Agenda for the Regular Meeting of the Englewood City Council Monday, June 21, 2010 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 June 7, 2010.

6. Recognition of Scheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to five minutes.)

   a. Rodney Lontine, Museum of Outdoor Arts Chief Operating Officer, will address Council regarding possible development of a Projects Linking Arts, Communities, and Environment (PLACE) project in Englewood.

7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. 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.)

8. Communications, Proclamations, and Appointments.

   a. Proclamation honoring Englewood resident Eva Romero as she celebrates her 105th birthday.

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

9. Consent Agenda Items.

   a. Approval of Ordinances on First Reading.

   b. Approval of Ordinances on Second Reading.

      i. Council Bill No. 14, authorizing an Intergovernmental Agreement with the Colorado Department of Labor and Employment to receive labor and employment data for the City of Englewood through the Denver Regional Council of Governments.

      ii. Council Bill No. 15, approving a Memorandum of Understanding between the 18th Judicial District Juvenile Assessment Center and the City of Englewood establishing the method of fee assessment for use of the Juvenile Assessment Center.

      iii. Council Bill No. 16, authorizing acceptance of Victim Assistance Law Enforcement (VALE) grant funding for 2010 in the amount of $16,740.

   c. Resolutions and Motions.

10. Public Hearing Items (No Public Hearing Scheduled).

11. Ordinances, Resolutions and Motions

   a. Approval of Ordinances on First Reading.

      i. Council Bill No. 17 — Recommendation by the Finance and Administrative Services Department to adopt a bill for an ordinance extending the Limited Waiver of the Waste Transfer Surcharge until December 31, 2013. **STAFF SOURCE: Frank Gryglewicz, Director of Finance and Administrative Services.**

      ii. Council Bill No. 18 — Recommendation by the Police Department to adopt a bill for an ordinance authorizing an Intergovernmental Agreement (Memorandum of Understanding) with the Denver Police Department for the sharing of mug shot data. **STAFF SOURCE: Tom Vandermee, Chief of Police.**

      iii. Council Bill No. 19 — Recommendation by the Community Development Department to adopt a bill for an ordinance authorizing an Intergovernmental Subgrantee Agreement with Arapahoe County for the 2010 Arapahoe County Community Development Block Grant Program. **STAFF SOURCE: Janet Grimmett, Housing Finance Specialist.**

b. Approval of Ordinances on Second Reading.

i. Council Bill No. 11, amending Title 16, Chapter 5, Subsection 1.1, and Chapter 11, Subsections 1 and 2, of the Englewood Municipal Code 2000, to permit buy-back, second-hand, thrift and consignment uses as uses-by-right in the MU-B-1 zone district.

ii. Council Bill No. 13, approving an Intergovernmental Agreement between the Denver Regional Council of Governments and the City of Englewood regarding the licensing of the 2010 Denver Regional Aerial Photography Project.

c. Resolutions and Motions.

i. Recommendation from the Human Resources Department to adopt a resolution amending Articles 8, 11 and 21 of the 2010-2011 Collective Bargaining Agreement between the Englewood Employees Association and the City of Englewood. **STAFF SOURCE: Sue Eaton, Director of Human Resources.**

ii. Recommendation from the Human Resources Department to adopt a resolution authorizing the provisions of the Collective Bargaining Agreement between the Englewood Police Benefit Association and the City of Englewood for the years 2011 and 2012. **STAFF SOURCE: Sue Eaton, Director of Human Resources.**

iii. Recommendation by the City Manager's Office to adopt a resolution supporting an amendment to the lease agreement between the Englewood McLellan Reservoir Foundation and TT of Denver, Inc. **STAFF SOURCE: Michael Flaherty, Deputy City Manager/EMRF Director.**

iv. Recommendation by the City Manager's Office to adopt a motion approving an Energy Performance Agreement with Ameresco. **STAFF SOURCE: Michael Flaherty, Deputy City Manager.**

v. Recommendation by the City Manager's Office to adopt a motion approving a Power Purchase Agreement with Ameresco. **STAFF SOURCE: Michael Flaherty, Deputy City Manager.**

12. General Discussion.

a. Mayor's Choice.

b. Council Members' Choice.

