within the United States. The City hereby further authorizes investments in dollar denominated securities issued by a corporation or bank that is organized and operating within Canada or Australia, not to exceed 10% per country at the time of purchase, and limited to corporations organized and operated within the United States with a net worth in excess of \$250 million.

13. General or Revenue obligations of any state in the United States or any political subdivision, institution, or authority of such a government entity. Municipal bonds must be rated A- by Standard & Poor's, A3 by Moody's, or A- by Fitch at the time of purchase by at least two services if the issuer is located in Colorado. Municipal bonds must be rated AA- by Standard & Poor's, Aa3 by Moody's or AA- by Fitch at the time of purchase by at least two services if the issuer is located outside the state of Colorado. The maximum maturity for municipal bonds is five years.

Securities that have been downgraded below minimum ratings described herein may be sold or held at the City's discretion. The portfolio will be brought back into compliance with Investment Policy guidelines as soon as is practical.

#### **OTHER INVESTMENTS**

It is the intent of the City that the foregoing list of authorized securities be strictly interpreted. Any deviation from this list must be pre-approved by the Director in writing after approval by the City Manager.

#### **INVESTMENT DIVERSIFICATION**

It is the intent of the City to diversify the investment instruments within the portfolio to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions or maturities. The asset allocation in the portfolio should, however, be flexible depending upon the outlook for the economy, the securities market, and the City's cash flow needs.

The City may invest to the following maximum limits within each category:

- 50% in Certificates of Deposit
- 40% in Commercial Paper, 5% in any one issuer or its affiliates or subsidiaries
- 20% in Bankers Acceptances, 5% in any one issuer or its affiliates or subsidiaries
- 30% in Corporate Bonds; 5% in any one issuer or its affiliates or subsidiaries
- 30% in Municipal Bonds, 5% in any one issuer

The aggregate investment in Corporate Bonds, Commercial Paper, and Bankers Acceptances shall not exceed 50% of the portfolio.

Tests for limitations on percentages of holdings apply to the composite of the entire portfolio of the City, not to individual portfolios maintained by the City. Percentage limitations used for measurements are based on the percentage of cost value of the portfolio at the time of purchase.

#### **INVESTMENT MATURITY AND LIQUIDITY**

Investments shall be limited to maturities not exceeding five years from the date of trade settlement. In addition, the weighted average final maturity of the total portfolio shall at no time exceed three years.

#### **SELECTION OF BROKER/DEALERS.**

The Director shall maintain a list of broker/dealers approved for investment purposes (see Appendix III), and it shall be the policy of the City to purchase securities only from those authorized firms.

To be eligible, a firm must meet at least one of the following criteria:

1. be recognized as a Primary Dealer by the Federal Reserve Bank of New York or have a primary dealer within their holding company structure,
2. report voluntarily to the Federal Reserve Bank of New York,
3. qualify under Securities and Exchange Commission (SEC) Rule 15c-3 (Uniform Net Capital Rule).

Broker/dealers will be selected by the Director on the basis of their expertise in public cash management and their ability to provide service to the City's account. ~~Each authorized broker/dealer shall be required to submit and annually update a City approved Broker/Dealer Information Request form which includes the firm's most recent financial statements.~~ In the event that an external investment advisor is not used in the process of recommending a particular transaction in the City's portfolio, any authorized broker/dealer from whom a competitive bid is obtained for the transaction will attest in writing that he/she has received a copy of this policy and shall submit and annually update a City approved Broker/Dealer Information Request form which includes the firm's most recent financial statements.

The City may purchase Commercial Paper from direct issuers even though they are not on the approved list of broker/dealers as long as they meet the criteria outlined in Item 11 of the Eligible Investments and Transactions section of this Investment Policy.

#### **COMPETITIVE TRANSACTIONS**

Each investment transaction shall be competitively transacted with authorized broker/dealers. At least three broker/dealers shall be contacted for each transaction and their bid and offering prices shall be recorded.

If the City is offered a security for which there is no other readily available competitive offering, then the Director will document quotations for comparable or alternative securities.

#### **SELECTION OF BANKS AS DEPOSITORIES AND PROVIDERS OF GENERAL BANKING SERVICES**

The City shall maintain a list of banks approved to provide banking services or from whom the City may purchase certificates of deposit. Banks in the judgment of the Director no longer offering adequate safety to the City will be removed from the list. To be eligible for authorization, a bank shall qualify as a depository of public funds in Colorado as defined in CRS 24-75-603.

#### **SAFEKEEPING AND CUSTODY**

The safekeeping and custody of securities owned by the City shall be managed in accordance with applicable Federal and Colorado laws and regulations.

The Director shall approve one or more banks to provide safekeeping and custodial services for the City. A City approved Safekeeping Agreement shall be executed with each custodian bank prior to utilizing that bank's safekeeping services. To be eligible, a bank shall qualify as a depository of public funds in the State of Colorado as defined in CRS 24-75-603 and be a Federal Reserve member financial institution.

Custodian banks will be selected on the basis of their ability to provide service to the City's account and the competitive pricing of their safekeeping related services. The City's designated custodian bank is set forth in Appendix IV of this Investment Policy.

The purchase and sale of securities and repurchase agreement transactions shall be settled on a delivery versus payment basis. Ownership of all securities shall be perfected in the name of the City, and sufficient evidence to title shall be consistent with modern investment, banking and commercial practices.

All investments purchased by the City shall be delivered by either ~~book entry or physical delivery~~ and will be held in third-party safekeeping by the City's designated custodian bank, its ~~correspondent bank~~ or the Depository Trust Company (DTC).

All Fed wireable book entry securities owned by the City shall be evidenced by a safekeeping receipt or a customer confirmation issued to the City by the custodian bank stating that the securities are held in the Federal Reserve system in a Customer Account for the custodian bank which will name the City as "customer."

All DTC eligible securities shall be held in the custodian bank's Depository Trust Company (DTC) participant account and the custodian bank shall issue a safekeeping receipt evidencing that the securities are held for the City as "customer."

The City's custodian will be required to furnish the City with a monthly report of securities held as well as an account analysis report of monthly securities activity.

#### **PROVISIONS FOR ARBITRAGE**

The City periodically issues debt obligations which are subject to the provisions of the Tax Reform Act of 1986 (section 148F), Arbitrage Rebate Regulations. Due to the legal complexities of arbitrage law and the necessary immunization of yield levels, the procedures undertaken in the reinvestment of all or a portion of the proceeds of such debt issuance may extend beyond those outlined in this Investment Policy. The Director, upon advice from Bond Counsel and financial advisors, may alter provisions of this Investment Policy for arbitrage related investments as may be necessary to conform with federal arbitrage regulations. In all cases, however, investments will be in compliance with Colorado Revised Statutes. This section is only applicable to City funds subject to arbitrage restrictions.

#### **REPORTING**

An investment report shall be prepared, at least on a monthly basis, listing the investments held by the City, the current market valuation of the investments and performance results. The monthly investment report shall be submitted in a timely manner to the City Manager and the City Council. A record shall be maintained by the Department of Finance and Administrative Services of all bids and offerings for securities transactions in order to ensure that the City receives competitive pricing.

The City has established reporting and accounting standards for callable U.S. Instrumentality securities. Callable securities may be retired at the issuer's option prior to the stated maximum maturity. All securities holding reports for the City shall disclose the stated maturity as well as the first call date of each callable security held. In the case of callable securities which are purchased priced to the first call date and, in the opinion of the Director, have an overwhelming probability of being called on the first call date, weighted average maturity, amortization as well as yield shall be calculated using the first call date. The Director may, however, choose to use a further call date maturity date for reporting purposes when conditions mandate.

#### **PERFORMANCE REVIEW**

The Director and the City Manager shall meet at least quarterly to review the portfolio's adherence to appropriate risk levels and to compare the portfolio's total return to the established investment objectives and goals.

The Director shall periodically establish a benchmark yield for the City's investments which shall be equal to the average yield on the U.S. Treasury security which most closely corresponds to the portfolio's actual effective weighted average maturity. When comparing the performance of the City's portfolio, all fees and expenses involved with managing the portfolio should be included in the computation of the portfolio's rate of return.



## **APPENDIX I**

### **Authorized Personnel**

The following persons are authorized to conduct investment transactions and wire transfer funds on behalf of the City of Englewood:

Kevin Engels, Accounting Manager  
Kathy Cassai, Accountant  
Christine Hart, Accountant  
Frank Gryglewicz, Director of Finance and Administrative Services

## **APPENDIX II**

### **Repurchase Agreements**

The following firms have executed a City approved Master Repurchase Agreement with the City of Englewood.

Banc of America Securities, LLC  
Morgan Stanley DW Inc.

Agreements maintained in separate file.

## APPENDIX III

### Authorized Broker/Dealers and Financial Institutions

The following firms are approved for investment purposes by the City of Englewood.

Barclays Capital  
Citigroup Global Markets, Inc.  
~~Goldman, Sachs & Co~~  
Jefferies & Company, Inc.  
J.P. Morgan Securities Inc.  
Merrill Lynch, Pierce, Fenner & Smith Inc  
Mizuho Securities USA Inc.  
~~Morgan Keegan & Company, Inc.~~  
Morgan Stanley Smith Barney  
Raymond James & Associates  
RBC Capital Markets Corporation  
UBS Financial Services Inc.  
~~Wunderlich Securities, Inc.~~

## **APPENDIX IV**

### **Designated Custodial Banks**

The following bank is authorized as the designated custodial bank for the City of Englewood:

Wells Fargo Institutional Retirement and Trust  
1740 Broadway  
MAC# C7300-105  
Denver, CO 80274

## COUNCIL COMMUNICATION

|   |                               |  |
|---|-------------------------------|--|
| <b>Date</b><br>November 3, 2014             | <b>Agenda Item</b><br>9 c iii | <b>Subject</b><br>McLellan Deep Well Rehabilitation            |
| <b>INITIATED BY</b><br>Utilities Department |                               | <b>STAFF SOURCE</b><br>Stewart H. Fonda, Director of Utilities |

### **COUNCIL GOAL AND PREVIOUS COUNCIL ACTION**

On May 19, 2003 Council approved the contract for the rehabilitation of the McLellan deep well pump with McLemore Pump in the amount of \$63,885.00.

### **RECOMMENDED ACTION**

The Englewood Water and Sewer Board, at their October 7, 2014 meeting recommended Council approval, by motion, of a contract for the rehabilitation of the McLellan deep well pump with the lowest acceptable bidder, Colorado Pump Service & Supply Company in the amount of \$56,044.00.

### **BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED**

Prior to 2002 the McLellan deep well was used intermittently, usually a few days every three to four months. Since then it has been utilized to offset demands, to maintain the due diligence requirements for Englewood's water rights and for augmentation purposes.

