

**Agenda for the  
Regular Meeting of the  
Englewood City Council  
Monday, April 20, 2015  
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 April 6, 2015.
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. Police Community Relations Specialist Toni Arnoldy and Commander Tim Englert will be present to recognize the 2015 Community Emergency Response Team graduates.
    - Ryan Burke
    - Patrick Burke
    - Hale Jarratt
    - Angie Harpster
    - Nathan Harpster-Jarratt
    - Wallace Lukowski
    - Michael Wolfe
  - b. Rita Russell, an Englewood resident, will be present to discuss Service Line Warranties.

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.

7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. There is an expectation that the presentation will be conducted in a respectful manner. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)

Council Response to Public Comment.

8. Communications, Proclamations, and Appointments.

- a. A proclamation recognizing May 2015 as Older Americans Month.

9. Consent Agenda Items

- a. Approval of Ordinances on First Reading.

- i. Council Bill No. 11 – Recommendation from the Finance and Administrative Services Department to adopt a bill for an ordinance modifying the Englewood Municipal Code to standardize payment and reporting dates for Basic Local Exchange Services, Purchasers of Valuable Articles Licenses and Pawnbrokers and Secondhand Dealers. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**
- ii. Council Bill No. 14 – Recommendation from the Police Department to adopt a bill for an ordinance authorizing the application for and acceptance of 2015 grant funding from the North Central All-Hazard Region/Urban Area Security Initiative Grant in the amount of \$13,680. **Staff Source: Tim Englert, Commander.**
- iii. Council Bill No. 15 – Recommendation from the Community Development Department to adopt a bill for an ordinance accepting 2015 grant funding from the Colorado Office of Economic Development and International Trade for the Arapahoe County Enterprise Zone in the amount of \$16,500. **Staff Source: Darren Hollingsworth, Economic Development Manager.**
- iv. Council Bill No. 16 – Recommendation from the City Manager’s Office to adopt a bill for an ordinance authorizing an agreement with the Colorado Department of Education to establish Englewood as the sponsor of a Summer Meals program as part of the CHAMPS grant program. **Staff Source: Michael Flaherty, Deputy City Manager.**

- b. Approval of Ordinances on Second Reading.

- i. Council Bill No. 8, approving an agreement with Broken T Partners, LLC to operate the Broken Tee Golf Course Indoor Training Center and golf lessons for all patrons.
- ii. Council Bill No. 9, amending the Englewood Municipal Code relating to reapportionment of the City Council Districts within the City of Englewood.

iii. Council Bill No. 10, authorizing an Intergovernmental Agreement with South Suburban Parks and Recreation District for an easement agreement at the #5 Big Dry Creek Trailhead.

c. Resolutions and Motions.

- i. Recommendation from the Parks and Recreation Department to approve, by motion, a letter of agreement with the Volunteers of America. **Staff Source: Joe Sack, Recreation Services Manager.**
- ii. Recommendation from the Littleton/Englewood Wastewater Treatment Plant to approve, by motion, an addition to an existing contract with Integral Consulting, Inc., for preparation and final testimony before the Colorado Water Quality Control Commission, in an amount not to exceed \$45,274. **Staff Sources: Stewart H. Fonda, Director of Utilities and Mary Gardner, Environmental Compliance Manager.**
- iii. Recommendation from the Public Works Department to approve, by motion, a professional services agreement for the delivery and installation of the Centracs Advanced Traffic Management System. Staff recommends awarding the contract to the lowest acceptable bidder Aegis ITS, Inc. in the amount of \$124,970.00. **Staff Sources: Rick Kahm, Director of Public Works and Ladd Vostry, Traffic Engineer.**

10. Public Hearing Items. (None Scheduled)

11. Ordinances, Resolutions and Motions.

a. Approval of Ordinances on First Reading.

- i. Council Bill No. 13 – Recommendation from the Finance and Administrative Services Department to adopt a bill for an ordinance modifying the Englewood Municipal Code limiting the number of marijuana-related establishments to those licensed on or before April 20, 2015. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**

b. Approval of Ordinances on Second Reading.

c. Resolutions and Motions.

- i. Recommendation from the Finance and Administrative Services Department to approve a resolution authorizing a supplemental appropriation for the 2014 Budget. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**
- ii. Recommendation from the Parks and Recreation Department to approve a resolution authorizing a construction contract for the Pirates Cove Slide Gel Coat Project. Staff recommends awarding the contract to, The Slide Experts, in the amount of \$33,600. **Staff Source: Joe Sack, Recreation Services Manager.**

- iii. Recommendation from the Parks and Recreation Department to approve, by motion, a contract for the Duncan Park Art Project. Staff recommends awarding the contract to Michael Clapper in the amount of \$30,000. **Staff Sources: Joe Sack, Recreation Services Manager.**

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



## PROCLAMATION

WHEREAS, Senior Citizens Month was established in 1963 by President John F. Kennedy encouraging the nation to pay tribute in some way to older people across the country; and

WHEREAS, in 1980, President Jimmy Carter changed the name to Older Americans Month, with 2015 being the 50<sup>th</sup> anniversary of the Older Americans Act; and

WHEREAS, ten percent of the City of Englewood, Colorado population is over the age of sixty; and

WHEREAS, the older adults in the City of Englewood, Colorado have made countless contributions and sacrifices to ensure a better life for future generations; and

WHEREAS, the focus is on how older adults are taking charge of their health, getting engaged in their communities, and making a positive impact in the lives of others; and

WHEREAS, the Englewood community can provide opportunities to enrich the lives of all age groups by:

- Promoting and engaging in activity, wellness, and social inclusion.
- Emphasizing home - and community – based services that support independent living.
- Promote healthy aging, increase community involvement and take an active role in meeting the needs of older adults.

WHEREAS, the City of Englewood, Colorado Malley Senior Recreation Center which serves over 2,600 seniors and is committed to helping all individuals live longer, healthier lives; and

WHEREAS, the Malley Senior Recreation Center will be celebrating Older Americans Month with a variety of activities to support the mission to keep seniors healthy and independent.

NOW THEREFORE, I, Randy P. Penn, Mayor of the City of Englewood, Colorado, hereby proclaim **May 2015:**

### **OLDER AMERICANS MONTH: GET INTO THE ACT**

in the City of Englewood, Colorado. I urge all every resident to take time this month to recognize older adults and the people who serve and support them as powerful and vital individuals who greatly contribute to the City of Englewood, Colorado.

BE IT FURTHER RESOLVED that the Mayor and City Council of the City of Englewood, Colorado reaffirm our commitment to

GIVEN under my hand and seal this 20th day of April, 2015.



  
Randy P. Penn, Mayor

## COUNCIL COMMUNICATION

<b>Date:</b> April 20, 2015	<b>Agenda Item:</b> 9 a i	<b>Subject:</b> Bill for an Ordinance modifying Englewood Municipal Code Sections of Title 4 and Title 5 that Standardize Due Dates for Various Remittances, Add Paper Filing Fees and Update Language to Align Pawn and Autopawn Requirements with State Statutes
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Grylewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council initially discussed the following proposed changes to Title 4 and Title 5 of the Englewood Municipal Code (EMC) at the November 17, 2014 Study Session; Council requested staff to bring the proposed changes to a future study session in early 2015. Staff revised the proposed changes and presented them at the January 26, 2015 Study Session. Council requested staff prepare and present the necessary changes as a bill for an ordinance at an upcoming Regular Council Meeting for their consideration.

City Council has not discussed the following proposed changes to Title 5, Chapters 15 and 16 (Pawn and Autopawn) of the Englewood Municipal Code (EMC). This change to the EMC is being made to ensure the EMC does not conflict with Colorado Statutes.

### RECOMMENDED ACTION

Staff seeks Council's support for a bill for an ordinance amending sections of Titles 4 and 5 of the Englewood Municipal Code to ensure that the Code does not conflict with Colorado Statutes.

### PROPOSED CHANGES

Following are sections of the Englewood Municipal Code with proposed changes that will standardize payment and reporting dates for Basic Local Exchange Services, Purchasers of Valuable Articles License, and Pawnbrokers and Secondhand Dealers.

Add a paper filing fee that is effective January 1, 2016.

Modify the Pawn and Autopawn language to mirror State Statutes.

These recommended changes are underlined below.

### TITLE 4 – MUNICIPAL FINANCES AND TAXATION

#### Chapter 4 SALES AND USE TAX

##### 4-4-4-7: Sales Tax Returns.

A. Every person required to obtain a sales tax license pursuant to the provisions of Section 4-4-4-4, shall file a sales tax return, with payment of tax owed, if any, upon the standard Municipal sales and use tax reporting form as adopted by the Executive Director of the Colorado Department of Revenue, not later than the twentieth day of each month for the preceding calendar month; provided,

however, that if the accounting methods regularly employed by the licensed retailer in the transaction of his/her business, or other conditions, are such that reports of sales made on a calendar monthly basis will impose unnecessary hardship, the Director may, upon request of said retailer, accept reports at such intervals as will, in his/her opinion, better suit the convenience of the taxpayer, and will not jeopardize the collection of the tax.

B. The returns so filed shall contain such information as may enable the Director to accurately determine the amount of tax collected by the person filing the return, but in all cases shall contain the following information:

1. The amount of gross taxable sales made by the retailer during the period for which the return is filed;
2. The total sales price of all property returned by the purchaser as a result of a return of goods sold by the retailer; provided, the original sale was a taxable transaction;
3. The total fair market value of any property received by the retailer as a result of an exchange of property; provided the property so received is held by the retailer to be sold or leased to a user or consumer in the regular course of his/her business;
4. The total amount of retail sales which are exempt from the tax imposed by Section 4-4-4-2 by reason of the provisions of Section 4-4-4-3;
5. The total amount of sales made on credit, the obligation for which is not secured by a conditional sales contract, chattel mortgage or other security instrument entitling the retailer to repossess the item sold, which are found to be worthless and which may be deducted as bad debts on the retailer's Federal income tax return.

C. The return shall be accompanied by an amount equal to the sales tax required to be collected by the retailer but which, in no case, shall be less than the amount actually collected, nor less than three and one-half percent (3.5%) of the figure derived by subtracting from the gross taxable sales, as reflected on the return, the total sales described in subsections B.2., 3., 4. and 5. above, as reflected on the return.

D. All other persons shall pay to the Director the amount of any tax due under the provisions of this Section 4-4-4-7, not later than fifteen (15) days after the date that said tax becomes due.

E. Beginning January 1, 2016, all license applications, returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

*(Code 1985, § 4-4-4-7; Ord. 02-58; Ord. 05-48, § 3; Ord. 09-35, § 1; Ord. 11-55, § 1)*

## **Chapter 5 ENGLEWOOD BASIC LOCAL EXCHANGE SERVICES BUSINESS AND OCCUPATION TAX**

### **4-5-4: Effective Date/Schedule of Payment.**

- A. For each Provider, the tax levied by this Chapter shall commence on August 1, 2000, or on the date the Provider first provides Basic Local Exchange Service within the City, whichever is later. ~~The tax shall be due and payable on the last day of the month following the occurrence of the monthly liability as determined by Section 4-5-3(B).~~ In the event a Provider's monthly liability is less than one hundred dollars (\$100.00), such Provider may file the required information and may make payment for the prior three (3) months on or before the last twentieth day of the month following the end of each calendar quarter

(April, July, October and January). Returns sent by U.S. Mail shall be deemed filed on the date of the ~~postmark~~. The Line Count and the amount of payment by any individual Provider shall be deemed proprietary information contained within a tax return and afforded the confidentiality associated therewith. The tax shall be due and payable on the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or annually) will follow the Sales and Use Tax License filing frequency if established. Beginning January 1, 2016 all returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

## **Chapter 7 WASTE TRANSFER SURCHARGE**

### **4-7-7: Licenses and Reporting Procedures.**

B. *Reporting Procedure.* Every owner, operator or person who has the duty to collect the surcharge imposed in this Chapter, must obtain, without charge, a license to collect the surcharge, and must report on forms prescribed by the License Officer such surcharges, and remit to the City the collected surcharges on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency if established. Beginning January 1, 2016 all returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

## **TITLE 5 - BUSINESS AND LICENSE REGULATIONS**

### **Chapter 1 MUNICIPAL FINANCES**

#### **5-1-6: Determination of License Fees and Term of License.**

D. Beginning January 1, 2016 All license applications, renewals and applicable fees required under this Title received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

### **Chapter 15 PAWNBROKERS AND SECONDHAND DEALERS**

#### **5-15-1: Definitions.**

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

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

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

#### **5-15-4: Special Conditions and Restrictions of the License.**

In addition to the requirements in Chapter 1 of this Title, the following special conditions or restrictions apply:

#### **G. *Required Acts:***

12. Every pawnbroker shall pay a fee for every transaction form submitted to the City. This fee is imposed to offset the cost of administering this license. This fee shall be determined by the City and set by resolution. This fee shall be reported on forms prescribed by the License Officer and remitted to the City on or before the twentieth day of the month for the preceding month or months under report. The

filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency if established. Beginning January 1, 2016 transaction fee forms and associated fees required under this Chapter received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

## **Chapter 16 AUTOMOBILE PAWNBROKERS**

### **5-16-1: Definitions.**

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

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

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

### **5-16-4: Special Conditions and Restrictions of the License.**

In addition to the requirements in Chapter 1 of this Title, the following special conditions and restrictions apply:

#### *G. Required Acts:*

11. Every automobile pawnbroker shall pay a fee for every transaction form submitted to the City. This fee is imposed to offset the cost of administering this license. This fee shall be determined by the City and set by resolution. This fee shall be reported on forms prescribed by the License Officer and remitted to the City on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency if established. Beginning January 1, 2016 transaction fee forms and associated fees required under this Chapter received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

## **Chapter 23 PURCHASER OF VALUABLE ARTICLES**

### **5-23-4: Special License Requirements.**

#### **C. Required Acts:**

10. Every purchaser of valuable articles license holder shall pay to the City a fee for every transaction form. This fee is imposed to offset the cost of administering this license. This fee shall be determined by the City and set by resolution. This fee shall be reported on forms prescribed by the License Officer and remitted to the City on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency if established. Beginning January 1, 2016 transaction fee forms and associated fees required under this Chapter received in paper format and requiring in-office processing shall be assessed a fee set by Resolution.

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

In reviewing the business licenses and the various forms required to be filed, staff noticed inconsistencies when forms are due. In order to simplify and assist businesses with their filing requirement staff recommends all required forms to be filed and received by the Budget and Revenue Division by the twentieth day of the

month for the preceding month or months under report. If a business has a Sales and Use Tax License in conjunction with licenses requiring forms to be filed, staff recommends all forms are filed using the same filing frequency of the Sales and Use Tax License.

The majority of business accounts remit Sales and Use Taxes which are required to be remitted by the twentieth day following the last day of the reporting period, e.g. monthly filers remit on the twentieth day of the month following the current month, quarterly filers remit on the twentieth day following the last day of the quarter (March 31, June 30, September 30 and December 31), annual filers remit on the twentieth day following the last day of the calendar year (December 31).

Effective January 1, 2016 the City of Englewood will institute a fee for the in-office processing of paper license applications and/or tax/transaction fee remittances. This fee extends to Sales and Use Tax License Applications under Title 4 and the miscellaneous businesses license applications required under Title 5. This fee also encompasses in-office processed paper remittances and taxes due under Title 4 Chapter 4 (Sales, Use and Lodgers Tax), Chapter 5 (Basic Local Exchange Services Business and Occupation Tax) and Chapter 7 (Waste Transfer Surcharge) and transaction fee forms required to be filed under Title 5 Chapter 15 (Pawnbrokers Transaction Fee), Chapter 16 (Automobile Pawnbrokers) and Chapter 23 (Purchaser of Valuable Articles).

The original Pawnbroker and Secondhand Dealers License is based on State Statutes. Periodically, changes are made to State Statutes which require the Englewood Municipal Code to be updated. In this case, State Statutes were changed in 2004 and this bill for an ordinance reflects those changes.

#### **FINANCIAL IMPACT**

Adding the paper filing fee will result in the collection of fees to offset the cost of processing, storing and shredding documents as required by the State Archivists Office. The intent of the fee is not to enhance revenues but to encourage the use to the City's online filing and payment resources.

The other actions included in this bill for an ordinance will not have a financial impact.

#### **LIST OF ATTACHMENTS**

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015 \_\_\_\_\_

COUNCIL BILL NO. 11  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AMENDING TITLE 4, CHAPTERS 4, 5, 7, AND TITLE 5, CHAPTERS, 1, 15, 16, AND 23; OF THE ENGLEWOOD MUNICIPAL CODE 2000, STANDARDIZING DUE DATES FOR VARIOUS REMITTANCES, ADDING PAPER FILING FEES, AND UPDATING THE PAWN AND AUTO PAWN ORDINANCES TO ALIGN THEM WITH COLORADO STATE STATUTES.

WHEREAS, the passage of these proposed changes to the Englewood Municipal Code will standardize payment and reporting dates for Basic Local Exchange Services, Waste Transfer Surcharge, Purchasers of Valuable Articles Licenses, Pawnbrokers, Secondhand Dealers, Automobile Pawnbrokers, adding paper filing fees, effective January 1, 2016, and updating the Pawn and Auto Pawn Ordinances to align them with Colorado State Statutes; and

WHEREAS, the original Pawnbroker and Secondhand Dealers License is based on the Colorado Revised Statutes; and

WHEREAS, in 2004 the Colorado Revised Statutes were changed, the passage of this proposed ordinance will align the Englewood Municipal Code with the State Statutes regarding Pawnbrokers.

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

Section 1. The City Council of the City of Englewood, Colorado, hereby amends Title 4, Chapter 4, Section 4, Subsection 7, of the Englewood Municipal Code 2000, is amended by the addition of a new paragraph E, to read as follows:

**4-4-4-7: Sales Tax Returns.**

E. Beginning January 1, 2016; all license applications, returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 2. The City Council of the City of Englewood, Colorado, hereby amends Title 4, Chapter 5, Section 4, Subsection A, of the Englewood Municipal Code 2000, to read as follows:

**4-5: ENGLEWOOD BASIC LOCAL EXCHANGE SERVICES BUSINESS AND OCCUPATION TAX\***

**4-5-4: Effective Date/Schedule of Payment.**

- A. For each Provider, the tax levied by this Chapter shall commence on August 1, 2000, or on the date the Provider first provides Basic Local Exchange Service within the City, whichever is later. ~~The tax shall be due and payable on the last day of the month following the occurrence of the monthly liability as determined by Section 4-5-3(B).~~ In the event a Provider's monthly liability is less than one hundred dollars (\$100.00), such Provider may file the required information and may make payment for the prior three (3) months ~~on the last~~ or before the twentieth day of the month following the end of each calendar quarter (April, July, October and January). ~~Returns sent by U.S. Mail shall be deemed filed on the date of the postmark.~~ The Line Count and the amount of payment by any individual Provider shall be deemed proprietary information contained within a tax return and afforded the confidentiality associated therewith. The tax shall be due and payable on the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency as established. Beginning January 1, 2016 all returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 3. The City Council of the City of Englewood, Colorado, hereby amends Title 4, Chapter 7, Section 7, Subsection Bob the Englewood Municipal Code 2000, to read as follows:

**4-7: WASTER TRANSFER SURCHARGE**

**4-7-7: Licenses and Reporting Procedures.**

- B. *Reporting Procedure.* Every owner, operator or person who has the duty to collect the surcharge imposed in this Chapter, must obtain, without charge, a license to collect the surcharge, and must report on forms prescribed by the License Officer such surcharges, and remit to the City the collected surcharges on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency as established. Beginning January 1, 2016 all returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 4. The City Council of the City of Englewood, Colorado, hereby amends Title 5, Chapter 1, Section 6 "*Determination of License Fees and Term of License*", of the Englewood Municipal Code 2000, is amended by the addition of a new Paragraph D, to read as follows:

**5-1-6: Determination of License Fees and Terms of License.**

- A. The City Council shall determine and set by resolution all fees required under this Title.

- B. Unless otherwise specifically provided, a license shall be issued for a period not to exceed one year and shall expire on December 31 following its issuance. The Licensing Officer shall promulgate a policy regarding proration of license fees.
- C. No refund of an application fee shall be made.
- D. Beginning January 1, 2016, all license applications, returns and payments required under this Chapter received in paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 15, Section 1, entitled “*Definitions*” of the Englewood Municipal Code 2000, to read as follows:

**5-15: PAWNBROKERS AND SECONDHAND DEALERS**

**5-15-1: Definitions.**

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

*Contract for Purchase:* A contract entered into between a pawnbroker and a customer pursuant to which money is advanced to the customer by the pawnbroker on the delivery of tangible personal property by the customer to the pawnbroker on the condition that the customer, for a fixed price and within a fixed period of time, ~~not to exceed ninety (90)~~ to be no less than thirty (30) days, has the option to cancel the said contract, ~~and recover from the pawnbroker the tangible personal property.~~

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

- (1) ~~One-tenth (1/10) of the original price for each month, plus the original purchase price, on amounts of fifty dollars (\$50.00) or over; or~~
- (2) (1) One-fifth (1/5) of the original purchase price for each month, plus the original purchase price, ~~on amounts under fifty dollars (\$50.00).~~

*Fixed Time:* That period of time, ~~not to exceed ninety (90) days~~ to be no less than thirty (30) days, as set forth in a contract for purchase, ~~within which the customer may exercise for an option to cancel the said contract, for purchase.~~

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

*Local Licensing Authority:* Means the governing body of a municipality or city and county in any incorporated area of the state.

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

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

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

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

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

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

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

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

**Section 6.** The City Council of the City of Englewood, Colorado, hereby amends Title 5, Chapter 15, Section 4 “*Special Conditions and Restrictions of the License*”, Subsection G(12), [*No changes are made to Subsection 4, Paragraphs 1 through 11, nor Paragraph 13, which remain unchanged*] of the Englewood Municipal Code 2000, to read as follows:

## **5 – BUSINESS AND LICENSE REGULATIONS**

### **5-15: PAWNBROKERS AND SECONDHAND DEALERS.**

#### **5-15-4: Special Conditions and Restrictions of the License.**

In addition to the requirements in Chapter 1 of this Title, the following special conditions or restrictions apply:

##### *G. Required Acts:*

12. Every pawnbroker shall pay a fee for every transaction form submitted to the City. This fee is imposed to offset the cost of administering this license. This fee shall be determined by the City and set by resolution. This fee shall be reported on forms prescribed by the License Officer and remitted to the City on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency as established. Beginning January 1, 2016 transaction fee forms and associated fees required under this Chapter received in

paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 7. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 16, Section 1, entitled “*Definitions*” of the Englewood Municipal Code 2000, to read as follows:

## **5-16: AUTOMOBILE PAWNBROKERS**

### **15-16-1: Definitions.**

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

*Automobile Pawnbroker:* A person regularly engaged in the business of making contracts for ~~purchase or~~ automobile purchase transactions in the course of business. This Chapter shall not apply to new or used automobile dealers unless specifically adopted by another section.

*Contract for Purchase:* A contract entered into between an automobile pawnbroker and a customer pursuant to which money is advanced to the customer by the automobile pawnbroker on the delivery of tangible personal property by the customer ~~to the automobile pawnbroker on~~ the condition that the customer, for a fixed price and within a fixed period of time, ~~not to exceed ninety (90) to be less than thirty (30),~~ has the option to cancel ~~the said~~ contract, ~~and recover from the automobile pawnbroker the tangible personal property.~~

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

- (1) ~~One-tenth (1/10) of the original price for each month, plus the original purchase price, on amounts of fifty dollars (\$50.00) or over; or~~
- (2 1) One-fifth (1/5) of the original purchase price for each month, plus the original purchase price, ~~on amounts under fifty dollars (\$50.00).~~

*Fixed Time:* Means ~~That~~ period of time, ~~not to exceed ninety (90) to be no less than thirty (30)~~ days, as set forth in a contract for purchase, ~~within which the customer may exercise an~~ for an option to cancel ~~the said~~ contract, ~~for purchase.~~

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

*Local Licensing Authority:* Means the governing body of a municipality or city and county in any incorporated area of the state.

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

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

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

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

Section 8. The City Council of the City of Englewood, Colorado, hereby amends Title 5, Chapter 16, Section 4 “*Special Conditions and Restrictions of the License*”, Subsection G, Paragraph 11, of the Englewood Municipal Code 2000, to read as follows:

#### **5-16: AUTOMOBILE PAWNBROKERS.**

##### **5-16-4: Special Conditions and Restrictions of the License.**

In addition to the requirements in Chapter 1 of this Title, the following special conditions and restrictions apply:

###### *G. Required Acts:*

11. Every automobile pawnbroker shall pay a fee for every transaction form submitted to the City. This fee is imposed to offset the cost of administering this license. This fee shall be determined by the City and set by resolution. This fee shall be reported on forms prescribed by the License Officer and remitted to the City on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency as established. Beginning January 1, 2016 transaction fee forms and associated fees required under this Chapter received in paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 9. The City Council of the City of Englewood, Colorado, hereby amends Title 5, Chapter 23, “*Purchaser of Valuable Articles*” Section 4 “*Special License Requirements*”, Subsection C, Paragraph 10, of the Englewood Municipal Code 2000, to read as follows:

#### **5-23: PURCHASER OF VALUABLE ARTICLES.**

##### **5-23-4: Special License Requirements.**

In addition to the requirements in Chapter 1 of this Title, the following special conditions or restrictions apply:

###### *C. Required Acts:*

10. Every purchaser of valuable articles license holder shall pay to the City a fee for every transaction form. This fee is imposed to offset the cost of administering this license. This fee shall be determined by the City and set by resolution. This fee

shall be reported on forms prescribed by the License Officer and remitted to the City on or before the twentieth day of the month for the preceding month or months under report. The filing frequency (Monthly, Quarterly or Annually) will follow the Sales and Use Tax License filing frequency as established. Beginning January 1, 2016 transaction fee forms and associated fees required under this Chapter received in paper format and requiring in-office processing shall be assessed an administrative fee to be set by resolution.

Section 10. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 11. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or its application to other persons or circumstances.

Section 12. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 13. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 14. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 20th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 23rd day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of April, 2015 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 20<sup>th</sup> day of April, 2015.

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Loucrishia A. Ellis

## COUNCIL COMMUNICATION

<b>Date:</b> April 20, 2015	<b>Agenda Item:</b> 9 a ii	<b>Subject:</b> Ordinance approving an Urban Area Security Initiative Grant Application
<b>Initiated By:</b> Police Department	<b>Staff Source:</b> Commander Tim Englert	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has previously approved North Central All-Hazards Region/Urban Area Security Initiative (UASI) funding for projects within the City of Englewood.

### RECOMMENDED ACTION

Staff recommends Council approve a Bill for an Ordinance authorizing the Police Department to apply for and accept 2015 grant funding in the amount of \$13,680.00 from the North Central All-Hazards Region/ UASI.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The UASI program is intended to provide financial assistance to address the unique multi-discipline planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas, and to assist these areas in building and sustaining capabilities to prevent, protect against, mitigate, respond to, and recover from threats or acts of terrorism using the Whole Community approach. As a concept, Whole Community is a means by which residents, emergency management practitioners, organizational and community leaders, and government officials are involved in the process rather than the traditional approach of relying solely on government entities.

The funding, if approved, will provide materials and monthly trainings to Englewood citizens, businesses, and City employees related to disaster and emergency preparedness. Two citywide mailings are included in this request.

### FINANCIAL IMPACT

The North Central All-Hazards Region Grant will fund \$13,680.00 for educational materials and the printing costs and postage for two citywide mailings. There are no required matching funds from the City of Englewood.

### LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015

COUNCIL BILL NO. 14  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF A NORTH CENTRAL ALL-HAZARDS REGION (UASI) GRANT.

WHEREAS, the North Central All-Hazards Region (UASI) program is intended to provide financial assistance to address the unique multi-discipline planning, organization, equipment, training, and exercise needs of high-threat, high-density urban areas, and to assist these areas in building and sustaining capabilities to prevent, protect against, mitigate, respond to, and recover from threats or acts of terrorism using the Whole Community approach; and

WHEREAS, as a concept, Whole Community is a means by which residents, emergency management practitioners, organizational and community leaders, and government officials are involved in the process rather than the traditional approach of relying solely on government entities; and

WHEREAS, Englewood Police Department is applying for the North Central All-Hazards Region Grant and if the Grant is awarded it will provide materials and monthly trainings to Englewood citizens, businesses, and City employees related to disaster and emergency preparedness; and

WHEREAS, the North Central All-Hazards Region Grant will fund \$13,680.00 for educational materials and the printing costs and postage for two citywide mailings; and

WHEREAS, the North Central All-Hazards Region Grant will require no matching funds from the City of Englewood for the federal funds.

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 City to apply for and accept the North Central All-Hazards Region Grant Funding for the proposal attached hereto as Exhibits A.

Section 2. The Mayor is authorized to execute and accept the North Central All-Hazards Region Grant Funding for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 20th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 23<sup>rd</sup> day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 22<sup>nd</sup> day of April, 2015 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 20th day of April, 2015.

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Loucrishia A. Ellis

**37 - Preparing Englewood**

<b>Project Number</b> 37		<b>Name</b> Preparing Englewood		
<b>Agency</b> Englewood Police				
<b>Applicant</b>	<b>First Name</b> Toni	<b>Last Name</b> Arnoldy	<b>eMail</b>	<b>Phone</b> 303-762-2490
<b>Created</b> 2/17/2015 By T.Arnoldy	<b>Updated</b> 2/17/2015 By T.Arnoldy	<b>Submit</b> 3/31/2015 By T.Arnoldy	<b>Accepted</b> 3/31/2015 By Justin Bukartek	<b>Rejected</b>
<b>Funds Requested</b> 540700000	<b>Matching Funds</b> 0	<b>Score</b> 0	<b>Committee</b> Citizen Corps	

**Form Detail****Form Name**

FY 2015 SHSP/UASI Grant

**Form Description**

Grant Application for the FY 2015 SSGP/UASI Grant

**Form Details**

This is the grant application for the FY 2015 HSGP/UASI grant. The deadline to have all applications submitted will be dependent upon guidance disseminated by the Federal government. Any updates to grant guidance, policies, and deadlines will be announced through both the North Central Region and UASI Boards.

***Please complete all eight sections below. Once all sections are completed, please review your application before submitting.***

**Basic Information**

*This is the Basic Information section. Please answer all of the following questions:*

**Committee (click <a href='http://ncrcolorado.org/sites/default/files/NCR\_Admin\_Documents/Joint%20NCR-UASI%20Committee%20Structure.pdf' target='\_blank'>here</a> to view the NCR/UASI committee structure and POCs)**

Citizen Corps

**Agency Represented**

Englewood Police Department

**Project Manager First Name**

Toni

**Project Manager Last Name**

Arnoldy

**Project Manager Title**

Community Relations

**Project Manager Phone Number**

303-762-2490

**Project Manager E-Mail Address**

|

*Thank you for filling out the Basic Information section. Please proceed to the Project Background section.*

## **Project Background**

***This is the Project Background section. Please answer all of the following questions:***

**Provide a summary description of the project. Describe what activities will be implemented and what will be accomplished by this project.**

The primary focus of this project is to prepare the community for disaster. The project will include several "Are you Ready?" Classes that will include information on the Sirens that re used in our city. The classes will be given on different dates and times to the Englewood Citizens, Businesses, Schools and Faith based establishments. There will also be many tables and information areas set up at local community events. The schools will be visited and offered the education on preparedness. The Englewood City Center will be given classes as well. A second project that will be part of this funding is a preparedness flyer that will go out to all Englewood Citizens and Businesses talking about the seasonal disasters and preparedness tips. The flyer will be sent to over 22,000 addresses twice a year.

**Provide a summary description of the current state of this project.**

This project is currently in the planning stages and trainer stages. The event dates and locations are being gathered and Volunteer instructors are being trained to assist with the events. We are also working on getting the word out the this information is available and encouraged. Currently we are getting quotes for the mailing and determining what materials are needed for the classes and community events. We intend on using our current avenues of communication, examples being the email list, the bi-monthly Englewood Citizens Newsletter and Nextdoor.com.

**Provide a summary description of the objectives of this project.**

The objectives of this project are as follows: Increase citizen awareness of the various risks/disasters that are possible in their area. Each Citizen is offered the opportunity to learn what preparedness is and its importance. Each Citizen and Business will be offered educational opportunities to understand how to prepare for a disaster at their home and/or business. There will be information given on the city's warning systems and how they can be informed of an emergency. Each Participant will know how to pack a kit and how to best protect themselves and loved ones in the event of a disaster.