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.

13. City Manager's Report.

14. City Attorney's Report.

    a. Settlement of Case No. 10CV911 – Wolhurst Adult Community, et al v. Department of Transportation, State of Colorado – condemnation action. The State has agreed to all of Englewood's construction issues for the temporary City Ditch easement.

    b. Request to submit a final offer as part of the ongoing good faith negotiations and if necessary to condemn property for sewer/storm sewer easements for the Littleton/Englewood Plant as recommended by the Supervisory Committee.

15. Adjournment

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.

PROCLAMATION

WHEREAS, Eva Romero has been an active Englewood citizen since 1968, and is a very special member of our community; and

WHEREAS, Mrs. Romero celebrated her 105th birthday on June 15, 2010; and

WHEREAS, to the best of the City of Englewood's knowledge, Mrs. Romero is Englewood's oldest living resident; and

WHEREAS, the City Council of Englewood wishes to recognize and honor Mrs. Romero on the occasion of this notable birthday; and

WHEREAS, Mrs. Romero has been involved over the years at the Malley Senior Recreation Center and in her church; and

WHEREAS, Mrs. Romero has raised 11 children and is a proud Grandmother of 51 grandchildren, 138 great-grandchildren, 72 great great-grandchildren, and later this year will become a Great Great Great Grandmother;

NOW, THEREFORE, we, the City Council Members of the City of Englewood, Colorado hereby congratulate Eva Romero on the occasion of her 105th birthday, offering our warmest birthday wishes and our sincere thanks for her contributions to the City of Englewood.

ADOPTED AND APPROVED this 21st day of June, 2010.

James K. Woodward, Mayor

Rick Gillit, City Council Member

Jill Wilson, Mayor Pro Tem

Joe Jefferson, City Council Member

Bob McCaslin, City Council Member

Linda Olson, City Council Member

Randy Penn, City Council Member

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 14
INTRODUCED BY COUNCIL
MEMBER McCASLIN

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) ENTITLED "LICENSE AGREEMENT" BETWEEN THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT AND THE CITY OF ENGLEWOOD, COLORADO IN SUPPORT OF THE CITY'S USE OF STATE WAGE AND EMPLOYMENT DATA.

WHEREAS, the Englewood City Council established an IGA with the Colorado Department of Labor and Employment regarding licensing of employment data for City use by the passage of Ordinance No. 18, Series of 2008; and

WHEREAS, the Englewood Community Development Department is seeking to receive Colorado State Labor and Employment data through the Denver Regional Council of Governments; and

WHEREAS, the Colorado Department of Labor and Employment provides this data to DROCOG who will in turn provide it to the City of Englewood; and

WHEREAS, in order to receive such data, the Colorado State Department of Labor and Employment required a license agreement between the City of Englewood and the State Department of Labor and Employment for use of the data; and

WHEREAS, acquisition of this data will enable the Englewood Community Development Department to further economic development goals by gaining a better understanding of labor and employment issues within the City;

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

Section 1. The City Council of Englewood, Colorado, hereby approves the Intergovernmental Agreement entitled "License Agreement" between the Colorado Department of Labor and Employment and the City of Englewood, Colorado in support of the City's use of State Wage and Employment Data through the Denver Regional Council of Governments, a copy of which is attached hereto as Exhibit A.

Section 2. The Mayor is hereby authorized to sign and the City Clerk to attest said "License Agreement" for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 7th day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 11th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of June, 2010 for thirty (30) days.

Read by title and passed on final reading on the 21st day of June, 2009.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 25th day of June, 2010.

Published by title on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

Loucrishia A. Ellis

BILL RITTER JR
Governor

DONALD J MARES
Executive Director

ALEXANDRA E HALL
Director

DEPARTMENT OF LABOR AND EMPLOYMENT

LABOR MARKET INFORMATION

633 17th Street, Suite 600
Denver, Colorado 80202-2107
(303) 318-8864 (303) 318-8871

EXHIBIT A

This is a legal document. Legal counsel should be consulted before signing.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made by and between:

City of Englewood
1000 Englewood Parkway
Englewood, CO 80110
(Licensee)

and

THE STATE OF COLORADO
DEPARTMENT OF LABOR AND EMPLOYMENT
633 17th Street, Suite 600
Denver, CO 80202-2107
(Licensor)

The Licensor is an agent of the United States Bureau of Labor Statistics for the purposes of collecting and securing Quarterly Census of Employment Wages "QCEW" wage, employment data from Colorado employers and is authorized to issue a non-exclusive license for this information to public and non-public entities provided that the information is adequately secured from non-authorized access or publication.