The well is located on the south side of County Line Road near Dad Clark Gulch. The 20-year old pump and cable are 950' underground and must be replaced. Because of the depth the line must be TV'd to determine the condition of the casing and the need for replacement.

### **FINANCIAL IMPACT**

Five bids were received:

|                                    |             |
|------------------------------------|-------------|
| Layne Christensen Co.              | \$87,490.00 |
| Applied Ingenuity, LLC             | \$81,226.00 |
| Hydro Resources Rojcky Mtn. Inc.   | \$73,177.00 |
| Colorado Water Well Pump Serv.     | \$70,836.00 |
| Colorado Pump Service & Supply Co. | \$56,044.00 |

Staff recommends Colorado Pump Service & Supply Co. in the amount of \$56,044.00. as the lowest acceptable bidder.

This was budgeted in the amount of \$65,000 in the Power & Pumping Capital Fund #40-1602-61301.

### **LIST OF ATTACHMENTS**

Approved Water and Sewer Board minutes from October 7, 2014  
Bid Tabulation Sheet  
Contract









6. CHERRY HILLS VILLAGE SAN. DISTRICT SANITARY SEWER SUPPLEMENT #5.

A request was made by the City of Cherry Hills Village Sanitation District representing the owner, Harrison Oaks North LLC, for inclusion into the City of Cherry Hills Village Sanitation District. The site is on 16.269 acres and is zoned R-2.5 residential. The site will be subdivided into 5 to 6 residential sites. The property is located at 4000 E. Belleview Ave.

Motion:

Recommend Council approval of a Bill for an Ordinance approving the City of Cherry Hills Village Sanitation District Sanitary Sewer Supplement #5 for Harrison Oaks North located at 4000 E. Belleview Ave.

Moved: Waggoner                      Seconded: Habenicht

Motion carried.



7. ALLEN PLANT ALUM RESIDUALS REMOVAL AND DISPOSAL.

Tom Brennan discussed.

There are low levels of naturally occurring radionuclides in Englewood's source water that are removed through treatment and ultimately reside in the residuals generated at the plant. The residuals are considered Technologically-Enhanced Naturally Occurring Radioactive Materials (TENORM) and have additional disposal considerations based on the Colorado Department of Public Health and Environment regulatory requirements.

The only current means of residual disposal is for disposal at Clean Harbors Deer Trail Facility. Utilities staff is recommending sending an additional 1000 cubic yards of residuals to Clean Harbors. The current contract with Secure On-Site Services USA is still in force, with the vendor willing to honor his bid price from March. It is expected that the price may increase when bids are received next year.

Motion:

To recommend disposal of 1000 cubic yards of material by Secure On-site Services USA at a price of \$232,007.10 in accordance with the current contract that is in effect.

Moved: Waggoner                      Seconded: Habenicht

Motion carried.

The meeting adjourned at 6:35 p.m.

The next Water and Sewer Board meeting will be Tuesday, November 11, 2014 at 5:00 in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage  
Recording Secretary

**City of Englewood Bid Tabulation Sheet**  
**Bid Opening Date: September 18, 2014 2:00 PM MDT**  
**ITEM BID: ITB-14-015 McLellan Deep Well LF-M2 Rehabilitation Project**

Apparent Low Bidder

|  | Vendor                            | Vendor                       | Vendor                           | Vendor                             | Vendor                              |
|--|-----------------------------------|------------------------------|----------------------------------|------------------------------------|-------------------------------------|
|  | Layne Christensen Company         | Applied Ingenuity, LLC       | Colorado Water Well Pump Service | Colorado Pump Service & Supply Co. | Hydro Resources Rocky Mountain Inc. |
|  | 17800 E 22nd Ave                  | 10301 E 107th Pl             | PO Box 851                       | PO Box 1443                        | 13027 WCR 18, Unit C                |
|  | Aurora, CO 80011                  | Brighton, CO 80601           | Arvada, CO 80001                 | Castle Rock, CO 80104              | Fort Lupton, CO 80621               |
|  | (303) 929-2793                    | (303) 907-7354               | (303) 892-9053                   | (303) 688-6462                     | (303) 857-7540                      |
|  | Nathan Anderson - Account Manager | Devin Cary - Project Manager | Allen Hull - VP/Manager          | Kerry Wood - President             | M. John Taylor - Regional Manager   |
| Bid Bond Y/N   | Y                                 | Y                            | Y                                | Y                                  | Y                                   |
| 50Q Y/N  | Y                                 | Y                            | Y                                | Y                                  | Y                                   |
| Receipt of Addendum #1 Y/N   | Y                                 | Y                            | Y                                | Y                                  | Y                                   |
| Task #1 Project Mobilization, Administration, Permits, etc.          | \$4,130.00                        | \$5,122.00                   | \$2,000.00                       | \$316.00                           | \$2,756.00                          |
| Task #2 Removal of Pumping Equipment                                 | \$4,150.00                        | \$2,295.00                   | \$2,730.00                       | \$2,000.00                         | \$3,340.00                          |
| Task #3 Video Inspection   | \$900.00                          | \$1,487.00                   | \$1,700.00                       | \$1,034.00                         | \$1,875.00                          |
| Task #4 Equipment Evaluation/Repair Quote                            | \$600.00                          | \$70.00                      | \$600.00                         | \$350.00                           | \$100.00                            |
| Task #5 Install Pumping Equipment Start up Services and Installation | \$5,900.00                        | \$3,516.00                   | \$3,500.00                       | \$3,992.00                         | \$6,426.00                          |
| Task #6 Records  | \$500.00                          | \$576.00                     | \$510.00                         | \$471.00                           | \$0.00                              |
| <b>SUBTOTAL</b>  | <b>\$16,180.00</b>                | <b>\$13,066.00</b>           | <b>\$11,040.00</b>               | <b>\$8,163.00</b>                  | <b>\$14,497.00</b>                  |
| #7 150 HP Submersible Motor  | \$20,340.00                       | \$13,806.00                  | \$15,535.00                      | \$12,153.00                        | \$15,517.00                         |
| #8 Submersible Pump Sized for 450 GMP at 950' TDH                    | \$7,740.00                        | \$21,034.00                  | \$2,772.00                       | \$4,735.00                         | \$8,051.00                          |
| #9 High Pressure Check Valve   | \$2,530.00                        | \$1,320.00                   | \$989.00                         | \$1,153.00                         | \$2,762.00                          |
| #10 Submersible Pump Cable with Ground                               | \$30,750.00                       | \$24,000.00                  | \$32,000.00                      | \$21,900.00                        | \$23,850.00                         |
| #11 Drop Pipe Replacement  | \$9,950.00                        | \$8,000.00                   | \$8,500.00                       | \$7,940.00                         | \$8,500.00                          |
| <b>SUBTOTAL</b>  | <b>\$71,310.00</b>                | <b>\$68,160.00</b>           | <b>\$59,796.00</b>               | <b>\$47,881.00</b>                 | <b>\$58,680.00</b>                  |
| <b>TOTAL AMOUNT OF BID</b>   | <b>\$87,490.00</b>                | <b>\$81,226.00</b>           | <b>\$70,836.00</b>               | <b>\$56,044.00</b>                 | <b>\$73,177.00</b>                  |

CONTRACT

## CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this 3rd day of November, 2014, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and Colorado Pump Service & Supply Co., whose address is PO Box 1443 Castle Rock, Co 80104, ("Contractor"), commencing on the 18th day of September, 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: McLellan Deep Well LF-M2 Rehabilitation Project

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Utilities 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, this 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 N/A

- 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 Utilities and agrees to fully complete said work by May 2015, plus such

extension or extensions of time as may be granted by the Director of Utilities 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
- \_\_\_\_\_ (\$ 56,044.00 ). 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, \$ 56,044.00 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 one (1) year 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 Utilities 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 (3.6) 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

Colorado Pump Services Supply Co

By:

Date: 10/22/14

(Signature) Kerry L. Wood President  
(Print name and Title)

STATE OF Colorado  
COUNTY OF Douglas ss.

On this 22nd day of October, 2014 before me personally appeared Kerry L. Wood, known to me to be the President of Colorado Pump Services Supply, 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: 12/03/2016

BRYAN S DOYLE  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20124077425  
MY COMMISSION EXPIRES DECEMBER 3, 2016

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2014

COUNCIL BILL NO. 54  
 INTRODUCED BY COUNCIL  
 MEMBER OLSON/WILSON

AN ORDINANCE ADOPTING THE BUDGET OF THE CITY OF ENGLEWOOD,  
 COLORADO, FOR FISCAL YEAR 2015.

WHEREAS, pursuant to the provisions of Part I, Article X, of the Charter of the City of Englewood, Colorado, a budget for fiscal year 2015 was duly submitted by the City Manager to the City Council on September 8, 2014; and

WHEREAS, a public hearing on said budget was held by the City Council within three weeks after its submission at the meeting of the City Council on September 15, 2014. Regular notice of the time and place of said hearing was published within seven days after submission of the budget in the manner provided in the Charter for the publication of an ordinance; and

WHEREAS, the City Council of the City of Englewood has studied and discussed the budget on numerous occasions;

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

Section 1. That the budget of the City of Englewood, Colorado, for fiscal year 2015, as submitted by the City Manager, duly considered by the City Council and with changes made by the City Manager to reflect Council discussion after public hearing, is adopted as the budget for the City of Englewood for the fiscal year 2015.