**Provide a summary description of any outcomes that will be completed prior to the award of funds.**

The citizens were asked to complete a survey to gauge their interest in disaster preparedness. (98 out of 100) are interested in additional training. The citizens were asked if they are more interested in Business or Personal training. ( 88 out of 100) were more interested in personal preparedness. The citizens were asked about their preferred day and time to receive training. (the two highest responses were during the week either early afternoon or early evening). We plan to reach out to the schools and local faith based organizations.

**Previous Project Name (if applicable)**

N/A

**Previous Funding Received**

N/A

**Previous Funding Source**

N/A

**Previous Funding Year**

0000

***Thank you for filling out the Project Background section. Please proceed to the Risk Mitigation section.***

## **Risk Mitigation**

***This is the Risk Mitigation section. Please answer all of the following question:***

**Describe how the proposed project addresses risk within the Region. Specifically, how will the project mitigate a regional risk area or address geographic risks to terrorism and all-hazards threats?**

The identified risks in our specific area are those of a HAZMAT, Railway emergency, terrorism, tornado, flood, snow and power outage. All of these risks are posed due the manufactures that are part of the city, the Railway that we have, the fact that there are major corridors that run through our city, Highly populated hospitals, terrorism and the Colorado weather that is a constant threat. This project will help the community first, be aware of the possible risks, and how they can prepare to react to the situation at hand. The project is going make the education available to help the whole community including individuals, businesses, faith-based organizations, nonprofit groups, schools and academia and all levels of government understand its risks.

***Thank you for filling out the Risk Mitigation section. Please proceed to the Regional Strategy section.***

## Regional Strategy

*This is the Regional Strategy section. Please answer all of the following questions:*

**Identify the Regional Homeland Security Strategy goal and objective that the project will support. Provide an explanation of how the proposed project supports the goal. \*This goal is tied to the committee you selected in the Basic Information section.**

Engage citizens in emergency preparedness actions, training, and volunteer opportunities by utilizing a variety of outreach channels.

**Provide an explanation of how the proposed project supports the goal/objective from the <a href='http://www.ncrcolorado.org/sites/default/files/NCR\_Admin\_Documents/Grant\_Documents/NCR%20Strategy' target='\_blank'>Strategy</a>.**

The entire community will be offered trainings during the times and on the days that work best for them. The citizens will be contacted at outreach events and offered information on who, what, when, where and most importantly the why they should be involved with preparedness. This information will be delivered through the "Are you Ready" presentation. The schools will be offered education on the importance of preparedness both at school and at home. This will reach a large population ranging from school age kids to parents. The Englewood City Center Employees will be prepared to handle a disaster and have information available for citizens that are visiting the area. Each faith based establishment will also be contacted and offered the opportunity have an Are you Ready class. There will also be a portion added to educate on the city's sirens. This will talk about what the sirens mean and what they should do next. It will clearly inform the citizens on when the sirens are "just a test" and when they require action. The classes will be presented by the volunteers that understand the material, it's importance and are engaging speakers. There will be numerous volunteer opportunities for city events and preparedness presentations.

### Scenario Linkage.

THIRA Planning Scenario

**Explain how the project relates to and supports one of the <a href='http://www.ncrcolorado.org/sites/default/files/NCR\_Admin\_Documents/Grant\_Documents/Denver%20THIRA\_planning\_scenarios' target='\_blank'>THIRA planning scenarios</a> or <a href='http://ncrcolorado.org/sites/default/files/NCR\_Admin\_Documents/Grant\_Documents/2014%20Risk%20Assessment\_planning\_scenarios' target='\_blank'>Risk Assessment planning scenarios</a>.**

The project relates to the THIRA as it has the same outputs of the process. The goal of the project is to help the whole community including individuals, businesses, faith-based organizations, nonprofit groups, schools and academia and all levels of government understand its risks and estimate capability requirements. The project will address the possible risks and help the community understand what to prepare for and how. This project will be the same as the THIRA in regards to the shared goal of helping the community answer the same questions: What do we need to prepare for? What shareable resources are required in order to be prepared?

**How does this project address an improvement area(s) identified at the <a href='http://www.ncrcolorado.org/sites/default/files/Strategies\_Plans\_and\_Assessments/2014%20IPW%20Regional\_improvement\_planning\_workshop' target='\_blank'>Regional improvement planning workshop</a>?**

During the project events there will be an added component to educate the citizens about the sirens that are used in our community. There will be a program developed to educate the citizens on what the warnings mean and what they need to do next. There will also be information provided to the public through the use of social media and the portion of our project that sends out mailing about what disaster season it is and the safety tips that go with them. The project will also improve the amount and level of education that is provided to the schools and faith based establishments on prevention as well as recovery.

***Thank you for filling out the Regional Strategy section. Please proceed to the Budget Management/Matching Funds section.***

**Budget Management/Matching Funds**

***This is the Budget Management/Matching Funds section. Please answer the following questions:***

**Please list your expenditures Click <a href='https://www.llis.dhs.gov/knowledgebase' target='\_blank'>here</a> to access the AEL (authorized equipment list).**

Agency	Equipment	Catalog Number	Quantity	Cost Estimate
Englewood Police Department	2 Table, 4 Chairs and Popup Tent		0	180.00
Englewood Police Department	Handouts and education matters for community members		0	1000.00
Englewood Police Department	Folders and binders for trainers and participants	500	50.00	
Englewood Police	Educational Mailing		45000	12000.00
Englewood Police	Class participant lanyards and id badge	1500	450.00	

**Please list matching funds sources (if applicable).**

Agency	Amount
Englewood Police Community Relations and volunteer time approximately 2 hours per event	0.00

**Matching Funds Percent**

0.0000

**Provide a budget narrative describing the overall budget request for this project and how the capability funded with this project will be sustained long term (e.g. maintenance costs, annual costs, yearly license costs, capital replacement, etc.)**

Products that will be purchased with this funding will include, but not limited to: 2 tables @ approximately \$40 each, 4 Chairs @ approximately \$100. Lanyards and/or id badge for the participants/volunteers. approximately \$450.00 for approximately 1500 pieces. Binders and Folders for trainers and participants. \$50 Handouts and education materials for community members \$1000 preparedness tools for the kits. A postcard mailing sent to 22,000 addresses twice a year stating the season's risk and the safety tips. approximately \$6000 per mailing. All of the materials budgeted for will be used during the classes, presentations and attend community outreach events. There will be additional education given through social media, email blasts and the budgeted mailings. When all of the items are gone, additional items will be purchased by Englewood Police or possible funds requested next cycle.

***Thank you for filling out the Budget Management/Matching Funds section. Please proceed to the Core Capability section.***

## Core Capability

***This is the Core Capability section. Please answer all of the following questions: \*In order to complete this section, a committee must be selected in the Basic Information section. If the committee is changed, the primary core capability and measure will be reset.***

### Core Capability

Community Resilience

#### Measure

Community outreach efforts (events, websites, and collateral materials in both print and electronic formats) promoting pre-incident preparedness (e.g. communication plan, emergency supply kits, practice evacuation/in-place sheltering and develop psychosocial resilience) are readily available to all citizens in English and other commonly used languages, in formats easily accessible to all citizens.

#### Describe how the proposed project supports the selected measure.

The proposed project supports the selected measures by hosting educational campaigns and continuing education through the use of social media, mailings, websites, outreach events and scheduled seminars. All events will be open to the entire region and targeted within our city. We will encourage ongoing participation in programs such as CERT and other outreach and/or educational activities.

### Secondary Core Capability (If Applicable)

Community Resilience

#### Secondary Measure

Programs encourage feedback measuring participants' satisfaction with the program objectives.

#### Describe the core capability gap that this project will address within the Region. Give specific examples linked to capability assessment tools of how the capability area will be improved through this project.

With this project we will gather feedback from the citizens on how we can improve the current program and what information they found as valuable, the level of attendance and how they can participate in exercises and other classes offered in the Region. This will be done by evaluations at the end of each scheduled class, comment forms at outreach events, digital surveys and social media, thus improving the communication gap and level of services and training to the citizens.

#### Current Regional Rating (see <a

href='http://ncrcolorado.org/sites/default/files/NCR\_Admin\_Documents/Grant\_Documents/2014%20NCR%  
target='\_blank'>committee capability assessment</a>)

5.00

#### Projected Regional Rating

6.00

***Thank you for filling out the Core Capability section. Please proceed to the Multi-Jurisdictional Collaboration section.***

**Multi-Jurisdictional Collaboration**

***This is the Multi-Jurisdictional Collaboration section. Please answer all of the following questions:***

**Describe how this project affects multiple jurisdictions and/or levels of government.**

This project will affect the entire City of Englewood from the City Manager to the youngest of citizen and everyone in between. Englewood will continue to work with Littleton and other areas of the region to share training exercises and promote volunteerism in all areas.

**What agencies will benefit from this project?**

The city of Englewood and surrounding areas such as Sheridan, Denver, Littleton, Cherry Hills and others.

**Describe any formal agreements in place related to this project.**

N/A

***Thank you for filling out the Multi-Jurisdictional Collaboration section. If you have completed entry of all sections, please review for accuracy before submitting.***

## COUNCIL COMMUNICATION

<b>Date:</b> April 20, 2015	<b>Agenda Item:</b> 9 a iii	<b>Subject:</b> Arapahoe County Enterprise Zone Grant
<b>Initiated By:</b> Community Development Department		<b>Staff Source:</b> Darren Hollingsworth Economic Development Manager

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

To initiate business retention, revitalization, and growth strategies and leverage City resources through grant funding.

On April 13, 2015 City Council discussed the matching grant to support the administrative expenses associated with the Arapahoe County Enterprise Zone. This is a continuation of an annual grant award.

### RECOMMENDED ACTION

Staff recommends that City Council approve a Bill for Ordinance accepting a 2015 grant from Colorado's Office of Economic Development and International Trade (OEDIT) in the amount of \$16,500. This grant will be used to fund administrative activities for the Arapahoe County Enterprise Zone.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Englewood has administered the Arapahoe County Enterprise Zone, which includes portions of Englewood, Littleton and Sheridan, since its inception in 1990. Administration of the Enterprise Zone involves annual reporting and ongoing approvals of submissions, data input, marketing and outreach associated with the Enterprise Zone. Each year the City of Englewood receives a matching grant from the Office of Economic Development and International Trade towards administrative expenses related to the Enterprise Zone. The Enterprise Zone is a critical element of our Economic Development program. Each year approximately 100 Englewood businesses claim valuable State of Colorado tax credits.

### FINANCIAL IMPACT

The grant requires that the City provide matching funds. These funds are included in the Community Development departmental budget and are in the form of in-kind contribution of staff time, overhead, and marketing materials.

### LIST OF ATTACHMENTS

Proposed Bill for Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015

COUNCIL BILL NO. 15  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING ACCEPTANCE OF A GRANT FROM THE STATE OF COLORADO, ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE (OEDIT) TO FUND ADMINISTRATION ACTIVITIES FOR THE ARAPAHOE COUNTY ENTERPRISE ZONE.

WHEREAS, in 1990 the City of Englewood applied to the Colorado Department of Local Affairs and was granted Enterprise Zone status for a majority of the industrially and commercially zoned property in the City of Englewood; and

WHEREAS, the City of Englewood is the administrator for the Arapahoe County Enterprise Zone for the cities of Sheridan, Littleton and Englewood; and

WHEREAS, this year the State of Colorado Economic Development Commission issued an unsolicited grant to the City of Englewood to reimburse the City for the administration of the Enterprise Zone; and

WHEREAS, the Enterprise Zone is used in the City to initiate business retention, business expansion, and business attraction activities; and

WHEREAS, the Grant and related Agreement between the State of Colorado Economic Development Commission and International Trade (OEDIT), and the City of Englewood pledges \$16,500.00 in local matching funds in the form of staff time, overhead, and marketing materials to meet this obligation; and

WHEREAS, this Grant will be used for Enterprise Zone administrative activities and will reimburse the City of Englewood for staff time and expenditures.

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

Section 1. The State of Colorado, Economic Development Commission Colorado Purchase Order #PO 2015-6328 for the Grant of \$16,500.00 to be used for Enterprise Zone Administrative activities, attached hereto as Exhibit A, is hereby accepted.

Introduced, read in full, and passed on first reading on the 20th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 23rd day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of April, 2015 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 20th day of April, 2015.

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Loucrishia A. Ellis

<p>OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE</p> <p>Buyer: Frank Tamayo</p> <p>Phone Number: 303-892-8763</p> <p>Agency Contact: Sonya Guram</p> <p>Phone Number: 303-892-3804</p>	<p>Date: 1/1/2015</p> <p><b>IMPORTANT</b> The PO Number must appear on all invoices, packing slips, cartons and correspondence</p>	 <p>STATE OF COLORADO <b>PURCHASE ORDER</b></p> <p>P.O.# 2015-6328</p>
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<p>FEIN: 84-6000583</p> <p>Vendor Contact: Nancy Fenton</p> <p>Phone: 303.762.2347</p> <p>Purchase Requisition RQS#:</p>	<p>Invoice in Triplicate To:</p> <p>OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE (OEDIT) 1625 BROADWAY, STE. 2700 DENVER, CO 80202</p> <p>Payment will be made by this agency</p>
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<p>V e n d o r</p> <p>City of Englewood 1000 Englewood Pkwy. Englewood, CO 80110</p>	<p>Ship To:</p> <p>OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE (OEDIT) 1625 BROADWAY, STE. 2700 DENVER, CO 80202</p> <p>Attn: Procurement Office</p>
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<p><b>F.O.B. STATE PAYS NO FREIGHT</b></p> <p><b>INSTRUCTIONS TO VENDORS:</b></p> <p>1. If for any reason, delivery/service of this order is delayed beyond the delivery/installation date shown, please notify the agency contact named at the top left. (Right of cancellation is reserved in instances in which timely delivery is not made.)</p> <p>2. All chemicals, equipment and materials must conform to the standards required by OSHA.</p> <p>3. NOTE: Additional terms and conditions on reverse side.</p>	<p>Delivery/Service From To:</p> <p><b>SPECIAL INSTRUCTIONS:</b></p>
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LINE ITEM	CORE COMMODITY CODE	UNIT OF MEASUREMENT	QUANTITY	UNIT COST	TOTAL ITEM COST
001					\$16,500

1. General Description
 

This purchase order grants funds for local administration of the Enterprise Zone Program in calendar year 2015. Enterprise Zone administrative agencies are designated by the Economic Development Commission. This funding shall be applied to direct administrative costs for the Program including personnel, over-head, and Enterprise Zone marketing materials. A dollar-for-dollar match of the award by the Grantee for Program administration is required.
2. Definitions
  - A. "Economic Development Commission" means the body authorized under C.R.S. 24-46-102.
  - B. "Enterprise Zone" and "EZ" means the Colorado Enterprise Zone program authorized under C.R.S. 39-30-101 to 112.
  - C. "Grantee" is ~~Adams County Economic Development~~ <sup>SG</sup> *Arapahoe County*
  - D. "Program" means the Enterprise Zone program defined in 2.B. above.
3. Obligations
  - A. Grantee shall administer the Enterprise Zone Program locally, and may request reimbursement for direct administrative costs including personnel, over-head, and marketing materials.
  - B. Administration includes at a minimum:
    - i. Pre-Certifying and Certifying all EZ tax credits using the State's systems and/or forms,
    - ii. Acting as the local resource for questions and implementation of the Program,
    - iii. Managing any authorized Contribution Projects as allowed by the Statutes, and
    - iv. Reporting data to the State as required.
  - C. Grantee must expend an equal amount from local funds as the amount requested from OEDIT.

4. Personnel

Grantee's performance hereunder shall be under the direct supervision of Nancy Fenton, an employee or agent of the Grantee, who is hereby designated as the responsible administrator of this Purchase Order.

5. Payments and Budget

- A. The Grantee will be reimbursed for actual costs up to a maximum amount of \$16,500 which OEDIT agrees to pay for completion of the Obligations outlined herein.
- B. Grantee shall invoice OEDIT via a signed letter stating the total amount spent for Program Administration (half of which will be reimbursed under this Purchase Order. Grantee shall attach an accounting report to the letter identifying the direct Program administrative costs.
- C. Grantee may submit invoices as frequently as quarterly, for expenses incurred during the calendar quarter, within 60 days following the quarter end-date. Otherwise, invoices may cover any combination of quarters in the calendar year, but must be submitted at least annually by 2/29/2016 for expenses incurred in calendar year 2015.
- D. Grantee expenditures for Program administration from 1/1/2015 may be used to fulfill the required match for the award. Expenditures made following the date of the Purchase Order may be reimbursed by the State.
- E. The State is prohibited by law from making commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation beyond the State's current Fiscal Year is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions.

6. Remedies

Should the Obligations outlined in 3. above not be fulfilled in full, OEDIT may withhold payment in full or in part as determined by OEDIT.

7. Administrative Requirements - Accounting

- A. Payee shall maintain properly segregated books to identify the work associated with this purchase order.
- B. All receipts and expenditures associated with the work shall be documented in a detailed and specific manner.
- C. Payee shall make and maintain accounting and financial books and records documenting its performance hereunder in a form consistent with good accounting practices.

**TOTAL \$ 16,500**

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THIS PO IS ISSUED IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS FOR THE STATE OF COLORADO.

This PO is effective on the date signed by the authorized individual.

Authorized Signature

Date:

1/1/15

## COUNCIL COMMUNICATION

<b>Date:</b> April 20, 2015	<b>Agenda Item:</b> 9 a iv	<b>Subject:</b> Approval of an agreement with the Colorado Department of Education to establish Englewood as the sponsor of a Summer Meals program as part of the City's CHAMPS grant program.
<b>Initiated By:</b> City Manager's Office		<b>Staff Source:</b> Michael Flaherty, Deputy City Manager

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed the Cities Combating Hunger Through Afterschool and Summer Meals Program (CHAMPS) grant at the September 8, 2014 Study Session and approved a resolution at the October 6, 2014 City Council meeting, authorizing the City's application for funding. Acceptance of the CHAMPS grant was authorized by City Council on December 1, 2014. The purpose of the agreement with the Colorado Department of Education is to establish the City of Englewood as a Summer Meals sponsor.

### RECOMMENDED ACTION

The City Manager's Office is recommending that City Council adopt a Bill for an Ordinance authorizing the City of Englewood to enter into the agreement with the Colorado Department of Education to establish Englewood as the sponsor of a Summer Meals program as part of the City's CHAMPS grant program.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The National League of Cities (NLC) Cities Combating Hunger Through Afterschool and Summer Meals Program (CHAMPS) grant, previously approved by City Council, provides for administration of programs for afterschool and summer meals for eligible school children. The City is initiating a summer meals program with meals to be provided through the Colorado Department Education (CDE). The sponsor agreement is a requirement of CDE.

### FINANCIAL IMPACT

There is no financial impact.

### LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015 \_\_\_\_\_

COUNCIL BILL NO. 16  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF COLORADO DEPARTMENT OF EDUCATION "SUMMER FOOD SERVICE PROGRAM PERMANENT AGREEMENT" TERMS FOR THE SUMMER MEALS PROGRAM AS PART OF ENGLEWOOD CHAMP GRANT PROGRAM.

WHEREAS, the Englewood City Council previously authorized the City to file an application with the City and County of Denver for a National League of Cities "Combating Hunger through Afterschool and Summer Meals Programs (CHAMPS) for a grant with the passage of Resolution No. 78, Series of 2014; and

WHEREAS, the City Council of the City of Englewood authorized the acceptance of the CHAMPS Grant with the passage of Resolution No. 85, Series of 2014; and

WHEREAS, the National League of Cities (NLC) Cities Combating Hunger Through Afterschool and Summer Meals Program (CHAMPS) grant provides for administration of meals program; and

WHEREAS, the City of Englewood is initiating a summer meals program with meals to be provided through the Colorado Department of Education of which the "Summer Food Service Program Permanent Agreement" is a requirement; and

WHEREAS, the passage of this Ordinance authorizes Englewood's acceptance of the Colorado Department of Education "Summer Food Service Program Permanent Agreement" providing the terms for the Summer Meals Program as a part of Englewood CHAMP Grant Program.

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

Section 1. The Colorado Department of Education "Summer Food Service Program Permanent Agreement", attached hereto as Exhibit A, is hereby accepted and approved by the Englewood City Council.

Section 2. The Mayor is hereby authorized to sign the "Summer Food Service Program Permanent Agreement" for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 20th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 23rd day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of April, 2015 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 20th day of April, 2015.

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Loucrishia A. Ellis



**COLORADO**  
Department of Education

Office of School Nutrition  
1580 Logan, Suite 760  
Denver, CO 80203

EXHIBIT A

**SUMMER FOOD SERVICE PROGRAM PERMANENT AGREEMENT**

**I. GENERAL INFORMATION**

<b>Name of Sponsoring Agency:</b> City of Englewood	<b>Mailing Address (Street, City, State, Zip):</b> 1000 Englewood Parkway Englewood, CO 80110
<b>Authorized Representative:</b> Randy Penn	<b>Title:</b> Mayor
<b>Telephone (Area Code/No.):</b> (303)762-2310	<b>Email address:</b>

**II. POLICY STATEMENT FOR MEALS SERVED**

THE SPONSOR ASSURES the Colorado Department of Education Office of School Nutrition that the policy herein stated will be uniformly applied and implemented for all participating child nutrition sites under its jurisdiction and that all children are served the same meals at no separate charge regardless of race, color, national origin, sex, age, or disability and that there is no discrimination in the meal service program. The sponsor agrees that no meals will be claimed unless there is adequate documentation on file to support the claim. The sponsor also agrees to establish a procedure to account for meals served.

THE SPONSOR FURTHER ASSURES the Colorado Department of Education Office of School Nutrition the sponsor's jurisdiction which are using individual enrollment to document areas in which poor economic conditions exist and by camps or closed-enrolled sites using Income Eligibility Forms to document children's eligibility, the standard of determining eligibility for participation in the SFSP shall be in conformity with the State Agency's household size and income eligibility standards for free and reduced priced school meals or that case numbers are used for children from Supplemental Nutrition Assistance Program (SNAP) or for a child participating in the Food Distribution Program on Indian Reservations (FDPIR). Unless an alternate method is approved by the State Agency, the sponsor agrees to use the SFSP Income Eligibility Form supplied by the State Agency to obtain household size and income information or a master case number for SNAP or FDPIR from the households of children enrolled in SFSP. Children whose families receive SNAP, FDPIR, or TANF benefits are automatically eligible for free meals. Camps charging separately for meals will collect payments from children who must pay the full price for their meals in a manner that will not overtly identify children receiving free meals and the camp assures that there is a hearing procedure for families who want to appeal a denial of eligibility for free meals and if a family requests a hearing, the child will continue to receive free meals until a decision is made by the hearing official.

**III. Civil Rights**

Comply with the requirements of CR citations of 7CFR 210.23(b). The Program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the Department of Agriculture (7 CFR Part 15), DOJ (28) CFR Parts 42 and 50) and FNS directives or regulations issued pursuant to that Act and the regulations, to the effect that, no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity for which the Program applicant received Federal financial assistance from USDA; and hereby gives assurance that it will immediately take any measures necessary to fulfill this agreement."

"This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance, grants, and loans of Federal funds, reimbursable expenditures, grant, or donation of Federal property and interest in property, the detail of Federal personnel, the sale and lease of, and the permission to use Federal property or interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the Program applicant by USDA. This includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, and cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance."

By accepting this assurance, the Program applicant agrees to compile data, maintain records, and submit reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review such records, books, and accounts as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, the Department of Agriculture, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Program applicant, its successors, transferees, and assignees as long as it receives assistance or



retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the Program applicant.

#### IV. INSTRUCTIONS

**Sign two copies and retain one copy for your files.**

**Return other copy with original signatures to:**

Colorado Department of Education  
Office of School Nutrition  
1580 Logan Street, Suite 760  
Denver, Colorado 80203

#### V. AGREEMENT

**PERMANENT AGREEMENT INTENTION:** Describing this agreement as "permanent" is intended solely to convey that the agreement has no predetermined expiration date and does not need to be renewed. Such agreements may be amended as necessary to ensure compliance with all federal requirements. In no way does this feature of the agreement create contractual obligations beyond those described in the agreement; nor does it preclude either party from terminating the agreement in accordance with SFSP regulations. Permanent agreements shall be terminated for cause by the State agency if the institution fails to adhere to program requirements.

In order to carry out the purpose of Section 13 of the National School Lunch Act (42 U.S.C. 1761) as amended, and the regulations governing the Summer Food Service Program issued there under 7CFR Part 225 (hereinafter referred to as the "Summer Food Service Program"), the Colorado Department of Education (hereinafter referred to as the "CDE") and

#### VI. The Sponsor, whose name and address appear above, covenants and agrees as follows:

- (1) The sponsor shall operate a nonprofit food service during any period from May through September for children on school vacation, or at any time of the year, in the case of sponsors administering the Summer Food Service Program under a continuous school calendar system;
- (2) Serve meals which meet the requirements and provisions set forth in 225.16 and during times designated as meal service periods by the sponsor, and serve the same meals to all children;
- (3) Serve meals without cost to all children, except camps which may charge for meals served to children who are not served meals under the Summer Food Service Program;
- (4) Issue a free meal policy statement in accordance with 225.6(c);
- (5) Meet the training requirement for its administrative and site personnel as required under 225.15(d)(1);
- (6) Submit original claims for reimbursement within 60 calendar days of the end of the claiming month, or if a sponsor operates 10 days or fewer in the final month of operations, shall submit a combined claim for the final month and the immediate preceding month within 60 calendar days of the last day of operation, as established by the State agency and stated in 225.9(d)(3).
- (7) Claim reimbursement only for a type or types of meals specified in the agreement and served without charge to the children at approved sites during the approved meal service period, except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who meet the Summer Food Service Program's income standards. The agreement shall specify the approved levels of meal service for the sponsor's site if such levels are required under 225.6(d)(2). No permanent changes may be made in the serving time of any meal unless the changes are approved by the State agency;
- (8) In storage, preparation, and service of food, maintains proper sanitation and health standards in conformance with all applicable State and local laws and regulations;
- (9) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Food Distribution Program;
- (10) Have access to facilities necessary for storing, preparing and service of food;
- (11) Maintain a financial management system prescribed by the State agency;
- (12) Maintain on file documentation of site visits and reviews in accordance with 225.15(d)(2) and (3);
- (13) Upon request, make all accounts and records pertaining to the Summer Food Service Program available to the State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. The records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain,



unless audit or investigative findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;

- (14) Maintain children on site while meals are consumed;
- (15) Retain final financial and administrative responsibility for its Summer Food Service Program; and

#### **The State Agency:**

- 1) Agrees to reimburse the sponsor in connection with meals served in accordance with regulations under the SFSP at approved sites, during the approved period of operation, to the extent that funds are available from the USDA.
- 2) Shall terminate the Sponsor's participation in the SFSP by written notice whenever it is determined by the State Agency that the Sponsor has failed to comply with the rules of the SFSP.
- 3) Shall inform the Sponsor of its rights to request a review of decisions made by the State Agency which affect the participation of the Sponsor in the SFSP or the Sponsor's claim for reimbursement.

### **VII. Criminal Provisions and Penalties**

As established in Section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)):

Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such assets, or property for personal use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are not of a value of \$100 or more, be fined not more than \$25,000 or imprisoned not more than five years, or both, or if such funds, assets, or property are of a value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

#### **Termination Procedures**

This agreement may be terminated upon (ten) 10 days written notice on the part of either party hereto, and the State Agency may terminate this agreement immediately after receipt of evidence that the terms and conditions of the agreement and of the regulations governing the program have not been fully complied with by the Sponsor or found to be seriously deficient as outlined in the State Agency's Serious Deficiency Policy. Any termination or expiration of this agreement, however, shall not affect the obligation of the sponsor to maintain and retain records and to make such records available for audit.

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

USDA is an equal opportunity provider and employer.

### **VIII. CERTIFICATION**

1. I certify that the information within the SFSP application and all related attachments is true and correct to the best of my knowledge and that the applicant named is in compliance with the audit requirements stated in 4 CFR Part 3052.
2. I understand that the information is being given in connection with the receipt of federal funds and that deliberate misrepresentation or withholding of information may subject me to prosecution under applicable State and Federal criminal statutes.
3. If the applicant operates a National Youth Sports Program (NYSP) site(s) I certify that all the NYSP sites operated by the applicant serve only children enrolled in the NYSP; and that the NYSP sites(s) comply with the *Department of Health and Human Services guidelines for income eligibility for children attending NYSP.*



4. If the applicant operates a migrant site(s) I certify that all migrant sites operated by the applicant serve children of migrant worker families. If the sites(s) also serve non-migrant children, it is understood that the site must serve predominately migrant children.
5. If the applicant operates as a unit of local, municipal, county, or State government, or as a private nonprofit organization, I certify that the applicant will directly operate the SFSP in accordance with SFSP regulations 7 CFR Part 225.14(d)(3).
6. I agree to abide by the terms and conditions of the Annual SFSP Application and Permanent SFSP Agreement and Policy Statement.

**IX. SIGNATURES**

Signature of Authorized Representative:	Title of Authorized Representative: Randy Penn, Mayor	Date (Month/Day/Year)
Signature of Sponsor Contact:	Title of Sponsor Contact: Michael Flaherty, Deputy City Manager	Date (Month/Day/Year)
Signature of Jane Brand:	CDE Office of School Nutrition Director	Date (Month/Day/Year)



BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015 \_\_\_\_\_

COUNCIL BILL NO. 8  
INTRODUCED BY COUNCIL  
MEMBER OLSON

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND BROKEN T PARTNERS LLC FOR OPERATING THE BROKEN TEE GOLF COURSE INDOOR TRAINING CENTER.

WHEREAS, the Englewood Golf Course indoor training center was part of the clubhouse expansion in 1995, consisting of 6 hitting bays with two computer swing analyzers; and

WHEREAS, in 2007 McGetrick Golf Academy was selected to offer lessons, programs through the indoor teaching facility and discounted lessons to all Englewood residents; and

WHEREAS, the City Council of the City of Englewood approved the McGetrick Golf Academy Learning Center contract by the passage of Ordinance No. 28, Series of 2008; and

WHEREAS, the City Council of the City of Englewood approved the Broken Tee Golf Learning Center contract by the passage of Ordinance No. 9, Series of 2010; and

WHEREAS, McGetrick Golf Academy decided to terminate their contract effective November, 2009; and

WHEREAS, Steve Buretz and Kevin Hollern, investors with McGetrick Golf Academy approached the City with a new agreement which included many of the same benefits that were in place plus new program ideas; and

WHEREAS, these benefits include discounted lessons to Englewood residents, emphasis on junior golf, improvements to the facility including a golf simulator which allows for indoor play and lessons and providing sponsorships for the Hole-N-One program; and

WHEREAS, the passage of this Ordinance will approve the Agreement to lease and manage the Training Center located at the Broken Tee Englewood; and

WHEREAS, the current lease payment is \$17,500 plus utilities of \$7,200 for a total of \$24,700 annually. The lease payment will be \$20,000 in the new contract and no utility fee. The financial reduction is \$4,700. Though this is a reduction in revenue, staff believes that Broken T Partners, LLC brings great value and is a strong asset to the golf course and the golfing public.

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 and approves the Agreement for the lease and management of the Training Center located at the Broken Tee Englewood between the City and Broken T Partners LLC, attached hereto as Attachment 1.

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

Introduced, read in full, and passed on first reading on the 6th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 8th day of April, 2015 for thirty (30) days.

Read by title and passed on final reading on the 20th day of April, 2015.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2015, on the 23rd day of April, 2015.

Published by title on the City's official website beginning on the 22nd day of April, 2015 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 2015.

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Loucrishia A. Ellis

AGREEMENT

THIS AGREEMENT, hereinafter called "Lease", made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF ENGLEWOOD, a Colorado municipal corporation, hereinafter referred to as "City", and BROKEN T PARTNERS LLC, hereinafter referred to as "Trainer";

WITNESSETH:

WHEREAS, the City owns certain real property which is known as the Broken Tee Englewood Municipal Golf Course Clubhouse And Training Center, hereinafter called "Training Center", and located in the City of Sheridan; and

WHEREAS, City and Trainer previously entered into a lease in February 2010; and

WHEREAS, City and Trainer desire to enter into another lease for the management of the Training Center located at the Broken Tee Englewood Municipal Golf Course;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter appearing and of the payment of the monies hereinafter set forth, the parties hereto agree as follows:

Section 1. STATEMENT OF INTENT.

The purpose of this Lease is to provide video golf training, instruction, club fitting and club sales. The Trainer will not have exclusive right to all club sales.

Section 2. GRANT.

The City hereby agrees to allow the Trainer to use the area described in "Exhibit A" of the Englewood Clubhouse Training Center plus use of the driving range including use of range balls at no cost and practice areas for instruction and other related activities. There will be space on the driving range and practicing area designated for the Trainer. The Trainer will be using an agreed upon area for their lessons/programs; however, it is generally understood that the Trainer will use the western most located spaces on the range.