UPON ACCEPTING RECEIPT OF THE LICENSED INFORMATION LISTED BELOW, OR ANY PART THEREOF, THE LICENSEE AGREES TO THE TERMS AND CONDITIONS LISTED ON PAGE 2 OF THIS LICENSE AGREEMENT.

LICENSED INFORMATION PROVIDED:

Report Description	Report Period	Amount
CIPSEA Compliant QCEW Micro Data	As Requested	$230.00
TOTAL AMOUNT DUE WITHIN 30-DAYS OF INVOICE RECEIPT * ALL FEES ARE NON-REFUNDABLE		

Received by:

LICENSEE

Name: _____

James K. Woodward, Mayor — Date

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

LICENSOR

By: _____

Alexandra E. Hall — Date
Director
Labor Market Information

LICENSE AGREEMENT TERMS AND CONDITIONS

1. Upon receipt of total payment due (as specified on Page 1), the Licensor grants a non-exclusive revocable license to the Licensee to access and use, as limited herein, all Licensed Information (as specified on Page 1). LICENSOR DISCLAIMS ALL WARRANTIES REGARDING THE LICENSED INFORMATION, SPECIFICALLY THE WARRANTIES OF MERCHANTABILITY AND PARTICULAR PURPOSE. LICENSEE RELEASES LICENSOR FROM ANY CLAIMS, JUDGMENTS, OR DAMAGES, CONSEQUENTIAL OR DIRECTLY ARISING FROM ANY ERRORS OR OMISSIONS CONTAINED WITHIN THE LICENSED INFORMATION, OR ANY PART THEREOF, OR ARISING FROM THE LICENSEE'S RELIANCE UPON THE LICENSED INFORMATION OR OMISSIONS OF INFORMATION, OR ANY PART THEREOF.

2. Licensee shall pay the total non-refundable payment due within thirty (30) days of receipt of the information. If payment is not received by Licensor during this period, Licensor shall invoice the Licensee, and Licensee shall immediately pay, the total amount specified on Page 1 plus a billing fee calculated at the greater of eighteen percent per annum of the total amount due or twenty-five and no/100 dollars ($25.00). If the fee is not paid within the above specified time, Licensee shall immediately return all Licensed Information to the Licensor.

3. Licensee acknowledges and agrees to protect the confidentiality of the Licensed information provided and to adequately secure the Licensed information from non-authorized access or publication.

(a) Except in the event it is necessary for the Licensee to utilize a third-party to format, process or use the information, the Licensee shall not copy or permit others to copy the Licensed Information, or any part thereof. In the event the Licensee must utilize a third-party to format, process, or use the information, the Licensee shall not allow the third-party to use the information, or any part thereof, for any purpose other than the Licensee's valid administrative function. Any breach of Licensed Information's confidentiality or any of the duties specified in section 3 by Licensee's third-party shall be deemed to be a breach on the part of the Licensee.

(b) Licensee shall use the Licensed Information, or any part thereof, only to the extent necessary to assist in the Licensee's valid administrative function;

(c) The Licensee's rights to use the information are not assignable, the Licensee shall not assign or transfer, nor attempt to assign or transfer its rights pursuant to this contract.

(d) Licensee shall restrict access to the Licensed Information to only those employees or agents of the Licensee whose access is necessary to assist the Licensee's valid administrative function. Upon Licensor's request, Licensee shall provide to Licensor in a timely manner, a listing of all individuals who may access the Licensed Information.

(e) Licensee shall not publish, sell, or disclose the Licensed Information, or any part thereof, to the extent that the information published of any area, industry, Federal Department or Federal Agency level contains fewer than three (3) reporting units (as defined in C.R.S. 8-70-103(9), 1987 Rep. Vol., as amended), or eighty percent (80%) of the total employment of the applicable reporting level is made up by a single reporting unit.