Section 2. GENERAL FUND2015 BUDGET

Total Fund Balance, January 1, 2015

\$ 10,416,386

|  | <u>Revenues</u> |
|--|-----------------|
| Sales/Use Tax                            | 24,200,000      |
| Property and Specific Ownership Tax      | 3,160,000       |
| Franchise/Occupation/Cigarette Tax/Hotel | 3,208,550       |
| License/Permits                          | 1,107,122       |
| Intergovernmental Revenue                | 1,400,924       |
| Charges for Services                     | 3,318,899       |
| Cultural & Recreation                    | 2,556,900       |
| Fines & Forfeitures                      | 1,396,844       |
| Interest                                 | 88,164          |
| Contribution from Component Units        | 858,882         |
| Other                                    | <u>329,413</u>  |

|                         |                |
|-------------------------|----------------|
| Total Revenues          | \$ 41,625,698  |
| Other Financing Sources | <u>294,326</u> |
| Total Sources of Funds  | \$ 41,920,024  |

|   | <u>Expenditures</u> |
|---|---------------------|
| Legislation                               | 357,575             |
| City Manager's Office                     | 731,307             |
| City Attorney's Office                    | 869,106             |
| Municipal Court                           | 1,085,494           |
| Human Resources                           | 482,893             |
| Finance and Administrative Services       | 1,805,052           |
| Information Technology                    | 1,425,389           |
| Community Development                     | 1,288,781           |
| Public Works                              | 5,790,091           |
| Police                                    | 12,157,100          |
| Fire                                      | 9,139,834           |
| Library Services                          | 1,317,657           |
| Parks and Recreation Services             | 6,053,116           |
| Contingencies                             | 200,000             |
| Debt Service                              | <u>1,863,314</u>    |
| Total Uses of Funds                       | \$ 44,566,709       |
| <br>Total Fund Balance, December 31, 2015 | <br>\$ 7,770,143    |

Section 3. SPECIAL REVENUE FUNDS

Conservation Trust Fund

|                                 |                |
|---------------------------------|----------------|
| Fund Balance, January 1, 2015   | \$ 88,094      |
| Revenues                        | \$ 310,000     |
| <br>Expenditures                | <br>\$ 375,000 |
| Fund Balance, December 31, 2015 | \$ 23,094      |

Community Development Fund

|                                 |                |
|---------------------------------|----------------|
| Fund Balance, January 1, 2015   | \$ -0-         |
| Revenues                        | \$ 360,000     |
| <br>Expenditures                | <br>\$ 360,000 |
| Fund Balance, December 31, 2015 | \$ -0-         |

|  |    |         |
|--|----|---------|
| <u>Donors Fund</u>                     |    |         |
| Fund Balance, January 1, 2015          | \$ | 350,233 |
| Revenues                               | \$ | 88,540  |
| Expenditures                           | \$ | 283,000 |
| Fund Balance, December 31, 2015        | \$ | 155,773 |
| <u>Parks and Recreation Trust Fund</u> |    |         |
| Fund Balance, January 1, 2015          | \$ | 457,711 |
| Revenues                               | \$ | 16,300  |
| Expenditures                           | \$ | 365,000 |
| Fund Balance, December 31, 2015        | \$ | 109,011 |
| <u>Malley Center Trust Fund</u>        |    |         |
| Fund Balance, January 1, 2015          | \$ | 188,088 |
| Revenues                               | \$ | 7,000   |
| Expenditures                           | \$ | 75,000  |
| Fund Balance, December 31, 2015        | \$ | 120,088 |
| <u>Open Space Fund</u>                 |    |         |
| Fund Balance, January 1, 2015          | \$ | 63,177  |
| Revenues                               | \$ | 665,000 |
| Expenditures                           | \$ | 663,000 |
| Fund Balance, December 31, 2015        | \$ | 65,177  |

Section 4. DEBT SERVICE FUND

|                                     |    |           |
|-------------------------------------|----|-----------|
| <u>General Obligation Bond Fund</u> |    |           |
| Fund Balance, January 1, 2015       | \$ | 46,876    |
| Revenues                            | \$ | 1,107,000 |
| Expenditures                        | \$ | 1,110,313 |
| Fund Balance, December 31, 2015     | \$ | 43,563    |

Section 5. CAPITAL PROJECT FUNDS

Public Improvement Fund

|                                 |    |           |
|---------------------------------|----|-----------|
| Fund Balance, January 1, 2015   | \$ | 171,857   |
| Revenues                        | \$ | 3,109,000 |
| Expenditures and Transfers      | \$ | 3,244,326 |
| Fund Balance, December 31, 2015 | \$ | 36,531    |

Capital Projects Fund

|                                 |    |         |
|---------------------------------|----|---------|
| Fund Balance, January 1, 2015   | \$ | 23,018  |
| Revenues and Transfers In       | \$ | 703,000 |
| Expenditures                    | \$ | 704,602 |
| Fund Balance, December 31, 2015 | \$ | 21,416  |

Section 6. ENTERPRISE FUNDS

Water Fund

|                                 |    |           |
|---------------------------------|----|-----------|
| Fund Balance, January 1, 2015   | \$ | 9,121,504 |
| Revenues                        | \$ | 8,519,956 |
| Expenditures                    | \$ | 9,808,593 |
| Fund Balance, December 31, 2015 | \$ | 7,832,867 |

Sewer Fund

|                                 |    |            |
|---------------------------------|----|------------|
| Fund Balance, January 1, 2015   | \$ | 1,639,312  |
| Revenues                        | \$ | 16,207,602 |
| Expenditures                    | \$ | 16,927,366 |
| Fund Balance, December 31, 2015 | \$ | 919,548    |

Storm Drainage Fund

|                                 |    |           |
|---------------------------------|----|-----------|
| Fund Balance, January 1, 2015   | \$ | 1,030,219 |
| Revenues                        | \$ | 329,013   |
| Expenditures                    | \$ | 340,614   |
| Fund Balance, December 31, 2015 | \$ | 1,018,618 |

Golf Course Fund

|                                 |    |           |
|---------------------------------|----|-----------|
| Fund Balance, January 1, 2015   | \$ | 448,750   |
| Revenues                        | \$ | 1,968,498 |
| Expenditures                    | \$ | 2,230,778 |
| Fund Balance, December 31, 2015 | \$ | 186,470   |

Concrete Utility Fund

|                               |    |         |
|-------------------------------|----|---------|
| Fund Balance, January 1, 2015 | \$ | 329,851 |
| Revenues                      | \$ | 884,200 |

|  |              |
|--|--------------|
| Expenditures                           | \$ 880,493   |
| Fund Balance, December 31, 2015        | \$ 333,558   |
| <br><u>Housing Rehabilitation Fund</u> |              |
| Fund Balance, January 1, 2015          | \$ 1,570,415 |
| Revenues                               | \$ 1,000,000 |
| Expenditures                           | \$ 1,000,000 |
| Fund Balance, December 31, 2015        | \$ 1,570,415 |

Section 7. INTERNAL SERVICE FUNDS

|   |              |
|---|--------------|
| <u>Central Services Fund</u>                  |              |
| Fund Balance, January 1, 2015                 | \$ 67,141    |
| Revenues                                      | \$ 316,900   |
| Expenditures and Transfers                    | \$ 341,307   |
| Fund Balance, December 31, 2015               | \$ 42,734    |
| <br><u>Servicenter Fund</u>                   |              |
| Fund Balance, January 1, 2015                 | \$ 1,171,256 |
| Revenues                                      | \$ 2,581,233 |
| Expenditures and Transfers                    | \$ 3,389,622 |
| Fund Balance, December 31, 2015               | \$ 362,867   |
| <br><u>Capital Equipment Replacement Fund</u> |              |
| Fund Balance, January 1, 2015                 | \$ 1,575,032 |
| Revenues and Transfers In                     | \$ 998,000   |
| Expenditures                                  | \$ 1,841,449 |
| Fund Balance, December 31, 2015               | \$ 731,583   |
| <br><u>Risk Management Fund</u>               |              |
| Fund Balance, January 1, 2015                 | \$ 26,288    |
| Revenues                                      | \$ 1,535,568 |
| Expenditures                                  | \$ 1,531,899 |
| Fund Balance, December 31, 2015               | \$ 29,957    |
| <br><u>Employee Benefits Fund</u>             |              |
| Fund Balance, January 1, 2015                 | \$ 42,335    |
| Revenues                                      | \$ 6,553,501 |
| Expenditures                                  | \$ 6,553,714 |
| Fund Balance, December 31, 2015               | \$ 42,122    |

Section 8. That the said budget shall be a public record in the office of the City Clerk and shall be open to public inspection. Sufficient copies thereof shall be made available for the use of the City Council and the public, the number of copies to be determined by the City Manager.

Introduced, read in full, corrected and passed on first reading on the 6th day of October 2014.

Published as corrected by Title as a Bill for an Ordinance in the City's official newspaper on the 10th day of October, 2014.

Published as a corrected Bill for an Ordinance on the City's official website beginning on the 8th day of October, 2014 for thirty (30) days.

Read by title, amended and passed as amended on the 20<sup>th</sup> day of October, 2014.

Published by title, as an amended Bill for an Ordinance in the City's official newspaper on the 24th day of October, 2014.

Published in full as an amended Bill for an Ordinance on the City's official website beginning on the 22nd day of October, 2014 for thirty (30) days.

Read by title, as amended and passed on final reading on the 3rd day of November, 2014.

Published by title as amended in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2014, on the 7th day of November, 2014.

Published by title as amended on the City's official website beginning on the 5th day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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 amended Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2014.

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Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2014

COUNCIL BILL NO. 55  
 INTRODUCED BY COUNCIL  
 MEMBER GILLIT

AN ORDINANCE APPROPRIATING MONIES FOR ALL MUNICIPAL PURPOSES IN THE CITY OF ENGLEWOOD, COLORADO, FOR FISCAL YEAR BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2015, CONSTITUTING WHAT IS TERMED THE ANNUAL APPROPRIATION BILL FOR FISCAL YEAR 2015.

WHEREAS, a public hearing on the Proposed 2014 Budget was held September 15, 2014; and

WHEREAS, the operating budgets and Multiple Year Capital Plan for all City departments and funds were reviewed at a budget workshop held on September 22, 2014; and

WHEREAS, the Charter of the City of Englewood requires the City Council to adopt bills for ordinances adopting the Budget and Appropriation Ordinance no later than thirty days prior to the first day of the next fiscal year.