Section 3. DEFINITION OF PREMISES.

The "Leased Premises" as referred to herein is defined to be the Golf Clubhouse Training Center, which is owned by the City of Englewood, Colorado. See Exhibit "A", and portion of range as referred to in Section 2.

Section 4. TERM OF AGREEMENT.

The City hereby grants to Trainer the right to hold the Leased Premises pursuant to the terms of this Lease for a one (1) year Lease with three (4) one (1) year renewals with the agreement of both parties. If the Trainer intends to renew the contract they must inform the Director of Parks and Recreation ninety (90) days prior to termination of the Lease. The City shall inform Trainer of its decision through the Director of Parks and Recreation.

Section 5. USE OF THE PREMISES.

Trainer shall have the right to possession of the Leased Premises for the purpose of providing video golf training, instruction, club fitting, club sales and club repair. However, nothing in this Lease shall be construed to authorize that which is prohibited under United States, State or local law, ordinance, code or regulation.

Section 6. SERVICES.

All services provided by the Trainer shall be reviewed and approved by the Director of Parks and Recreation. The Trainer will provide lessons and clinics for the City. The City will continue to offer the Hole-N-One Program, Par 3 League, golf team and some lessons. The Trainer will provide lesson discounts for Englewood residents and Parks and Recreation sponsored programs.

Section 7. HOURS OF OPERATION.

- a) From May 1st through September 30th of each year, the Trainer shall provide golf instruction six (6) days per week and during these months shall be open each day to the public from 9:00 AM and shall remain open until 5:00 PM.
- b) During the months of October 1st through April 30th of each year, the Trainer shall provide video golf analysis five (5) days per week and during these months shall be open each day to the public at 9:00 AM and shall remain open until 5:00 PM.
- c) Nothing herein shall be construed as prohibiting the Trainer from being open for other hours in addition to those stated in Paragraphs "a" and "b" above. Trainer may close on Christmas Day and Thanksgiving.
- d) Trainer agrees to cooperate with the Golf Course Manager in scheduling golf meetings and events. In the event of any disagreement, the matter shall be referred to the Director of Parks and Recreation and his/her decision is final.
- e) Any adjustments to the hours of operation must be approved by the Director of Parks and Recreation or his designee.
- f) Trainer and or the City may temporarily close the Training Center for cleaning, construction and maintenance under a mutually agreed upon schedule.

Section 8. MAINTENANCE, REPAIR AND REPLACEMENT.

- a) The Trainer shall be responsible for repairs and/or replacement of all equipment associated with the leased premise. This does not include driving range equipment owned by the City of Englewood.

Section 9. CLEANLINESS GUIDELINES.

- a) All rules, regulations and guidelines required by the City of Englewood must be adhered to.
- b) All applicable local, state and Federal Government Acts and Regulations must be adhered to.
- c) Any specific guidelines established by the Director of Parks and Recreation must be adhered to.

Section 10. RENT.

- a) Trainer shall pay rent to the City:
  - i. Commencing on April 1, 2015, the Trainer shall pay \$20,000 per year, in accordance with the following schedule:

April through November: \$2,500 per month.

Rent can be prepaid anytime .
  - ii. Trainer will provide reasonable efforts to attain sponsorships for the Hole-N-One Jr. Program.

The aforesaid fixed rent payments shall be paid, per schedule above on the first day of each month or on the first Monday of each month if the first day falls on Saturday or Sunday.

A penalty fee of \$10.00 per day or part thereof shall be charged for each day or part thereof that the rent is past due, until 12:00 midnight on the 14th day past due. If the rent payment is not received by midnight on the 14th day past due, the Trainer shall be in violation of the terms of this Agreement, and subject to termination.

Section 11. UTILITIES.

Utilities will be paid for by the City of Englewood.

Section 12. PARKING FACILITIES.

- a) The existing parking facility adjacent to the Golf Course Clubhouse (hereinafter called "parking facility") shall be open for use by Trainer and its customers; such right of use of the said parking facilities shall be non-exclusive right.
- b) City shall at its own expense maintain the parking facility, which shall include snow removal when necessary.

Section 13. SIGNS.

Any signage for the leased premise shall be the sole responsibility of the Trainer. All signage must be approved by the Director of Parks and Recreation or his designee.

Section 14. ADDITIONAL FACILITIES AND EQUIPMENT.

Trainer shall have the right to install additional facilities and equipment with the consent of the Director of Parks and Recreation or his designee. Permanently attached fixtures or equipment shall become property of the City upon termination of the lease. Permanently attached fixtures are considered to be any item that causes damage to the building upon removal. In no event will a golf simulator be considered a permanently attached fixture.

Section 15. SECURITY.

Trainer is responsible for the obtaining of theft insurance covering equipment, supplies and personal property of Trainer. Such policies shall contain no right of subrogation against the City. Trainer shall provide a copy of the policy to the Director of Parks and Recreation. Additional costs for security, as required by the Director of Parks and Recreation or his designee, shall be the responsibility of the Trainer.

Section 16. PERSONNEL.

- a) Trainer shall at its own expense employ such qualified personnel as may be necessary for the training operation and shall require all personnel to be clean, polite, and courteous in their transactions with the public.
- b) Trainer shall give personal supervision and direction to the operation of the Training Center and, when absent, keep competent personnel in charge.
- c) City shall not be responsible for the wages or salaries of any employee or representative of Trainer, nor for any debts, liabilities or other obligations of Trainer.
- d) Neither the Trainer nor the employees who perform services pursuant to the Agreement shall be considered employees, servants or agents of the City of Englewood as a result of the performance of services under the Agreement.
- e) Violence or acts prohibited by law committed by the Trainer and employees of Trainer shall cause immediate termination of the Lease, if not resolved to the satisfaction of the City, after notification.

Section 17. LICENSES AND PERMITS.

Trainer, at its own expense, shall secure any and all licenses and permits for services.

Section 18. INSURANCE/INDEMNIFICATION.

- a) Trainer agrees to furnish to City a performance bond or letter of credit in the amount of Ten Thousand Dollars (\$10,000.00) guaranteeing faithful performance by Trainer of all payment of rent, utility costs, etc., along with all terms, covenants, and conditions herein contained and compliance with applicable City ordinances. Said bond shall be furnished within 30 days of signed agreement and shall remain in effect for the term of the lease.
- b) Trainer shall at Trainer's own expense keep in full force and effect during the term of this Lease statutory Worker's Compensation coverage if required. A copy of the certificates of insurance shall be sent to the City in care of the Department of Risk.
- c) **INDEMNIFICATION.** Trainer agrees to indemnify and hold harmless the City of Englewood, its Council, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss or damage, of any kind whatsoever, which arise out of or are in any manner connected with Trainer, if such injury, loss, or damage is caused in whole or in part by the act, omission, or other fault of Trainer, or any officer or employee of Trainer. Trainer agrees to investigate, handle, respond to, and to provide defense for any such liability, claims, or demands at the sole expense of Trainer, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.
- d) **INSURANCE.**
  - i. Trainer is to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all obligations assumed by Trainer pursuant to this Lease.
  - ii. Trainer shall procure and continuously maintain the minimum insurance coverage's listed below, with the forms and insurers acceptable to the City of Englewood. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
    - (A) General liability and errors and omissions insurance with minimum limits of one million dollars (\$1,000,000) per each person and one million dollars (\$1,000,000) per each occurrence, plus an additional amount sufficient to pay related attorneys' fees and defense costs.
  - iii. Fire and Extended Coverage Insurance shall be provided by the City on the ClubHouse building, and extended buildings included in Leased Premises, only. Trainer shall be solely responsible for securing and paying for insurance coverage on those improvements and contents belonging to Trainer located in or on the Leased Premises. Trainer hereby expressly waives any cause of action or right of recovery, which Trainer may hereafter have against City for any loss or damage to Leased Premises or to any contents or improvements thereto belonging to either party, caused by fire, explosion, or theft.

- iv. The policies required above shall be endorsed to include the City of Englewood and the City of Englewood's Council and employees as additional insured. Every policy required above shall be primary insurance, and any insurance carried by the City of Englewood, its officers, or its employees, or carried by or provided through any self-insurance pool of the City of Englewood, shall be excess and not contributory insurance to that provided by Trainer.
- v. The certificate of insurance provided to the City of Englewood shall be completed by the Trainer's insurance agent as evidence that policies providing the required coverage's, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City of Englewood prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverage's afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been given to the City of Englewood. The completed certificate of insurance shall be sent to:

City Clerk  
City of Englewood  
1000 Englewood Parkway  
Englewood, Colorado 80110

A certified copy of any policy shall be provided to the City of Englewood at its request. A copy of the certificates of insurance shall be sent to the City in care of the Department of Risk, 1000 Englewood Parkway, Englewood, Colorado 80110.

- vi. The parties hereto understand and agree that the parties are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$1,000,000 per person and \$1,000,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

A certificate evidencing said insurance policy shall be kept on file with the Department of Risk of the City and shall have a provision that the same shall not be altered, amended, or canceled without first giving written notification thereof to the City thirty days prior thereto. Trainer further agrees to indemnify the City for any claims brought against the City because or on account of Trainer's operation. A copy of the certificates of insurance shall be sent to the City in care of the Department of Risk.

Section 19. FIRE OR NATURAL DISASTERS.

In the event fire or natural disaster renders the Club House and its Training Center facilities inoperable, the Trainer shall be released from the terms of compensation to be paid the City until such time as the Club House and its Training Center facilities are declared open and operable by the City. If in the event such Training Center facilities are not open and operable within a period of thirty (30) days from the time of such disaster, Trainer has the right to terminate its contract and Lease with the City under Section 20, Termination of Lease, contained herein.

Section 20. TERMINATION OF LEASE.

- a) This Lease may, at any time, be terminated by either party upon ninety (90) days' written notice to the other without cause.
- b) The parties may terminate the Lease by giving thirty (30) days' written notice of a violation of paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18, provided Trainer has been given notice of violation, Trainer has neglected to cure such violation.
- c) Violation of paragraph 19 shall be grounds for immediate termination of the Lease.

Section 21. DELIVERY AND REMOVAL UPON TERMINATION.

Trainer will deliver the premises at the termination of this Lease in as good condition and state of repair as when received, except for ordinary wear and tear or loss or damage caused by an act of God. Upon termination, Trainer shall have the right to remove any supplies or personal property belonging to or installed by the operator, subject, however, to any valid lien or claim, which City may have for unpaid fees. Provided also that if said removal causes any damage to the premises, said Trainer will repair the same in a proper and satisfactory manner at its own expense.

Section 22. This Agreement may not be assigned and a sublease shall not be allowed without the written consent of both parties. Independent contractors are separate from this Section.

Section 23. ATTORNEY FEES PREVAILING PARTY.

In the event that either party to this Agreement shall commence any action against the other party arising out of or in connection with this Agreement, or contesting the validity of this Agreement or any provision of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees and related costs, fees and expenses incurred by the prevailing party in connection with such action or proceeding.

Section 24. NOTICES.

All notices, demands and communications hereunder shall be personally served or given by certified or registered mail, and:

- a) If intended for City shall be addressed to City at:

City of Englewood  
Attention: Director of Parks and Recreation  
1000 Englewood parkway  
Englewood, Colorado 80110

with a copy to:

City of Englewood  
Attention: City Attorney  
1000 Englewood Parkway  
Englewood, Colorado 80110

- b) If intended for Trainer shall be addressed to Trainer at:

Broken T Partners LLC  
Attention: Manager [Kevin Hollern]  
2101 W. Oxford Avenue  
Englewood, CO 80110

- c) Any notice given by mail shall be deemed delivered when deposited in a United States general or branch post office, addressed as above, with postage prepaid, or when served personally at the applicable address.

Section 25. ENTIRE AGREEMENT.

This Lease, together with the Exhibit A attached hereto:

- a) Contains the entire Lease between the parties; and  
b) Shall be governed by the laws of the State of Colorado.

Section 26. SEVERABILITY.

If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

Section 27. CAPTIONS.

The caption of each Section is added as a matter of convenience only and shall not be considered in the construction of any provision or provisions of this Lease.

Section 28. BINDING EFFECT.

All terms, conditions and covenants to be observed and performed by the parties hereto shall be applicable to and binding upon their respective heirs, administrators, executors, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

CITY OF ENGLEWOOD, COLORADO  
"City"

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

BROKEN T PARTNERS LLC  
"Trainer"

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

STATE OF Colorado,  
COUNTY OF Douglas ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015,  
by Kevin M. Hollern as \_\_\_\_\_ of Broken T Partners LLC.

My Commission expires: 2/22/17

Notary Public Gonnie Diane Tacito Keiderling



BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015

COUNCIL BILL NO. 9  
INTRODUCED BY COUNCIL  
MEMBER OLSON

AN ORDINANCE AMENDING TITLE 1, CHAPTER 5, SECTION 1, OF THE ENGLEWOOD MUNICIPAL CODE 2000, RELATING TO REDISTRICTING OF CITY COUNCIL DISTRICTS WITHIN THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Englewood City Council established the current Council District boundaries by the passage of Ordinance No. 1, Series of 2011; and

WHEREAS, pursuant to Article III, Section 20, of the Englewood Home Rule Charter, the four Council Districts shall be contiguous and compact and have approximately the same number of registered voters, and every four years Council shall make such divisions, changes, and consolidations necessary to carry out the intent of Article III, Section 20, of the Home Rule Charter; and

WHEREAS, the Englewood City Charter requires that the number of registered voters should vary no more than 15% between the highest and lowest Council Districts; and

WHEREAS, the Article V, Section 46 of the Constitution of the State of Colorado has a population provision that case law supports, even though the provision is not made specifically applicable to municipalities; and

WHEREAS, the Constitution of the State of Colorado provision stipulates that the population of the districts reflect no more than a 5% differential between the most and the least populated district; and

WHEREAS, the proposed redistricting meets both the population and registered voter criteria; and

WHEREAS, the proposed redistricting meets the registered voter criteria of the Englewood Home Rule Charter with a 11.9% differential; and

WHEREAS, pursuant to population requirements established by the Constitution of the State of Colorado, Article V, Section 46, the proposed redistricting meets the population criteria with a 4.2% differential; and

WHEREAS, the Englewood Home Rule Charter requires that any redistricting be completed at least six months prior to the General Municipal Election November 3, 2015 at which it is to become effective.

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 amends Title 1, Chapter 5, Section 1, of the Englewood Municipal Code 2000, to read as follows:

**1-5-1: Council Districts.**

*A. Districts Described.*

Each district is located in the State of Colorado and the County of Arapahoe.

*Council District No. 1:* Council District No. 1 shall include and be comprised of all that portion of the City lying northerly and westerly of the following described line: Beginning at the intersection of the easterly prolongation of the centerline of West ~~Kenyon Avenue~~ Jefferson Avenue and the westerly City Limit line of Englewood; thence easterly along said centerline of West ~~Kenyon~~ Jefferson Avenue to the intersection at South ~~Broadway~~ Delaware Street; thence ~~northerly~~ southerly along the centerline of South ~~Broadway~~ Delaware Street to the intersection at ~~East Floyd~~ West Kenyon Avenue; thence easterly along the ~~said~~ centerline of ~~East Floyd~~ West Kenyon Avenue to the intersection at South ~~Downing Street~~ Broadway; thence northerly along the centerline of South ~~Downing Street~~ Broadway to ~~its~~ the intersection at ~~East Hampden Avenue~~; thence easterly along the centerline of ~~East Hampden Avenue~~ to the intersection at South Logan Street; thence northerly along the centerline of South Logan Street to the intersection at ~~East Floyd Avenue~~; thence easterly along the centerline of ~~East Floyd Avenue~~ to the intersection at ~~South Clarkson Street~~; thence northerly along the centerline of South Clarkson Street to its intersection with the northerly City Limit line.

*Council District No. 2:* Council District No. 2 shall include and be comprised of all that portion of the City lying northerly and easterly of the following described line: Beginning at the intersection of the easterly prolongation of the centerline of East Kenyon Avenue and the easterly City Limit line of Englewood; thence westerly along said centerline of East Kenyon Avenue to the intersection at South Broadway; thence northerly along the centerline of South Broadway to the intersection at ~~East Floyd~~ Hampden Avenue; thence easterly along the centerline of East Hampden Avenue to the intersection at South Logan Street; thence ~~easterly~~ northerly along the centerline of ~~East Floyd Avenue~~ South Logan Street to the intersection at ~~South Downing Street~~ East Floyd Avenue; thence ~~northerly~~ easterly along the centerline of ~~South Downing Street~~ East Floyd Avenue to ~~its~~ the intersection at South Clarkson Street; thence northerly along the centerline of South Clarkson Street to its intersection with the northerly City Limit line.

*Council District No. 3:* Council District No. 3 shall include and be comprised of all that portion of the City bounded by the following described line: Beginning at the intersection of the easterly prolongation of the centerline of East Kenyon Avenue and the easterly City Limit line of Englewood; thence westerly along said centerline of East Kenyon Avenue to the intersection at South Broadway; thence continuing westerly along the centerline of West Kenyon Avenue to the intersection at South Delaware Street; thence northerly along the centerline of South Delaware Street to the intersection at West Jefferson Avenue; thence westerly along the centerline of West Jefferson Avenue and along the prolongation of the centerline of West Jefferson Avenue to the westerly City Limit line of Englewood; ~~its intersection with~~ thence southwestly along said ~~the~~ westerly City Limit line to its intersection with the centerline at West Oxford Avenue; thence easterly along said centerline of West Oxford Avenue to the intersection at South Delaware Street; thence southerly along the centerline of South Delaware Street to the intersection at West Stanford Avenue; thence easterly along the centerline of West Stanford Avenue to the intersection at South Broadway; thence southerly along the centerline of South Broadway to the intersection at East Belleview Avenue; thence easterly along the centerline of East Belleview Avenue to its intersection with the City Limit line; thence continuing easterly and along said City Limit line to the easterly City Limit line at South Clarkson Street; thence northerly along said City Limit line to the intersection with the prolongation of the centerline of East Kenyon Avenue, said point also being the Point of Beginning.

*Council District No. 4:* Council District No. 4 shall include and be comprised of all that portion of the City lying southerly and westerly of the following described line: Beginning at the intersection of the centerline of West Oxford Avenue and the westerly City Limit line of Englewood; thence easterly along said centerline of West Oxford Avenue to the intersection at South Delaware Street; thence southerly along the centerline of South Delaware Street to the intersection at West Stanford Avenue; thence easterly along the centerline of West Stanford Avenue to the intersection at South Broadway; thence southerly along the centerline of South Broadway to the intersection at East Belleview Avenue; thence easterly along the centerline of East Belleview Avenue to its intersection with the City Limit line.

- B. *Equivalent Size.* The City Council finds, determines and declares that the four (4) districts, as hereinabove established, contain an approximately similar number of citizens as determined by the ~~2000~~ 2010 Census figures. The districts contain a similar number of registered voters as determined by the number of registered voters as of November ~~3, 2009~~ 5, 2013, and the variance between the district with the highest number of registered voters and the district with the lowest number of registered voters is not in excess of fifteen percent (15%).
- C. *Annexations.* All territory annexed to the City shall be and becomes a part of the Council district to which the said district is contiguous, until such time as the Council shall redistrict the City.

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

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

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

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

Introduced, read in full, and passed on first reading on the 6th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 8th day of April, 2015 for thirty (30) days.

Read by title and passed on final reading on the 20th day of April, 2015.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2015, on the 23<sup>rd</sup> day of April, 2015.

Published by title on the City's official website beginning on the 22nd day of April, 2015 for thirty (30) days.

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

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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 2015.

---

Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015

COUNCIL BILL NO. 10  
INTRODUCED BY COUNCIL  
MEMBER GILLIT

AN ORDINANCE APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ENGLEWOOD, AND SOUTH SUBURBAN PARK AND RECREATION DISTRICT APPROVING AN EASEMENT ACROSS CITY PROPERTY FOR A SEGMENT OF THE BIKE PATHWAY.

WHEREAS, the City of Englewood is the owner of the property known as the “Orphan Property”; and

WHEREAS, the City granted an easement across this property to the South Suburban Park and Recreation District for a bike path as a part of the South Suburban Bike Path System by Ordinance 24, series of 2011; and

WHEREAS, at no cost to the City the South Suburban Park and Recreation District constructed a bike path across this property; and

WHEREAS, the bike path, as built, was a different configuration from that of the easement previously granted; and

WHEREAS, the parties wish to amend the legal description of the easement to match the actual path.

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 approves this amendment to the Intergovernmental Agreement for an easement on the “Orphan Property” as described in Attachment I, attached hereto, for a segment of the bike path.

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.

Introduced, read in full, and passed on first reading on the 6th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 9<sup>th</sup> day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 8th day of April, 2015,

Read by title and passed on final reading on the 20th day of April, 2015.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2015, on the 23rd day of April, 2015.

Published by title on the City's official website beginning on the 22nd day of April, 2015 for thirty (30) days.

---

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 2015.

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Loucrishia A. Ellis

AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT ENTITLED "AGREEMENT REGARDING GRANT OF RECREATIONAL TRAIL EASEMENT"

Amendment to an Intergovernmental Agreement entitled "Agreement regarding Grant of Recreational Trail Easement between the CITY OF ENGLEWOOD, Grantor and SOUTH SUBURBAN PARK AND RECREATION DISTRICT, Grantee and dated May 6, 2011.

WHEREAS, this Agreement, authorized by Ordinance No. 24, Series of 2011, granted an easement for a segment of a bike pathway across a parcel of City owned property known as the "Orphan Property" located at 4747 South Wyandot Street; and

WHEREAS, that Agreement was recorded at reception No. D1096537 dated October 6, 2011; and

WHEREAS, that Agreement provided a legal description for the easement consisting of a twelve foot (12') wide easement of 1,175 square feet; and

WHEREAS, the Pathway, as constructed, lies outside of the legal description for the Easement; and

WHEREAS, the parties wish to amend the Easement to accurately reflect the actual location of the Pathway as constructed.

THEREFORE, The parties wish to emend the "Agreement Regarding Grant of Recreational Trial Easement" dated May 6, 2011, to change the legal description of the easement to clarify the correct location of the Bike Path and Easement as shown on the attached Exhibit A. All other terms of the Easement shall remain the same.

CITY OF ENGLEWOOD, COLORADO  
a municipal corporation

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

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

ATTEST:

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

~~SOUTH SUBURBAN PARK AND RECREATION DISTRICT~~

~~John K. Ostermiller, Chairman~~  
SIGNED this 17<sup>th</sup> day of March, 2015.

ATTEST

\_\_\_\_\_  
, Secretary

## EXHIBIT "A"

### LEGAL DESCRIPTION

A TRAIL EASEMENT OVER AND ACROSS THAT PARCEL OF LAND DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NUMBER D1050263 IN THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER; SITUATED IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE 6<sup>th</sup> PRINCIPAL MERIDIAN; COUNTY OF ARAPAHOE, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, MONUMENTED AS SHOWN HEREON AND HAVING AN ASSUMED BEARING OF NORTH 00°03'44" EAST.

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL OF LAND DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NUMBER D1050263, WHENCE THE WEST QUARTER CORNER OF SAID SECTION 9 BEARS NORTH 62°07'39" WEST, A DISTANCE OF 607.26 FEET;

THENCE NORTH 12°56'34" EAST, ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 60.51 FEET;

THENCE NORTH 77°39'44" EAST, A DISTANCE OF 6.81 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 50.04 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 71°24'44" WEST;

THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 34°56'09", AN ARC LENGTH OF 30.51 FEET TO A POINT ON SAID WEST LINE;

THENCE NORTH 12°56'34" EAST, ALONG SAID WEST LINE, A DISTANCE OF 25.08 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 66.04 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 54°18'28" WEST;

THENCE THE FOLLOWING FOUR (4) COURSES;

1. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°29'14", AN ARC LENGTH OF 52.43 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE EASTERLY HAVING A RADIUS OF 35.00 FEET;
2. SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 63°25'46", AN ARC LENGTH OF 38.75 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 72.12 FEET;
3. SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°07'51", AN ARC LENGTH OF 24.08 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 229.55 FEET;
4. SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°59'27", AN ARC LENGTH OF 48.04 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL;

THENCE NORTH 77°22'53" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 28.75 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 245.55 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 49°16'19" EAST;

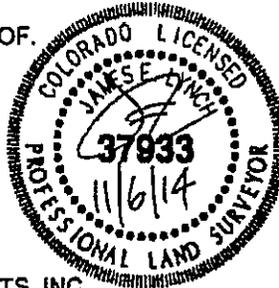
THENCE THE FOLLOWING FOUR (4) COURSES;

1. NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $06^{\circ}13'28''$ , AN ARC LENGTH OF 26.68 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 56.12 FEET;
2. THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $15^{\circ}25'13''$ , AN ARC LENGTH OF 15.11 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 20.00 FEET;
3. THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $100^{\circ}13'01''$ , AN ARC LENGTH OF 34.98 FEET;
4. SOUTH  $29^{\circ}51'32''$  WEST, A DISTANCE OF 14.18 FEET TO A POINT ON SAID SOUTH LINE;

THENCE NORTH  $77^{\circ}03'26''$  WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 7.88 FEET TO THE POINT OF BEGINNING.

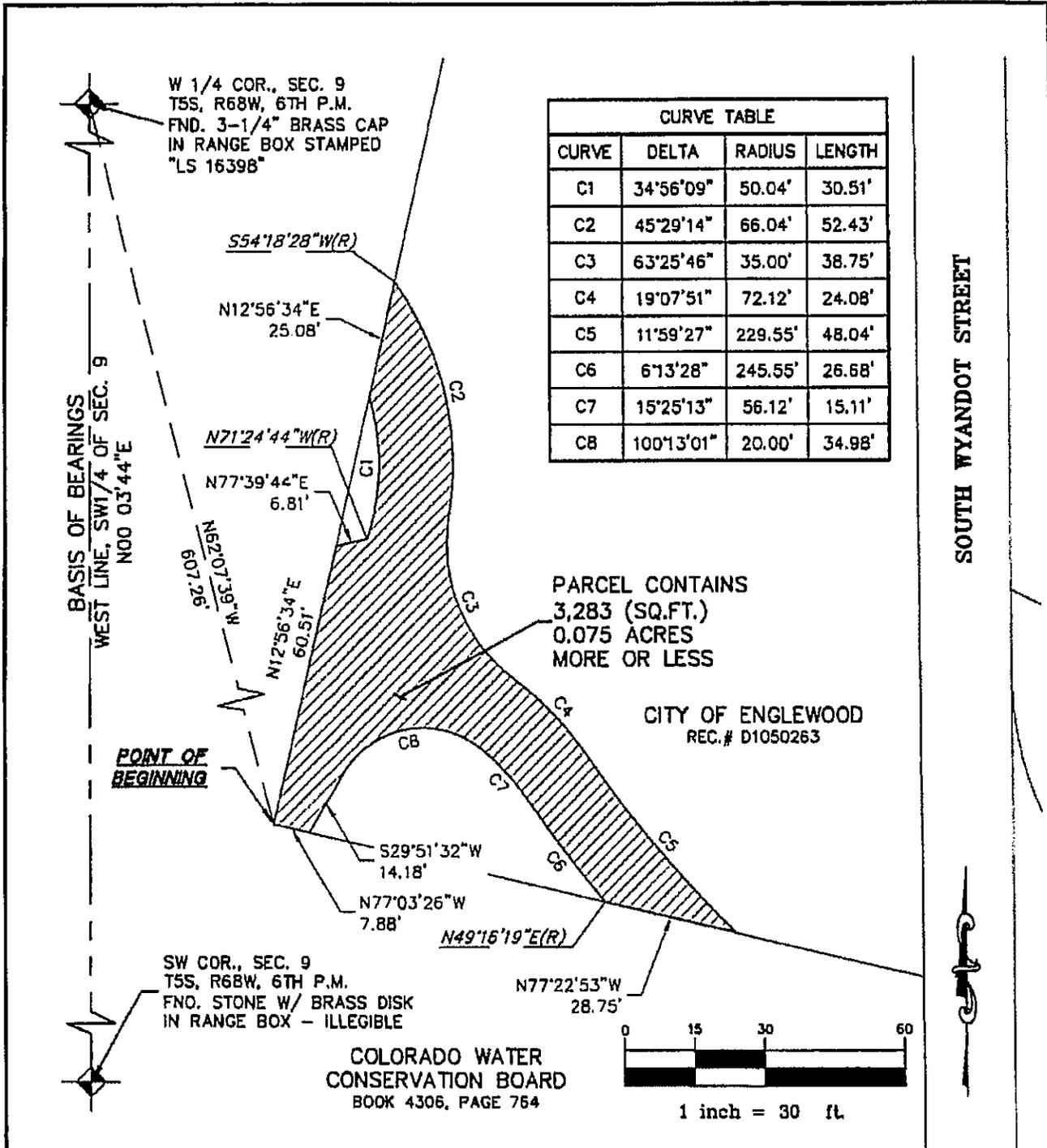
CONTAINING AN AREA OF 0.075 ACRES, (3,283 SQUARE FEET), MORE OR LESS.

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: \\V004-07 - By By Desk And Easement.Dwg  
DWG NAME: 76614-07 Trail Easement.DWG  
DWG: JEL COK: JRW  
DATE: 10/27/14  
SCALE: 1"=30'



300 East Mineral Ave,  
Suite 1  
Littleton, Colorado 80121  
Phone: (303) 773-1890  
Fax: (303) 773-1897  
www.aztecconsultants.com

**EASEMENT EXHIBIT**  
SW 1/4, SEC. 9, T5S, 568W, 6TH P.M.  
COUNTY OF ARAPAHOE, COLORADO  
JOB NUMBER 76614-07 3 OF 3 SHEETS

## COUNCIL COMMUNICATION

<b>Date:</b> March 20, 2015	<b>Agenda Item</b> 9 c i	<b>Subject:</b> Volunteers of America Letter of Agreement
<b>Initiated By</b> Department of Parks and Recreation	<b>Staff Source</b> Joe Sack, Recreation Services Manager	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Vision: To promote and ensure a high quality of life, economic vitality, and a uniquely desirable community identity through the delivery of reliable, affordable, and flexible services and by proactively collaborating with our citizens and businesses to develop an environment that fosters safety and opportunity.

Council has supported the Volunteers of America (VOA) Lunch program and services since the late 1970's. Council discussed the renewal of the VOA program at the March 16, 2015 Study Session.

### RECOMMENDED ACTION

Staff recommends that Council approve, by motion, the Letter of Agreement between the City of Englewood and Volunteers of America.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Volunteers of America Lunch Program is one of the original services that Malley Senior Recreation Center has provided since opening in 1977. The Center and the Volunteers of America (VOA) are partners serving a hot nutritious lunch Monday-Friday. Doors open at 11:30AM for coffee and conversation. VOA suggested donation for lunch is \$2.50. To qualify as a participant, an individual must be 60 years of age or older or an eligible participant's spouse. All other guests under 60 years old are welcome but must pay \$7.25. In 2014, a total of 6,734 meals were served.

According to the current agreement VOA is responsible for the meal site which includes providing the meal, supplies and training for all volunteers. The City is responsible to provide the facilities to have a meal site and recruit volunteers to serve the meal. Since 1998 the City has staffed the meal site program with a meal site coordinator and VOA has provided financial support to offset some of the costs of operating the Malley meal site.

The renegotiated Letter of Agreement seeks to renew the agreement between the City and VOA. No additional changes have been made.

### FINANCIAL IMPACT

VOA will increase the reimbursement from \$8,520 to \$9,600 annually for this program.

### LIST OF ATTACHMENTS

Letter of Agreement

we feed. we shelter. we support.



*we care*

*A Ministry of Service*

Kevin MacCary, Board Chair  
Dianna L. Kunz, President

2660 Larimer Street  
Denver, CO 80205  
Phone: 303.297.0408  
Fax: 720.264.3306  
www.voacolorado.org

## ***Letter of Agreement***

The Volunteers of America Colorado Branch Seniors' Nutrition Program, funded through the Denver Regional Council of Governments' Area Agency on Aging, and the City of Englewood, 1000 Englewood Parkway, Englewood, Colorado 80110, agrees to combine resources to provide congregate nutrition services for the elderly at a Volunteers of America Congregate Dining Center located at the Malley Senior Recreation Center, 3380 South Lincoln Street, Englewood Colorado, 80013.