4. In the event of Licensee's breach of the Licensed Information's confidentiality or any of the Licensee's duties specified in section 3, the Licensee shall, to the extent authorized by law, indemnify, save and hold harmless the Licensor, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Licensee, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract, and the Licensee shall return all Licensed Information to the Licensor and pay the Licensor within thirty (30) days the sum of one-thousand and no/100 dollars ($1,000.00).

5. The term of the License Agreement shall commence upon Licensor's receipt of total payment. The License Agreement shall continue until it is terminated upon Licensee's discontinued use of Licensor's confidential information for a one (1) year period or if Licensee defaults on the obligations and conditions of this License Agreement and fails to correct the default within thirty (30) days.

6. The Licensee warrants that it possesses the legal authority to enter into this Contract. The person or persons signing this Contract on behalf of the Licensee also warrants that they have full authorization to execute this contract.

7. The Licensee agrees that all Licensed Information is the sole property of the Licensor.

8. Licensee shall permit the Licensor, the U.S. Department of Labor, or any other duly authorized agent or governmental agency, to monitor all activities conducted by the Licensee pursuant to the terms of this Contract. Such monitoring may consist of internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other reasonable procedures. All such monitoring shall be performed in a manner that shall not unduly interfere with Licensee's work.

9. The Licensee shall notify the Licensor, within five (5) days after being served with a summons, complaint, or other pleading in a case which involves services provided under this contract and which has been filed in any Federal or State court or administrative agency, and shall deliver copies of such document to the Licensor.

10. This Contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State of Colorado Fiscal Rules. Any Licensor waiver of an alleged breach of confidentiality by the Licensee or third party agents of the Licensee is not to imply a waiver of any subsequent breach.

11. All notices required and permitted pursuant to this Contract shall be in writing and shall be deemed given when personally served or three (3) days after deposit in the United States Mail, postage prepaid, registered or certified, return receipt requested, and addressed to the addresses stated on Page 1 or to such other address as has been designated by a notice complying with the foregoing requirements.

12. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. The 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 of provision hereof. In the event the Controller of the State of Colorado subsequently disapproves this contract, this contract shall terminate and the State shall return all sums paid by the Licensee, and the Licensee shall return all Licensed Information without penalty, or right to cause of action.

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 15
INTRODUCED BY COUNCIL
MEMBER GILLIT

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT ENTITLED "MEMORANDUM OF UNDERSTANDING FOR THE 18TH JUDICIAL DISTRICT JUVENILE ASSESSMENT CENTER" ESTABLISHING THE METHOD IN WHICH THE PARTICIPATING GOVERNMENTAL ENTITIES ARE ASSESSED FEES FOR THE USE OF THE JUVENILE ASSESSMENT CENTER.

WHEREAS, the 18th Judicial District Juvenile Assessment Center (JAC) moved into its permanent facility as a part of the Arapahoe County Detention Center complex in 2002; and

WHEREAS, the facility is a "one stop shop" for youth, families and law enforcement agencies within the 18th Judicial District, with outreach activities at local schools, law enforcement and community agencies; and

WHEREAS, since its inception, the Juvenile Assessment Center has provided a multi-agency focus to the individual needs of at-risk youth and their families; and

WHEREAS, the Juvenile Assessment Center continues to serve as a single point entry and saves law enforcement a significant amount of time spent on processing juveniles; and

WHEREAS, the Englewood City Council authorized the approval of a waiver of direct subgrant awards for the Colorado Division of Criminal Justice Juvenile Accountability Incentive Block Grant Program since 2003 to help fund the Center; and

WHEREAS, due to the decreases of federal grant funding provided to the Juvenile Assessment Center, the 18th Judicial District local law enforcement agencies agreed on the implementation of a funding formula that is based upon 50% usage and 50% population; and

WHEREAS, the passage of this Ordinance will establish the method in which the participating governmental entities are assessed fees for the use of the JAC; and