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

Section 1. That there be and there hereby is appropriated from the revenue derived from taxation in the City of Englewood, Colorado, from collection of license fees and from all other sources of revenue including available fund balances during the year beginning January 1, 2015, and ending December 31, 2015, the amounts hereinafter set forth for the object and purpose specified and set opposite thereto, specifically as follows:

**GENERAL FUND**

|                                     |    |            |
|-------------------------------------|----|------------|
| Legislation                         | \$ | 357,575    |
| City Manager's Office               |    | 731,307    |
| City Attorney's Office              |    | 869,106    |
| Municipal Court                     |    | 1,085,494  |
| Human Resources                     |    | 482,893    |
| Finance and Administrative Services |    | 1,805,052  |
| Information Technology              |    | 1,425,389  |
| Community Development               |    | 1,288,781  |
| Public Works                        |    | 5,790,091  |
| Police                              |    | 12,157,100 |
| Fire                                |    | 9,139,834  |
| Library Services                    |    | 1,317,657  |

Parks and Recreation Services

|                             |    |                |
|-----------------------------|----|----------------|
| 6,053,116                   |    |                |
| Contingencies               |    | 200,000        |
| Debt Service – Civic Center |    | 1,568,988      |
| Debt Service – Other        |    | <u>294,326</u> |
| Total General Fund          | \$ | 44,566,709     |

CONSERVATION TRUST FUND

|                               |    |         |
|-------------------------------|----|---------|
| Total Conservation Trust Fund | \$ | 375,000 |
|-------------------------------|----|---------|

COMMUNITY DEVELOPMENT FUND

|                                  |    |         |
|----------------------------------|----|---------|
| Total Community Development Fund | \$ | 360,000 |
|----------------------------------|----|---------|

DONORS FUND

|                   |    |         |
|-------------------|----|---------|
| Total Donors Fund | \$ | 283,000 |
|-------------------|----|---------|

PARKS AND RECREATION TRUST FUND

|                                       |    |         |
|---------------------------------------|----|---------|
| Total Parks and Recreation Trust Fund | \$ | 365,000 |
|---------------------------------------|----|---------|

MALLEY CENTER TRUST FUND

|                                |    |        |
|--------------------------------|----|--------|
| Total Malley Center Trust Fund | \$ | 75,000 |
|--------------------------------|----|--------|

OPEN SPACE FUND

|                       |    |         |
|-----------------------|----|---------|
| Total Open Space Fund | \$ | 663,050 |
|-----------------------|----|---------|

GENERAL OBLIGATION BOND FUND

|                                    |    |           |
|------------------------------------|----|-----------|
| Total General Obligation Bond Fund | \$ | 1,110,313 |
|------------------------------------|----|-----------|

PUBLIC IMPROVEMENT FUND

|                               |    |           |
|-------------------------------|----|-----------|
| Total Public Improvement Fund | \$ | 3,244,326 |
|-------------------------------|----|-----------|

CAPITAL PROJECTS FUND

Total Capital Projects Fund \$ 704,602

WATER FUND

Total Water Fund \$ 9,808,593

SEWER FUND

Total Sewer Fund \$ 16,927,366

STORM DRAINAGE FUND

Total Storm Drainage Fund \$ 340,614

GOLF COURSE FUND

Total Golf Course Fund \$ 2,230,778

CONCRETE UTILITY FUND

Total Concrete Utility Fund \$ 880,493

HOUSING REHABILITATION FUND

Total Housing Rehabilitation Fund \$ 1,000,000

CENTRAL SERVICES FUND

Total Central Services Fund \$ 341,307

SERVICENTER FUND

Total ServiCenter Fund \$ 3,389,622

CAPITAL EQUIPMENT REPLACEMENT FUND

Total Capital Equipment Replacement Fund \$ 1,841,449

RISK MANAGEMENT FUND

Total Risk Management Fund \$ 1,531,899



Published by title as amended on the City's official website beginning on the 5th day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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 amended Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2014.

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Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2014

COUNCIL BILL NO. 64  
INTRODUCED BY COUNCIL  
MEMBER GILLIT

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE METROPOLITAN AREA COMMUNICATIONS CENTER AUTHORITY (METCOM) AND THE CITY OF ENGLEWOOD, COLORADO REGARDING FIRE DISPATCH SERVICES.

WHEREAS, the City has been considering various alternatives for the future provision of fire and emergency medical services; and

WHEREAS, dispatch services for the City of Englewood's fire and emergency medical services is currently handled by Englewood Police and Fire Communications Center; and

WHEREAS, options evaluated have included upgrading our center with capital improvements and additional personnel to accommodate joining the regional fire computer aided dispatch (CAD) system or contracting fire dispatch services with another center that already has such capabilities; and

WHEREAS, MetCom was created between the Parker Fire Protection District and South Metro Fire Rescue, to provide emergency services communications, dispatching services, and technology support; and

WHEREAS, MetCom is comprised of the original Organizing Members, Parker Fire Protection District and South Metro Fire Rescue, and such additional Members as may be added to MetCom from time to time pursuant to Article IV of the MetCom Agreement; and

WHEREAS, MetCom owns and operates a center for emergency services dispatching and communications ("Dispatch Center"); and

WHEREAS, Article III, Section 3.2 of the MetCom Agreement allows MetCom to offer services to Public Agencies providing Fire or EMS Services in any area capable of being served by MetCom; and

WHEREAS, Article III, Section 3.5.4 of the MetCom Agreement authorizes MetCom to enter into contracts with local government entities and political subdivisions of the State of Colorado; and

WHEREAS, Article VI, Section 6.2 of the MetCom Agreement allows MetCom to enter into user agreements and agreements for specific services that are independent from the services provided generally to Members; and

WHEREAS, Article XIV, Section 18(2)(a) of the Colorado Constitution and Part 2, Article 1, Title 29, C.R.S., encourage and authorize governments to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, Englewood does not wish to become a Member of MetCom, but wishes to receive from MetCom specific communications and dispatching services, and MetCom wishes to approve this User Agreement and provide such specific services to Englewood, as contemplated by the MetCom Agreement; and

WHEREAS, due to operational and financial efficiencies of joining a regional fire dispatch center that enhances services delivery and firefighter safety, City Council has decided to enter into a User Agreement with MetCom fire dispatch.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the *Metropolitan Area Communications Center Authority User Agreement* attached hereto as "Exhibit 1".

Section 2. The Mayor and the City Clerk are hereby authorized to sign and attest said *Metropolitan Area Communications Center Authority User Agreement* for and on behalf of the City of Englewood.

Section 3. No federal funds are being used for this project.

Introduced, read in full, and passed on first reading on the 20th day of October, 2014.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 24<sup>th</sup> day of October, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of October, 2014 for thirty (30) days.

Read by title and passed on final reading on the 3rd day of November, 2014.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2014, on the 7th day of November, 2014.

Published by title on the City's official website beginning on the 5<sup>th</sup> day of November, 2014 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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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

**METROPOLITAN AREA COMMUNICATIONS  
CENTER AUTHORITY**

**USER AGREEMENT**

THIS USER AGREEMENT ("User Agreement") is entered in to this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the METROPOLITAN AREA COMMUNICATIONS CENTER AUTHORITY ("MetCom") and the City of Englewood ("Englewood") (MetCom and Englewood being referred to collectively as "Parties" or singularly as "Party").

**RECITALS**

A. WHEREAS, MetCom was created by agreement dated June 9, 2007 and the Amended and Restated Intergovernmental Agreement dated October 5, 2010 ("MetCom Agreement"), a copy of which is attached hereto as Exhibit A and incorporated herein, between the Parker Fire Protection District and South Metro Fire Rescue, to provide emergency services communications, dispatching services, and technology support; and

B. WHEREAS, MetCom is comprised of the original Organizing Members, Parker Fire Protection District and South Metro Fire Rescue, and such additional Members as may be added to MetCom from time to time pursuant to Article IV of the MetCom Agreement; and

C. WHEREAS, MetCom owns and operates a center for emergency services dispatching and communications ("Dispatch Center"); and

D. WHEREAS, Article III, Section 3.2 of the MetCom Agreement allows MetCom to offer services to Public Agencies providing Fire or EMS Services in any area capable of being served by MetCom; and

E. WHEREAS, Article III, Section 3.5.4 of the MetCom Agreement authorizes MetCom to enter into contracts with local government entities and political subdivisions of the State of Colorado; and

F. WHEREAS, Article VI, Section 6.2 of the MetCom Agreement allows MetCom to enter into user agreements and agreements for specific services that are independent from the services provided generally to Members; and

G. WHEREAS, Article XIV, Section 18(2)(a) of the Colorado Constitution and Part 2, Article 1, Title 29, C.R.S., encourage and authorize governments to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each; and

H. WHEREAS, Englewood does not wish to become a Member of MetCom, but wishes to receive from MetCom specific communications and dispatching services, and MetCom wishes to approve this User Agreement and provide such specific services to Englewood, as contemplated by the MetCom Agreement;

## **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1. Term of the Agreement.

(a) Term. This User Agreement shall become effective December 1, 2014 ("Effective Date"). The initial term of this User Agreement shall be for three (3) year(s) ("Initial Term") from the Effective Date. Thereafter, this User Agreement may be renewed for one (1) subsequent three (3) year terms ("Subsequent Term"), upon written notice of Englewood given to MetCom no fewer than twelve (12) months prior to the expiration of the Initial Term or Subsequent Term then in effect.

(b) Subject to Annual Appropriations. Any Initial Term and Subsequent Term is subject to annual appropriation by Englewood of the payments required herein. If MetCom is determined to be subject to, but not be an enterprise pursuant to Article X, Section 20 of the Colorado Constitution, continuation of this User Agreement shall also be subject to annual appropriation by MetCom of sufficient funds to carry out its obligations hereunder. Notwithstanding the foregoing, Englewood and MetCom agree that any preliminary budget presented to their governing bodies for consideration shall include sufficient funds and appropriations to carry out the terms, duties and obligations contained herein for the subsequent fiscal year.

(c) Termination. Notwithstanding anything in this User Agreement to the contrary, the Parties may terminate this User Agreement prior to the expiration of the Initial Term or any Subsequent Term by mutual, written agreement.

2. Incorporation of MetCom Agreement. Englewood agrees to abide by the MetCom Agreement and that this User Agreement is governed by all provisions of the MetCom Agreement applicable to a User Agreement.

(a) Definitions. Terms used in this User Agreement that are defined in the MetCom Agreement shall have the meanings assigned by the MetCom Agreement.

(b) Incorporation of Terms. The terms, conditions, rights and obligations of the MetCom Agreement are incorporated into this User Agreement in full, unless specifically provided or the context of this User Agreement provides otherwise. Reference in this User Agreement to specific provisions of the MetCom Agreement shall

not indicate the failure to incorporate provisions of the MetCom Agreement not specifically mentioned.

(c) Amendment of MetCom Agreement. During the Initial Term or any Subsequent Term of this User Agreement, Englewood agrees to be bound by amendments to the MetCom Agreement that do not adversely alter the terms regarding termination or payment, or the services provided by this User Agreement. An amendment will be deemed to be adverse to Englewood if it increases the period of notice required of Englewood for termination, decreases the period of notice required for renewal, changes the method of calculating Englewood's payments for services, increases the frequency of payments, or decreases the scope of or performance standards applicable to the services required herein, unless agreed to in writing by Englewood. Any Subsequent Terms shall be subject to the terms of the MetCom Agreement, as amended from time to time, in effect upon the expiration of the immediately preceding Initial Term or Subsequent Term.

3. User Status. As of the Effective Date, Englewood shall be provided user services by MetCom pursuant to Section 6.2 of the MetCom Agreement. By entering into this User Agreement Englewood does not acquire status as a Member, nor is Englewood entitled to any of the rights or services associated with Member status, except that Englewood shall be permitted to attend and participate in meetings of MetCom's Board of Directors and operational discussions in an advisory role, but shall have no voting authority.

4. Scope of Services. The functions and services to be provided by MetCom to Englewood shall be those functions and services set forth in Exhibit B attached hereto and incorporated herein ("User Services").

(a) Dispatch Center. Primary emergency call handling and dispatch services shall be provided through the MetCom Dispatch Center located at 9195 East Mineral Avenue, Centennial, Colorado, unless otherwise determined by the MetCom Board of Directors.