### **The Malley Senior Recreation Center agrees:**

- To make a kitchen available for the use of the Congregate Dining Center Monday through Friday, 10:00 AM to 1:00 PM, and a hall available from 10:00 AM to 1:00 PM. for the purpose of serving meals and socializing. The Dining Center will be open five days a week, excluding Volunteers of America holidays and Malley Senior Recreation Center holidays or closures.
- To provide the following for the Dining Center:
  - A secure, sanitary space where Dining Center supplies may be stored;
  - All necessary utilities for the Dining Center, including water, sewer, electricity, heat, trash removal and pest control;
  - Tables, chairs and other necessary furnishings suitable for frail older adults;
  - Daily janitorial service consistent with food service standards, including daily sanitizing of floors and fixtures;
  - The use of a refrigerator for use by the nutrition programs.
- To provide outreach to the community about the Volunteers of America Seniors' Nutrition Program and Meals on Wheels programs;
- To support the program requirement that participants will have the opportunity to make voluntary confidential contributions. All individuals not eligible to participate in the meal program will pay for the meal at the guest rate of \$7.25 per meal or as amended by the Volunteers of America Nutrition Services Division;
- To provide a Dining Center Coordinator(s) to be responsible for daily supervision of the Dining Center, its participants and volunteers;
- All food served by Volunteers of America is to be consumed in the dining room. Food is not to be taken out of the Dining Center under any circumstances.

**Volunteers of America agrees:**

- Assign a staff supervisor to serve as liaison to the Malley Senior Recreation Center;
- Deliver the food and supplies needed for the Dining Center;
- Provide a Dining Center Instruction Manual for the Malley Senior Recreation Center staff and volunteers. This manual will be used as a reference in the operation of the Dining Center;
- Provide outreach to the community about the Volunteers of America Seniors' Nutrition Program and Meals on Wheels programs;
- Provide to the Malley Senior Recreation Center a sum of \$9600.00 per year payable at a rate of \$800.00 per month to assist with operations of the dining center.
- Volunteers of America Seniors' Nutrition Program staff will meet as necessary with the Malley Senior Recreation Center staff and volunteers to facilitate communication and problem -solving related to client issues and program operations.

This Letter of Agreement between the Volunteers of America Colorado Branch and the Malley Senior Recreation Center will remain in effect unless and until terminated, revised or altered upon (60) days written notice by either party.

By: \_\_\_\_\_  
Randy P. Penn  
Title: Mayor  
For: City of Englewood  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: Director of Nutrition Services  
For: Volunteers of America Colorado Branch  
Date: 11/5/2015

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
For: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: President  
For: Volunteers of America Colorado Branch  
Date: 11/5/2015

Volunteers of America Colorado Branch

Affordable Housing • Nutrition Services • Northern Colorado Services • Residential, Youth & Emergency Services • Southwestern Colorado Services • Volunteer Services



## COUNCIL COMMUNICATION

<b>Date</b> April 20, 2015	<b>Agenda Item</b> 9 c ii	<b>Subject</b> Contract Agreement for Technical Services with Integral Consulting Inc.
<b>INITIATED BY</b> Littleton/Englewood Wastewater Treatment Plant Supervisory Committee		<b>STAFF SOURCE</b> Mary Gardner, Environmental Compliance Manager Stewart H. Fonda, Director of Utilities

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approval of the 2015 Littleton/Englewood Wastewater Treatment Plant Budget.

### RECOMMENDED ACTION

The Littleton/Englewood Wastewater Treatment Plant Supervisory Committee recommended on April 8, 2015, Council approve by Motion, an addition to an existing contract with Integral Consulting, Inc., in the amount not to exceed \$45,274. This amount is for preparation and final testimony before the Colorado Water Quality Control Commission on a site specific standard for temperature, for the Littleton/Englewood Wastewater Treatment Plant (L/E WWTP).

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Littleton/Englewood Wastewater Treatment Plant (L/EWWTP) must comply with state mandated water quality standards. When those standards cannot be met the state allows an alternate site specific standard to be developed based on written policy and procedure. The alternative standard must be presented to the Water Quality Control Commission in a formal hearing.

L/E WWTP has been working with Integral Consulting, Inc., under a previously approved contract to develop a site specific standard for temperature on the South Platte River segment 14. This project consists of three phases. The first phase was data collection and analysis. This is now complete. The second phase was site specific standard development, including meetings with involved state agencies. This phase is now complete. The staff is now entering the final phase of the project which includes preparation and presentation of testimony to the Water Quality Control Commission at the Regulation 38 hearing in June 2015. For this hearing Integral will provide two technical experts for testimony; Jennifer Sampson and Alice Conovitz. Jennifer Sampson is a fish biologist who has completed all the biological information regarding fish on segment 14 of the South Platte River. Alice Conovitz has analyzed all the historical temperature data and the data that has been collected since 2007. They have put together the site specific proposal with the support and guidance from staff, Mary Gardner and legal, Andy Rottman, Hill & Robbins.

Integral Consulting, Inc., will be responsible for the following tasks:

- Responsive Prehearing statement
- Rebuttal Statement
- Two additional meetings with regulators

- Client strategy meetings
- Rulemaking hearing preparation and testimony
- Travel costs for Jennifer Sampson

The L/E WWTP currently does not possess the staff capacity to perform the above technical tasks; seeking outside consultant services has proven to be the most cost effective and time beneficial to meet the requirements.

Staff is recommending an additional \$45,274 be approved to complete the final phase of this project including all Prehearing and rebuttal documentation and testimony at the hearing.

#### **FINANCIAL IMPACT**

The amount has been budgeted and is available in the 2015 Budget.

#### **LIST OF ATTACHMENTS**

Professional Services Agreement  
Task Summary

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (the "Agreement") is made as of this 5 day of MARCH, 2014, (the "Effective Date") by and between INTEGRAL CONSULTING CORP. corporation ("Consultant"), and The City of Englewood, Colorado, a municipal corporation organized under the laws of the State of Colorado ("City").

City desires that Consultant, from time to time, provide certain consulting services, systems integration services, data conversion services, training services, and/or related services as described herein, and Consultant desires to perform such services on behalf of City on the terms and conditions set forth herein.

In consideration of the foregoing and the terms hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

**1. Definitions.** The terms set forth below shall be defined as follows:

(a) "Intellectual Property Rights" shall mean any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (1) rights associate with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (2) trademark and trade name rights and similar rights, (3) trade secret rights, (4) patents, designs, algorithms and other industrial property rights, (5) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (6) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

(b) "Work Product" shall mean all patents, patent applications, inventions, designs, mask works, processes, methodologies, copyrights and copyrightable works, trade secrets including confidential information, data, designs, manuals, training materials and documentation, formulas, knowledge of manufacturing processes, methods, prices, financial and accounting data, products and product specifications and all other Intellectual Property Rights created, developed or prepared, documented and/or

delivered by Consultant, pursuant to the provision of the Services.

**2. Statements of Work.** During the term hereof and subject to the terms and conditions contained herein, Consultant agrees to provide, on an as requested basis, the consulting services, systems integration services, data conversion services, training services, and related services (the "Services") as further described in Schedule A (the "Statement of Work") for City, and in such additional Statements of Work as may be executed by each of the parties hereto from time to time pursuant to this Agreement. Each Statement of Work shall specify the scope of work, specifications, basis of compensation and payment schedule, estimated length of time required to complete each Statement of Work, including the estimated start/finish dates, and other relevant information and shall incorporate all terms and conditions contained in this Agreement

**3. Performance of Services.**

(a) **Performance.** Consultant shall perform the Services necessary to complete all projects outlined in a Statement of Work in a timely and professional manner consistent with the specifications, if any, set forth in the Statement of Work, and in accordance with industry standards. Consultant agrees to exercise the highest degree of professionalism, and to utilize its expertise and creative talents in completing the projects outlined in a Statement of Work.

(b) **No Outstanding Statements of Work.** Either party may terminate this Agreement by providing the other party with at least thirty (30) days prior written notice of termination if there are no outstanding Statements of Work.

(c) **Material Breach.** If either party materially defaults in the performance of any term of a Statement of Work or this Agreement with respect to a specific Statement of Work (other than by nonpayment) and does not substantially cure such default within thirty (30) days after receiving written notice of such default, then the non-defaulting party may terminate this Agreement or any or all outstanding Statements of Work by providing ten (10) days prior written notice of termination to the defaulting party.

(d) **Bankruptcy or Insolvency.** Either party may terminate this Agreement effective upon written notice stating its intention to terminate in the event the other party: (1) makes a general assignment of all or substantially all of its assets for the benefit of its creditors; (2) applies for, consents to, or acquiesces in the appointment of a receiver, trustee, custodian, or liquidator for its business or all or substantially all of its assets; (3) files, or consents to or acquiesces in, a petition seeking relief or reorganization under any bankruptcy or insolvency laws; or (4) files a petition seeking relief or reorganization under any bankruptcy or insolvency laws is filed against that other party and is not dismissed within sixty (60) days after it was filed.

(e) **TABOR.** 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 to the contrary, all payment obligations of City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of City's current fiscal period ending upon the next

succeeding December 31. Financial obligations of 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 City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated.

(f) **Return of Property.** Upon termination of this Agreement, both parties agree to return to the other all property (including any Confidential Information, as defined in Section 11) of the other party that it may have in its possession or control.

9. **City Obligations.** City will provide timely access to City personnel, systems and information required for Consultant to perform its obligations hereunder. City shall provide to Consultant's employees performing its obligations hereunder at City's premises, without charge, a reasonable work environment in compliance with all applicable laws and regulations, including office space, furniture, telephone service, and reproduction, computer, facsimile, secretarial and other necessary equipment, supplies, and services. With respect to all third party hardware or software operated by or on behalf of City, City shall, at no expense to Consultant, obtain all consents, licenses and sublicenses necessary for Consultant to perform under the Statements of Work and shall pay any fees or other costs associated with obtaining such consents, licenses and sublicenses.

10. **Staff.** Consultant is an independent consultant and neither Consultant nor Consultant's staff is, or shall be deemed to be employed by City. City is hereby contracting with Consultant for the Services described in a Statement of Work and Consultant reserves the right to determine the method, manner and means by which the Services will be performed. The Services shall be performed by Consultant or Consultant's staff, and City shall not be required to hire, supervise or pay any assistants to help Consultant perform the Services under this Agreement. Except to the extent that Consultant's work must be performed on or with City's computers or City's

under the Statement of Work. Each party shall notify the other in writing of any replacement of a Project Manager. The Project Managers for each Statement of Work shall meet as often as either one requests to review the status of the Statement of Work.

### **13. Warranties.**

(a) **Authority.** Consultant represents and warrants that: (1) Consultant has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; (2) the execution of this Agreement by Consultant, and the performance by Consultant of its obligations and duties hereunder, do not and will not violate any agreement to which Consultant is a party or by which it is otherwise bound under any applicable law, rule or regulation; (3) when executed and delivered by Consultant, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (4) Consultant acknowledges that City makes no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement

(b) **Service Warranty.** Consultant warrants that its employees and consultants shall have sufficient skill, knowledge, and training to perform Services and that the Services shall be performed in a professional and workmanlike manner.

(c) **Personnel.** Unless a specific number of employees is set forth in the Statement of Work, Consultant warrants it will provide sufficient employees to complete the Services ordered within the applicable time frames established pursuant to this Agreement or as set forth in the Statement of Work.. During the course of performance of Services, City may, for any or no reason, request replacement of an employee or a proposed employee. In such event, Consultant shall, within five (5) working days of receipt of such request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable Services. Consultant shall require employees providing

Services at a City location to comply with applicable City security and safety regulations and policies.

(d) **Compensation and Benefits.** Consultant shall provide for and pay the compensation of employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Consultant or to any employee for Consultant's failure to perform its compensation, benefit, or tax obligations. Consultant shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

### **14. Indemnification.**

(a) **Consultant Indemnification.** Consultant shall indemnify, defend and hold harmless City, its directors, officers, employees, and agents and the heirs, executors, successors, and permitted assigns of any of the foregoing (the "City Indemnitees") from and against all losses, claims, obligations, demands, assessments, fines and penalties (whether civil or criminal), liabilities, expenses and costs (including reasonable fees and disbursements of legal counsel and accountants), bodily and other personal injuries, damage to tangible property, and other damages, of any kind or nature, suffered or incurred by a City Indemnitee directly or indirectly arising from or related to: (1) any negligent or intentional act or omission by Consultant or its representatives in the performance of Consultant's obligations under this Agreement, or (2) any material breach in a representation, warranty, covenant or obligation of Consultant contained in this Agreement.

(b) **Infringement.** Consultant will indemnify, defend, and hold City harmless from all Indemnifiable Losses arising from any third party claims that any Work Product or methodology supplied by Consultant infringes or misappropriates any Intellectual Property

insurance will list the City of Englewood as an additional insured. Each certificate of insurance shall provide that the issuing company shall not cancel, reduce, or otherwise materially change the insurance afforded under the above policies unless thirty (30) days' notice of such cancellation, reduction or material change has been provided to City.

**16. Rights in Work Product.**

(a) **Generally.** Except as specifically agreed to the contrary in any Statement of Work, all Intellectual Property Rights in and to the Work Product produced or provided by Consultant under any Statement of Work shall remain the property of Consultant. With respect to the Work Product, Consultant unconditionally and irrevocably grants to City during the term of such Intellectual Property Rights, a non-exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such Intellectual property Rights.

(b) **Know-How.** Notwithstanding anything to the contrary herein, each party and its respective personnel and consultants shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any Confidential Information of the other party.

**17. Relationship of Parties.** Consultant is acting only as an independent consultant and does not undertake, by this Agreement, any Statement of Work or otherwise, to perform any obligation of City, whether regulatory or contractual, or to assume any responsibility for City's business or operations. Neither party shall act or represent itself, directly or by implication, as an agent of the other, except as expressly authorized in a Statement of Work.

**18. Complete Agreement.** This Agreement contains the entire agreement

between the parties hereto with respect to the matters covered herein.

**19. Applicable Law.** Consultant shall comply with all applicable laws in performing Services but shall be held harmless for violation of any governmental procurement regulation to which it may be subject but to which reference is not made in the applicable Statement of Work. This Agreement shall be construed in accordance with the laws of the State of Colorado. Any action or proceeding brought to interpret or enforce the provisions of this Agreement shall be brought before the state or federal court situated in Arapahoe County, Colorado and each party hereto consents to jurisdiction and venue before such courts.

**20. Scope of Agreement.** If the scope of any provisions of this Agreement is too broad in any respect whatsoever to permit enforcement to its fullest extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent to and agree that such scope may be judicially modified accordingly and that the whole of such provision of this Agreement shall not thereby fail, but that the scope of such provision shall be curtailed only to the extent necessary to conform to law.

**21. Additional Work.** After receipt of a Statement of Work, City, with Consultant's consent, may request Consultant to undertake additional work with respect to such Statement of Work. In such event, City and Consultant shall execute an addendum to the Statement of Work specifying such additional work and the compensation to be paid to Consultant for such additional work.

**22. Sub-consultants.** Consultant may not subcontract any of the Services to be provided hereunder without the prior written consent of City. In the event of any permitted subcontracting, the agreement with such third party shall provide that, with respect to the subcontracted work, such sub-consultant shall be subject to all of the obligations of Consultant specified in this Agreement.

be coordinated with and approved in writing by City prior to the release thereof. Consultant shall not represent directly or indirectly that any Services provided by Consultant to City has been approved or endorsed by City or include the name, trade mark, or symbol of City on a list of Consultant's customers without City's express written consent.

**32. Nonexclusive Market and Purchase Rights.** It is expressly understood and agreed that this Agreement does not grant to Consultant an exclusive right to provide to City any or all of the Services and shall not prevent City from acquiring from other suppliers services similar to the Services. Consultant agrees that acquisitions by City pursuant to this Agreement shall neither restrict the right of City to cease acquiring nor require City to continue any level of such acquisitions. Estimates or forecasts furnished by City to Consultant prior to or during the term of this Agreement shall not constitute commitments.

**33. Survival.** The provisions of Sections 5, 8(g), 10, 11, 13, 14, 16, 17, 19, 23, 25 and 31 shall survive any expiration or termination for any reason of this Agreement.

**34. Verification of Compliance with C.R.S. 8-17.5-101 ET.SEQ. Regarding Hiring of Illegal Aliens:**

(a) **Employees, Consultants and Sub-consultants:** Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Consultant shall not contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant 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:** Consultant will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7), respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services. Consultant 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 Consultant obtains actual knowledge that a sub-consultant performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall;

(1) notify the sub-consultant and the City within three days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and

(2) terminate the subcontract with the sub-consultant if, within three days of receiving notice required pursuant to this paragraph the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

(d) **Duty to Comply with State Investigation:** Consultant 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 Consultant's breach of any section of this paragraph or provisions required pursuant to CRS 8-17.5-102. Consultant 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 34.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their authorized officers as of the day and year first above written. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CITY OF ENGLEWOOD, COLORADO

By: \_\_\_\_\_  
(Signature)  
STEWART H. FONDST  
(Print Name)  
Title: DIRECTOR OF UTILITIES  
Date: 3/5/14

Integral Consulting Inc.  
(Consultant Name)  
285 Century Pl. Suite 190  
Address  
Louisville, CO 80027  
City, State, Zip Code

By: \_\_\_\_\_  
(Signature)  
Randi Wexler  
(Print Name)  
Title: Principal  
Date: Feb 27, 2014



Integral Consulting Inc.  
605 S. College  
Suite 101  
Fort Collins, CO 80524

telephone: 303.404.2944  
facsimile: 303.404.2945  
www.integral-corp.com

## MEMORANDUM

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**To:** Mary Gardner, Littleton/Englewood Wastewater Treatment Plant  
**From:** Alice Conovitz, Marcia Greenblatt, and Jennifer Sampson  
**Date:** March 26, 2015  
**Subject:** Technical Tasks and Cost Estimate Proposal, Temperature Site Specific Standard Proposal – March 2015 through June 2015

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This memorandum summarizes technical tasks and associated costs proposed in support of Littleton/Englewood Wastewater Treatment Plant's (L/E WWTP) site specific standard proposal for water temperature. This task summary and cost estimate covers the time period following the Regulation 38 Proponent's Prehearing Statement submittal (March 11, 2015) through the final Rulemaking Hearing before the Colorado Water Quality Control Commission (WQCC) on June 8, 2015. The work elements summarized here build upon Integral's previous temperature data analyses and fish biological research work, as well as upon recommendations from the client and their legal counsel following review of Prehearing Statements submitted by the Colorado Water Quality Control Division (WQCD) and other Regulation 38 proponents.

During the performance period, Integral will provide technical support as directed by L/E WWTP. Specific task directives will be determined through meeting with L/E WWTP and their legal counsel.

- Responsive Prehearing Statement – Integral will develop a draft testimony document based on previously developed material and technical work in response to Prehearing Statements submitted by regulators and other proponents. This task summary assumes that L/E WWTP's legal counsel will conduct final review of the testimony and that Integral will not be responsible for final hard copy document submittal.
- Rebuttal Statement – Integral will develop a draft testimony document based on previously developed material and technical work in response to Responsive Prehearing Statements submitted by regulators and other proponents. This task assumes that L/E WWTP's legal counsel will conduct final review of the testimony and that Integral will not be responsible for final hard copy document submittal.

- Regulator Meetings – Integral staff will participate in up to two meetings with WQCD, Colorado Parks and Wildlife, EPA, or other entities as needed to negotiate the temperature proposal. This task summary assumes that A. Conovitz will attend in-person and J. Sampson will attend by phone.
- Client Strategy Meetings – Integral staff will participate in meetings with L/E WWTP and their legal counsel to prepare for regulator meetings, responsive prehearing statements, and rebuttal statements. This task summary assumes that all meetings will be via teleconference.
- Rulemaking Hearing Preparation and Participation – Integral will prepare a 30-minute PowerPoint presentation from previously developed materials utilized in the Prehearing Statement, Responsive Prehearing Statement, Rebuttal, or regulator meetings. This task summary assumes one teleconference practice presentation to L/E WWTP and their legal counsel. Integral staff J. Sampson and A. Conovitz will attend in-person the entire Regulation 38 Rulemaking Hearing on June 8, 2015. The budget estimate includes travel and lodging costs for J. Sampson.

No additional literature reviews or compilation, processing, or analysis of fish or temperature data is anticipated at this time, and costs related to such activities are not included in the cost estimate.



CLIENT NAME Littleton/Englewood Wastewater Treatment Plant  
 Project Name South Platte River Rulemaking 2015, Temperature Standard  
 Rulemaking Hearing Support - Responsive Prehearing Statement, Rebuttal Statement, Hearing Participation - April 2015 through June 2015

Integral Project No. 1108			TOTAL BUDGET Tasks 1 - 6		Task 1		Task 2		Task 3		Task 4		Task 5		Task 6	
Integral Staff	Title/Role	Standard Rate (2015)	Rulemaking Hearing Support April 2015 through June 2015		Responsive Prehearing Statement		Rebuttal Statement		Regulator Meetings		Client Strategy Meetings		Rulemaking Hearing Preparation and Participation		Project Management	
			Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost
Greenblatt, Marcia	Principal	\$225	2	\$450		\$0		\$0		\$0		\$0		\$0	2	\$450
Nielsen, Dreas	Sr. Technical Advisor	\$250	4	\$1,000	2	\$500	2	\$500		\$0		\$0		\$0		\$0
Becker, Scott	Sr. Science Advisor	\$225	4	\$900	2	\$450	2	\$450		\$0		\$0		\$0		\$0
Sampson, Jennifer	Sr. Managing Scientist	\$215	84	\$18,060	20	\$4,300	20	\$4,300	8	\$1,720	4	\$860	32	\$6,880		\$0
Conovitz, Alice	Managing Scientist	\$170	86	\$14,620	20	\$3,400	20	\$3,400	8	\$1,360	4	\$680	28	\$4,760	6	\$1,020
Ashurst, Shannon	Senior Scientist	\$145	24	\$3,480	10	\$1,450	10	\$1,450		\$0		\$0	4	\$580		\$0
Byrd, Debbie	Document Production Sper	\$94	6	\$564	2	\$188	2	\$188		\$0		\$0	2	\$188		\$0
Judy Breen	Managing Editor	\$125	18	\$2,250	6	\$750	6	\$750		\$0		\$0	6	\$750		\$0
Leanna Lehmer	Project Coordinator	\$85	12	\$1,020	4	\$340	4	\$340		\$0		\$0	4	\$340		\$0
Diana Dishman	Scientist	\$102	0	\$0		\$0		\$0		\$0		\$0		\$0		\$0
<b>Subtotal Labor</b>			<b>240</b>	<b>\$42,344</b>	<b>66</b>	<b>\$11,378</b>	<b>66</b>	<b>\$11,378</b>	<b>16</b>	<b>\$3,080</b>	<b>8</b>	<b>\$1,540</b>	<b>76</b>	<b>\$13,498</b>	<b>8</b>	<b>\$1,470</b>
<b>Other Direct Costs</b>																
	Direct Project Expenses (\$6/hr)			\$1,440		\$396		\$396		\$96		\$48		\$456		\$48
	Conference Call Hosting			\$100		\$0		\$0		\$50		\$50		\$0		\$0
	Library			\$200		\$100		\$100		\$0		\$0		\$0		\$0
	Production Copying (B&W \$0.10 pp, color \$1.00 pp)			\$50		\$0		\$0		\$25		\$25		\$0		\$0
	Lodging & Per Diem			\$390		\$0		\$0		\$0		\$0		\$390		\$0
	Travel			\$750		\$0		\$0		\$50		\$50		\$650		\$0
	<b>Subtotal ODCs</b>			<b>\$2,930</b>		<b>\$496</b>		<b>\$496</b>		<b>\$221</b>		<b>\$173</b>		<b>\$1,496</b>		<b>\$48</b>
<b>TOTAL</b>				<b>\$45,274</b>		<b>\$11,874</b>		<b>\$11,874</b>		<b>\$3,301</b>		<b>\$1,713</b>		<b>\$14,994</b>		<b>\$1,518</b>

Notes and Assumptions

- (a) Regulator meeting cost estimates include preparation for and attendance (in-person for A. Conovitz, call-in for J. Sampson) at two scheduled meetings.
- (b) Client strategy meeting cost estimates include phone calls, emails, and/or in-person discussions with L/E WWTP staff and/or their legal counsel.
- (c) Rulemaking hearing preparation assumes preparation of a 30-minute PowerPoint presentation from previously developed materials, including a practice presentation to L/E WWTP and their legal counsel.  
 Rulemaking hearing participation assumes that J. Sampson and A. Conovitz will attend the entire Regulation 38 Rulemaking Hearing from 10:00 a.m. to 5:00 p.m. on June 8, 2015.
- (d) Travel and lodging costs estimates include the following assumptions:  
 Lodging assumes two nights at \$150/night for J. Sampson.  
 Per diem assumes \$45/day for two days for J. Sampson.  
 Travel includes airfare for J. Sampson to/from Denver/Seattle (estimated at \$450). Travel also includes rental car for two days (estimated at \$200.)  
 Travel and per diem costs are billed at cost plus 10%. Personal-owned vehicle mileage is billed in accordance with IRS guidelines at cost plus 10%.

## COUNCIL COMMUNICATION

<b>Date</b> April 20, 2015	<b>Agenda Item</b> 9 c iii	<b>Subject:</b> Award Professional Services Agreement for Advanced Traffic Management System
<b>INITIATED BY:</b> Department of Public Works	<b>STAFF SOURCE:</b> Rick Kahm, Director of Public Works Ladd Vostry, Traffic Engineer	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council adopted Ordinance No.35, Series of 2014, approving an Intergovernmental Agreement with Denver Regional Council of Governments for the 2014 MEPP program for purchase of Advanced Traffic Management System software. Staff discussed this Advanced Traffic Management System (ATMS) project at the April 13, 2015 Study Session.

### RECOMMENDED ACTION

Staff recommends that City Council approve, by motion, a Professional Services Agreement to deliver and install the Centrac's ATMS software. Staff recommends awarding the contract to the lowest acceptable bidder, Aegis ITS, Inc. in the amount of \$124,970.00.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City solicited proposals related to the procurement of an Advanced Traffic Management System (ATMS) to allow for replacement of the City's current traffic signal system software, *icons*. The Request for Proposal (RFP 14-030) detailed the information requested by the City to compare each proposal and make a selection of the most qualified proposer. The selected vendor was to provide an ATMS that meets the functional requirements, has future expandability, and is fully integrated, tested, and operational. The City received four proposals. As indicated in the RFP 14-030, the contract was to be awarded to the vendor that produced a proposal determined to be in the best interest of the City in price, functionality, technical support and licensing structure.

Based on these criteria, staff selected the Centrac's ATMS software from Aegis ITS, Inc., which provides the best value to the City.

### FINANCIAL IMPACT

This Professional Services Agreement is for procurement of the Advanced Traffic Management System (ATMS). The cost of the ATMS software is fully covered by federal funds with no local match required. There are no financial obligations for the City to purchase ATMS software other than providing funds up front which will be later reimbursed to the City by Denver Regional Council of Governments (DRCOG). Adequate funds are available in the Transportation System Upgrade PIF account.

### LIST OF ATTACHMENTS

Bid Tabulation Sheet  
Professional Services Agreement



**Professional Services Agreement**

(Over \$25,000)

**(PROFESSIONAL SERVICE PROJECTS  
TO INCLUDE A STATEMENT OF WORK)**

EXAMPLES: ENGINEERS, ARCHITECTS,  
AND CONSULTANTS

## PROFESSIONAL SERVICES AGREEMENT

Contract Number PSA/15-16

This Professional Services Agreement (the "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (the "Effective Date") by and between Aegis ITS, Inc., a \_\_\_\_\_ corporation ("Consultant"), and The City of Englewood, Colorado, a municipal corporation organized under the laws of the State of Colorado ("City").

City desires that Consultant, from time to time, provide certain consulting services, systems integration services, data conversion services, training services, and/or related services as described herein, and Consultant desires to perform such services on behalf of City on the terms and conditions set forth herein.

In consideration of the foregoing and the terms hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. **Definitions.** The terms set forth below shall be defined as follows:

(a) "Intellectual Property Rights" shall mean any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (1) rights associate with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (2) trademark and trade name rights and similar rights, (3) trade secret rights, (4) patents, designs, algorithms and other industrial property rights, (5) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, "rental" rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (6) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

(b) "Work Product" shall mean all patents, patent applications, inventions, designs, mask works, processes, methodologies, copyrights and copyrightable works, trade secrets including confidential information, data, designs, manuals, training materials and documentation, formulas, knowledge of manufacturing processes, methods, prices, financial and accounting data, products and product specifications and all other Intellectual Property Rights created,

developed or prepared, documented and/or delivered by Consultant, pursuant to the provision of the Services.

2. **Statements of Work.** During the term hereof and subject to the terms and conditions contained herein, Consultant agrees to provide, on an as requested basis, the consulting services, systems integration services, data conversion services, training services, and related services (the "Services") as further described in Schedule A (the "Statement of Work") for City, and in such additional Statements of Work as may be executed by each of the parties hereto from time to time pursuant to this Agreement. Each Statement of Work shall specify the scope of work, specifications, basis of compensation and payment schedule, estimated length of time required to complete each Statement of Work, including the estimated start/finish dates, and other relevant information and shall incorporate all terms and conditions contained in this Agreement

3. **Performance of Services.**

(a) **Performance.** Consultant shall perform the Services necessary to complete all projects outlined in a Statement of Work in a timely and professional manner consistent with the specifications, if any, set forth in the Statement of Work, and in accordance with industry standards. Consultant agrees to exercise the highest degree of professionalism, and to utilize its expertise and creative talents

in completing the projects outlined in a Statement of Work.

(b) **Delays.** Consultant agrees to notify City promptly of any factor, occurrence, or event coming to its attention that may affect Consultant's ability to meet the requirements of the Agreement, or that is likely to occasion any material delay in completion of the projects contemplated by this Agreement or any Statement of Work. Such notice shall be given in the event of any loss or reassignment of key employees, threat of strike, or major equipment failure. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

(c) **Discrepancies.** If anything necessary for the clear understanding of the Services has been omitted from the Agreement specifications or it appears that various instructions are in conflict, Consultant shall secure written instructions from City's project director before proceeding with the performance of the Services affected by such omissions or discrepancies.

**4. Invoices and Payment.** Unless otherwise provided in a Statement of Work, City shall pay the amounts agreed to in a Statement of Work within thirty (30) days following the acceptance by City of the work called for in a Statement of Work by City. Acceptance procedures shall be outlined in the Statement of Work. If City disputes all or any portion of an invoice for charges, then City shall pay the undisputed portion of the invoice by the due date and shall provide the following notification with respect to the disputed portion of the invoice. City shall notify Consultant as soon as possible of the specific amount disputed and shall provide reasonable detail as to the basis for the dispute. The parties shall then attempt to resolve the disputed portion of such invoice as soon as possible. Upon resolution of the disputed portion, City shall pay to Consultant the resolved amount.

**5. Taxes.** City is not subject to taxation. No federal or other taxes (excise, luxury, transportation, sales, etc.) shall be included in quoted prices. City shall not be obligated to pay or reimburse Consultant for

any taxes attributable to the sale of any Services which are imposed on or measured by net or gross income, capital, net worth, franchise, privilege, any other taxes, or assessments, nor any of the foregoing imposed on or payable by Consultant. Upon written notification by City and subsequent verification by Consultant, Consultant shall reimburse or credit, as applicable, City in a timely manner, for any and all taxes erroneously paid by City. City shall provide Consultant with, and Consultant shall accept in good faith, resale, direct pay, or other exemption certificates, as applicable.

**6. Out of Pocket Expenses.** Consultant shall be reimbursed only for expenses which are expressly provided for in a Statement of Work or which have been approved in advance in writing by City, provided Consultant has furnished such documentation for authorized expenses as City may reasonably request.

**7. Audits.** Consultant shall provide such employees and independent auditors and inspectors as City may designate with reasonable access to all sites from which Services are performed for the purposes of performing audits or inspections of Consultant's operations and compliance with this Agreement. Consultant shall provide such auditors and inspectors any reasonable assistance that they may require. Such audits shall be conducted in such a way so that the Services or services to any other customer of Consultant are not impacted adversely.

**8. Term and Termination.** The term of this Agreement shall commence on the Effective Date and shall continue unless this Agreement is terminated as provided in this Section 8.

(a) **Convenience.** City may, without cause and without penalty, terminate the provision of Services under any or all Statements of Work upon thirty (30) days prior written notice. Upon such termination, City shall, upon receipt of an invoice from Consultant, pay Consultant for Services actually rendered prior to the effective date of such termination. Charges will be based on time expended for all incomplete tasks as

listed in the applicable Statement of Work, and all completed tasks will be charged as indicated in the applicable Statement of Work.

**(b) No Outstanding Statements of Work.** Either party may terminate this Agreement by providing the other party with at least thirty (30) days prior written notice of termination if there are no outstanding Statements of Work.