WHEREAS, the passage of this proposed Ordinance will authorize a one year period and extensions with automatic renewal of ten successive one year terms unless the City or another party gives written notice of termination; and

WHEREAS, the Englewood City Council authorized the Chief of Police to sign and attest to a waiver of Direct Sub grant Award Juvenile Accountability Incentive Block Grant (JAIBG) together with the City's matching contribution transferring the City's grant allocation to the 18th Judicial District Juvenile Assessment Center for the Federal Fiscal years of October 2003 – September 2004, with the passage of Resolution No. 55, Series 2004; and

WHEREAS, the City of Englewood's matching contribution to the Juvenile Assessment Center for fiscal year 2010 was $15,666 and was included in the Englewood Police Department's matching funds in their annual budget;

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 accepts and approves the "Memorandum of Understanding for the 18th Judicial District Juvenile Assessment Center" attached hereto as Exhibit A.

Section 2. The Mayor is authorized to execute and the City Clerk to attest and seal the intergovernmental Agreement for and on behalf of the City of Englewood, Colorado.

Section 3. The City Manager or his designee is authorized to extend the "Memorandum of Understanding for the 18th Judicial District Juvenile Assessment Center" for 10 additional one year periods, for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 7th day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 11th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of June, 2010 for thirty (30) days.

Read by title and passed on final reading on the 21st day of June, 2009.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 25th day of June, 2010.

Published by title on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

_____
Loucrishia A. Ellis

EXHIBIT A

MEMORANDUM OF UNDERSTANDING
For The 18TH Judicial District Juvenile Assessment Center

THIS AGREEMENT, ("MOU") is made and entered into by and between the **COUNTIES OF ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN, the STATE OF COLORADO,** a body politic and corporate regarding the use and benefit of the 18th Judicial Juvenile Assessment Center and the Arapahoe, Douglas, Elbert and Lincoln Counties Sheriffs' Offices; and the **CITIES/TOWNS OF: AURORA, BENNETT, BOW MAR, CASTLE PINES NORTH, CENTENNIAL, CHERRY HILLS VILLAGE, COLUMBINE VALLEY, DEER TRAIL, ENGLEWOOD, FOXFIELD, GREENWOOD VILLAGE, GLENDALE, LARKSPUR, LITTLETON, SHERIDAN, LONE TREE, CASTLE ROCK, PARKER, ELIZABETH, KIOWA, SIMLA, ARRIBA, GENOA, HUGO AND LIMON** (collectively referred to as the "Law Enforcement Participants"), all the above collectively referred to as the "parties".

WITNESSETH:

WHEREAS, Part 2 of Article 1 of Title 29, C.R.S. permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, Part 2 of Article 1 of Title 29, C.R.S. authorizes governments to contract with one another to provide any function, service or facility lawfully authorized to each of the contracting units through the establishment of a separate legal entity; and

WHEREAS, the entity known as the 18th Judicial District Juvenile Assessment Center (the "JAC") provides a centralized location for the coordinated provision of mental health, booking, detention screening and other intervention programs and services for juveniles and their families who were referred to the JAC by the parties and/or any citizens of the 18th Judicial District; and

WHEREAS, the parties desire to enter into a new agreement for funding the JAC as described herein, which MOU supersedes all prior agreements and amendments.

I. GENERAL PROVISIONS

THE JUVENILE ASSESSMENT CENTER has been established as a 501(c)(3) with its own Board of Directors (hereinafter referred to as the Board) and by-laws, and consists of members from four segments of the 18th Judicial District. Board member representation shows equal distribution from law enforcement, school districts, juvenile services and citizens. The parties acknowledge that the Board pursuant to its bylaws, has delegated the daily activities of the JAC to the Executive Director of the JAC.

Furthermore, the parties acknowledge the JAC provides statutorily mandated services concerning detained juveniles.

II. POWERS OF THE JAC

A. GENERAL POWERS. The parties acknowledge the JAC is empowered with the authority to improve, construct, maintain, repair, control, regulate, and operate the JAC within a centralized location(s) within the 18th Judicial District for the use and benefit of the parties to this Agreement and their constituents. The parties hereto further agree the JAC Board shall have the authority reasonable and necessary to carry out the powers set forth in this Agreement.