(b) Performance Standards. In providing the User Services to Englewood, MetCom shall meet performance standards for providing User Services established by the Board and amended from time to time, including performance standards set forth in the MetCom bylaws, rules or regulations ("User Performance Standards"). MetCom shall also meet the minimum performance standards provided in Exhibit C attached hereto and incorporated herein ("Englewood Performance Standards"). In case of conflict between the User Performance Standards and Englewood Performance Standards, the Performance Standards that provide the highest level of service shall apply.

(c) Ownership of Records and Data. All records of MetCom related to Englewood, including electronically stored data, geographic information system ("GIS")

and computer aided dispatch ("CAD") data, and audio tapes shall be the property of MetCom, but available to Englewood. MetCom shall make copies of such records at the request and cost of Englewood, and shall not dispose of any such records without the written agreement of Englewood.

(d) Integration of User Communications Systems. Englewood shall integrate its communication systems with the communications system of MetCom as provided for in Section 3.4 of the MetCom Agreement for Members and as agreed to in Exhibit D attached hereto and incorporated herein, unless specifically agreed to in writing.

5. Payments.

(a) Amount. Englewood's payments to MetCom for User Services shall be \$51,912.00 per quarter.

(b) Due. MetCom shall provide Englewood with a written invoice for payment for User Services not later than 30 days following the expiration of the period being invoiced. Payment shall be due from Englewood to MetCom no later than 30 days following receipt by Englewood of a written invoice. An invoice shall be considered received 3 days following deposit in the United States Postal Service first class mail, or immediately upon transmittal by email.

(c) Late Payments. Any payment required under this User Agreement that is not paid when due shall accrue compound interest in the amount of one percent (1%) per month until paid.

6. Dispute Resolution. The parties agree to enter into third-party mediation prior to taking any other formal action to enforce the terms of this User Agreement. The mediator will be chosen by mutual agreement of the parties. The mediator must be neutral, knowledgeable in the area of dispute and live within 100 miles of the Dispatch Center.

7. Liability. Each party shall remain responsible for its own staffing and training and for any liability arising from its own actions and performances under this Agreement. Notwithstanding the foregoing, both parties are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, defenses and protections provided by the CGIA or otherwise available to the parties or their officers or employees.

8. Miscellaneous.

(a) Notices. Any formal notice, demand or request provided for in this User Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person, by facsimile, or sent by registered or certified mail, postage prepaid

to the Parties at the addresses as set forth on each signature page attached hereto, unless another address is certified to the other Party.

(b) No Third Party Beneficiaries. Nothing in this User Agreement shall be deemed to create any third party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a Party to this User Agreement.

(c) Amendments. Any amendments to this User Agreement shall be in writing and executed with the same formality as this User Agreement.

(d) Severability. In the event that any of the terms, covenants or conditions of this User Agreement or the MetCom Agreement, or their application shall be held invalid as to any person, corporation or circumstance of any court having competent jurisdiction, the remainder of this User Agreement and the application in effect of its terms, covenants or conditions to such persons, corporations or circumstances shall not be affected thereby.

(e) Duplicate Originals. This User Agreement may be executed in several counterparts, each of which shall be an original, but all of which together shall constitute one in the same instrument.

IN WITNESS WHEREOF, the Parties have caused this User Agreement to be executed as of the dates noted below.

METROPOLITAN AREA  
COMMUNICATIONS CENTER  
AUTHORITY

  
Executive Director

Date: 10/15/2014

ATTEST:

By: Catherine A. DeStasio  
Secretary 10/15/14

CITY OF ENGLEWOOD

By: \_\_\_\_\_  
Randy P. Penn, Mayor

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

ATTEST:

By: \_\_\_\_\_  
Loucrishia A. Ellis, City Clerk

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

**EXHIBIT A**  
**METCOM AGREEMENT**

**See Attached**

**METROPOLITAN AREA  
COMMUNICATIONS CENTER**

9195 East Mineral Avenue  
Centennial, CO 80112  
Phone: 720-258-8911  
Fax: 720-258-8730  
[www.metcom911.org](http://www.metcom911.org)

Paul Smith, Director

**AMENDED AND RESTATED  
INTERGOVERNMENTAL  
AGREEMENT  
ESTABLISHING  
THE  
METROPOLITAN AREA  
COMMUNICATIONS CENTER  
AUTHORITY  
(MetCom)**

This AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE METROPOLITAN AREA COMMUNICATIONS CENTER AUTHORITY (the "Amended Creation Agreement") is made and entered into this 5<sup>th</sup> day of October, 2010, by and among the following, all of whom shall constitute the Organizing Members of the Metropolitan Area Communications Center Authority ("MetCom"):

1. Parker Fire Protection District, a quasi-municipal corporation and political subdivision of the State of Colorado, organized pursuant to Article 1, Title 32, C.R.S. ("Parker Fire"); and
2. South Metro Fire Rescue, a quasi-municipal corporation and political subdivision of the State of Colorado, organized pursuant to Article 1, Title 32, C.R.S. ("SMFR").

#### RECITALS

A. Article XIV, Section 18(2)(a) of the Constitution of the State of Colorado and Part 2, Article 1, Title 29, C.R.S., encourage and authorize intergovernmental agreements.

B. Section 29-1-203, C.R.S., authorizes governments to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each, and to establish a separate legal entity to do so.

C. The Organizing Members are each lawfully authorized to establish, operate and provide an emergency services communications and dispatching center.

D. The Organizing Members entered into that certain Intergovernmental Agreement Establishing the Metropolitan Area Communications Center Authority, dated June 12, 2007 (the "Creation Agreement").

The Organizing Members desire by this intergovernmental agreement to amend and restate the Creation Agreement for MetCom, which is initially comprised of the Organizing Members, and which provides emergency services communications, dispatching services, and technology support to the Organizing Members and such other Members as may join MetCom from time to time.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged the Parties hereby agree as follows:

#### ARTICLE 1 - METCOM

1.1 Continuation of MetCom. The Parties hereby confirm the continuation of the separate legal entity known as the Metropolitan Area Communications Center

Authority which shall be a separate legal entity and shall have the duties, privileges, immunities, rights and responsibilities of a public body politic and corporate.

- 1.2 **Principal Place of Business.** The principal place of business of MetCom shall be established by the Board. Initially, the principal place of business of MetCom shall be 9195 East Mineral Avenue, Centennial, Colorado 80112.

## ARTICLE 2 - DEFINITIONS

As used in this Amended Creation Agreement, the following terms shall have the following meanings:

- 2.1 "APCO" means the Association of Public Safety Communications Officials.
- 2.2 "Annual Capital Replacement Reserve Fund Contribution" shall mean funds contributed to MetCom by each Member, at a level determined by the Board as sufficient to maintain a reasonable balance in MetCom's capital replacement reserve fund, and funded in the same manner as the Annual Operational Contribution.
- 2.3 "Annual Operational Contribution" shall mean funds contributed to MetCom by each Member, sufficient to fund MetCom's operational Budget on an annual basis, to be calculated in accordance with Section 7.4.1 of this Amended Creation Agreement.
- 2.4 "AVL" refers to automatic vehicle location technology.
- 2.5 "Board" refers to the Board of Directors of MetCom, as described in this Amended Creation Agreement.
- 2.6 "Budget" refers to the annual fiscal plan regarding anticipated revenues and expenditures of MetCom adopted annually by the Board.
- 2.7 "CAD" means computed-aided dispatch.
- 2.8 "Call" means an emergency or a non-emergency request for service received either by radio or telephone that generates a CAD event and a primary unit assignment by MetCom. MetCom will allocate each Call to the Member whose service and territory encompasses the area within which the Call originated and the service requested, regardless of which entity responds to the Call.
- 2.9 "Capital Contribution" shall mean funds contributed to MetCom by each Member to defray MetCom's costs incurred in purchasing equipment and other

technology infrastructure, and to establish an operational contingency reserve fund and a capital replacement reserve fund. It shall not mean operating expenses.

- 2.10 **"Cost Allocation Worksheet"** means a worksheet prepared and annually revised by the Board setting forth each Member's Annual Operational Contribution for the next immediately following calendar year.
- 2.11 **"Director"** means a member of the Board.
- 2.12 **"Executive Director"** means a person appointed by the Board of Directors to manage the operations of MetCom, as set forth in Section 6.1.
- 2.13 **"Fire or EMS Services"** means fire, ambulance and emergency medical and rescue services.
- 2.14 **"Fiscal Year"** refers to the fiscal year of MetCom, and shall be concurrent with the calendar year.
- 2.15 **"Majority"** means one (1) more than half of those eligible to vote.
- 2.16 **"MDTs"** refers to mobile data terminals.
- 2.17 **"Member"** means a Public Agency that is a party to this Amended Creation Agreement.
- 2.18 **"MetCom"** means the Metropolitan Area Communications Center Authority.
- 2.19 **"Organizing Members"** shall refer to the initial parties to this Amended Creation Agreement, which are Parker Fire and SMFR.
- 2.20 **"Private Agency"** refers to a non-governmental entity that provides Fire or EMS Services. Private Agencies may receive services from MetCom, but shall not be deemed Members of MetCom.
- 2.21 **"Public Agency"** refers to a department of federal or state government, a county, municipality, special district or similar local government that provides Fire or EMS Services.
- 2.22 **"Quorum"** means more than one-half of the number of Directors serving on the Board.
- 2.23 **"RMS"** means records management system.