**(c) Material Breach.** If either party materially defaults in the performance of any term of a Statement of Work or this Agreement with respect to a specific Statement of Work (other than by nonpayment) and does not substantially cure such default within thirty (30) days after receiving written notice of such default, then the non-defaulting party may terminate this Agreement or any or all outstanding Statements of Work by providing ten (10) days prior written notice of termination to the defaulting party.

**(d) Bankruptcy or Insolvency.** Either party may terminate this Agreement effective upon written notice stating its intention to terminate in the event the other party: (1) makes a general assignment of all or substantially all of its assets for the benefit of its creditors; (2) applies for, consents to, or acquiesces in the appointment of a receiver, trustee, custodian, or liquidator for its business or all or substantially all of its assets; (3) files, or consents to or acquiesces in, a petition seeking relief or reorganization under any bankruptcy or insolvency laws; or (4) files a petition seeking relief or reorganization under any bankruptcy or insolvency laws is filed against that other party and is not dismissed within sixty (60) days after it was filed.

**(e) TABOR.** 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 to the contrary, all payment

obligations of City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of City's current fiscal period ending upon the next succeeding December 31. Financial obligations of 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 City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated.

**(f) Return of Property.** Upon termination of this Agreement, both parties agree to return to the other all property (including any Confidential Information, as defined in Section 11) of the other party that it may have in its possession or control.

**9. City Obligations.** City will provide timely access to City personnel, systems and information required for Consultant to perform its obligations hereunder. City shall provide to Consultant's employees performing its obligations hereunder at City's premises, without charge, a reasonable work environment in compliance with all applicable laws and regulations, including office space, furniture, telephone service, and reproduction, computer, facsimile, secretarial and other necessary equipment, supplies, and services. With respect to all third party hardware or software operated by or on behalf of City, City shall, at no expense to Consultant, obtain all consents, licenses and sublicenses necessary for Consultant to perform under the Statements of Work and shall pay any fees or other costs associated with obtaining such consents, licenses and sublicenses.

**10. Staff.** Consultant is an independent consultant and neither Consultant nor Consultant's staff is, or shall be deemed to be employed by City. City is hereby contracting with Consultant for the Services described in a Statement of Work and Consultant reserves the right to determine the method, manner and means by which the Services will be performed. The Services shall be performed by Consultant or Consultant's staff, and City shall not be required to hire, supervise or pay any

assistants to help Consultant perform the Services under this Agreement. Except to the extent that Consultant's work must be performed on or with City's computers or City's existing software, all materials used in providing the Services shall be provided by Consultant.

## **11. Confidential Information.**

(a) **Obligations.** Each party hereto may receive from the other party information which relates to the other party's business, research, development, trade secrets or business affairs ("Confidential Information"). Subject to the provisions and exceptions set forth in the Colorado Open Records Act, CRS Section 24-72-101 et. seq., each party shall protect all Confidential Information of the other party with the same degree of care as it uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable degree of care. Without limiting the generality of the foregoing, each party hereto agrees not to disclose or permit any other person or entity access to the other party's Confidential Information except such disclosure or access shall be permitted to an employee, agent, representative or independent consultant of such party requiring access to the same in order to perform his or her employment or services. Each party shall insure that their employees, agents, representatives, and independent consultants are advised of the confidential nature of the Confidential Information and are precluded from taking any action prohibited under this Section 11. Further, each party agrees not to alter or remove any identification, copyright or other proprietary rights notice which indicates the ownership of any part of such Confidential Information by the other party. A party hereto shall undertake to immediately notify the other party in writing of all circumstances surrounding any possession, use or knowledge of Confidential Information at any location or by any person or entity other than those authorized by this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall restrict either party with respect to information or data identical or

similar to that contained in the Confidential Information of the other party but which (1) that party rightfully possessed before it received such information from the other as evidenced by written documentation; (2) subsequently becomes publicly available through no fault of that party; (3) is subsequently furnished rightfully to that party by a third party without restrictions on use or disclosure; or (4) is required to be disclosed by law, provided that the disclosing party will exercise reasonable efforts to notify the other party prior to disclosure.

(b) **Know-How.** For the avoidance of doubt neither City nor Consultant shall be prevented from making use of know-how and principles learned or experience gained of a non-proprietary and non-confidential nature.

(c) **Remedies.** Each of the parties hereto agree that if any of them, their officers, employees or anyone obtaining access to the Confidential Information of the other party by, through or under them, breaches any provision of this Section 11, the non-breaching party shall be entitled to an accounting and repayment of all profits, compensation, commissions, remunerations and benefits which the breaching party, its officers or employees directly or indirectly realize or may realize as a result of or growing out of, or in connection with any such breach. In addition to, and not in limitation of the foregoing, in the event of any breach of this Section 11, the parties agree that the non-breaching party will suffer irreparable harm and that the total amount of monetary damages for any such injury to the non-breaching party arising from a violation of this Section 11 would be impossible to calculate and would therefore be an inadequate remedy at law. Accordingly, the parties agree that the non-breaching party shall be entitled to temporary and permanent injunctive relief against the breaching party, its officers or employees and such other rights and remedies to which the non-breaching party may be entitled to at law, in equity or under this Agreement for any violation of this Section 11. The provisions of this Section 11 shall survive the expiration or termination of this Agreement for any reason.

**12. Project Managers.** Each party shall designate one of its employees to be its Project Manager under each Statement of Work, who shall act for that party on all matters under the Statement of Work. Each party shall notify the other in writing of any replacement of a Project Manager. The Project Managers for each Statement of Work shall meet as often as either one requests to review the status of the Statement of Work.

**13. Warranties.**

(a) **Authority.** Consultant represents and warrants that: (1) Consultant has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; (2) the execution of this Agreement by Consultant, and the performance by Consultant of its obligations and duties hereunder, do not and will not violate any agreement to which Consultant is a party or by which it is otherwise bound under any applicable law, rule or regulation; (3) when executed and delivered by Consultant, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (4) Consultant acknowledges that City makes no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement

(b) **Service Warranty.** Consultant warrants that its employees and consultants shall have sufficient skill, knowledge, and training to perform Services and that the Services shall be performed in a professional and workmanlike manner.

(c) **Personnel.** Unless a specific number of employees is set forth in the Statement of Work, Consultant warrants it will provide sufficient employees to complete the Services ordered within the applicable time frames established pursuant to this Agreement or as set forth in the Statement of Work. During the course of performance of Services, City may, for any or no reason, request replacement of an employee or a proposed employee. In such event, Consultant shall, within five (5) working days of receipt of such

request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable Services. Consultant shall require employees providing Services at a City location to comply with applicable City security and safety regulations and policies.

(d) **Compensation and Benefits.** Consultant shall provide for and pay the compensation of employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Consultant or to any employee for Consultant's failure to perform its compensation, benefit, or tax obligations. Consultant shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

**14. Indemnification.**

(a) **Consultant Indemnification.** Consultant shall indemnify, defend and hold harmless City, its directors, officers, employees, and agents and the heirs, executors, successors, and permitted assigns of any of the foregoing (the "City Indemnitees") from and against all losses, claims, obligations, demands, assessments, fines and penalties (whether civil or criminal), liabilities, expenses and costs (including reasonable fees and disbursements of legal counsel and accountants), bodily and other personal injuries, damage to tangible property, and other damages, of any kind or nature, suffered or incurred by a City Indemnitee to the extent directly or indirectly arising from or related to: (1) any negligent or intentional act or omission by Consultant or its representatives in the performance of Consultant's obligations under this Agreement, or (2) any material breach in a representation, warranty, covenant or obligation of Consultant contained in this Agreement.

(b) **Infringement.** Consultant will indemnify, defend, and hold City harmless from

all Indemnifiable Losses arising from any third party claims that any Work Product or methodology supplied by Consultant infringes or misappropriates any Intellectual Property rights of any third party; provided, however, that the foregoing indemnification obligation shall not apply to any alleged infringement or misappropriation based on: (1) use of the Work Product in combination with products or services not provided by Consultant to the extent that such infringement or misappropriation would have been avoided if such other products or services had not been used; (2) any modification or enhancement to the Work Product made by City or anyone other than Consultant or its sub-consultants; or (3) use of the Work Product other than as permitted under this Agreement.

**(c) Indemnification Procedures.** Notwithstanding anything else contained in this Agreement, no obligation to indemnify which is set forth in this Section 14 shall apply unless the party claiming indemnification notifies the other party as soon as practicable to avoid any prejudice in the claim, suit or proceeding of any matters in respect of which the indemnity may apply and of which the notifying party has knowledge and gives the other party the opportunity to control the response thereto and the defense thereof; provided, however, that the party claiming indemnification shall have the right to participate in any legal proceedings to contest and defend a claim for indemnification involving a third party and to be represented by its own attorneys, all at such party's cost and expense; provided further, however, that no settlement or compromise of an asserted third-party claim other than the payment/money may be made without the prior written consent of the party claiming indemnification.

**(d) Immunity.** City, its officers, and its employees, 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, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to City, its officers, or its employees.

## 15. Insurance.

**(a) Requirements.** Consultant agrees to keep in full force and effect and maintain at its sole cost and expense the following policies of insurance during the term of this Agreement:

(1) The Consultant shall comply with the Workers' Compensation Act of Colorado and shall provide compensation insurance to protect the City from and against any and all Workers' Compensation claims arising from performance of the work under this contract. Workers' Compensation insurance must cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, as well as the Employers' Liability within the minimum statutory limits.

(2) Commercial General Liability Insurance and auto liability insurance (including contractual liability insurance) providing coverage for bodily injury and property damage with a combined single limit of not less than three million dollars (\$3,000,000) per occurrence.

(3) Professional Liability/Errors and Omissions Insurance covering acts, errors and omissions arising out of Consultant's operations or Services in an amount not less than one million dollars (\$1,000,000) per occurrence.

(4) Employee Dishonesty and Computer Fraud Insurance covering losses arising out of or in connection with any fraudulent or dishonest acts committed by Consultant personnel, acting alone or with others, in an amount not less than one million dollars (\$1,000,000) per occurrence.

**(b) Approved Companies.** All such insurance shall be procured with such insurance companies of good standing, permitted to do business in the country, state or territory where the Services are being performed.

**(c) Certificates.** Consultant shall provide City with certificates of insurance evidencing compliance with this Section 15

(including evidence of renewal of insurance) signed by authorized representatives of the respective carriers for each year that this Agreement is in effect. Certificates of insurance will list the City of Englewood as an additional insured. Each certificate of insurance shall provide that the issuing company shall not cancel, reduce, or otherwise materially change the insurance afforded under the above policies unless thirty (30) days' notice of such cancellation, reduction or material change has been provided to City.

**16. Rights in Work Product.**

(a) **Generally.** Except as specifically agreed to the contrary in any Statement of Work, all Intellectual Property Rights in and to the Work Product produced or provided by Consultant under any Statement of Work shall remain the property of Consultant. With respect to the Work Product, Consultant unconditionally and irrevocably grants to City during the term of such Intellectual Property Rights, a non-exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such Intellectual property Rights.

(b) **Know-How.** Notwithstanding anything to the contrary herein, each party and its respective personnel and consultants shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any Confidential Information of the other party.

**17. Relationship of Parties.** Consultant is acting only as an independent consultant and does not undertake, by this Agreement, any Statement of Work or otherwise, to perform any obligation of City, whether regulatory or contractual, or to assume any responsibility for City's business or operations. Neither party shall act or represent itself, directly or by

implication, as an agent of the other, except as expressly authorized in a Statement of Work.

**18. Complete Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein.

**19. Applicable Law.** Consultant shall comply with all applicable laws in performing Services but shall be held harmless for violation of any governmental procurement regulation to which it may be subject but to which reference is not made in the applicable Statement of Work. This Agreement shall be construed in accordance with the laws of the State of Colorado. Any action or proceeding brought to interpret or enforce the provisions of this Agreement shall be brought before the state or federal court situated in Arapahoe County, Colorado and each party hereto consents to jurisdiction and venue before such courts.

**20. Scope of Agreement.** If the scope of any provisions of this Agreement is too broad in any respect whatsoever to permit enforcement to its fullest extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent to and agree that such scope may be judicially modified accordingly and that the whole of such provision of this Agreement shall not thereby fail, but that the scope of such provision shall be curtailed only to the extent necessary to conform to law.

**21. Additional Work.** After receipt of a Statement of Work, City, with Consultant's consent, may request Consultant to undertake additional work with respect to such Statement of Work. In such event, City and Consultant shall execute an addendum to the Statement of Work specifying such additional work and the compensation to be paid to Consultant for such additional work.

**22. Sub-consultants.** Consultant may not subcontract any of the Services to be provided hereunder without the prior written consent of City. In the event of any permitted subcontracting, the agreement with such third party shall provide that, with respect to the

subcontracted work, such sub-consultant shall be subject to all of the obligations of Consultant specified in this Agreement.

**23. Notices.** Any notice provided pursuant to this Agreement shall be in writing to the parties at the addresses set forth below and shall be deemed given (1) if by hand delivery, upon receipt thereof, (2) three (3) days after deposit in the United States mails, postage prepaid, certified mail, return receipt requested or (3) one (1) day after deposit with a nationally-recognized overnight courier, specifying overnight priority delivery. Either party may change its address for purposes of this Agreement at any time by giving written notice of such change to the other party hereto.

**24. Assignment.** This Agreement may not be assigned by Consultant without the prior written consent of City. Except for the prohibition of an assignment contained in the preceding sentence, this Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto.

**25. Third Party Beneficiaries.** This Agreement is entered into solely for the benefit of the parties hereto and shall not confer any rights upon any person or entity not a party to this Agreement.

**26. Headings.** The section headings in this Agreement are solely for convenience and shall not be considered in its interpretation. The recitals set forth on the first page of this Agreement are incorporated into the body of this Agreement. The exhibits referred to throughout this Agreement and any Statement of Work prepared in conformance with this Agreement are incorporated into this Agreement.

**27. Waiver.** The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not effect in any way the full right to require such performance at any subsequent time; nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

**28. Force Majeure.** If performance by Consultant of any service or obligation under this Agreement is prevented, restricted, delayed or interfered with by reason of labor disputes, strikes, acts of God, floods, lightning, severe weather, shortages of materials, rationing, utility or communications failures, earthquakes, war, revolution, civil commotion, acts of public enemies, blockade, embargo or any law, order, proclamation, regulation, ordinance, demand or requirement having legal effect of any governmental or judicial authority or representative of any such government, or any other act whether similar or dissimilar to those referred to in this clause, which are beyond the reasonable control of Consultant, then Consultant shall be excused from such performance to the extent of such prevention, restriction, delay or interference. If the period of such delay exceeds thirty (30) days, City may, without liability, terminate the affected Statement of Work(s) upon written notice to Consultant.

**29. Time of Performance.** Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

**30. Permits.** Consultant shall at its own expense secure any and all licenses, permits or certificates that may be required by any federal, state or local statute, ordinance or regulation for the performance of the Services under the Agreement. Consultant shall also comply with the provisions of all Applicable Laws in performing the Services under the Agreement. At its own expense and at no cost to City, Consultant shall make any change, alteration or modification that may be necessary to comply with any Applicable Laws that Consultant failed to comply with at the time of performance of the Services.

**31. Media Releases.** Except for any announcement intended solely for internal distribution by Consultant or any disclosure required by legal, accounting, or regulatory requirements beyond the reasonable control of Consultant, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by Consultant or its

employees or agents relating to this Agreement or its subject matter, or including the name, trade mark, or symbol of City, shall be coordinated with and approved in writing by City prior to the release thereof. Consultant shall not represent directly or indirectly that any Services provided by Consultant to City has been approved or endorsed by City or include the name, trade mark, or symbol of City on a list of Consultant's customers without City's express written consent.

**32. Nonexclusive Market and Purchase Rights.** It is expressly understood and agreed that this Agreement does not grant to Consultant an exclusive right to provide to City any or all of the Services and shall not prevent City from acquiring from other suppliers services similar to the Services. Consultant agrees that acquisitions by City pursuant to this Agreement shall neither restrict the right of City to cease acquiring nor require City to continue any level of such acquisitions. Estimates or forecasts furnished by City to Consultant prior to or during the term of this Agreement shall not constitute commitments.

**33. Survival.** The provisions of Sections 5, 8(g), 10, 11, 13, 14, 16, 17, 19, 23, 25 and 31 shall survive any expiration or termination for any reason of this Agreement.

**34. Verification of Compliance with C.R.S. 8-17.5-101 ET.SEQ. Regarding Hiring of Illegal Aliens:**

**(a) Employees, Consultants and Sub-consultants:** Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Consultant shall not contract with a sub-consultant that fails to certify to the Consultant that the sub-consultant 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:** Consultant will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7), respectively, in order to confirm the employment eligibility of all employees who are

newly hired for employment to perform work under this public contract for services. Consultant 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 Consultant obtains actual knowledge that a sub-consultant performing work under this Contract knowingly employs or contracts with an illegal alien, the Consultant shall;

(1) notify the sub-consultant and the City within three days that the Consultant has actual knowledge that the sub-consultant is employing or contracting with an illegal alien; and

(2) terminate the subcontract with the sub-consultant if, within three days of receiving notice required pursuant to this paragraph the sub-consultant does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the sub-consultant if during such three days the sub-consultant provides information to establish that the sub-consultant has not knowingly employed or contracted with an illegal alien.

**(d) Duty to Comply with State Investigation:** Consultant 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 Consultant's breach of any section of this paragraph or provisions required pursuant to CRS 8-17.5-102. Consultant 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 34.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed by their authorized officers as of the day and year first above written. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

CITY OF ENGLEWOOD, COLORADO

By: \_\_\_\_\_ Date: 3/18/15  
(Department Director)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(City manager)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Mayor)

ATTEST: \_\_\_\_\_  
City Clerk

Accis ITB, Inc.  
(Consultant Name)

3360 E. La Palma Ave.  
Address

Ann Arbor MI 48106  
City, State, Zip Code

By: \_\_\_\_\_  
(Signature)  
Douglas Terry  
(Print Name)

Title: COO

Date: 3/13/15

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of \_\_\_\_\_

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: \_\_\_\_\_

\_\_\_\_\_  
NOTARY

*see attached*

## **SCHEDULE A**

### **OUTLINE OF STATEMENT OF WORK**

**1. GENERAL**

Aegis ITS and the City of Englewood executed a Professional Services Agreement for a project titled Advanced Traffic Management System (ATMS). Aegis ITS, an Econolite Group Company, is a manufacturer and supplier of traffic control equipment and advanced traffic management systems.

The City and Aegis ITS have agreed on a scope of work and a cost for the project as detailed in the Aegis ITS Request for Proposal 14-030, dated January 22, 2015. This Agreement shall commence upon the date of execution shown on the signature page of this Agreement.

**2. NAMES OF PROJECT COORDINATORS**

For City of Englewood	Ladd Vostry, Traffic Engineer
For Aegis ITS	Roy Howard, Sr. Project Manager

**3. SUMMARY OF PURPOSE FOR STATEMENT OF WORK**

Aegis shall deliver materials and services as listed in the PAYMENT SCHEDULED below; and as outlined in the Aegis ITS Proposal response to Request for Proposal 14-030, dated January 22, 2015. Aegis will deliver and install the Centrac's ATMS software on City-provided hardware and perform Acceptance Testing to validate compliancy to the Requirements Matrix.

**4. EQUIPMENT AND PROGRAMMING TO BE PROVIDED BY CITY (IF ANY)**

City shall provide the Computer Servers, Computer Workstations, and all peripheral devices to meet the specifications as recommended by Aegis. City shall ensure a working communication infrastructure is in place for proper operation of Centrac's.

**5. OTHER CONSULTANT RESOURCES**

In addition to Roy Howard, the project will utilize the rest of our project team who are all based in our Colorado Springs office. This includes Integration Engineers and Technicians who will be key to the successful implementation of Centrac's.

**6. DESCRIPTION OF WORK PRODUCT AND DELIVERABLES**

Aegis will supply and install the Centrac's ATMS software on City-provided hardware. The system will be configured with the required databases, maps, configuration files and tools necessary to make any future modifications by the City. Additional Centrac's modules will also be installed to make use of Server-to-Server, our DCMS (Data Collection and Management System) and our Advanced CCTV System.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Orange )

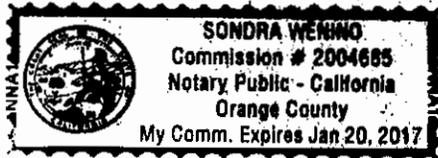
On 03/13/15 before me, Sondra Wenino, Notary Public,  
Date Here Insert Name and Title of the Officer

personally appeared Doog Terry  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature \_\_\_\_\_  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_



The Centrac ATMS platform will be provided and in addition to Server-to-Server, DCMS, and Advanced CCTV Modules.

Minutes of the Project Status Meetings will be provided by the Project Manager, in addition to a full test report of the Centrac Acceptance Test (CAT).

## 7. SPECIAL TERMS, IF ANY

### **Software and Equipment Warranty**

Consultant warrants to City that all software and equipment to be delivered hereunder will be free from defects in material or workmanship and will be of the kind and quality designated or specified by Consultant herein. This warranty shall apply only to defects appearing within one year from the date of initial acceptance by the City for system software and controller software. All other equipment not manufactured by Consultant carries the manufacturer's standard warranty.

The liability of Consultant under this warranty, or for any loss or damage to the equipment whether the claim is based on contract or negligence, shall not in any case exceed the cost of correcting defects in the equipment as herein provided and, upon the expiration of the warranty period, all such liability shall terminate. The foregoing shall constitute the exclusive remedy of ("City") and the exclusive liability of Consultant.

The foregoing warranty is exclusive and in lieu of all other warranties whether written, oral, implied or statutory. **NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE SHALL APPLY.** Aegis does not warrant any equipment of other manufacture designated by Agency. Aegis shall supply to Agency, in a timely manner, any software revisions of the standard PRODUCT software modules to correct "bugs" or deficiencies, which would appear within one (1) year from the date of final acceptance of the standard PRODUCT traffic management system.

### **Limitation of Liability**

Except for negligence and/or intentional acts, Consultant's liability on any claim for loss or damage arising out of, connected with, or resulting from this Agreement, or from the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, installation, technical direction of installation, inspection, repair, operation or use of any software and equipment covered by or furnished under this contract shall be limited to the Agreement total price. Said damages shall not exceed an amount equal to the insurance policy limits as required as part of this Agreement. Consultant's liability extends only to products provided and services performed during the period in which an active warranty or support agreement is in effect. Outside of a warranty period or support agreement, Consultant's liability for such claims shall be limited to the total Agreement price or actual damages whichever is less. In no event, whether as a result of breach of contract or warranty, shall Consultant be liable for special or consequential damages including but not limited to loss of profits or revenue, loss of use of the equipment, or any associated equipment, cost of capital, downtime costs, or claims of customers of the City for such damages.

Consultant will not be liable for any claims or back charges on behalf of the City arising out of this contract unless they are made in a reasonable time and supported in writing within thirty (30) days

from the date on which the City becomes aware of same, giving full details, including costs incurred, if any. Claims not presented within such time limit shall be deemed to have been waived by the City. Consultant will be given reasonable opportunity and access to investigate the merits of such claims or back charges and its liability limited as above.

### **Licenses**

Consultant grants to City for exclusive use in City, a fully paid non-exclusive, non-transferable product software license for the products and their specific licensing limits set forth under the Statement of Work. City shall be entitled to:

- a) Use the licensed programs but only in machine-readable form on licensed computers.
- b) Use the support material supplied but only as required to support the use of the licensed programs.
- c) Make only as many backup copies of the licensed programs in machine readable form as required to support the use of the licensed programs on each computer. All backup copies must include the copyright notice in the original form as it appears on the licensed programs.

City may not copy, modify, adapt, merge, disassemble, decompile or distribute the software, its documentation or create derivative works based upon the software. None of the support material in human readable form included with the licensed programs may be copied in any way. City may print any screen the software will allow, however, no copyright notices may be removed from the printing.

The licensed programs and support material included with this Agreement are confidential information that is the property of Consultant. The licensed programs, program concepts or any of the support materials shall not be made available to any other party or organization without the written consent of Consultant.

Title to all intellectual property rights including patent, trademark, copyright and trade secret rights and title to all ownership rights and all copies of and all media bearing the licensed programs, support materials and program concept shall remain in Consultant.

### **Data Rights**

City shall retain ownership and associated rights of all traffic data generated by the system provided under this agreement (the "data"). City shall not sell or transfer the data to any private entities for purposes not directly related to City activities without the prior written consent of Consultant. In furtherance of Consultant's commitment to the advancement of future system-based technologies and the betterment of the nation's traffic management planning, City may provide the data to Consultant at Consultant's request. Consultant shall not transfer of any data to private entities without the prior consent of City of Englewood.

### **Software Updates & New Features**

Software updates for the basic product system are included in the annual system update or through scheduled software releases during the warranty period or active system support agreement period. New software development for additional features beyond the basic product software for other agencies, or as part of Consultant's ongoing research and development shall be offered to City at a

fixed, quoted price, not to exceed pricing for an City of comparable size, architecture and integration. The offer shall remain firm for ninety (90) days from the date of the offer.

**8. MODE OF PAYMENT**

The Agency will pay ONE HUNDRED TWENTY FOUR THOUSAND NINE HUNDRED SEVENTY AND NO/100 DOLLARS (\$124,970.00) for everything furnished under this agreement. Mode of Payment shall be 100% upon completion of each milestone and/or deliverable per the payment schedule and milestones below.

**9. PAYMENT SCHEDULE**

City will pay Consultant for the work in accordance with the following payment schedule as outlined in the Aegis ITS Proposal response to Request for Proposal 14-030 (Appendix C – Cost Schedule), dated January 22, 2015. All payments to Consultant are contingent on Consultant's satisfying the Deliverables/Milestones set forth in the Payment Schedule. Payments shall be made upon City's written confirmation to Consultant that the Deliverables-Milestones have been satisfied.

Project Management	\$10,175.00
Furnish and Install System Software	\$ 8,341.00
Software Licensing Fee--System (100) Centrac Server-to-Server (100) DCMS (10) Camera (10) CCTV user	\$63,125.00
Software Licensing Fee—3 <sup>rd</sup> Party MS Server 2012 MS SQL 2014 HERE / MapDotNet	\$11,398.00
System Configuration and Integration	\$ 7,894.00
Generation of Databases, Maps, Files, etc.	\$ 4,224.00
Central System Software Testing	\$ 9,060.00
Trainings	\$10,753.00
Central System SMA (Gold)	\$ 9,990.00/yr

**10. SCHEDULE AND PERFORMANCE MILESTONES**

This schedule sets for the target dates and performance milestones for the preparation and delivery of the Deliverables by Consultant.

Performance Milestone	Responsible Party	Target Date
Notice to Proceed (Anticipated)	City	April 23, 2015
Furnish ATMS (on City-provided hdwr)	Aegis	April 24, 2015
Training	Aegis	May 22, 2015
System Acceptance and Validation	Aegis	June 23, 2015
Final Acceptance/Start of Warranty	Aegis	June 23, 2015

11. ACCEPTANCE AND TESTING PROCEDURES

Acceptance Testing will be conducted upon successful implementation of Centracs ATMS. A detailed description of the Centracs System Acceptance Test (CAT is explained in Section 10 of the Aegis ITS Proposal response to Request for Proposal 14-030, dated January 22, 2015.

12. LOCATION OF WORK FACILITIES

Factory set-up and configuration of the Computer Servers prior to delivery to the City will be performed in our labs at our Colorado Springs office at 2950 Professional Place. Once the Servers have been delivered the work will commence at the City facility at 1000 Englewood Parkway.

Substantially all of the work will be conducted by Consultant at its regular office located in Colorado Springs, CO.

City will provide the City office space and support as it agrees may be appropriate, at its Englewood, CO facility.

IN WITNESS WHEREOF, pursuant and in accordance with the Professional Services Agreement between the parties hereto dated \_\_\_\_\_, 20\_\_, the parties have executed this Statement of Work as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF ENGLEWOOD, COLORADO \_\_\_\_\_

By: \_\_\_\_\_  
(Signature) *[Handwritten Signature]*  
LADD NASTRY  
(Print Name)

Title: TRAFFIC ENGINEER

Date: 3/24/15

ARRS, Inc.  
Consultant Name

By: \_\_\_\_\_  
(Signature) *[Handwritten Signature]*  
Nikolas Terry  
(Print Name)

Title: COO

Date: 3/13/15

## COUNCIL COMMUNICATION

<b>Date:</b> April 20, 2015	<b>Agenda Item:</b> 11 a i	<b>Subject:</b> Bill for an Ordinance Limiting the Number of Medical Marijuana-Related Establishments in the City of Englewood to those Licensed on or Before April 20, 2015.
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Gryglewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

At the March 23, 2015 Study Session, City Council discussed and agreed to limit the number of medical marijuana establishments in the City of Englewood to those granted a license on or before April 20, 2015.

### RECOMMENDED ACTION

Staff recommends City Council approve a bill for an Ordinance making changes to the Englewood Municipal Code limiting the number of medical marijuana-related establishments to those licensed on or before April 20, 2015.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In November of 2000, voters of the State of Colorado passed Amendment 20 to the State Constitution legalizing limited amounts of medical marijuana for patients and their primary caregivers. The City has three medical marijuana establishments licensed in the City and one pending State approval.

Based on distancing requirements there are limited areas available for additional licensed establishments. Based on citizen opposition to previous license applications, any additional medical marijuana-related businesses will be adamantly opposed. The three licensed and one pending medical marijuana establishments should be adequate to meet the needs of patients in Englewood while retail/recreational customers can easily access businesses just north of the City border.

On November 6, 2012, Colorado became the first state to vote in favor of allowing the retail or recreational marijuana for adults over the age of 21. The City previously banned retail/recreational businesses in the City.

After April 20, 2015 Medical Marijuana Licensed Premises are limited to the following locations:

- 4695 South Windermere Street
- 4332 South Broadway
- 11 West Hampden Avenue, Suite 102
- 5005 South Federal Boulevard

The locations noted above may continue to operate as Medical Marijuana Licensed Premises by the current license holder and may be sold or transferred to a new owner in the future but the new owner must apply

for and be granted a license by the Local Liquor and Medical Marijuana Licensing Authority as well as the State of Colorado.

**FINANCIAL IMPACT**

This action will not have a financial impact.

**LIST OF ATTACHMENTS**

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2015

COUNCIL BILL NO. 13  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AMENDING TITLE 5, CHAPTER 3D, SECTION 2, OF THE  
ENGLEWOOD MUNICIPAL CODE 2000.

WHEREAS, in November of 2000, voters of the State of Colorado passed Amendment 20 to the State Constitution legalizing limited amounts of medical marijuana; and

WHEREAS, the City has three medical marijuana establishments licensed in the City and one pending State approval; and

WHEREAS, based on citizens opposition to previous license applications, any additional medical marijuana-related businesses will be adamantly opposed; and

WHEREAS, the three licensed and one pending medical marijuana establishments should be adequate to meet the needs of patients in Englewood while retail/recreational customers can easily access businesses just north of the City border; and

WHEREAS, after April 20, 2015 Medical Marijuana Licensed Premises will be limited to the following locations:

- 4695 South Windermere Street, Units A & B
- 4332 South Broadway
- 11 West Hampden Avenue, Suite 102
- 5005 South Federal Boulevard

WHEREAS, the locations noted above may continue to operate as Medical Marijuana Licensed Premises by the current license holder and may be sold or transferred to a new owner in the future but the new owner must apply for and be granted a license by the Liquor and Medical Marijuana Licensing Authority as well as the State of Colorado.