B. SPECIFIC POWERS. The JAC provides the services identified below to children who are under the age of eighteen. The mission of the 18th Judicial District Juvenile Assessment Center is to provide a coordinated, multi-agency, single entry site, which contributes to the safety of youth, families and the community through early intervention, comprehensive assessment and improved access to appropriate services.

C. PRINCIPAL GOALS OF THE JAC ARE TO:

1. Identify at-risk and delinquent youth in the community in need of intervention;
2. Enhance public safety through identification, comprehensive assessment, intervention and service referrals for at-risk and delinquent youth to include follow-up by JAC personnel;
3. Provide a single point of entry for law enforcement allowing them to return to their other duties in a timely manner;
4. Increase coordination of information and services;
5. Utilize an individualized approach tailored to obtain positive outcomes for youth, families and the community;
6. Increase effectiveness in the use of limited resources through the elimination of duplication of effort and enhanced accountability;
7. Facilitate better working relationships between agencies serving youth, families and the community; and
8. Serve as a resource to the community concerning youth related issues and services.

D. DUTIES OF THE JAC:

1. Provide rapid dissemination of assessment information to municipal, county and state courts, and collaborating agencies including but not limited to, the parties, school districts, Probation, Department of Human Services and Division of Youth Corrections in accordance with all laws, including those related to confidentiality;
2. Assist with intervention planning concerning arrest, incarceration, intervention, and consequences for juveniles pursuant to the Juvenile Code and the Chief Judge order regarding the management of the juvenile detention population dated, April 13, 2010 and subsequent applicable orders;

3. Prepare pre-disposition reports for municipal, county and state courts as ordered by the judicial officer;
4. Provide pursuant to Section 19-2-508, C.R.S., short-term holding and assessment of juveniles: detained or arrested by Law Enforcement; juveniles with status, ordinance, misdemeanor or felony level charges; juveniles considered to be "at risk" or "runaway"; or juveniles referred to or in the care of Human Services, who are not in immediate danger and who pose no threat to themselves or others (juveniles awaiting placement or family services);
5. Receive and assess juveniles who are beyond the control of their parent(s) or school and/or who are truant;
6. Apply for, receive and administer grants and other sources of funding, and provide all services related to juveniles which monies are authorized by the terms of any such grant or funding awards;
7. Provide ongoing training of law enforcement personnel on changes in the Juvenile Code, accessing and using JAC services and detention screening procedures as applicable;
8. Provide screening of juveniles for Law Enforcement parties to determine eligibility for pretrial placement in Division of Youth Corrections' facilities and other facilities per local or state and local policy; or per Senate Bill 94 contract;
9. Have any additional duties that are authorized in writing by the Board.

III. FUNDING CONTRIBUTIONS OF PARTIES

The parties agree that the fees to be charged for services shall be established by the Board and shall be uniform and reasonable. The parties agree that each party shall contribute to the JAC their fees as set forth herein.

A. LAW ENFORCEMENT PARTIES' CONTRIBUTIONS. The annual using a formula that is weighed equally by each Law Enforcement parties' Total Population and the average of the Law Enforcement parties' usage of the JAC for the three calendar years preceding the date the preliminary budget is approved (the "Three-Year Usage Period").

1. Total Population Calculation. One-half of the Law Enforcement parties' annual contribution will be determined as follows:

   a. By identifying a total population figure for each Law Enforcement party using official demographic data provided by the Department of Local Affairs. The Sheriff's jurisdiction shall be the unincorporated portion of Arapahoe, Douglas, Elbert, and Lincoln Counties, including those communities under contract with said Sheriffs' Office.

2. Program Usage. The remaining one-half of the Law Enforcement parties' annual contribution will be determined as follows:

a. The JAC shall keep a record of the number of Juveniles referred or transported to the JAC by each Law Enforcement party during each full calendar year (the "Law Enforcement Parties Usage Number").

b. All of the Law Enforcement Party Usage Numbers for the Three-Year Usage Period will be added together (the "Three-Year Total Usage Number"). Each Law Enforcement Parties' percentage of the Three-Year Total Usage Number will determine one-half of their annual contribution.