### **ARTICLE 3 - PURPOSE**

- 3.1 Purpose.** The purpose of MetCom is to form partnerships to increase communications and coordination between entities providing Fire or EMS Services at a regional level along the Front Range. MetCom's primary focus shall be to ensure the safety of the public, fire fighters, and EMS personnel in the areas that it serves. To accomplish this mission, MetCom will provide support in the areas of dispatch, communications, and information technology to Fire or EMS Services. The Board shall determine the specific types of services provided based on the needs and interests of the Members.
- 3.2 Public Agencies.** MetCom shall offer services to Public Agencies providing Fire or EMS Services in any area capable of being served by the MetCom dispatching and communications center. Other Public Agencies may receive services from MetCom if approved by the Board.
- 3.3 Authority Functions and Services.** The functions and services of MetCom are:
- 3.3.1** Acquisition, operation and maintenance of real and personal property, systems, equipment and other materials necessary to facilitate emergency reporting, dispatching of emergency services, emergency service communications and related services, including contracting for service with, or acquisition, operation and maintenance of an emergency services dispatching and communications center, and general technological support related to the operation of such center.
  - 3.3.2** Facilitate the purchase of equipment and other materials which are to be used by individual Members in connection with the communications and dispatching services provided by MetCom.
  - 3.3.3** Provide such other services or functions reasonably related to communications, dispatching and technological support services for emergency service providers, as may be authorized by law to the Members, and as determined by the Board to be in the best interests of the Members and persons residing within the service area boundaries of the Members, including but not limited to:
    - (a)** Providing 24 x 7, 365 days per year emergency Call handling and dispatch services to all Members.
    - (b)** Ensuring that all dispatchers meet the minimum training standards as established by MetCom's Executive Director, the

**National Academy of Emergency Medical Dispatch and APCO.**

- (c) **Ensuring the highest quality emergency communications and customer service through the utilization of a nationally recognized quality assurance program.**
- (d) **Providing public education for Member communities, including cooperation with Members and 911 authorities to provide youth 911 education, business-based 911 education, and public presentations on these and similar topics.**
- (e) **Providing management information reports to all Members consistent with reporting customarily provided to entities providing Fire or EMS Services. Any costs associated with requests for special information services and/or reports by a particular Member, will be borne by the requesting Member.**
- (f) **Providing geographic information system (GIS) support services for the maintenance of map data in each Member's service area including street centerlines and other dispatch related layers required for vehicle routing, unit response recommendations and dispatching.**
- (g) **Providing support to Members for all non-radio based wireless data communications such as MDTs and AVL devices.**
- (h) **Provide assistance with the integration of the Members' preplan data into CAD.**

**3.4 Integration of Member and MetCom communication systems. Equipment that either directly or indirectly communicates with MetCom must be approved in advance by MetCom to ensure that it is compatible with existing systems and infrastructure. This includes, but is not limited to, technology such as: RMS, station alerting, GIS and AVL systems, wireless modems and MDTs.**

**3.4.1 Members must provide for any training required to enable personnel of MetCom to support Member-specific equipment and software that either directly or indirectly communicates with MetCom.**

**3.4.2 Members will be responsible for any costs associated with implementing interfaces, network communication solutions or**

other such equipment on existing or future MetCom systems or infrastructure.

- 3.4.3 Other communications equipment, including but not limited to, apparatus radios, portable radios, cellular communications and network infrastructure which may be necessary for the Member's units to function within the regional dispatch system, but are not defined within this Amended Creation Agreement, are the sole responsibility of the Members. Purchase and maintenance of such equipment may be facilitated through the auspices of MetCom at the sole expense of the Member seeking the services of MetCom in this regard. Such costs will be invoiced independent of the Member's Annual Operational Contribution.
- 3.4.4 Costs associated with utility company circuits, connections and monthly services, which are used for station communications, station notification systems, RMS interfaces and other such communications, shall be borne by individual Members.
- 3.4.5 Members shall not, without the prior written consent of MetCom and the system hardware/software providers, copy or reproduce the hardware, software or firmware used within the system, in whole or in part. Furthermore, Members shall not make such items available to others without the same consent.
- 3.4.6 Members shall not, without prior written consent of MetCom add additional software to any MDTs.
- 3.4.7 MetCom agrees to integrate and maintain the Member's geographic data necessary for processing dispatches in a timely manner. Members agree to provide all geographic data information, including timely updates, to MetCom.

3.5 **Powers of MetCom.** To enable MetCom to carry out its functions and provide the services described hereinabove, MetCom shall have the following powers:

- 3.5.1 To acquire, construct, manage, maintain, or operate an emergency services communications and dispatching center on behalf of the Members.
- 3.5.2 To acquire, hold, lease (as Lessor or Lessee), sell, or otherwise dispose of any legal or equitable interest in real or personal property utilized for the purposes of reporting emergencies, dispatching emergency services, providing emergency

communications, and providing technological support or other related services

- 3.5.3 To conduct its business and affairs for the benefit of MetCom and the constituents it serves, including residents, property owners and visitors.
- 3.5.4 To enter into, make and perform contracts of every kind as authorized by law with other local governmental entities, the State of Colorado or any political subdivision thereof, the United States, or any political subdivision thereof, and any individual, firm, association, partnership, corporation or any other organization of any kind.
- 3.5.5 To employ agents, including, but not limited to, engineers, attorneys, architects and consultants, and employees, and to adopt personnel policies, guidelines and regulations applicable to employees of MetCom.
- 3.5.6 To incur debts, liabilities, or obligations to the extent and in the manner permitted by law, and borrow money and, from time to time, to make, accept, endorse, execute, issue and deliver bonds, notes and other obligations of MetCom for monies borrowed, or in payment for property acquired, or for any of the other purposes, services or functions of MetCom; and as provided by law, and to the extent permitted by law, to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement, or other collateral instrument, or by other lien upon assignment of all or any part of the properties, rights, assets, contracts, easements, revenues and privileges of MetCom. MetCom shall have no authority or power to levy or collect taxes of any kind.
- 3.5.7 To own, operate and maintain real and personal property and facilities in common with others, and to conduct joint, partnership, cooperative or other operations with others, and to exercise all the powers granted herein in joint, partnership or cooperative efforts and operations with others.
- 3.5.8 To act as agent on behalf of the Members with regard to the functions and services described in this Amended Creation Agreement.
- 3.5.9 To sue, and to be sued, in its own name.

- 3.5.10 To have and use a corporate seal.
- 3.5.11 To fix, maintain and revise fees, rates and charges for functions, services or facilities provided by MetCom in the manner provided by law.
- 3.5.12 To adopt, by resolution, regulations respecting the exercise of its powers and carrying out of its purposes.
- 3.5.13 To exercise any other powers which are essential to the provision of the functions, services or facilities by MetCom and which are specified in this Amended Creation Agreement.
- 3.5.14 To receive contributions, gifts, bequests or other grants of cash, equipment or services for MetCom, the Members or other entities, individuals, or political subdivisions.
- 3.5.15 To exercise any power lawfully authorized to each of the Members.
- 3.5.16 To contract with any appropriate entity to provide necessary or desirable services to MetCom.

#### **ARTICLE 4 - MEMBERSHIP**

- 4.1 **Membership.** Additional Public Agencies may be added to this Amended Creation Agreement as a Member with unanimous written consent formally approved by the governing body of each Public Agency that is a Member at such time. Any Public Agency added as a Member shall be subject to such terms and conditions as the Board of Directors, in its sole discretion, may determine. The Board may assess a new Member a Capital Contribution to cover its pro rata share of the costs of those capital assets previously purchased by MetCom for joint use by all Members. Any Member not assessed a Capital Contribution will not be credited with any cash value of the assets on hand as of the date of joining as a Member. The Board shall be vested with absolute discretion to determine how the Capital Contribution of any new Member is to be used by MetCom, including but not limited to distributing the Capital Contribution of a new Member to the Organizing Members on an equal basis or using the Capital Contribution of a new Member to fund then-present or future capital needs of MetCom.
- 4.2 **Revocation of Membership.** The Board shall retain the right to revoke the membership of any Member of MetCom, with or without cause, but such action on revocation of membership shall require the vote of not less than sixty-six percent (66%) of the Directors of MetCom, and the Board shall be required, by separate agreement with the Member whose membership is being revoked, to make

arrangements to refund or repay the depreciated value of the Initial Capital Contribution made by such Member to MetCom, but excluding any portion of said Capital Contribution which was allocated to the operational contingency reserve fund or capital replacement reserve fund of MetCom.

- 4.3 **Membership Rights.** Membership in MetCom shall mean the right to receive communication based services from MetCom. Members shall pay for costs associated with the services provided by MetCom, in accordance with the remaining terms of this Amended Creation Agreement.
- 4.4 **Private Agencies.** MetCom may separately contract with Private Agencies, but no Private Agency may become a Member of MetCom or party to this Amended Creation Agreement.
- 4.5 **Term, Termination, Adding or Deleting Members.**
- 4.5.1 **Term.** This Amended Creation Agreement shall become effective when it has been duly executed by all Organizing Members. The term of this Amended Creation Agreement shall be unlimited, and shall extend until terminated as provided herein.
- 4.5.2 **Termination.** This Amended Creation Agreement may be terminated at any time by written agreement of all Members then-existing at the time of such termination.
- 4.5.3 **Consolidation by Members.** Consolidation by a Member with another Member or non-Member to form a single legal entity shall not terminate this Amended Creation Agreement nor cause a withdrawal by the consolidating Member or Members. All rights and obligations of such consolidating Member or Members shall inure to the newly created single legal entity, except that no consolidation by a Member shall increase any non-consolidating Member's share of Capital Contributions required under this Amended Creation Agreement without the written consent of such non-consolidating Member, nor shall any consolidated entity have more than one Director on the Board of Directors. The formation of the South Metro Fire Authority by the Organizing Members does not constitute a consolidation as contemplated by this Subsection 4.5.3.
- 4.5.4 **Withdrawal of Members.** A Member may withdraw from this Amended Creation Agreement as of the end of any calendar year by written notice authorized by the governing body of such

Member, provided to the Board and each Member no later than three hundred sixty (360) days prior to the end of the calendar year. A withdrawing Member shall remain liable for any and all financial obligations, and all indebtedness incurred while the withdrawing Member was a Member of MetCom. Upon withdrawal, a withdrawing Member shall have no further interest, right or title in or to any assets or equity of MetCom, unless there is a specific agreement to the contrary by and between the withdrawing Member and MetCom. Withdrawal by any Member or combination of Members shall not cause termination of this Amended Creation Agreement.

- 4.5.5 **Distribution on Termination.** In the event of the rescission or termination of this Amended Creation Agreement and the dissolution of MetCom, all of the assets of MetCom shall immediately vest in the then existing Members, subject to any outstanding liens, mortgages or other pledges of such assets, and shall be distributed pro rata to each of the then-existing Members, based on each Member's Capital Contribution. The Board may provide, by unanimous agreement and decision, for an alternate disposition of any and all interests of MetCom to any successor(s) to MetCom, or for an alternative disposition between and among the Members.

## ARTICLE 5 - GOVERNANCE

- 5.1 **Intent.** MetCom is a diverse organization that is designed to meet both the present and future communications needs of the Members. It is the intent of this Amended Creation Agreement to create a Board that represents the interests of the Members and the communities they serve and to promote a unified communications solution for all current and future Members. The Agreement is structured to allow Members the greatest flexibility in determining how MetCom can support them in their mission.
- 5.2 **Board of Directors.** The governing body of MetCom shall be a Board in which all administrative and legislative power of MetCom is vested.
- 5.2.1 **Number.** The initial number of Directors serving on the Board shall be the same as the number of Organizing Members. Each Member shall appoint one Director and each Director shall be entitled to cast one vote.
- 5.2.2 **Alternates.** Each Director shall have one (1) alternate who may attend all Board meetings and who may vote only in the absence

of the voting Director. The alternate shall be appointed in the same manner as the Director.