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

Section 1. The City Council of the City of Englewood, Colorado, hereby amends Title 5, Chapter 3D, Section 2, of the Englewood Municipal Code 2000, to read as follows:

**5-3D-2: Powers and Duties of the Local Licensing Authority.**

- A. The Local Licensing Authority shall grant or refuse local licenses for the cultivation, manufacture, distribution, and sale of Medical Marijuana as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this Title, or a rule promulgated pursuant to this Title; and may impose any penalty authorized by this Title or any rule promulgated pursuant to this Title. The Local Licensing Authority may take action with respect to a registration or a license pursuant to this Title, and in accordance with the procedures established pursuant to this Title.
- B. The Local Licensing Authority shall promulgate such rules and make such special rulings and findings as necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of Medical Marijuana and for the enforcement of this Chapter.
- C. The Local Licensing Authority hereby adopts the minimum licensing requirements of Article 43.3 of Title 12 C.R.S. when issuing a License.
- D. In addition to all other standards applicable to the issuance of licenses under this Code, the Local Licensing Authority hereby adopts additional standards for the issuance of Medical Marijuana Center, Medical Marijuana Optional Premises Cultivation Operation, or Medical Marijuana-Infused Products Manufacturer Licenses consistent with the intent of Article 43.3 of Title 12 C.R.S. and this Code as follows:
  - 1. Distance restrictions between premises in or out of City limits for which Local Licenses are issued;
    - (a) If the building in which Medical Marijuana is to be cultivated, manufactured or sold is located within two thousand feet (2,000') of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, seminary, or a residential child care facility or within two thousand five hundred feet (2,500') of an existing licensed Medical Marijuana Center, Medical Marijuana-Infused Products Manufacturer or Medical Marijuana Optional Premises Cultivation Operation. The provisions of this Section shall not affect the renewal or re-issuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality; nor shall the provisions of the Section apply to existing licensed premises on land owned by the State, or apply to a license in effect and actively doing business before said principal campus was constructed.
    - (b) The distances referred to in this Title are to be computed by direct measurement from the nearest property line of the land used for a school or campus to the nearest portion of the building in which Medical Marijuana is to be sold, cultivated or infused, using a route of direct pedestrian access.
    - (c) After April 20, 2015, Medical Marijuana Licensed Premises shall be limited to the following locations but shall otherwise be exempt from the distance limitations of this Chapter:

4695 South Windermere Street, Units A & B

4332 South Broadway

11 West Hampden Avenue, Suite 102

5005 South Federal Boulevard

2. Reasonable restrictions on the size of an applicant's Licensed Premises.
  - (a) All Medical Marijuana Optional Premises Cultivation Operations shall not exceed five thousand (5,000) square feet.
3. Any other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the License.
  - (a) Any cultivation or manufacture of Medical Marijuana within a Multi-Tenant building shall have a heating, ventilation and air conditioning system separate from the rest of the building.

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

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

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

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

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

Introduced, read in full, and passed on first reading on the 20th day of April, 2015.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 23rd day of April, 2015.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of April, 2015 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 20th day of April, 2015.

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Loucrishia A. Ellis

## COUNCIL COMMUNICATION

<b>Date:</b> April 20, 2015	<b>Agenda Item:</b> 11 c i	<b>Subject:</b> Resolution for a year-end supplemental appropriation to the 2014 Budget
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Gryglewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has not discussed this supplemental appropriation or transfer specifically. Council approved the 2014 Budget and Appropriations Ordinances on final reading on October 21, 2013. Council is scheduled to discuss the audit and 2014 Comprehensive Annual Financial Report at the May 18, 2015 Study Session.

### RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution for a supplemental appropriation to the 2014 Budget as follows:

#### SOURCES AND USES OF FUNDS:

##### GENERAL FUND:

##### SOURCE OF FUNDS:

Unassigned Fund Balance	\$938,000
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##### USE OF FUNDS:

Contingency – Leave Payouts for Retiring Employees	\$13,000
Fire Department – Anticipated Leave Payout/Overtime/Other	<u>\$925,000</u>
Total Use of Funds	\$938,000

##### RISK MANAGEMENT FUND:

##### SOURCE OF FUNDS:

Unrestricted Funds Available	\$80,000
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##### USE OF FUNDS:

Unanticipated Insurance Claims – Hail Storms	\$80,000
--	----------

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The supplemental appropriations for 2014 are presented for Council's consideration at this time because total expenditures for the year are often not fully known until all expenditures are paid, which is often months after year-end.

The Fire Department incurred additional, unanticipated overtime and other expenditures in 2014. Also, due to the pending contract a portion of anticipated payout of leave balances are required to be accrued in 2014. The Risk Management Fund had unexpected claims due to damage from two hail storms.

**FINANCIAL IMPACT**

The General Fund will experience a decrease of \$938,000 and Risk Management Fund's reserves will decrease \$80,000.

**LIST OF ATTACHMENTS**

Proposed Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2015

A RESOLUTION APPROVING A YEAR-END SUPPLEMENTAL APPROPRIATION TO THE 2014 BUDGET.

WHEREAS, the City of Englewood is required by City Charter to ensure that expenditures do not exceed legally adopted appropriations; and

WHEREAS, the 2014 Budget was submitted and approved by the Englewood City Council on October 21, 2013; and

WHEREAS, the supplemental appropriations for 2014 are presented for City Council's consideration at this time because total expenditures for the year are often not fully known until all expenditures are paid, which is often months after year-end; and

WHEREAS, the Fire Department incurred additional, unanticipated overtime and other expenditures in 2014; and

WHEREAS, due to the pending contract with the Denver Fire Department a portion of the anticipated payout of leave balances are required to be accrued in 2014; and

WHEREAS, the Risk Management Fund had unexpected claims due to damage from two hail storms.

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

Section 1. The Budget for the General Fund and the Risk Management Fund of the City of Englewood, Colorado, is hereby amended for the year 2014, as follows:

**GENERAL FUND:**

**SOURCE OF FUNDS:**

Unassigned Fund Balance	\$938,000
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**USE OF FUNDS:**

Contingency-Leave Payouts for Retiring Employees	\$ 13,000
Fire Department – Anticipated Leave Payout/Overtime/Other	<u>\$925,000</u>
Total Use of Funds	\$938,000

**RISK MANAGEMENT FUND:**

**SOURCE OF FUNDS:**

Unrestricted Funds Available	\$ 80,000
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**USE OF FUNDS:**

Unanticipated Insurance Claims – Hail Storms	\$ 80,000
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Section 2. The City Manager and the Director of Finance and Administrative Services are hereby authorized to make the above changes to the 2014 Budget for the City of Englewood.

ADOPTED AND APPROVED this 20<sup>th</sup> day of April, 2015.

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 2015.

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

## COUNCIL COMMUNICATION

<b>Date</b> March 20, 2015	<b>Agenda Item</b> 11 c ii	<b>Subject</b> Award Pirates Cove Slide Gel Coat Project
<b>Initiated By</b> Department of Parks and Recreation	<b>Staff Source</b> Joe Sack, Recreation Services Manager	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Vision: To promote and ensure a high quality of life, economic vitality, and a uniquely desirable community identity through the delivery of reliable, affordable, and flexible services and by proactively collaborating with our citizens and businesses to develop an environment that fosters safety and opportunity.

Council has supported previous repair and maintenance projects to keep the facility operational and provide a safe environment to all guests.

### RECOMMENDED ACTION

Staff recommends that Council approve a resolution authorizing a construction contract for the "Pirates Cove Slide Gel Coat Project". Staff recommends awarding the contract to The Slide Experts in the amount of \$33,600.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Resurfacing of the riding surface within a waterslide is a reoccurring maintenance item in the aquatics area. Resurfacing is more frequent in an open slide due to the effect of the sun and weather. The Pirates Cove Orange (open) slide is in need of resurfacing. After eleven years of use and the effects of the elements the riding surface is no longer smooth.

Resurfacing the riding surface will return the slide to the factory conditions and restore a comfortable riding experience to our guests. This repair will decrease safety issues and will allow the slide to be certified as required by the state.

The City of Englewood's objective is to hire a qualified and competent Contractor to provide all labor, materials and equipment necessary to gel coat the orange slide at Pirates Cove. The open flume orange slide is 298 linear feet. The existing Gel coating removal and cleaning of the slide and other incidental work is included as part of this bid. This project will begin after the signing of the contract and will be completed on or before May 8, 2015

### FINANCIAL IMPACT

Funds for this project were approved in the 2015 Conservation Trust Fund budget.

### LIST OF ATTACHMENTS

Bid Tabulation Sheet  
Memo - Justification  
Resolution

**City of Englewood Bid Tabulation Sheet**

**Bid Opening Date: March 24, 2015 2:00 P.M. MDT**

**Apparent Low Bidder**

**ITEM BID: ITB-15-004 Pirates Cove Slide Gel Coat Project**

<b>Vendor</b>	<b>Bid Bond Y/N</b>	<b>SOQ Y/N</b>	<b>Total Bid</b>	<b>Exceptions/Comments</b>
<b>The Slide Experts, Inc.</b>				
<b>5326 Citation Circle</b>				
<b>Parker, CO 80134</b>				
<b>720-940-0106</b>				<b>Gel Coat Interior of</b>
<b>James Gardiner - Owner</b>	<b>Y</b>	<b>Y</b>	<b>\$ 33,600.00</b>	<b>(1) slide</b>
<b>Slidecare, LLC</b>				
<b>32961 Pin Oak Parkway Unit #4</b>				
<b>Avon Lake, OH 44012</b>				
<b>440-930-2490</b>				<b>Slide Refinishing</b>
<b>George Fischer - Owner</b>	<b>Y</b>	<b>Y</b>	<b>\$ 24,444.00</b>	<b>Slide-Gloss</b>



## Memorandum

**TO:** Joe Sack, Recreation Services Manager  
**FROM:** Brad Anderson, Facility/Program Supervisor  
**DATE:** March 30, 2015  
**RE:** Pirates Cove Slide Gel-Coat Bid

---

The orange slide at Pirates Cove is in need of being gel-coated. After 11 years of use, the riding surface is no longer smooth. On March 4<sup>th</sup> an Invitation to Bid went out with bids being opened on March 24<sup>th</sup>. Two bids were turned in with the following;

The Slide Experts \$33,600  
Slidecare LLC bid \$24,444

The bid stated:

Remove existing gel coat: Remove existing gel coat to the fiberglass by sanding and removal of caulk in all joints.

Cleaning: Upon remove of existing gel coat, the slide shall be cleaned by power washing or wiping down to remove all old excess products.

Gel Coat: The application of gel coat shall be a minimum 20-25 mil thick.

Caulking: Caulk all seams with Sikaflex Caulk.

Slidecare's bid was written as a Product Substitution applied at a 7 mils thick.

I recommend awarding the bid to The Slide Experts due to the fact the bid is for the product specified in the specifications of the bid. I have talked to other operators who have had slides coated with the substitute material, with the product failing within 1-2 years. It is my anticipation the gel-coat from The Slide Experts will last a minimum 10 years.

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2015

A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR THE PIRATES COVE SLIDE GEL COAT PROJECT UNDER SECTION 116 (b) OF THE HOME RULE CHARTER.

WHEREAS, under Section 116 (b) of the Englewood Home Rule Charter Council shall have final approval of the lowest and best bid or all bids must be rejected. When no satisfactory bids are received or for other reasons deemed expedient to Council, contracts for public works or improvements may be negotiated, provided that contracts for which no competitive bids have been requested shall be invalid unless accepted by resolution which shall declare the reason for exception to the competitive bidding requirement; and

WHEREAS, resurfacing of the riding surface within a waterslide is a reoccurring maintenance item in the aquatics area; and

WHEREAS, resurfacing is more frequent in an open slide due to the effect of sun and weather; and

WHEREAS, the riding surface of the Pirates Cove orange (open) slide is no longer smooth and in need of resurfacing; and

WHEREAS, the bid by The Slide Experts of \$33,600.00 was not the lowest bidder but staff recommends the product over alternatives; and

WHEREAS, the Englewood City Council approved the 2015 Budget which included this project; and

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes a Contract with The Slide Experts, Inc. for the Pirates Cove Slide Gel Coat Project, as allowed by Section 116 (b) of the Englewood Home Rule Charter.

ADOPTED AND APPROVED this 20<sup>th</sup> day of April, 2015.

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 2015.

---

Loucrishia A. Ellis, City Clerk

**City of Englewood**  
1000 Englewood Parkway  
Englewood, CO 80110  
(303) 762-2412

CONTRACT FOR SERVICES  
AGREEMENT NUMBER CFS/15-22

**THIS CONTRACT** made and entered into on April 21, **2015** by and between The Slide Experts, Inc., 5326 Citation Circle, Parker, CO 80134  
Name Address City St Zip  
hereinafter called the **CONTRACTOR** and the **CITY OF ENGLEWOOD**, hereinafter called the **CITY**.

WITNESSETH; The parties do hereby contract and agree as follows:

1. The **CONTRACTOR** shall furnish the **CITY** the following services: The City of Englewood's objective is to hire a qualified and competent Contractor to provide all labor, materials and equipment necessary to gel coat the orange slide at Pirates Cove. The existing Gel coating removal and cleaning of the slide and other incidental work is included as part of this project as stated in bid specifications.

At the location of: Pirates Cove Family Aquatic Park, 1225 W. Bellview Ave. Englewood, CO 80110.

for a total contract price of:

**Thirty-Three Thousand and Six-Hundred Dollars (\$ 33,600.00 ).**

2. The term of this contract shall begin on April 21, 2015 with work to be completed on or before May 8, 2015.
3. The Contractor shall **not** commence work under this Contract until the insurance required under Paragraph 20 of the **General Terms and Conditions** has been acquired and satisfactory proof of such insurance has been submitted to the City.
4. The services shall be supervised by; or the project shall be inspected by the Project Manager for the City, or his or her authorized representative.
5. 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 the entire and only compensation therefore, such sum or sums of money as may be proper in accordance with the total estimated price or prices set forth in the Contractor's proposal attached hereto and made a part hereof. Payment shall be made in a lump sum upon final completion of the project unless other terms are agreed to by the City in the Statement of Work. A 5% retainage of the awarded project amount will be withheld until final inspection and acceptance by the Project Manager.
6. This Contract includes the General Terms and Conditions as printed and set forth in the following pages, and the Contractor, by executing this Contract, agrees to comply with all such General Terms and Conditions.
7. The Contractor shall guarantee all labor and material used in the performance of this Contract for a period of one year from the final written approval by the City or as per the Request for Qualification and Specifications.

8. **IN WITNESS WHEREOF**, the parties hereunto have subscribed to this Contract, including all Contract Documents as listed below:

Proposal/Scope of Work Statement  
 Purchase Order No.

Insurance Forms  
 Immigration documents  
(if applicable)

CITY OF ENGLEWOOD

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Department Director)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(City Manager)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Mayor)

ATTEST: \_\_\_\_\_  
City Clerk

The Slide Experts, Inc  
Contractor (print company name)

By: \_\_\_\_\_ Date: 4-7-15  
(Signature)  
James Gardiner Owner  
(Print name and Title)

STATE OF COLORADO )  
COUNTY OF Douglas ) ss.

On this 7 day of April, 2015, before me personally appeared James Gardiner, known to me to be the owner of The Slide Experts, Inc., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

My commission expires: 2/18/2019

\_\_\_\_\_  
NOTARY 0

**NOTE: Federal Regulations (Code Sections 6041 and 6209) require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the City requires your federal tax identification number or Social Security Number, whichever is applicable.**

**SHARON HANANY**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20154008851  
MY COMMISSION EXPIRES FEB. 18, 2019

## GENERAL TERMS AND CONDITIONS

1. **PROPOSAL ACCEPTANCE.** Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order at any time within sixty (60) days after the receipt of quotes unless otherwise stipulated. The City reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote.

2. **SITE EXAMINATION.** If applicable, Contractor must examine the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. By submitting their quote, the Contractor warrants that he or she (hereinafter he or his) made such site examination as they deem necessary regarding the condition of the site; its accessibility for materials, workmen and utilities and the Contractor's ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to such matters or for any other undiscovered conditions on the site.

3. **EQUIPMENT AND LABOR.** The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described. The services shall be performed at such times and places as directed by the authorized City representative as indicated in the work specifications or statement of work attached hereto.

4. **SUBCONTRACTORS.** Contractor agrees to bind every subcontractor to the terms of this contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this contract, Contractor shall be fully responsible to the City for acts and omissions of his subcontractor and of persons either directly or indirectly employed by himself. Nothing contained in the contract documents shall create any contractual relations between any subcontractor and the City.

5. **DEFAULT BY CONTRACTOR.** When Contractor, or any subcontractor, or vendor shall fail to deliver any article or service or shall deliver any article or service which does not conform to the work specifications or the Statement of Work, the City may, upon five (5) business days' prior written notice describing the default, at its option, annul and set aside the contract entered into with said Contractor, subcontractor or vendor either in whole or in part, and enter into a new contract in such a manner which would be to the best advantage of the City. The City reserves the right to cancel any articles or services which the Contractor may be unable to furnish because of economic conditions, governmental regulations or other similar causes beyond the control of the Contractor provided satisfactory proof is furnished to the City, if requested.

6. **CONTRACT CHANGES.** No changes or alterations to this contract shall be made without specific prior written approval by both parties.

7. **WORKERS.** Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor who the City may deem incompetent or unfit shall be dismissed from the job site and shall not again be employed at the site without written consent from the City.

8. **SUBSTITUTIONS.** No substitutions of materials or persons from those specified in the Statement of Work shall be made without the prior written approval of the City.

9. **CONTRACTOR SUPERVISION.** Contractor shall provide competent supervision of personnel employed on the job site, use of equipment, and quality of workmanship.

10. **CLEAN UP.** Debris shall be removed from the premises. The job site shall be kept in good order at all times when work is not actually

being performed and shall be maintained in a safe and clean condition.

11. **ACCESS TO WORK.** City representatives shall at all times have access to work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access.

12. **PROTECTION OF WORK AND PROPERTY.** The Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workmen and the public, and shall post danger signs warning against hazards created by such features in the course of the construction.

13. **OCCUPANCY.** The City reserves the right to occupy buildings at any time before formal contract completion and such occupancy shall not constitute final acceptance or approval of any part of the work covered by this contract, nor shall such occupancy extend the date specified for substantial completion of the work.

14. **ASSIGNMENT OF CONTRACT AND PURCHASE ORDER.** The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without the prior written consent of the City.

15. **FORCE MAJEURE CLAUSE.** The parties to the Contract shall be excused from performance hereunder during the time and to the extent that they are prevented from obtaining, delivering, or performing by an act of God, fire, strike, loss, shortage of transportation facilities, lock-out, or the commandeering of materials, products, plants or facilities by the government; when satisfactory evidence thereof is presented to the other party(ies), provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

16. **HOLD HARMLESS CONTRACT.** The Contractor shall save, defend, hold harmless and indemnify the City from and against any and all losses, damages, liabilities, claims, and costs of whatsoever kind and nature for injury to or death of any person and for loss or damage to any property occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations, or performance of work on property under the terms of this contract by any employee, agent, or representative of Contractor and/or its subcontractors unless such loss was a result of the negligent acts or omissions of the City.

17. **PAYMENT.** Unless otherwise specified, the Contractor shall render invoices for materials delivered or services performed under the Contract or Purchase Order. The City shall make payment for materials, supplies or other services furnished under this Contract in lump sum on completion of the work within thirty (30) days after delivery to and approval by the authorized City representative of all invoices and other documentary evidence reasonably required by the City including the satisfactory release of all liens or claims for liens by subcontractors, laborers, and material suppliers for work or materials provided under this Contract or Purchase Order (which approval shall not be unreasonably withheld).

18. **PERMITS AND LICENSES.** The Contractor and all of his employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, such licenses and permits as are required by law, including any licenses or permits required by the City in connection with the furnishing of materials, supplies, or services herein listed.

19. **CONTRACTOR NOT AN OFFICER, EMPLOYEE, OR AGENT OF THE CITY.** While engaged in or carrying out other terms and conditions of the Contract or Purchase Order, the

Contractor is an independent Contractor, and not an officer, employee, agent, partner, or joint venture of the City.

20. **CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE.** The Contractor shall not commence work under this contract until he has obtained the insurance required under this paragraph and satisfactory proof of such insurance has been submitted to City. Except for worker's compensation insurance, the policy shall not be amended or modified and the coverage amounts shall not be reduced without the City's prior written consent. The City shall be named as an additional insured and be furnished thirty (30) days written notice prior to cancellation. The Contractor shall not allow any subcontractor, employee or agent to commence work on this contract or any subcontract until this insurance has been obtained.

a) **WORKER'S COMPENSATION INSURANCE.** The Contractor shall procure and shall maintain during the life of this contract, Worker's Compensation Insurance on all of his employees to be engaged in work on the project under this contract and in case of any such work subcontracted, the Contractor shall require the subcontractor provide Worker's Compensation Insurance for all of the subcontractors employees to be engaged in such work unless such employees are covered by the Contractor's Worker's Compensation Insurance.

b) **CONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE.** The Contractor and any subcontractor shall procure and shall maintain during the life of this contract, Contractor's Public Liability Insurance in an amount not less than \$1,000,000 for injuries, including accidental death to any one person, and subject to the same limit for each person, in an amount not less than \$1,000,000 on account of one accident, and shall also maintain Contractor's Property Damage Insurance in an amount not less than \$1,000,000.

21. **WARRANTY/QUALITY.** The Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defects or failures of materials for a minimum period of one (1) year from delivery or the final completion date for the work. All workmanship and merchandise must be warranted to be in compliance with applicable Colorado energy, conservation, and environmental standards; unless a longer minimum period is required in the statement of work. Contractor shall furnish all manufactures' and supplier' written guarantees and warranties covering materials and equipment furnished pursuant to this Contract or Purchase Order.

22. **ASSIGNMENT OF CLAIMS.** In submitting a quote on this project, the Contractor or any subcontractor agreeing to supply goods, services, or materials, and entering into this contract, the Contractor and/or subcontractor do offer and agree to assign to the City all rights, title, and interest in and to all causes of action it may have pursuant this contract or subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor without further acknowledgment by the parties.

23. **COMPLIANCE WITH LAWS.** Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct or work as indicated or specified in the Statement of Work. If Contractor observes that any of the work required by this contract is at variance with any such laws, ordinances, rules or regulations, Contractor shall notify the City, in writing, and, at the sole option of the City, any necessary changes to the scope of work shall be made and this contract shall be appropriately amended, in writing, or this contract shall be terminated effective upon Contractor's receipt of a written termination notice from the City. If Contractor performs any work knowing it to be in violation of such laws, ordinances, rules or regulations and without first notifying the City of such violation, Contractor shall bear all costs arising therefrom.

24. **TIME IS OF THE ESSENCE.** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this contract.

25. **GOVERNING LAW.** This contract shall be governed by and construed in accordance with the laws of the State of Colorado. Venue will be proper in Arapahoe County, CO.

26. **NO ORAL MODIFICATION.** Any waiver, amendment, modification, consent or acquiescence with respect to this contract or any provision of this contract or with respect to any failure to perform in accordance therewith shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby.

27. **TABOR.** The parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). Any provision of this contract or its attachments which imposes upon the City, directly or indirectly, any financial obligation whatsoever to be performed or which may be performed in any fiscal year subsequent of the year of execution of this contract is expressly made contingent upon and subject to funds for such financial obligation being appropriated, budgeted and otherwise made available.

28. **COLORADO LABOR LAW.** If this project is for a public works project or public project, as defined in Section 8-49-102(2) C.R.S. the contractor shall comply with 8-17-101 C.R.S. which requires the contractor to use at least eighty percent (80%) Colorado labor for any public works project financed in a whole or in part by State, counties, school districts, or municipal monies.

29. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and this contract shall be read and enforced as though it were included therein.

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

(a) **Employees, Contractors and Subcontractors:** Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor shall not contract with a subcontractor that fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

(b) **Verification:** Contractor will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7) respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services. 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 subcontract 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 had 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).

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 30.

**(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

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## SCHEDULE A

### OUTLINE OF STATEMENT OF WORK

(Provide the requested below information)

1. GENERAL

The Slide Experts, Inc, 5326 Citation Circle, Parker, CO 80134, Owner James Gardiner,  
Telephone 720-940-0106  
Date of Execution: April 21, 2015

2. NAMES OF PROJECT COORDINATORS

Jim Gardiner 720-940-0106

3. SUMMARY OF PURPOSE FOR STATEMENT OF WORK

Overall Project: Power wash, repair, sand, caulk and gel coat interior of (1) open orange waterslide. Includes all labor, supervision, equipment and materials.

Remove existing gel coat: Remove existing gel coat to the fiberglass by sanding and removal of caulk in all joints. Sand entire Interior surfaces to a 1mil profile. Grind open tight seams to allow for caulking. Repair minor cracks, chips and damage.

Cleaning: upon removal of existing gel coat, the slide shall be cleaned by power washing or wiping down to remove all old excess product.

Gel Coat: Apply 20-25 plus mils of gel coat to Interior riding surfaces on your waterslides. Handling and use: All materials need to be stored at stable temperatures under 77° preferably indoors, and away from direct sunlight. A high quality methyl ethyl ketone peroxide (MEKP) catalyst should be used between 1.5 – 2.5%. The gelcoat with the catalyst must be gently stirred before taken in use. Product shall be no more than 4 months old.

Caulking: Caulk all seams on waterslide. Caulk all seams with Sikaflex chalk.

Training:The Slide Experts will train maintenance employees to better maintain waterslides.

Warranty: Include two year guarantee against chipping or flaking, includes material and labor.

4. EQUIPMENT AND PROGRAMMING TO BE PROVIDED BY CITY (IF ANY)

None

5. OTHER CONSULTANT RESOURCES

None

6. DESCRIPTION OF WORK PRODUCT AND DELIVERABLES

Overall Project: Power wash, repair, sand, caulk and gel coat interior of (1) open orange waterslide. Includes all labor, supervision, equipment and materials.

Gel Coat: Maxguard Gel Premium Gelcoat. Apply 20-25 plus mils of gel coat to Interior riding surfaces on your waterslides. Handling and use: All materials need to be stored at stable temperatures under 77° preferably indoors, and away from direct sunlight. A high quality methyl ethyl ketone peroxide (MEKP) catalyst should be used between 1.5 – 2.5%. The gelcoat with the catalyst must be gently stirred before taken in use. Product shall be no more than 4 months old.

Caulking. Caulk all seams on waterslide. Caulk all seams with Sikaflex chalk.

7. SPECIAL TERMS, IF ANY

None

8. MODE OF PAYMENT

Cash Disbursement – City of Englewood Check

9. PAYMENT SCHEDULE

City will pay Consultant for the work in accordance with the following payment schedule. All payments to Consultant are contingent on Consultant's satisfying the Deliverables/Milestones set forth in the Payment Schedule. Payments shall be made upon City's written confirmation to Consultant that the Deliverables-Milestones have been satisfied.

Purchase Order Number will be established at the time of contract execution. Contractor may invoice the City of Englewood up to 50% of at the time of contract execution and then invoice for the balance upon successful completion of the project.

10. SCHEDULE AND PERFORMANCE MILESTONES

This schedule sets for the target dates and performance milestones for the preparation and delivery of the Deliverables by Consultant.

None

11. ACCEPTANCE AND TESTING PROCEDURES

Final walk through with City staff which may include a water and rider test.

12. LOCATION OF WORK FACILITIES

Substantially all of the work will be conducted by Consultant at its regular office located in The Slide Experts, Inc, 5326 Citation Circle, Parker, CO 80134.

City will provide the City office space and support as it agrees may be appropriate, at its Pirates Cove Family Aquatic Park, 1225 W. Bellview Ave. Englewood, CO 80110, facility.

IN WITNESS WHEREOF, pursuant and in accordance with the Professional Services Agreement between the parties hereto dated April 21, 2015, the parties have executed this Statement of Work as of this 1 day of April, 2015.

**CITY OF ENGLEWOOD, COLORADO**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

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

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

The Slide Experts, Inc  
Consultant Name

By: \_\_\_\_\_  
(Signature)

James Cardiner  
(Print Name)

Title: President/owner

Date: 4/1/15

## INSURANCE

### Insurance Limits:

The Contractor shall carry throughout the life of the contract the insurance listed below:

<u>Under Section B</u>	<u>Minimum Limits</u>
Public Liability	\$1,000,000
Property Damage	\$1,000,000

<u>Under Section C</u>	<u>Minimum Limits</u>
Public Liability	\$1,000,000
Property Damage	\$1,000,000

### Public Liability and Property Damage Insurance:

The Contractor shall maintain during the life of this contract, Public Liability and Property Damage Insurance acceptable to the City, covering the work contracted and all operations in connection herewith, and whenever any of the work covered in the Contract is to be sublet, Contractor's Contingent or Protective Liability and Property Damage Insurance. Such insurance shall provide limits not less than those called for in these Special Provisions.

### Automotive Liability and Property Damage Insurance:

Whenever the work covered by the Contract shall involve the use of automotive equipment, the Contractor shall maintain during the life of the contract, Automotive Public Liability and Property Damage Insurance. This insurance shall provide limits not less than those called for in these Special Provisions to protect the Contractor from any and all claims arising from the use of the following in the execution of the work included in the contract:

- (1) Contractor's own automobile and trucks.
- (2) Hired automobiles and trucks.
- (3) Automobiles and trucks not owned by the Contractor.

Such insurance shall cover the use of automobiles and trucks both on and off the site of the project.

### Workers Compensation:

The Contractor shall comply with the Workers' Compensation Act of Colorado and shall provide compensation insurance to protect the City from and against any and all Workers' Compensation claims arising from performance of the work under this contract. Workers' Compensation insurance must cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, as well as the Employers' Liability within the minimum statutory limits.

### Liability:

The Contractor shall indemnify and save harmless the City against any and all damages to property or injuries to or death to any person or persons, including property and employees or agents of the City, and shall defend, indemnify and save harmless the City from any and all claims, demands, suits, actions, or proceedings of any kind, or nature, including Workmen's Compensation claims, of or by any whomsoever, in any way resulting from or arising out of the operation in

connection herewith, including operations of subcontractors and acts or omissions of employees or agents of the Contractor or his sub-contractors. Insurance coverage specified herein and in the Special Conditions constitutes the minimum requirements and said requirements shall in no way lessen or limit the liability of the Contractor under the terms of the Contract. The Contractor shall procure and maintain, at his own cost and expense, any additional kinds and amounts of insurance that, in his own judgment, may be necessary for his proper protection in the prosecution of the work.

All Certificates of Insurance shall be provided to the City prior to the undertaking of any work and prior to a Purchase Order being issued. The completed Certificate of Insurance shall be sent to:

Procurement Specialist  
City of Englewood  
1000 Englewood Parkway  
Englewood, CO 80110

With an additional copy sent to:

Management of Risk Administrator:  
City of Englewood  
1000 Englewood Parkway  
Englewood, CO 80110



# CERTIFICATE OF LIABILITY INSURANCE

THES801

OP ID: KW

DATE (MM/DD/YYYY)

04/01/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Colorado Insurance Benefits 6635 S. Dayton Street #320 Greenwood Village, CO 80111 Colorado Ins Benefits Inc	<b>CONTACT NAME:</b> Colorado Ins Benefits Inc <b>PHONE (A/C, No, Ext):</b> 303-649-9141 <b>E-MAIL ADDRESS:</b> kweigelt@cibinc.net	<b>FAX (A/C, No):</b> 303-649-4930
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> The Slide Experts, Inc. Jim Gardiner 5326 Citation Circle Parker, CO 80134	<b>INSURER A:</b> Berkley Assurance Company	
	<b>INSURER B:</b> Pinnacoi Assurance Company	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

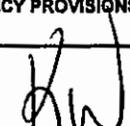
**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			VUMC0055620	03/10/2015	03/10/2016	EACH OCCURRENCE \$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COM/OP AGG \$ 2,000,000
							\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS						BODILY INJURY (Per person) \$
	<input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED						\$
	RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	4179963	01/22/2015	01/01/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
							E.L. EACH ACCIDENT \$ 100,000
							E.L. DISEASE - EA EMPLOYEE \$ 100,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

30 day notice of cancellation except 10 days for non payment of premium.

<b>CERTIFICATE HOLDER</b>  CITYENG  City of Englewood Procurement Specialist Management of Risk Admin. 1000 Englewood Parkway Englewood, CO 80110	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE Colorado Ins Benefits Inc 
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**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the  
 requester. Do not  
 send to the IRS.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**2** Business name/disregarded entity name, if different from above  
**The Slide Experts, Inc.**

**3** Check appropriate box for federal tax classification: check only **one** of the following seven boxes:  
 Individual/sole proprietor or single-member LLC  
 C Corporation  
 S Corporation  
 Partnership  
 Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
 Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
 Other (see instructions) ▶ \_\_\_\_\_

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

**5** Address (number, street, and apt. or suite no.)  
**5326 Citation Circle**

**6** City, state, and ZIP code  
**Parker, Colorado 80134**

**7** List account number(s) here (optional)

Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
			-						
OR									
Employer identification number									
2	7	-	0	4	5	9	5	9	8

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here**      Signature of U.S. person ▶ \_\_\_\_\_  
 Date ▶ **1-14-2015**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.  
**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

## COUNCIL COMMUNICATION

<b>Date</b> April 20, 2015	<b>Agenda Item</b>  11 c iii	<b>Subject</b> Award Duncan Park Art Project
<b>Initiated By</b> Department of Parks and Recreation		<b>Staff Source</b> Joe Sack, Recreation Services Manager

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Vision: To promote and ensure a high quality of life, economic vitality, and a uniquely desirable community identity through the delivery of reliable, affordable, and flexible services and by proactively collaborating with our citizens and businesses to develop an environment that fosters safety and opportunity.

### RECOMMENDED ACTION

Staff recommends that Council approve, by motion, an artwork contract for the "Duncan Park Art Project". Staff recommends awarding the contract to Michael Clapper, in the amount of \$30,000.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

During the vetted planning process for the Duncan Park redevelopment in 2011-2012 an art piece /sculpture was adopted as part of the conceptual plan.

In 2014 staff recruited three resident community members as well a member of the Cultural Arts Commission and the Parks and Recreation Commission to serve on the Duncan Park art selection Committee. The committee created the specifications and requirements for this project and developed the Duncan Park Call for Entry.

53 artists replied to the call for entry. The committee requested proposals and interviewed nine artists and selected Michael Clapper's "Your Turn" for the Duncan Park Art Project.

Cultural Arts Commission approved the selection as recorded in the December 2014 minutes as the Parks and Recreation Commission endorsed the selection as recorded in the January 8, 2015, minutes.

The City of Englewood's objective is to hire a qualified and competent artist to provide all labor, materials and equipment necessary to provide an original art piece. Art to be installed in Duncan Park. This project will begin after the signing of the contract and will be completed on or before August 1, 2015.

### FINANCIAL IMPACT

Funds for this project were approved in the 2015 budget. \$15,000 will be funded by 1% Art in Public Places Fund and \$15,000 will be funded by the Conservation Trust Fund.

### LIST OF ATTACHMENTS

Cultural Arts Commission Minutes September 3, 2014 – Approving Funding  
Cultural Arts Commission Minutes December 3, 2014 – Approving Art Selection  
Parks and Recreation Commission Minutes January 8, 2015 – Endorsement of Art Selection  
Duncan Park Call for Entry  
Contract

**CITY OF ENGLEWOOD  
Cultural Arts Commission**

Englewood Civic Center  
City Council Conference Room  
1000 Englewood Parkway  
September 3, 2014  
5:45pm

**A G E N D A**



**I. Call Meeting to Order**

The regular monthly meeting of the City of Englewood Cultural Arts Commission was called to order at 5:46pm by Chairperson Amy Martinez at the City Council Conference Room, 1000 Englewood Parkway.

Present: Amy Martinez, Chairperson  
Tamara Emmanuel, Commission Member  
Melissa Izzo, Commission Member  
Andrea Mallen, Commission Member  
Justin Rose, Commission Member  
Jerrell Black, ex officio

Absent: Martha Kirkpatrick, Vice Chairperson  
Chrystie Hopkins, Commission Member  
Laura Phelps Rogers, Alternate Member  
Jared Munn, Youth Member  
Jill Wilson, City Council Liaison

Other: Joe Sack, Recreation Manager

Director Black informed board members that the Cultural Arts Commission meetings will now be recorded. Black explained that most of the Boards and Commissions in the City record their meetings and minutes will still be taken. Black stated that the recordings will go on the City's website. Black stated that the City is trying to be transparent as much as possible within the community and the citizens in the community will appreciate it.

**II. Review of Agenda**



**III. Approval of Minutes**

Martinez asked if there were any changes and or corrections to the minutes of August 6, 2014. There were none. A motion was made by Commission Member Emmanuel and seconded by Commission Member Mallen to approve the minutes as presented.

**Ayes: Martinez, Emmanuel, Izzo, Mallen, Rose**  
**Nays: None**  
**Motion Passed.**

**IV. Scheduled Visitors (10 minutes)**  
There were no scheduled visitors.

- V. **Unscheduled Visitors (5 minutes)**  
There were no unscheduled visitors.



**VI. New Business**

In regard to Commission Member Phelps Roger's request for a sabbatical from the Cultural Arts Commission, Director Black reminded board members that at the last meeting, they made a recommendation to City Council to move Melissa Izzo into the position of Commission Member and Laura Phelps Rogers into the position of Alternate Member. Black reported that City Council agreed with the Board's recommendation and Izzo is now a voting member. Board members were told that Martinez has spoken with Phelps Rogers.

- A. **2015 City Calendar**  
Black discussed the 2015 City calendar and the selection of art for the calendar. Board members were told that judging for the calendar will take place at the October Cultural Arts Commission meeting.



- B. **Art for Englewood Public Library Children's Area**  
Martinez discussed specifics for a piece of art for the Children's Area in the Englewood Public Library.



**VII. Old Business**

- A. **Strategic Plan**  
Martinez reported that she will be adding Hampden Hall Art into the Cultural Arts Commission's Strategic Plan. An updated copy of the Strategic Plan will be included with next month's packet.



**B. Duncan Park Art**

Recreation Manager Joe Sack discussed with the Board funding for the Duncan Park Art.

Following discussion,

**A motion was made by Commission Member Emmanuel and seconded by Commission Member Rose recommending using the One Percent Art Funds for the allocation of funding in the amount of \$15,000 for the Duncan Park Art.**

Martinez commented that this is a large amount of money and since she has been on the Board, they have never spent that amount of money but she thinks that this is really worthwhile and she hopes if they are going to get other pieces of art for things such as the art bus they should put forth the same amount of effort for that.

Rose asked if this is the first time they have used CáFE . Rose was told yes.

**Ayes: Martinez, Emmanuel, Izzo, Mallen, Rose**  
**Nays: None**  
**Motion Passed.**



- C. Funfest  
An update on the 2014 Funfest followed.



**VIII. Committee Reports**

- A. Public Art  
There were no items for on Public Art.



- B. Parks and Recreation Commission Update  
Board members were updated on the August 14, 2014 Parks and Recreation Commission meeting.



**IX. Upcoming Events**

Board members were invited to the Community Garden's end of season garden party on Tuesday, September 9<sup>th</sup> from 5-8pm.

Sack announced that Theater in the Park's presentation of Androcles and the Lion will be on Thursday, September 11, 2014 at 10:00am. Discussion followed.



**X. Director's Choice**

Black noted that part of the funding for Funfest and funding for Theater in the Park comes from Betty's Toys who has been very generous over the years.

In regard to Androcles and the Lion and continuing a partnership with Greenwood Village Arts and Humanities Council, Emmanuel reported that Androcles and the Lion will be presented to Greenwood Elementary School on September 18, 2014.



**XI. Commission Member's Choice**

Commission members stated their appreciation to Emmanuel for her work with Funfest.

Board members were informed of the Blue Chair Store's First Friday After Party on Friday, September 5, 2014 from 6-10pm.

For next month's agenda, Martinez requested that an item be added to discuss murals.

**XII. Adjournment**

The meeting was adjourned at 6:28pm.

/s/ \_\_\_\_\_  
D. Severa, Recording Secretary

**CITY OF ENGLEWOOD**  
**Cultural Arts Commission**  
**Minutes of December 3, 2014**

**I. Call Meeting to Order**

The regular monthly meeting of the City of Englewood Cultural Arts Commission was called to order at 5:45pm by Chairperson Amy Martinez at the City Council Conference Room, 1000 Englewood Parkway.

Present: Amy Martinez, Chairperson  
Martha Kirkpatrick, Vice Chairperson  
Tamara Emmanuel, Commission Member  
Chrystie Hopkins, Commission Member  
Melissa Izzo, Commission Member  
Andrea Mallen, Commission Member  
Justin Rose, Commission Member  
Jared Munn, Youth Member  
Jill Wilson, City Council Liaison  
Jerrell Black, ex officio

Other: Joe Sack, Recreation Manager  
Michael Keen, Museum of Outdoor Arts  
Dorothy Hargrove, Director of Library Services  
Steven Yates, City Council Member (arrived at 5:55pm)

**II. Review of Agenda**

There were no changes to the agenda.

**III. Approval of Minutes**

Martinez asked if there were any changes and or corrections to the minutes of November 5, 2014. There were none.

**A motion was made by Vice Chairperson Martha Kirkpatrick and seconded by Commission Member Andrea Mallen to approve the minutes as presented.**

**Ayes: Martinez, Kirkpatrick, Hopkins, Izzo, Mallen, Rose**  
**Nayes: None**

**Motion Passed.**

**IV. Scheduled Visitors (10 minutes)**

Director Black introduced Dorothy Hargrove, Director of Library Services.

**V. Unscheduled Visitors (5 minutes)**

There were no unscheduled visitors.

**VI. New Business**

**Music Camp Scholarships/Internships**

Commission Member Emmanuel and Recreation Manager Joe Sack discussed with the Board partnering with Englewood Education Foundation in 2015 to send three students to music camps. Sack and Emmanuel stated that they still need to speak to Karen Miller with Englewood Education Foundation to see if it will again provide scholarships to the students to attend the music camps. Sack went on to say that

before they do that, they first need to find out if the Commission wants to continue its obligation of paying for airfare for the student to go to Nashville.

City Council Liaison Jill Wilson asked Sack to update the new members. Sack explained that last year Emmanuel came to the Board with the opportunity to send a student to the Victor Wooten music camp in Nashville and two students to the Denver School for the Arts. Sack explained that Victor Wooten is bass guitar player and a five time Grammy recipient. Sack went on to explain that there was not enough time for students to apply so the Englewood High School band leader selected Paige Langley, a bass guitar player. In regard to the Denver School for the Arts, Sack stated that it was a jazz and brass instrumental camp that two Englewood High School students were chosen. Sack said that the Board does a lot with visual arts and this was an opportunity for it to do something with the musical arts in addition to it being a great opportunity to form a partnership with Englewood Education Foundation. Director Black said to the Board that they are bringing it up now so the process can be started and to give time for the students to apply.

**A motion was made by Commission Member Emmanuel and seconded by Commission Member Mallen in support of partnering with Englewood Education Foundation to the Denver School for the Arts and one student to the Victor Wooten camp in Nashville in 2015 in addition to the Cultural Arts Commission covering airfare for the student attending the camp in Nashville.**

**Ayes: Martinez, Kirkpatrick, Emmanuel, Hopkins, Izzo, Mallen, Rose**

**Nays: None**

**Motion Passed.**

## **VII. Old Business**

### **A. Art for Englewood Public Library**

Board members were informed that Director Black, Recreation Manager Joe Sack and Library Director Hargrove had met with the City Attorney to discuss ownership of the piece of art for the Children's Area in the Library. Board members were told that the consensus was that ownership of the art be retained by the Cultural Arts Commission and be part of the City's inventory. Black stated that the contract is being reviewed by the City Attorney's Office and should be in place after the first of the year. Black noted that installation of the art will be shortly after that. Ms. Hargrove told the Board that she is working with a company to install the glass panel that will go in front of the artwork. Martinez suggested a grand installation for the artwork.

### **B. Blue Chair Store**

Martinez asked Black and City Council Liaison Jill Wilson if they agree to wait until after the first of the year to visit the Blue Chair Store. Wilson commented that they should talk first among the three of them.

### **C. Murals**

Martinez informed board members that she is completing the Art Proposal template and will present it first to the Board before having the artist attend the meeting.

### **D. Strategic Plan**

Board members reviewed the updated Strategic Plan. Black stated that he would schedule a time after the first of the year for the Board to present its Annual Report to City Council.

#### **E. Duncan Art Update**

Sack reported that on November 15<sup>th</sup>, the Duncan Art Subcommittee met and interviewed the four finalists and has made a selection. Sack thanked MOA Representative Michael Keen for hosting the interviews; noting that he added a lot of insight to the various artists and moved the subcommittee along to make the final choice. Subcommittee member Kirkpatrick and Sack announced that the subcommittee has selected the artwork by Michael Clapper. Board members were shown a model of the artwork. Kirkpatrick told the Board that when the subcommittee first met, one of the neighbors stated that they wanted something everyone could touch and change so that it could be enjoyed by people in the park. Kirkpatrick explained that the artwork consists of metal poles with five cylinders on each post that could be arranged to write words or make a pixelated image. Discussion followed. Board members were told that it will be presented to the Parks and Recreation Commission in January for its recommendation.

The question was asked where the art would be placed in the park. Sack responded that a specific location has not been determined yet; noting that there are a number of factors involved. Sack noted that the subcommittee loved the colors of the artwork but did not want it considered a piece of playground equipment. Board members discussed concerns with the piece of art including the metal getting too hot. Black reported that the contract with the artist will be reviewed by the City Attorney's Office and Risk Management who will be looking at safety issues. Board members commented that they think it is a great piece and will be a great addition to Duncan Park.

**A motion was made by Commission Member Hopkins and seconded by Commission Member Emmanuel to approve the Michael Clapper artwork for Duncan Park and to move forward with the presentation to the Parks and Recreation Commission in January for its recommendation.**

**Ayes: Martinez, Kirkpatrick, Emmanuel, Hopkins, Izzo, Mallen, Rose**

**Nays: None**

**Motion Passed.**

### **VIII. Committee Reports**

#### **A. Awareness Subcommittee Report**

Commission Member Izzo reported that the Awareness Subcommittee is taking the direction of creating a mission statement for the Cultural Arts Commission and updating the Board's website. Example mission statements from other cities were distributed for board members to look at. Hopkins explained that the mission statement will feed in strategically with what the Cultural Arts Commission wants to be. Discussion followed. In regard to updating the Board's website, Izzo told Sack that she will be talking to Meghan Dwyer, to see if she can help. Izzo spoke in regard to creating a custom google map that could go hand in hand with the catalogue of art; noting that it will show Englewood as being very aware of public art in addition to what art can bring to a community.

In regard to the mission statements, board members were asked to review the example mission statements and email their comments to Debby Severa who would forward everyone's comments on to subcommittee members. Wilson stated that she thinks that it is important to not include only art but also music. Sack told board members that Eric Keck, the new City Manager, is revising the City's mission statement in addition to creating a vision statement and as part of the process, the Department is also revising its mission statement. Sack said that it would be nice to dovetail all the mission statements together. Drafts of the mission statements and vision statement would be emailed to board members. Martinez thanked the subcommittee members.

#### **B. Art Bus Subcommittee Update**

Martinez reported that the Art Bus Subcommittee has not had a chance to meet yet. Emmanuel asked in regard to putting Prometheus on the Art Bus route. Black stated that the art is in need of some repairs. Kirkpatrick told the Board that Prometheus is a controversial character. Wilson asked if more information could be gathered for next month's meeting.

#### **C. Parks and Recreation Commission Update**

Kirkpatrick gave an update on the November Parks and Recreation Commission meeting.

#### **IX. Upcoming Events**

Discussion followed regarding upcoming events.

#### **X. Director's Choice**

Black informed board members that the Department will be applying for two Arapahoe County Open Space grants in February, one for the River Run project and the second to update the signage in the Englewood parks. Black also told the Board that Arapahoe County Open Space will also be offering two \$500,000 special grants in 2015 that the Department will be applying for the River Run project. Discussion followed in regard to an update of the River Run project.

#### **XI. Commission Member's Choice**

Wilson reported that City Council recently toured the Museum of Outdoor Arts that was very insightful and helpful. Wilson spoke in regard to collaborating and working together with MOA and doing a mini tour of MOA for the Board. Keen suggested tying the tour with a Board meeting.

Keen spoke to the Board in regard to a \$1,000,000 grant opportunity that has come up that would involve a partnership between the Museum of Outdoor Arts and the City of Englewood. Keen stated that MOA would sponsor the grant and put forth the required \$50,000 but needs to know there is support from the Cultural Arts Commission and City of Englewood. Keen explained that the grant would be for something with the Civic Center or regional area. Wilson told Keen to talk to the City Manager, Eric Keck. Discussion followed.

Sack announced that the Malley Recreation Center has created an Active Aging calendar for 2015 that is being sold for \$5; noting that proceeds from the calendar go into the Malley Trust Fund which supports the Malley Center. In regard to the 2015 Funfest, Sack reported that staff is moving forward with plans to change the venue and will be presenting plans to the Board at next month's meeting. Martinez added that it would be a good time to discuss plans for the Board's booth for next year.



**PARKS AND RECREATION COMMISSION  
Minutes of January 8, 2015**

**I. Call to Order**

The regular monthly meeting of the Englewood Parks and Recreation Commission was called to order at 5:30p.m. by Chairperson Garrett at the Broken Tee Golf Course Maintenance Facility, 4000 S. Clay Street.

**Present:** Douglas Garrett, Chairperson  
Mark Husbands, Vice Chairperson (arrived at 5:36pm)  
Vicki Howard, Englewood Schools Liaison  
Karen Miller, Commission Member (arrived at 5:34pm)  
Jim Woodward, Commission Member  
Chad Glover, Youth Commission Member  
Marta Mansbacher, Youth Commission Member (arrived at 5:36pm)  
Martha Kirkpatrick, Cultural Arts Commission

**Not Present:** Allie Moore, Commission Member  
Bob McCaslin, City Council Liaison  
Jerrell Black, ex officio

**Also Present:** Dave Lee, Open Space Manager  
Joe Sack, Recreation Manager  
Steve Jones, Mile High Wakeboarding (left at 5:47pm)

**II. Approval of Minutes**

**Garrett asked if there were any changes or corrections to the minutes of November 13, 2014. There were none. The minutes were approved as presented.**

**Garrett asked if there were any changes or corrections to the minutes of December 11, 2014. Recording Secretary Debby Severa noted that the heading to the December 11, 2014 minutes have the incorrect date of November 13, 2014. The minutes were approved as amended.**

**III. Scheduled Public Comment**

Garrett welcomed Mr. Steve Jones from Mile High Wakeboarding who was present to talk about wakeboarding at Centennial Lake. Discussion was turned over to Jones. Information on wakeboarding was distributed to the Board. Jones explained that Mile High Wakeboarding uses an overhead cable system that produces a wakeless water-skiing apparatus that does not require the use of a boat. Board members were told that there are two types of cable systems: a two tower system and a full-size or multiple tower system. Jones said that he is proposing a 2 tower system for Centennial Lake that would consist of a 100' x 700' long cable system, or 1.6 acres. A short video on wakeboarding was shown. Jones told the Board that he wanted to introduce the idea of wakeboarding at Centennial Lake and see if there was any interest; noting that he was attracted to the area because it was out of the way and up against a hill. Board members were shown several sample layouts for Centennial Lake. Jones explained that Mile High Wakeboarding's typical customer is mom, dad and kids and reported that the presentation does not give costs but noted that there would be no impact to the tax payer.

Garrett asked if the cabling structure is left up during the winter. Jones said that it is taken down for security. Commission Member Woodward asked what anchors the cabling. Jones stated that they like to do above ground towers anchored in concrete. Open Space Manager Dave Lee asked what the cable tower is comprised of. Lee was told that Mile High Wakeboarding builds its own tower and it is typically made of steel.

Jones told the Board that Mile High Wakeboarding has thirteen locations, the first being in Milliken, Colorado and noted that they are looking for a new location in the south Denver area. Joe Sack, Recreation Manager asked Jones if it is a drop in activity. Sack was told that customers take turns and rides typically last 10-15 minutes. Jones explained that the cost to ride is \$29/2 hours, \$36/4 hours, \$42/all day and \$599/season pass. The Board was told that they usually sell out. Lee asked if any other facilities are required. Jones said that they like to build shade structures and need a 400 sq. ft. building to house supplies. Sack asked if their summer camps are licensed. Jones replied that they are not. Lee asked if people need to bring their own boards. Jones said that boards, helmet and lifejacket are provided for a \$10 fee; noting that most people start by renting and then bring their own board. Garrett informed Jones and the Board that Centennial Lake is a water supply and the park has historically not been used for events and activities, limiting use of the lake. Jones was told that staff would be in touch. Jones thanked the Commission and left.

**IV. Unscheduled Public Comment**

There were no unscheduled guests.

**V. Naming of Belleview Park Field**

Lee informed the Board that he and Director Black attended the January 5<sup>th</sup> City Council Study Session for discussion on naming the Belleview Park ballfield the Jack Poole Memorial Field. Lee reported that Council discussed the item and the consensus was that they are okay with naming the Belleview ballfield after Jack Poole but want a policy in hand before moving forward with naming the field. The question was asked as to the process for coming up with a policy. Lee explained that staff will work on drafting a policy to bring back to the Board to review before taking it to Council. Board members were reminded that some research has already been done. Lee noted that Jack's son, was also present at the January 5<sup>th</sup> Study Session.

**VI. Funfest**

Board members were informed that the Department is looking at relocating Funfest to the Civic Center site and are asking the Board for its endorsement in relocating the event. Sack stated that staff has received endorsement from the event's benefactor, Betty's Toys, in addition to the City Departments who manage the Civic Center area and the Cultural Arts Commission. Sack explained that this will be the 18<sup>th</sup> year for Funfest and the current location at Belleview Park has its limitations including lack of parking and flat space, explaining that they have used every flat space that is feasible and have no room for expansion. Sack went on to say that the Department would like to see Funfest as a city-wide event that includes involvement and support from the City and businesses and cannot do that in the current location. A preliminary layout for the event was distributed. It was explained that some streets would be blocked off but that people would still have access to the parking garage. Discussion followed regarding the changes to the event by moving it to the Civic Center including "Touch a Truck", food trucks, concerts at the amphitheater, artisan area and a beer garden. Sack stated that they will be stepping up the entertainment including having the last Sounds of Summer concert that evening. Discussion followed. Garrett commented that it sounds like there are a lot of logistics that need to be worked out but added that it is also a way to bring energy back in to the

event. Miller reported that it reminds her of Western Welcome Week which pulls in a huge amount of people and stated that this is a start. Woodward spoke in regard to utilizing additional space around the area. Sack explained that they will look at doing that in phase two, wanting to keep it like this for now for the first year. Discussion followed. Garrett asked the Board if they were in support of the change. All were in consensus of the change in venue for Funfest.

#### **VII. Duncan Park Development Update**

A report on the Duncan Park development followed. Lee stated that there is nothing new to report since the last meeting; noting that there are still punch list items that need to be taken care of in the spring when the weather is warmer including concrete replacement and painting of the shelter roof.

Discussion was turned over to Martha Kirkpatrick from the Cultural Arts Commission and representative from the Duncan Park Art Selection Committee to talk about the Duncan Park art. Sack noted that Commission Member Allie Moore also served on the Art Selection Committee as representative from the Parks and Recreation Commission. Kirkpatrick reported that the Art Selection Committee interviewed four artists on November 15<sup>th</sup> and selected "Your Turn" by Michael Clapper. Kirkpatrick distributed photos of the artwork and explained that it consists of 7' tall poles with colored cylinders that can be moved to make pixelated images and words. Kirkpatrick described it as an interactive piece of art that park visitors can touch and make it their own. Discussion followed. The Board was told that a specific location for the art has not yet been determined. Kirkpatrick reported that the art was presented to the Cultural Arts Commission in December who gave its approval and is now being presented to the Parks and Recreation Commission for its approval. Board members were told that the City Attorney's Office has just finished reviewing the contract and it is now with the artist for his review. Sack stated that Risk Management has also been involved to evaluate all safety issues. Youth Member Glover stated that he likes how it is interactive and not a concrete piece and thinks it will appeal to the young children. Board members concurred with Glover and gave their endorsement of Michael Clapper's "Your Turn" for Duncan Park.

Woodward commented that he was recently in the Duncan Park neighborhood and was surprised how much of the community was at the park, coming and going; stating that it was obvious how much they enjoy the park.

#### **VIII. RiverRun Trailhead Update**

Sack stated that staff is preparing two grant applications for Arapahoe County Open Space, one being for the RiverRun Trailhead. The Board was told that the grant application is for \$300,000 with a required \$100,000 matching for a total of \$400,000. Sack explained that the project is in three phases and this grant application is for phase one that consists of earthwork for the site. If successful with funding, the project should be completed by 2017.

Sack went on to explain that the second grant application is for Englewood Parks Gateway Enhancements, Phase 1 and in the amount of \$200,100 with \$83,300 matching to be used to update seventeen signs in Englewood parks, with some large identification signs and small identification signs.

**IX. Cultural Arts Commission Update**

Kirkpatrick gave an update on last night's Cultural Arts Commission meeting. Kirkpatrick stated that the Board is preparing its presentation to City Council on February 17<sup>th</sup>. Discussion followed regarding the Board's accomplishments for 2014.

**X. Director's Choice**

As mentioned by Kirkpatrick, Sack told board members that the Cultural Arts Commission will be attending the February 17<sup>th</sup> Study Session to meet with City Council and asked board members if they would also like to meet with Council to discuss what the Board has been working on. Garrett said that he thinks as a group they should do it. Discussion followed. Garrett suggested that staff prepare a list for next month's meeting for discussion.

Lee informed the Board that the Parks Division has taken over the snow removal and maintenance of the three Englewood fire stations. Lee also reported that they are in preliminary discussions with the School District in regard to maintaining school property, grounds and landscaping. Lee said that they will keep the board updated as they have more discussions. Discussion followed regarding the decorative lighting in downtown Englewood and the marketplace.

**XI. Commission Member's Choice**

Howard announced that all the new Alternative High School and Englewood Campus are open and a ribbon cutting and a ribbon cutting has been scheduled for February 7<sup>th</sup>. Board members were reminded that next month's board meeting will be a tour of the new Alternative High School and the 9-12 Campus. Howard gave an update on the subject of the Charter School.

**XII. Adjournment**

The meeting was adjourned at 6:38pm.

/s/ D. Severa  
Recording Secretary

**City of Englewood  
Colorado  
Department of Parks and Recreation  
REQUEST FOR QUALIFICATION**

**INTRODUCTION:** *The City of Englewood, Department of Parks and Recreation in cooperation with the Englewood Cultural Arts Commission and the Englewood Parks and Recreation Commission is accepting qualifications from artists (or artist teams) for an innovative public art opportunity in Duncan Park.*

**LOCATION:** *Duncan Park is located in the City of Englewood, Colorado, at 4800 South Pennsylvania Street. Englewood is a full-service city that is centrally located within the Denver Metropolitan area. With outstanding access, Englewood is ideally situated for residents, businesses, and visitors. Light rail transit and excellent access to the Denver metro area are among the many reasons that put Englewood at the crossroads to commerce. Englewood offers small town convenience with big city amenities and is home to 30,255 residents and 1,699 businesses.*

**FACILITY INFORMATION/BACKGROUND:** *The City of Englewood recently received a \$350,000 Great Outdoors Colorado (GOCO) grant and a \$250,000 Arapahoe County Open Space (ACOS) grant. The grant funding will be used to renovate the 3-acre Duncan Park. During an extensive public input process during the spring and summer of 2012, the Department of Parks and Recreation asked neighbors to help envision plans for enhancements at Duncan Park. The resulting plans call for: a picnic pavilion, restrooms, landscaping and irrigation, outdoor furniture, new concrete walkways, a multi-use athletic field, a new basketball/sport court, and two accessible playground areas.*

*For more information about Duncan Park and to review park plans please visit website at:*

*<http://www.englewoodgov.org/inside-city-hall/city-departments/parks-and-recreation/parks/parks-projects-update/duncan-park-improvements>*

**PROJECT GOALS:** *It is expected that the final project when completed and installed will:*

- Engage the community by creating visual and interactive interest as a gateway piece to draw people into the park.*
- Compliment the park renovations and revitalization of this park space.*
- Contribute to the growing public art collection within the City of Englewood.*

**PUBLIC ART PARAMETERS:** *The selection committee has set forth specific parameters for this public art project with the hope of creating a unique and inspiring work of art for those who visit and enjoy the benefits of Duncan Park.*

**Art Placement:** *The primary location for the artwork is along the interior sidewalk leading from the east entrance through the park. The artist, selection committee and City of Englewood will determine the specific artwork placement.*

**Materials and Media:** *This project is open to all materials and media. However this public art project will be exposed to the extreme temperatures of Colorado weather, UV, physical stresses and subject to vandalism. This artwork should be fabricated of highly durable, easily repairable and low-maintenance materials. Power and or lighting should be factored into the proposal if needed.*

**Style/Theme:** *The style of the piece should reflect the neighborhood. The artwork should be kinetic, colorful and engage all of the park visitors. Interactive artwork is specifically desirable which would allow a park visitor to somehow leave their mark or change the artwork only to be changed again by the next park visitor.*

**PROJECT FUNDS:** *The estimated budget for the artistic design, fabrication and installation is not to exceed \$30,000 USD.*

**ELIGIBILITY:** *Open to artist (or artist teams) residing in the western region of the United States, Colorado resident artists preferred. This RFQ is open to experienced professional public artists, including sculptors or other visual art professionals, qualified in the design, implementation, and management of installation costs for public art projects. Artists must be at least 21 years of age.*

**MAINTENANCE, SAFETY, MATERIALS, LONGEVITY:** *Artist (or artist teams) must demonstrate a history of translating artistic concepts into material that are appropriate for public space, taking into consideration maintenance, safety, and longevity. The longevity or lifespan of the work and its maintenance to sustain excellent condition will be discussed at the outset of negotiations. Artist will take this into account including warranty when developing and executing this project.*

**SELECTION PROCESS:** *The Duncan Park Artwork Selection Committee consists of knowledgeable representatives from the art and design community, civic leaders, and neighbors of the park. The committee will be encouraged to recommend two finalists at the conclusion of the review process.*

**TENTATIVE TIMELINE:**

*September 15, 2014: Call to artists for Request for Qualifications*

*October 3, 2014: Artist application deadline*

*October 20, 2014: Finalists are notified*

*November: Final selection with approval. Begin design work with artist/City Representative*

*ASAP- Installation and dedication ceremony*

**TO APPLY:**

*Applications must be received by Café by midnight, Mountain Standard Time on October 3, 2014. There is no application fee apply or use the online application system. To view this call, go to <http://www.callforentry.org/>, register a username and password, navigate to Apply to Calls, and search the list for CITY OF ENGLEWOOD-DUNCAN PARK ART. Artist Teams applying will create a unique name for the team and share one password. The following materials will be required to be uploaded to Café:*

- Letter of interest (2000 character max) outlining the artist's interest in this project and addressing selection criteria with references to previous artworks in public places. Include how you have worked with a design team and/or engaged community for any or your projects and other comments that might help to differentiate you as a candidate for this project. Applicant(s) may apply as single artist or team.*
- A current professional resume, uploaded as a PDF (2 page maximum) and artist statement. For team applications, include a 2 page resume for each team member that are combined into one PDF document.*
- Three professional references who can speak to the artist's ability to meet deadlines, work with the community, and create art as a part of a design team. Include name, organization, phone number and email.*
- Portfolio of up to 6 images of previous works. Please include the following (if applicable) for each image: The name of the artist(s), title of work, media, size, site, client and budget. Examples must illustrate projects within the context of a specific site. This information may be submitted as a separate document or may be inserted into each image caption on the Café website.*



City of Englewood



## CONTRACT

THIS CONTRACT is made and entered into this 23 day of February, 2015, by and between the CITY OF ENGLEWOOD, a Home Rule City existing under and by virtue of the laws of the State of Colorado, whose legal address is 1000 Englewood Parkway, Englewood, Colorado 80110, hereinafter referred to as the "City" and Michael Clapper hereinafter referred to as the "Artist-Contractor."

WHEREAS, the Artist-Contractor has submitted its proposal to the City on November 15, 2014, for the creation, and construction of one piece of artwork known as "Your Turn", hereafter referred to as "Artwork" which is planned to be placed in the Englewood Duncan Park, located at the 4880 South Pennsylvania Street, Englewood, Colorado.

WHEREAS, the City has elected to accept the proposal of the Artist-Contractor, as proposed and presented to the City in the attached proposal;

WHEREAS, the City and the Artist-Contractor mutually desire to enter into this Contract to purchase the "Artwork;"

NOW, THEREFORE, for the consideration herein expressed, it is hereby agreed upon by and between the City and the Artist-Contractor as follows:

1. The Artist-Contractor shall create the "Artwork" as above described which shall not differ in design and all other details from the proposal submitted by the Artist-Contractor to the City of Englewood as shown in the attached Exhibit A.
2. The "Artwork" shall be created and constructed and installed by the Artist-Contractor at the Artist-Contractor's sole expense.
3. The "Artwork" shall be completed and delivered and installed at a site designated by the City not later than specified in schedule as shown in attached Exhibit B, in substantial compliance with this Contract and the specifications and proposal presented to the City, unless otherwise agreed to in writing between the parties.
  - A. The Artist-Contractor shall install the artwork in its designated location. The Artist-Contractor will provide an installation plan and recommended maintenance as provided in attached Exhibit A. The Artist-Contractor shall provide recommendations for placement and location; however, the actual location itself shall be made by the City in its sole discretion and may change at any time.