- 5.2.3 **Appointment.** The governing body of each Member shall appoint to the Board one voting Director and one alternate.
- 5.2.4 **Terms of Directors.** Each Director and each alternate shall serve at the pleasure of the governing body of the Member by whom the Director and the alternate were appointed, and may be reappointed or replaced at any time by that entity. There shall be no limitation on the number of years any Director or alternate may serve on the Board, provided that any Director or alternate may be replaced at any time by the governing body of the Member responsible for said appointments.
- 5.2.5 **Vacancies.** A vacancy occurring on the Board, whether such vacancy be the result of resignation, death, removal or disability, shall be filled in the same manner as appointment of a Director as hereinabove provided.
- 5.2.6 **Compensation.** Directors shall not receive compensation from MetCom for their services. The Board shall provide for reimbursement to the Directors of their actual and reasonable expenses incurred on behalf of MetCom.
- 5.2.7 **Decisions.** Decisions of the Board may be made only at regular or special meetings, called upon notice as required herein, at which a Quorum is present. Except as otherwise provided, decisions of the Board shall be made by a vote of the Majority of the total Directors present (or alternates voting in the place of Directors). Actions on Budget adoption, incurring secured debt, approving or terminating contract communications services, revoking the membership of a Member, and hiring and terminating professional consultants shall require the vote of not less than sixty-six percent (66%) of the Directors (or alternates voting in the place of Directors) of MetCom. No Member shall be allowed more than one vote on any issue or matter.

### 5.3 **Meetings.**

- 5.3.1 **Regular Meetings.** A schedule of regular meetings of the Board may be set by resolution of the Board, which resolution shall identify the dates, times, and location of said regular meetings to be held within the boundaries of Arapahoe County or Douglas

County, Colorado. Following adoption of said resolution scheduling regular meetings of the Board, no additional notice to the Directors or Members shall be required. Regular meetings of the Board shall be open to the public and shall be posted in accordance with the provisions of Section 24-6-402(2)(c), C.R.S. Directors shall be allowed to participate in all such regular meetings by telephone.

5.3.2 **Special Meetings.** Special meetings of the Board may be called by any two (2) Directors, and it shall thereupon be the duty of the Secretary of the Board to cause notice of such meeting to be given as hereinafter provided. Special meetings of the Board of Directors shall be held at such time and place as shall be fixed by the Directors calling the meeting. Special meetings of the Board shall be open to the public and shall be posted in accordance with the provisions of Section 24-6-402(2)(c), C.R.S. Directors shall be allowed to participate in all such special meetings by telephone.

5.3.3 **Notice of Meeting.** Written notice of any special meeting of the Board shall be delivered to each Director and each Member not less than three (3) days before the date fixed for such meeting, either personally, by facsimile, or by regular or electronic mail, by or at the direction of the Secretary, or upon the Secretary's default, by the Directors calling the meeting. If mailed, such notice shall be deemed to be delivered three (3) days following deposit in the United States mail, addressed to the Director and Members at the Director's and Member's address(es) as the same appear on the records of MetCom, with postage thereon prepaid.

5.3.4 **Waiver of Notice.** Whenever any notice is required to be given to any Director under the provisions of law or this Amended Creation Agreement, a waiver thereof in writing by such Director, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a Director at any meeting of the Board shall constitute a waiver by such Director of notice of such meeting, except when such Director attends such meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully convened.

5.4 **Officers.** The officers of MetCom shall be a Chair, Vice-Chair, Secretary, Treasurer, and such other officers and assistant officers as may be elected by the Board from time to time, to perform such duties as may be approved by the Board.

The Chair, Vice-Chair and Treasurer shall be Directors, but the other officers of MetCom need not be Directors.

5.4.1 **Appointments and Term of Office.** At the first meeting of the Board following formal execution of this Amended Creation Agreement and appointment of the initial Directors by the governing bodies of the Organizing Members, the Directors shall appoint officers who shall serve as officers of MetCom. Thereafter, officers shall be appointed annually by the Board at the Board's last regularly scheduled meeting for each calendar year. Vacancies occurring in any officer position may be filled at any meeting of the Board.

5.4.2 **Removal.** Any officer or agent appointed by the Board of Directors may be removed by the Board of Directors, with or without cause, whenever in its judgment the best interests of MetCom will be served thereby.

5.4.3 **Duties of Officers.** In addition to duties designated by the Board of Directors, the duties of the officers shall include the following:  
a) **Chair.** The Chair shall preside at all meetings of the Board and, except as otherwise delegated by the Board, shall execute all legal instruments of MetCom.

(a) **Vice-Chair.** The Vice-Chair shall, in the absence of the Chair or in the event of his inability or refusal to act, perform the duties of the Chair, and when so acting, shall have all the powers of and be subject to all restrictions upon the Chair.

(b) **Secretary.** The Secretary shall maintain or cause to be maintained the official records of MetCom, including this Amended Creation Agreement, and any and all bylaws, rules and regulations which may be adopted by MetCom from time to time, minutes of the meetings of the Board, and a register of the names and addresses of the Directors, alternates and officers, and shall issue notice of special meetings, attest and shall affix the corporate seal to all documents of MetCom where appropriate. A separate recording secretary may be appointed by the Board for taking and preparing meeting minutes.

(c) **Treasurer.** The Treasurer shall serve as the financial official of MetCom, and subject to the fiscal policies adopted by the Board and the restrictions imposed by law, be responsible for

the receipt, custody, disbursement and accounting of MetCom's funds and securities, and duties incident to the office of Treasurer, but not the investment of MetCom's funds. The accounting function shall be provided by a MetCom employee or independent contractor under the supervision of the Treasurer and shall be reviewed by the Board at its regularly scheduled meetings.

- (d) **Miscellaneous.** The duties and functions of the Secretary and the Treasurer may be performed by a single individual. If the person performing the duties of Secretary is not a Director, such person shall receive such compensation as is deemed appropriate by the Board.

- 5.4.4 **Bonds of Officers.** The Treasurer and any other officer or agent of MetCom charged with the responsibility for the custody of any of its funds or property shall give a bond in such sum and with such surety, if any, as the Board shall determine. The Board, in its discretion, may also require any other officer, agent or employee of MetCom to give a bond in such amount and with such surety as shall be determined. The cost of such bond shall be an expense of MetCom.

## 5.5 **Indemnification.**

- 5.5.1 **Directors and Officers.** Each Director and officer of MetCom, whether or not then in office and his/her personal representatives shall be indemnified by MetCom against all costs and expenses actually and necessarily incurred by such person in connection with the defense of any action, suit or proceeding arising out of an act or omission of such person during the performance of such person's duties and within the scope of such person's appointment, except in relation to matters as to which such person shall be finally adjudged in such action, suit or proceeding to be willful or wanton in the act or omission giving rise to the action, suit or proceeding. Such costs and expenses shall include amounts reasonably paid in settlement for the purpose of curtailing the cost of litigation, but only if MetCom is advised in writing by opinion of its legal counsel that the person indemnified was not willful or wanton in the act or omission giving rise to the action, suit or proceeding. The foregoing right of indemnification shall not be exclusive of other rights to which such person may be entitled as a matter of law or by agreement.

- 5.5.2 **Employees.** Employees will be indemnified pursuant to the provisions of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as amended.
- 5.6 **Execution of Contracts.** Except as otherwise provided by law, the Board may authorize any officer, employee, or agent to enter into any contract, or execute and deliver any instrument in the name and on behalf of MetCom.
- 5.7 **Assets Held In Trust.** All assets and properties of MetCom shall be held in trust for the purposes herein mentioned, including payment of liabilities of MetCom.
- 5.8 **Financial.**
- 5.8.1 **Negotiable Instruments.** All checks, drafts or other orders for payment of money shall be issued in the name of MetCom, and in such manner as, from time to time, shall be determined by motion of the Board, except that all notes, bonds, or other evidence of indebtedness shall be issued by resolution.
- 5.8.2 **Deposits.** All funds of MetCom shall be deposited, from time to time, to the credit of MetCom, pursuant to law, in such bank or banks or other financial institutions as the Board may select.
- 5.8.3 **Fiscal Year.** The fiscal year of MetCom shall be January 1 through December 31.
- 5.8.4 **Debt Not That of Members.** The bonds, notes and other obligations of MetCom shall not be the debts, liabilities or obligations of the Members or any or Public Agency which may become a future Member, unless provided by written consent of the governing body of each of the Members in compliance with law.
- 5.8.5 **Funds of Members.** MetCom may receive from the Members funds for services rendered to the Members and other public funds, as contributions to defray the costs incurred under this Amended Creation Agreement, and as advances for any purpose allowed under this Amended Creation Agreement, subject to terms of repayment as agreed to by the Board and the Members.

## ARTICLE 6 - OPERATIONS

- 6.1 **Executive Director.** The Board shall appoint an Executive Director to manage the operations of MetCom. Initially, it is expected that the Executive Director will be an employee of SMFR. At any time during the term of this Amended Creation

Agreement, the Board may require that the Executive Director become an employee of MetCom. Consistent with direction of the Board, the Executive Director shall be directly responsible for implementing policy and procedures, facilitating and coordinating committee and working group activities, and shall be responsible for such other duties as directed by the Board, including but not limited to the preparation of the annual Budget, accounting of the financial operations of MetCom, hiring and terminating employees of MetCom, and supervision of the day to day operations of MetCom. The Board shall be entitled to develop performance standards for the Executive Director. The Executive Director shall be a non-voting, ex-officio member of the Board and shall attend all Board meetings unless excused by the Chair.

- 6.2 **User Agreements.** MetCom may enter into user agreements or agreements for services with any Public Agency regardless of whether such Public Agency is a Member, interested in receiving services from MetCom. MetCom may also enter into user agreements or agreements for services with any Private Agency so long as such agreement does not violate the terms of any public financing received by MetCom. Each such agreement shall specify the services to be provided by MetCom and the terms under which such services are to be provided by MetCom to such Public Agency or Private Agency.
- 6.3 **Financial Support.** MetCom may receive financial support from one or more sources, including emergency telephone surcharge revenues, user fees, and public or private grants.

#### ARTICLE 7 - FISCAL ADMINISTRATION

- 7.1 **Fiscal Management.** Unless otherwise designated by the Board, all power to receive, hold, and, upon approval by the Board, disburse funds or money equivalents shall be exercised by MetCom personnel under the direction and supervision of the Executive Director, and under controls and policies approved by the Board. The Executive Director shall monthly provide the Board with a complete report of all revenue and expenditures, and reasonable information on the state of MetCom's finances.
- 7.2 **Budget.** The Budget for MetCom shall be adopted by the Board pursuant to Part 1, Article 1, Title 29, C.R.S. The provisions of Article 10.5 of Title 11, C.R.S., shall apply to monies of MetCom.
- 7.3 **Capital Budget.** All capital purchases shall be shared among the Members based on each Member's pro rata share of MetCom's operational Budget in the year in which the capital purchases are to be made.