4. Subject to Paragraph 7 hereof, the City hereby agrees to pay to the Artist-Contractor Thirty Thousand dollars (\$30,000.00) for all work contemplated by the terms of this Contract as follows: the City shall pay to the Artist-Contractor the initial payment of Ten Thousand dollars (\$10,000.00) within thirty (30) days of the execution of this Contract, and a second payment of Ten Thousand dollars (\$10,000.00) will be paid within thirty (30) days of fifty percent (50%) completion of the project, with a final payment of Ten Thousand dollars (\$10,000.00), upon completion of the project, and its acceptance by the City, said sum to be used to satisfy any and all legitimate claims of any workmen, subcontractors and material men which may have resulted from any facet of the performance rendered by the Artist-Contractor under the terms of this Contract.
5. The Artist-Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing it or its subcontractors with labor or materials used or performed in the prosecution of the work provided in this Contract, and agrees that it will indemnify and save harmless the City, and its officers, agents and employees to the extent of any payments in connection with the carrying out of any such contracts which the City may be required to make under law.
6. Partial and full lien waivers shall be provided to the City by the Artist-Contractor with regard to payments made to all subcontractors, workmen, and materialmen used by Artist-Contractor before the final payment is made by the City before the final payment is made by the City.
7. The Artist-Contractor expressly agrees to be liable for all costs, risks and expenses incurred by the Artist-Contractor to comply with the terms of this Contract and no part of the costs thereof shall be charged to the City.
8. The Artist-Contractor is, for all purposes of this Contract, an independent Artist-Contractor and nothing herein contained shall constitute or designate the Artist-Contractor or any of its subcontractors, employees, agents, or otherwise as employees or agents of the City.
9. The Artist-Contractor and the City agree that this is a contract for expert individual artistic services and that this Contract is not assignable by the Artist-Contractor.
10. Upon commencement of the performance by the Artist-Contractor on the Artwork, all rights, title and interest in the Artwork shall expressly vest in the City. The City of Englewood shall be the sole owner of the Artwork and the Artist-Contractor hereby expressly waives any and all rights, title, and interest in the Artwork; provided, however, that:
  - A. The parties acknowledge that the value and proper maintenance of a work of art, unlike that of any ordinary property, will affect the future value of other works of art the Artist-Contractor.
  - B. Therefore, the City agrees that it will not intentionally destroy, fail to maintain, damage or otherwise alter the Artwork in any way whatsoever after its completion, without the approval of the Artist-Contractor, provided however, that any approval by the Artist-Contractor shall not be unreasonably withheld. This shall not preclude the complete removal of the Artwork or any part thereof by the City at the City's sole discretion.

- C. The City further agrees that, in the event of damage to the Artwork, the City will make all reasonable efforts to contract the Artist-Contractor prior to the commencement of any repair or restoration work; and
  - D. The Artist-Contractor waives rights to control and all financial advantage from photographing or otherwise displaying the Artwork and the City Agrees to give credit to the Artist when the City is reasonably able to do so including any plaque, press releases or brochures. Both parties may use photographs and models of the project, provided that such photographs and models state location of the project and identifies the Artist-Contractor.
  - E. Intellectual Property. The parties acknowledge that the Artist-Contractor owns all copyrights and all intellectual property rights to the designs utilized for the Artwork. The Artist-Contractor agrees not to reproduce the design of the project within 100 miles of the City.
- 11. The Artist-Contractor hereby expressly warrants that the work to be done by it, pursuant to this Contract, shall be done in a good and workman-like manner and constructed with materials as specified by the Artist-Contractor in its proposal, as specified in Exhibit A, to the City and that the Artwork shall be fully warranted upon completion and acceptance by the Englewood Parks and Recreation Director, a representative of the City's Cultural Arts Commission and the Englewood Public Work's Director, or their designees for a period of twelve (12) months, commencing upon the completion and installation of the Artwork. Artist-Contractor agrees at any time to repair or replace, to new condition, any defects in the Artwork, whether caused by failure of the materials or defective workmanship. Except as otherwise agreed between the parties, the Artist-Contractor agrees to provide all materials and labor for the repair of the Artwork at no additional cost to the City.
  - 12. Contractor shall maintain liability and workmen's compensation insurance in the amount of One-Million dollars (\$1,000,000.00), with the City named as an additional insured, during the manufacturing, installation and warranty period and shall provide proof to the City before commencing the Artwork.
  - 13. The Artist-Contractor shall take all reasonable action necessary to protect persons and property from injury or loss, throughout the creation and construction, and the Artist-Contractor shall hold the City, its officers, agents and employees, harmless from and against all claims, demands, liability, damages, suits, actions or causes of action, of any kind or nature which may be brought or asserted against the City, its officers, agents and employees, arising from the Artist-Contractor's or its subcontractor's failure to perform in compliance herewith.
  - 14. The Artist-Contractor shall procure all permits and licenses and pay all required charges and fees at his sole expense.
  - 15. Severability. To the extent that this Contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the Contract, terms of this Contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as waiver of any other term.

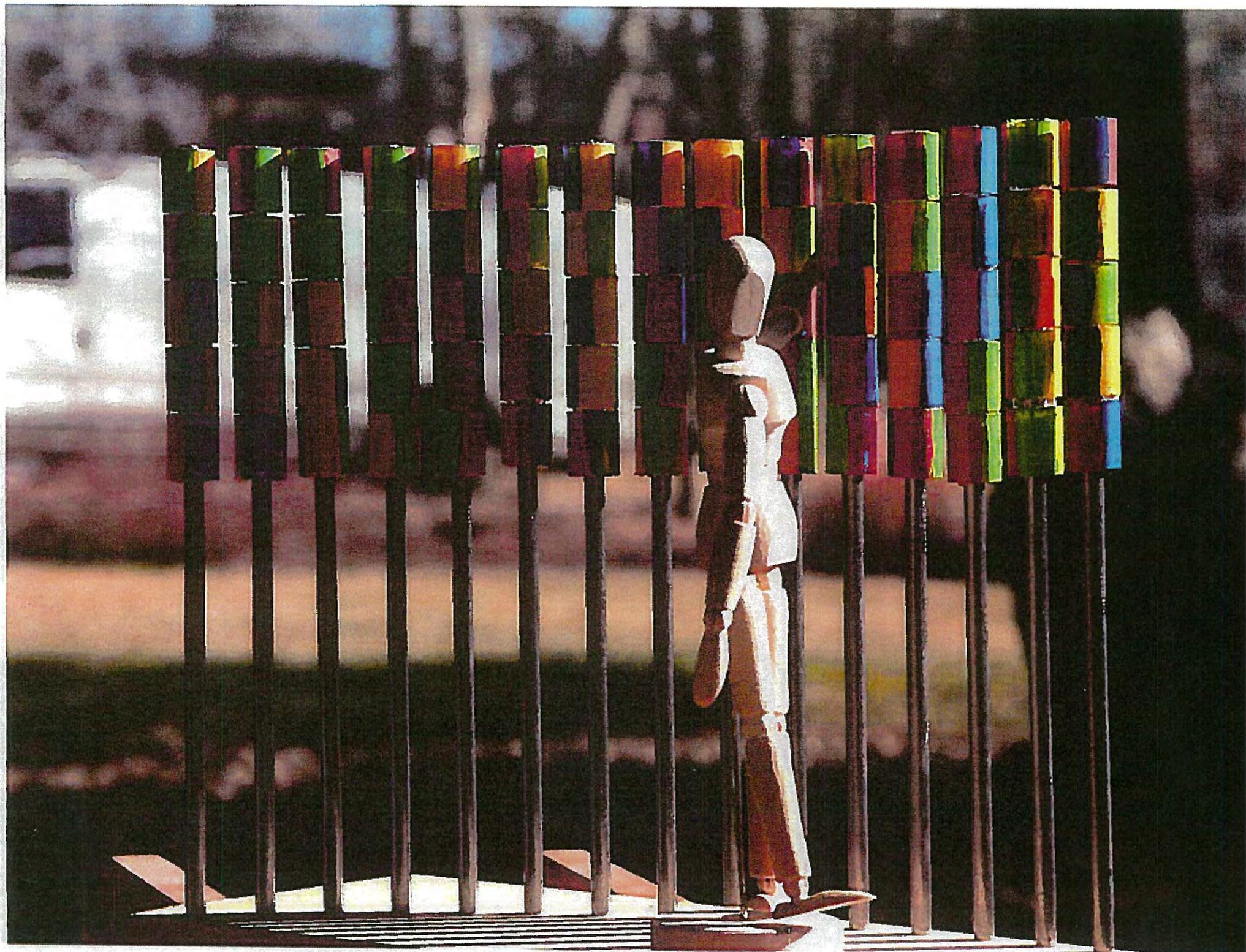
16. Termination. If the Artist-Contractor fails to perform any of his duties under this Contract or if the completed work of art fails to meet the specification as shown in the request for proposal and the Artist-Contractor's proposal, the City may, without prejudice to any right or remedy and after giving the Artist-Contractor seven (7) days' written notice, terminate this Contract with the Artist-Contractor and may finish the Artwork project by whatever method the City may deem expedient. In such case the Artist-Contractor shall not be entitled to receive any further payment until and unless the work is finished.
17. No Conflicting Agreements. Each party hereto represents and warrants that they are not a party to any contract, agreement or understanding with any other person or entity that would prevent such party from entering into this Agreement.
18. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one and the same document.
19. Governing Law. The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Any litigation to interpret or enforce the terms of this Agreement shall take place in Arapahoe District Court.
20. Binding Agreement. The terms and conditions of this Agreement shall bind and inure to the benefit or detriment of the parties hereto, and their respective successors and assigns.

ARTIST-CONTRACTOR

By \_\_\_\_\_  
Michael Clapper

CITY OF ENGLEWOOD

By \_\_\_\_\_  
Jerrill Black, Director of Parks & Recreation



# **Exhibit A**

## **Michael Clapper Studios**

### **Exhibit A (i) Design Description and Diagram**

My goal with the sculpture "Your Turn" is to create an interactive work of art that will always change due to citizen participation. The artwork will offer the user the opportunity to create their own abstract painting within the park.

To illustrate this concept I will be creating a contemporary sculpture that is approximately 7' tall x 8' wide x 3' deep. It will be created from a series of stainless steel rods that will be embedded into either a concrete footer that is below grade. The stainless steel rods will each support a series of cylinders that will each be painted with the same four colors. Each color will cover a quadrant of the cylinder. The field of color will be approximately 4' tall x 8' wide. Each of the aluminum cylinders will be affixed to a sealed bearing that surrounds the stainless steel rod. There will be 5 cylinders affixed to each rod and there will be 11 rods that will be in-line and in the form of an arc.

The user will be able to approach the work and rotate the color cylinders individually to compose their own work of art. The number of color combinations are endless. One would be able to make the field all blue, or all green with an orange stripe for instance. Or, one would also be able to spend some time and thought to compose their own four color, abstract work of art. When one person is done, another may step up to the sculpture and compose their vision.

1" = 1'

93"

1" = 1'

8" Typical

7.75'

8  
typical

7'

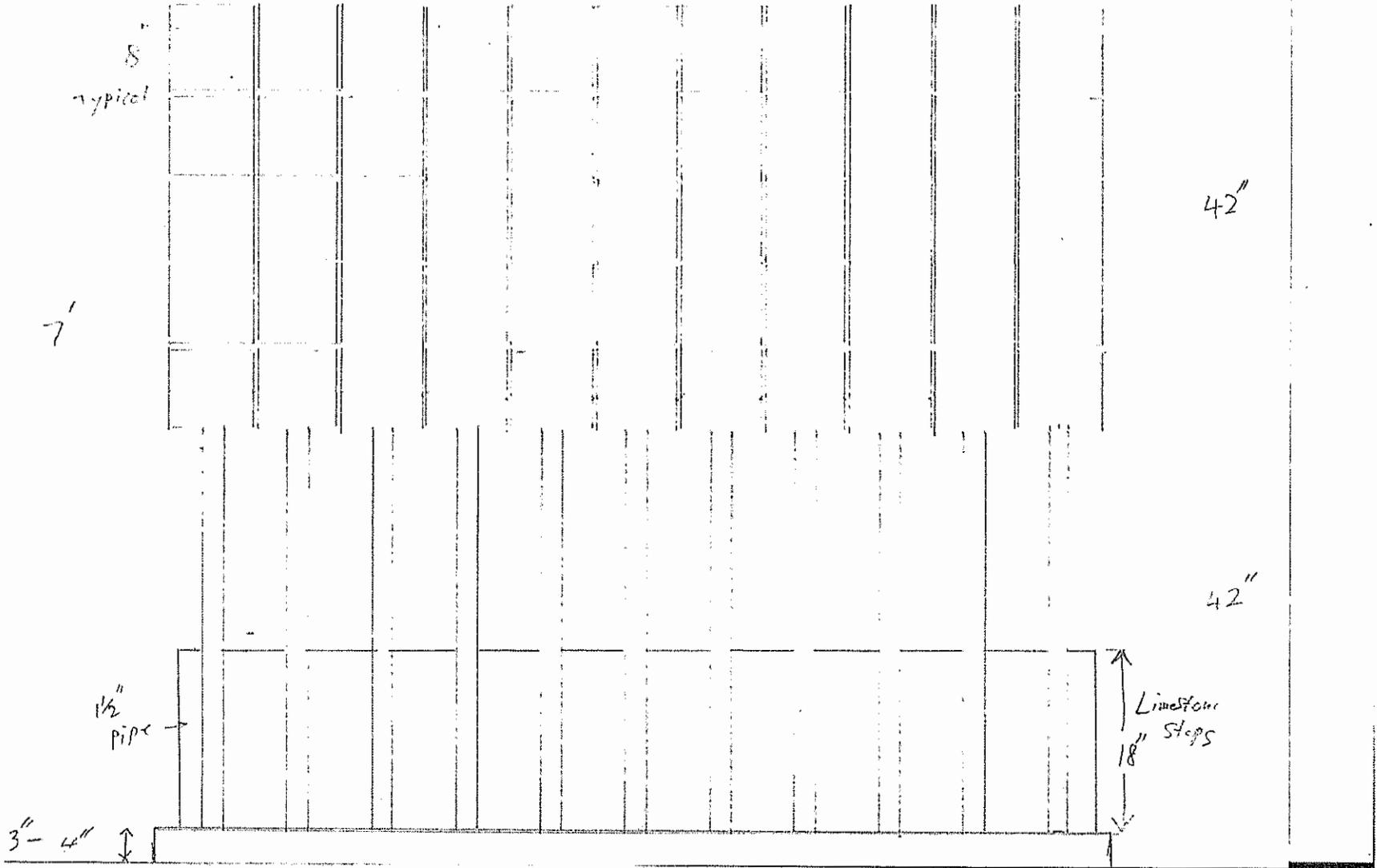
42"

42"

1 1/2"  
Pipe

Limestone  
18" Steps

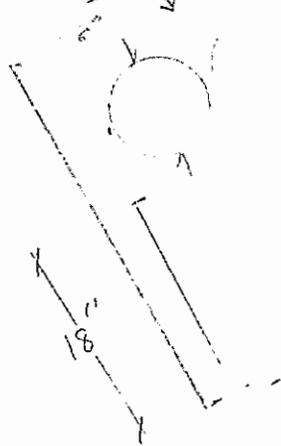
3" - 4"



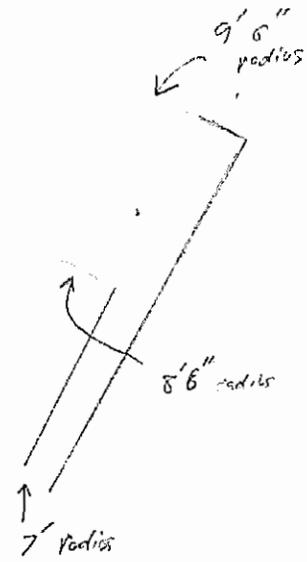
1"=1'

Plan View

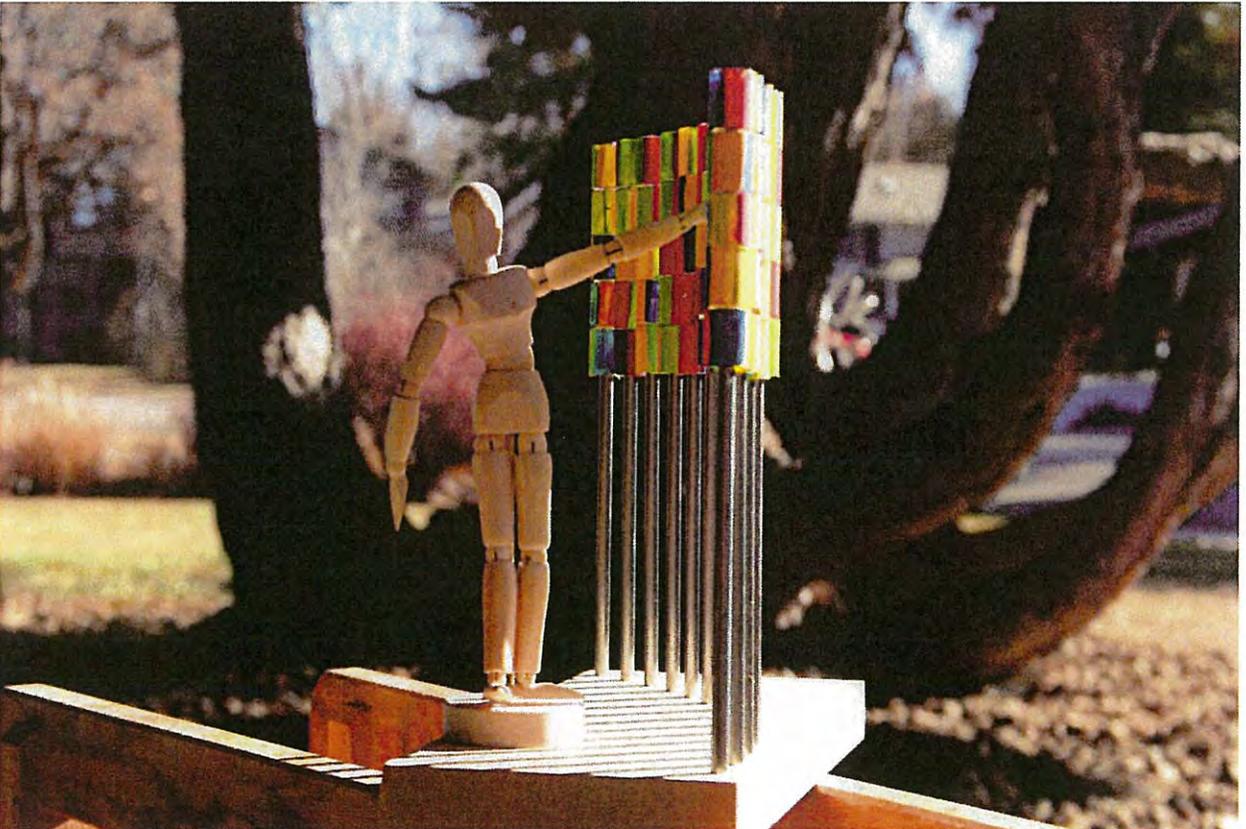
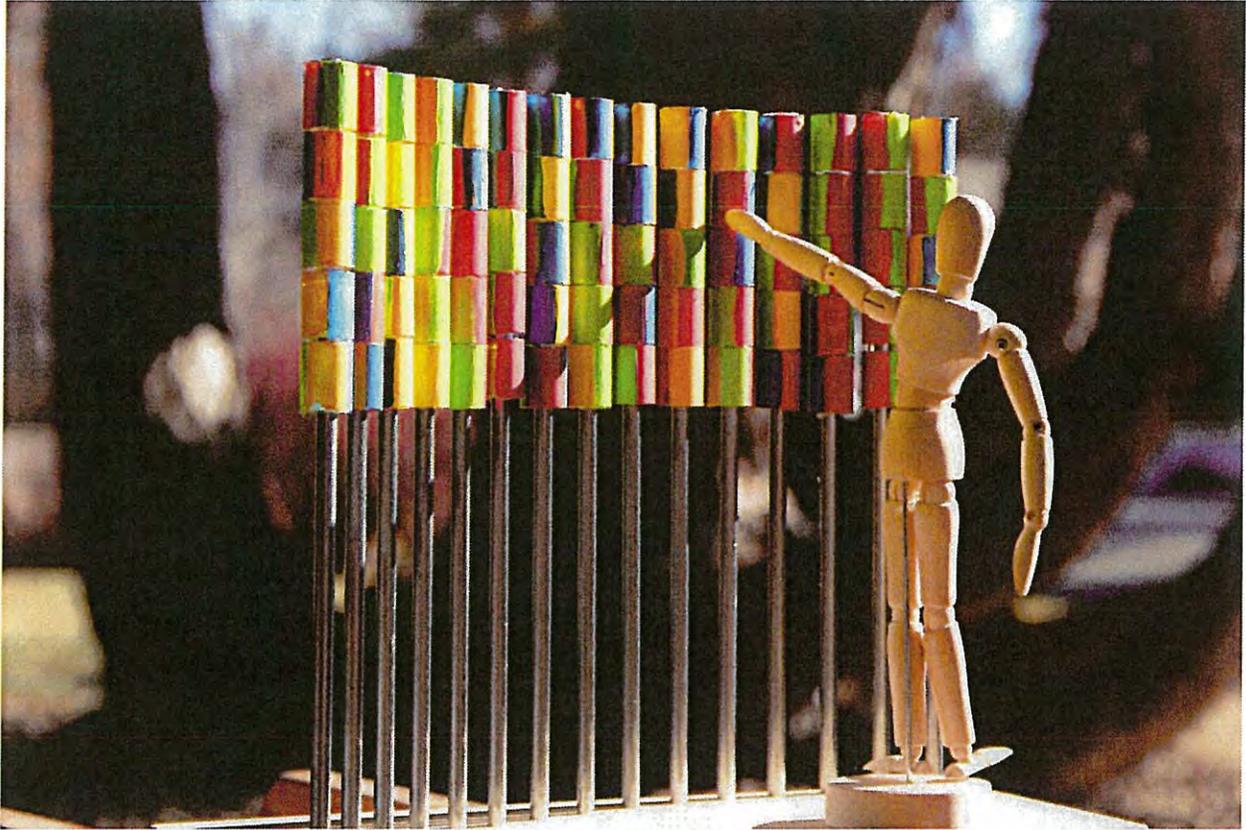
Concrete Footing  
4" above grade



Limestone  
Steps



1"=1'





## Exhibit A (ii) Materials Description

11 - Stainless steel pipes – Schedule 40 – 1 ½" x 6' – 7' tall

55 – Aluminum cylinders – 8" x 8" – Each painted in quadrants with the four colors specified overtop of a zinc primer

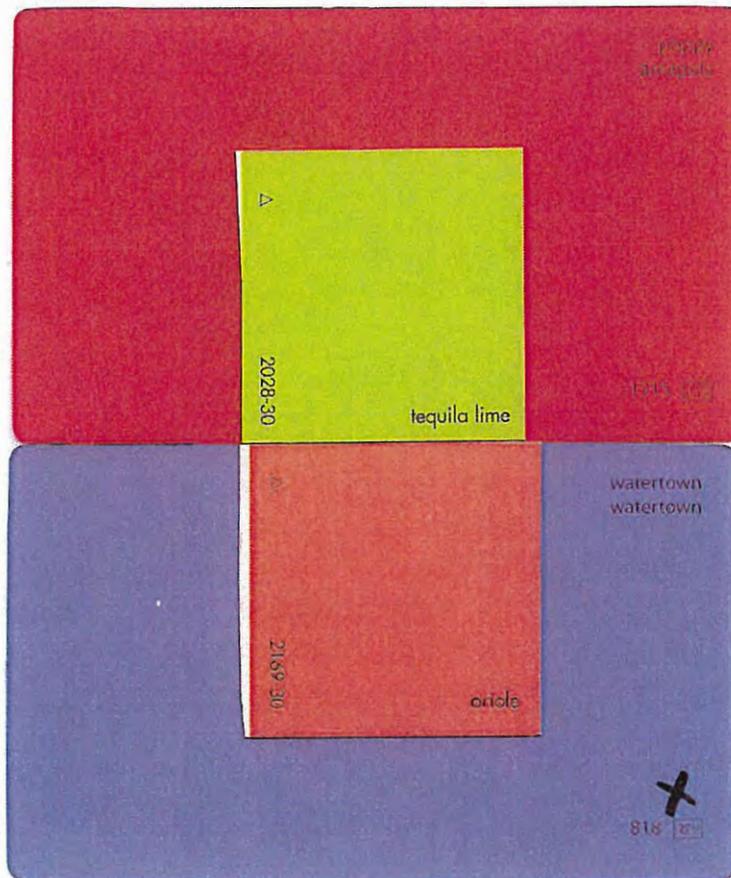
Aluminum housed bearings within each cylinder, mounted to the stainless pipe and to the inside of the cylinder

Concrete footer to engineer's specifications

Either mounded earth or a series of limestone steps on one side of the composition to aid access for children

## Exhibit A (iii) Paint Specifications and Samples

- Color #1: Benjamin Moore #1315 Poppy (Red)
- Color #2: Benjamin Moore #2169-30 Oriole (Orange)
- Color #3: Benjamin Moore #818 Watertown (Blue)
- Color #4: Benjamin Moore #2028-30 Tequila Lime (Green)



## **Exhibit A (iv) Maintenance Recommendations**

The sculpture is made from steel posts with a series of aluminum drums. The drums are painted various colors of a high quality, exterior paint over a zinc primer. The painted elements are then clear coated with a U.V. inhibiting finish.

The works of art should only need washing, then rinsed, with soapy water on an as-needed basis. (possibly yearly)

The sculpture was coated with the highest quality materials but they still will have a certain lifespan. The life of the paint and clear U.V. inhibiting finish should be approximately 10 to 20 years according to the company who will do the finish work.

When the paint needs touching up because of time, or use, the City of Englewood should call the artist, Michael Clapper for his recommendations.

If for some reason the bearings located within the aluminum drums need attention, the City of Englewood should call the artist, Michael Clapper for his recommendations.

Contact information is:

Artist:

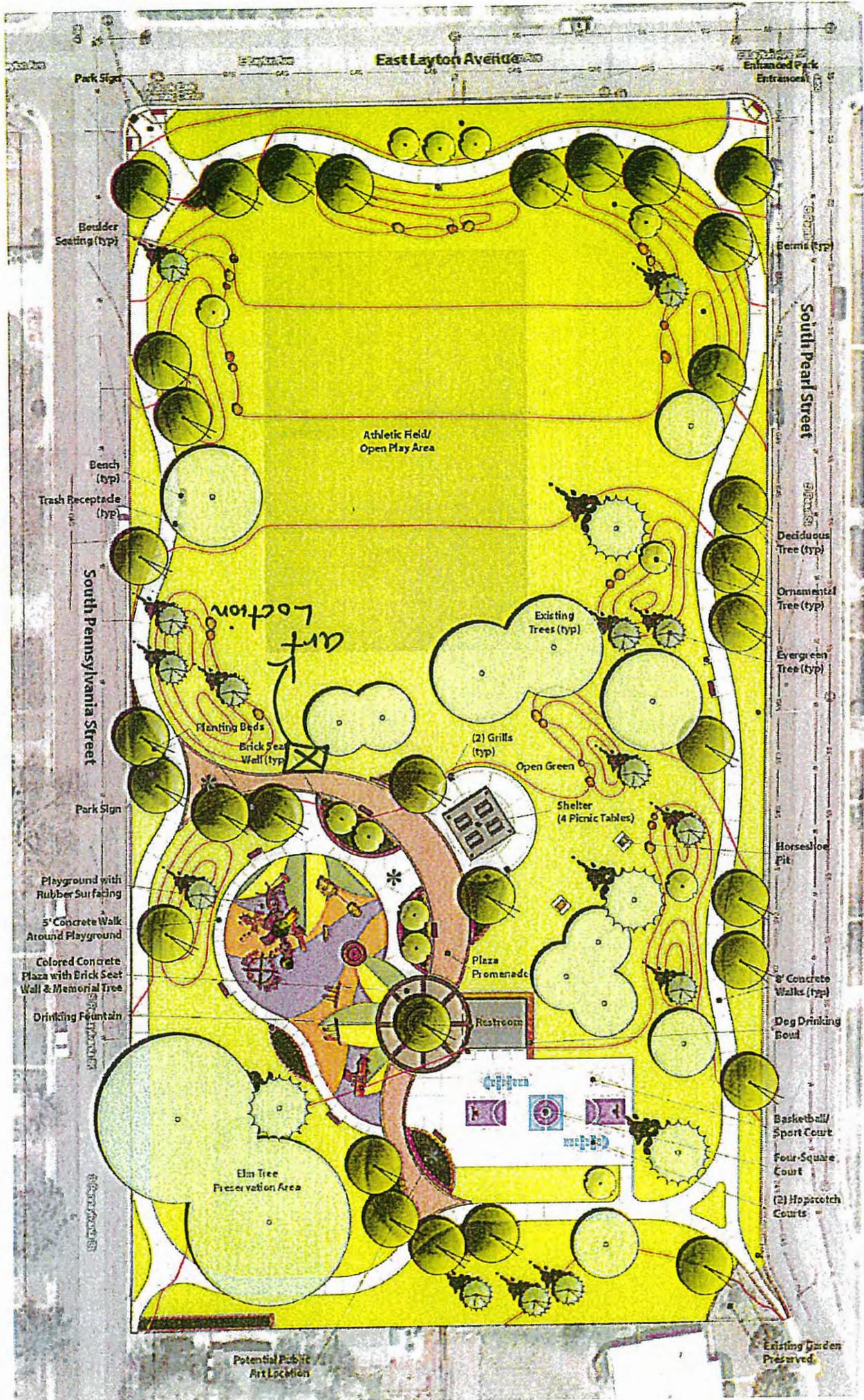
Michael Clapper

6505 E. Colorado Dr.

Denver, CO 80224

303-521-2044

## **Exhibit A (v) Location on Map**



East Layton Avenue

Enhanced Park Entrance

Park Sign

Boulder Seating (typ)

Bench (typ)

South Pearl Street

Athletic Field/ Open Play Area

Bench (typ)

Trash Receptacle (typ)

Deciduous Tree (typ)

Ornamental Tree (typ)

Evergreen Tree (typ)

South Pennsylvania Street

Art Location

Planting Beds

Brick Seat Wall (typ)

(2) Grills (typ)

Open Green

Shelter (4 Picnic Tables)

Park Sign

Horseshoe Pit

Playground with Rubber Surfacing

5' Concrete Walk Around Playground

Colored Concrete Plaza with Brick Seat Wall & Memorial Tree

Drinking Fountain

Plaza Promenade

8' Concrete Walks (typ)

Dog Drinking Bowl

Elm Tree Preservation Area

Restroom

Basketball/ Sport Court

Four-Square Court

(2) Hopscotch Courts

Potential Public Art Location

Existing Garden Preserved

# **Exhibit A (vi) Installation Plan for Proposed Sculpture by Michael Clapper**

## **Site A as indicated on the provided map**

A yet to be determined concrete contractor will excavate the footer by hand. (no heavy equipment expected)

They will form the footer using typical hand tools. They will then pour the footer either by using wheel barrels, or an extending pump that comes directly from the truck. The concrete truck will be parked next to the curb along S. Pearl St.

The contractor will supply barrier safety cones and fencing to keep people away from the excavation, form work and pouring of the concrete. This will be in place for the duration of the process.

The stainless steel poles will be set into the form before the concrete is poured.

Once the concrete sets, I will install the bearings and cylinders myself. This process should take no more than a few days and I will provide cones and tape to keep park visitors away from the work zone.

The limestone steps will be carved to a size to allow for installation by using a portable hoist and a cart.

I do not foresee any road or park closures being necessary. Visitors will be able to walk around the construction zone by walking along the sidewalk.

I will be overseeing and coordinating the entire project.

**Exhibit A (vii)**  
**List of Contractors and Suppliers**  
**for the Duncan Park Public Art Project**

Michael Clapper Studios:	Steel and Aluminum Fabrication and Painting and Install
KL&A Engineering:	Footer and Metal Engineering
Ryerson Denver:	Steel and Aluminum Supplier
Cain Const.:	Concrete Footer Contractor

# Time Lines for Proposed Sculpture by Michael Clapper

March 2015	Design and engineering complete
March 2015	Contract secured and projects underway with steel fabrication
Late April 2015	Mid-point in fabrication
May 2015	Coordinate base construction at site
June 2015	Complete final fitting and painting of steel and other elements at studio
Late June 2015	Deliver and install sculpture

USI COLORADO LLC/PHS  
PO BOX 33015  
SAN ANTONIO TX 78265

City of Englewood  
1000 ENGLEWOOD PKWY  
ENGLEWOOD CO 80110



**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) <b>Michael Don Clapper</b>	
	Business name/disregarded entity name, if different from above <b>Michael Clapper Studios</b>	
	Check appropriate box for federal tax classification: <input checked="" type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
	Address (number, street, and apt. or suite no.) <b>6505 E. Colorado Dr.</b> City, state, and ZIP code <b>Denver, CO 80224</b> List account number(s) here (optional) _____	Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>	
2 7 8 - 5 4 - 7 1 0 4	
<b>Employer identification number</b>	
- - - - -	

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below), and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here      Signature of U.S. person ▶ \_\_\_\_\_      Date ▶ 2-17-15

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** The IRS has created a page on [IRS.gov](http://IRS.gov) for information about Form W-9, at [www.irs.gov/w9](http://www.irs.gov/w9). Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.