- 7.3.1 Each Member other than SMFR shall enter into an intergovernmental agreement with MetCom with respect to the Capital Contributions based upon terms and in a form approved by the Board. SMFR has entered into an intergovernmental agreement with MetCom outlining the terms under which the communication center capital equipment was transferred to MetCom.
- 7.3.2 A capital replacement reserve fund will be established and funded annually. Annual funding of the capital replacement reserve fund shall be funded equally by all Members, and shall be approved and adjusted by the Board based on the annual Budget.
- 7.4 **Operational Budget.** Each Member's share of MetCom's annual operational Budget shall be calculated in accordance with this Section 7.4. The annual operational Budget shall include a capital replacement reserve fund component, costs of personnel, supplies, services, and management and administration for the provision of emergency communications, dispatching and technological support services, but shall not include depreciation and individual expenses necessary for the sole needs of the Members to receive such services.
- 7.4.1 Each Member's share of MetCom's annual operational Budget shall be determined by the Board and shall be based on each Member's respective share of the total Call volume averaged over the immediately preceding three (3) calendar years, to the extent three (3) years of Call data is available. The amount due from each Member will be based on the following formula: each Member's determined percentage of total Call volume times the approved operational Budget (as approved by the Board), plus the Annual Capital Replacement Reserve Fund Contribution as determined by the Board and as set forth in Section 7.4.3. Each Member's Annual Operational Contribution shall be paid in four (4) equal installments, on the first day of each quarter of the next immediately following fiscal year (January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup>, and October 1<sup>st</sup>), or on such other schedule as may be determined by the Board.
- 7.4.2 The Cost Allocation Worksheet will be revised annually by the Board, and shall set forth each Member's Annual Operational Contribution for the next immediately following calendar year. The Cost Allocation Worksheet shall be made available to all Members by the Board no later than July 1 of the year in which the Cost Allocation Worksheet is revised and adopted by the

Board, and shall be effective January 1<sup>st</sup> of the year following the year in which the Cost Allocation Worksheet is revised and adopted by the Board,

7.4.3 Each Member's Annual Capital Replacement Reserve Fund Contribution shall be included in the Annual Operational Contribution set forth in the Cost Allocation Worksheet, and shall include a fee associated with updating or supplementing wireless communications, technology, network expansion, enhanced radio communications and/or technical support may become necessary in future years. In each Budget year, the amount of the Annual Capital Replacement Reserve Fund Contribution will be determined by the Board and will be included and referenced with particularity in the Cost Allocation Worksheet to be provided to all Members by July 1 of each year. Members may be asked by the Board to make a contribution to the Capital Replacement Reserve Fund.

7.5 **Late Payments.** Any payment required under this Amended Creation Agreement that is not paid when due shall accrue compound interest in the amount of one percent (1 %) per month until paid;

7.6 **Annual Audit.** In accordance with Colorado state law, MetCom revenues and expenditures shall be subject to an annual audit unless MetCom is eligible to apply to the State Auditor for an exemption from audit, which, if completed, will include an audit opinion without qualifications, to be performed by a certified public accountant.

## ARTICLE 8 - MISCELLANEOUS

### 8.1 **Miscellaneous.**

8.1.1 **Notices.** Any formal notice, demand or request provided for in this Amended Creation Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person, by facsimile, or sent by registered or certified mail, postage prepaid to the Members at the addresses as set forth on each signature page attached hereto, unless another address is certified to MetCom.

8.1.2 **Indemnification.** To the extent permitted by law, each Member shall indemnify, defend and hold the remaining Members harmless from and against any and all claims arising from all of the Member's independent activities prior to the date of this

Amended Creation Agreement and the Member's use of the Metropolitan Area Communications Center. Each Member shall also indemnify, defend and hold the remaining Members harmless from and against any and all claims arising from any breach or default in the performance of any obligation of the Member's part to be performed under the provisions of this Amended Creation Agreement or arising from any negligence, recklessness, intentional acts or omissions of the Member or any of its agents or employees and from any and all costs, attorney fees, expenses and liabilities incurred in the defense of any such claim or action or proceeding brought on any such claim; provided, however, that nothing contained herein waives or is intended to waive any protections that may be applicable to any Member under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., or any other rights, protections, immunities, defenses or limitations on liability provided by law, and subject to any applicable provisions of the Colorado Constitution or other applicable laws.

- 8.1.3 **No Third Party Beneficiaries.** Nothing in this Amended Creation Agreement shall be deemed to create any third party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a party to this Amended Creation Agreement.
- 8.1.4 **Amendments.** This Amended Creation Agreement may be amended only by written document approved by formal authority of the governing bodies of all of the Members; provided, however, that such amendment will not affect other obligations outstanding of MetCom unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to such obligations.
- 8.1.5 **Severability.** In the event that any of the terms, covenants or conditions of this Amended Creation Agreement or their application shall be held invalid as to any person, corporation or circumstances of any court having competent jurisdiction, the remainder of this Amended Creation Agreement and the application in effect of its terms, covenants or conditions to such persons, corporations or circumstances shall not be affected thereby.
- 8.1.6 **Duplicate Originals.** This Amended Creation Agreement shall be executed in several counterparts, each of which shall be an

original, but all of which together shall constitute on in the same instrument.

IN WITNESS WHEREOF, the Organizing Members have caused this Amended and Restated Intergovernmental Agreement Establishing the Metropolitan Area Communications Center Authority to be executed as of the 5<sup>th</sup> day of October, 2010

**PARKER FIRE PROTECTION DISTRICT**

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

Linda Ganz, President

Date: 10/5/10

Attest:

Danny C. Gaddy, Secretary 

**SOUTH METRO FIRE RESCUE**

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

Laura Simon, Chairperson

Date: 9-27-10

Attest:

Hank Eng, Secretary (

**EXHIBIT B**  
**USER SERVICES**

City of Englewood

MetCom's proposed pricing is divided into two sections to address the operational and capital required to operate the Center.

**Dispatch Services** – User agencies are billed quarterly by MetCom for “dispatch services.” This fee is based on an annualized rolling three-year average of the agency's “calls for service” within their own district.

**Capital Reserve** – All agencies contribute annually to MetCom's capital reserve account. This fund is used for capital projects such as server replacement and equipment upgrades. The capital reserve fee is set by the Board and is used to insure that MetCom has the ability to expand or upgrade as needed with limited or no additional impact on the user agencies. The Capital Reserve for the first 3 year term of this agreements will be 3% of the annualized Dispatch Services cost.

The Initial term of this User Agreement shall be for three years (“Initial Term”) from the Effective Date. Thereafter, this User Agreement may be renewed for one subsequent three-year term (“Subsequent Term”), upon written notice by the City of Englewood, given to MetCom no less than twelve months prior to the expiration of the Initial Term or Subsequent Term then in effect.

Pricing for dispatch services will be fixed at a rate of \$48.00 per call for the first 3 year term. Cost per call for the second term will be adjusted by the 3 year average of CPI and will be fixed for years four through six.

Cost for the first year of Dispatch Services is based on estimated call volume as reported by EFD and will be adjusted once actual volume from 2011 – 2013 has been reported to MetCom. Cost for years two and three may be adjusted based on EFD's average call volume based on a three year rolling average.

| Agency    | Calls     | Base Cost | Dispatch     | Capital | Total Cost | Total        |
|-----------|-----------|-----------|--------------|---------|------------|--------------|
|           | Per Year  | Per Call  | Services     | Reserve | Per Call   | Fee          |
| Englewood | Est. 4200 | \$48.00   | \$201,600.00 | \$8,048 | \$49.44    | \$207,648.00 |

1. MetCom will provide a flexible staffing plan that has the ability to staff up to handle high demand incidents and events, including rapid call-back of staff, when necessary. To accommodate the staffing plan, sleep rooms are located on-site and IDT dispatchers are available for on-call support in the field or in the dispatch center for major or complex incidents. MetCom will make scheduling modifications or increase staffing levels if necessary to insure the highest quality in Fire/EMS call management and customer service.
2. MetCom will provide dispatching services using a map-based CAD system that also has the ability to provide station-based dispatching. This agreement can be modified to include AVL and MDTs at the request of the City of Englewood. EFD will be responsible for purchasing required MDT hardware and software licenses as required by TriTech.
3. MetCom primarily operates on the State of Colorado 800 MHz Digital Trunked Radio System. MetCom will insure that EFD has adequate dispatch and operational talk-groups to support fire/EMS operations.
4. MetCom will work with EFD to utilize their existing station alerting system. MetCom does have the ability to interface with Westnet's First-in Smart Station Alerting System if the City chooses to install Westnet in the future.
5. MetCom will provide automated unit and staff paging via a standard interface to EFD alpha numeric pagers, if so equipped.
6. MetCom will provide a nationally recognized standard of Emergency Medical Dispatch (EMD) to the citizens calling 911.
7. MetCom has the ability through a standard RMS interface to transmit call information to EFD's Fire Manager RMS.
8. MetCom will provide all required GIS data integration and support for the street data required to dispatch EFD.
9. MetCom will create, at no additional charge, a public safety map book specific to the City of Englewood. This map book will be provided in an electronic PDF format for station and apparatus use.
10. MetCom will provide its Incident Dispatch Team (IDT) including units and personnel as needed to support fire suppression and special operations for EFD.
11. MetCom will provide basic GIS and analytic services to EFD in support of CFAI Accreditation. Additional GIS and analytics services can be provided, by separate contract, at EFD's request.

## **EXHIBIT C**

### **ENGLEWOOD PERFORMANCE STANDARDS**

MetCom's standards are based on the NFPA 1221 guidelines for call processing and dispatching times. The 2010 edition of NFPA 1221 is currently used as the baseline standard for dispatching performance. Future amendments to NFPA 1221 will be reviewed by the MetCom Board within 6 months of their adoption to determine whether they should be incorporated into MetCom's Standards.

Additionally MetCom agrees to comply with the Emergency Medical Dispatch (EMD) performance standards as defined by the International Academies of Emergency Dispatch. (See Attached)

## **EXHIBIT D**

### **ADDITIONAL COMMUNICATIONS SYSTEM INTEGRATION REQUIREMENTS**

EFD is required to provide and maintain data circuits, vehicle/handheld radio hardware and other equipment to facilitate direct connectivity to MetCom for the purpose of data integration, station alerting, paging and radio communications. This includes costs associated with utility company circuits, connections, maintenance and recurring service charges. MetCom will serve in a consulting and support capacity to assist EFD in the implementation and on-going operation of this equipment.