B. FEE BASED CONTRIBUTION: The parties agree that the Board shall have the power to set fees for non-party referred juveniles, which may be waived by the JAC Executive Director so long as said waivers are applied in a consistent manner and according to applicable laws including anti-discrimination laws.

IV. APPROPRIATION AND PAYMENTS BY PARTIES OR OTHER ENTITIES.

A. APPROPRIATION AND PAYMENT OF FUNDS: The parties agree to consider for appropriation the amounts computed as set forth annually which are to be expended by the JAC. The parties agree to pay said amounts to the JAC by January 31st of the year during which said monies are to be expended by the JAC. All payments to the JAC pursuant to this Agreement are, however, subject to annual appropriation by the parties hereto in the manner required by statute or ordinance. It is the intention of the parties that no multiple-year fiscal debt or other obligation shall be allowed by the Agreement.

V. REPORTS

A. ANNUAL REPORT. By July 1st of each year the JAC Executive Director shall prepare and present to the Board a comprehensive annual report of the JAC's activities and finances during the preceding year, which will be made available to the parties.

B. REPORTS REQUIRED BY LAW, REGULATION OR CONTRACT. The JAC Executive Director shall also prepare and present such reports as may be required by law, regulation, or contract to any authorized federal, state, and/or local officials to whom such report is required to be made in the course and operation of the JAC.

C. REPORTS REQUESTED BY THE PARTIES. The JAC Executive Director shall also render to the parties hereto, at reasonable intervals, such reports and accountings as the parties hereto may from time to time request.

VI. DEFAULT IN PERFORMANCE

A. In the event any party fails to pay its share of fees when due, or to perform any of its covenants and undertakings under this Agreement, the Board shall cause written notice to be given to the governing body of the party of the Board's intention to terminate said Agreement as to such party in default, unless such default is cured within thirty (30) days from the date of such notice. Absent timely cure said defaulting party shall thereafter be denied service by the JAC.

VII. TERM, RENEWAL AND TERMINATION OF AGREEMENT

A. TERM AND RENEWAL OF AGREEMENT. This Agreement shall be in full force and effect for a one-year term beginning January 1, 2011, and terminating December 31, 2011; provided that this agreement shall automatically renew for 10 successive one-year terms unless a party gives written notice of termination pursuant to subsection B of this section.

B. TERMINATION BY WRITTEN NOTICE. This Agreement may be terminated by written notice from a party or parties to the Board at least 90 days prior to January 1st of any given year. Any party terminating its participation pursuant to this provision shall not be entitled to any reimbursement of its annual fee contributions previously paid to the JAC.

C. TERMINATION OF PARTY/LOSS OF FUNDS. Upon termination of a party, whether by default in performance or by written notice, the remaining parties may continue to participate in this Agreement. The Board, upon such termination of a party or parties, shall act to adjust the budget of Annual Assessment to accommodate the loss in funds unless the remaining parties negotiate an amendment to the Agreement setting forth revised percentages of participation or the parties agree to terminate the Agreement.

VIII. SEVERABILITY CLAUSE

If any provisions of this Agreement or the application thereof to any party or circumstances is held invalid, such invalidity shall not affect any other provision or applications of the Agreement which can be given effect without the invalid provision or application, and to this end, the provisions of the Agreement are declared to be severable.

IX. COUNTERPARTS

This Agreement may be signed in counterparts, and each counterpart shall be deemed an original, and all the counterparts taken, as a whole shall constitute one and the same instrument.

X. NO THIRD PARTY BENEFICIARIES

Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between the parties and is not intended to, and shall not be deemed to, confer rights upon any persons or entities not named as parties, limit in any way governmental immunity as provided in 24-10-101, C.R.S., *et. seq*. and other limited liability statutes for the protection of the parties, nor limit the powers and responsibilities of any other entity not a party hereto. Nothing contained herein shall be deemed to create a partnership or joint venture between the parties with respect to the subject matter hereof. The parties shall be responsible for their own negligent acts and the conduct of their respective employees without waiving any protections afforded by the Governmental Immunity Act.

XI. SUPERSEDES

This Agreement supersedes and replaces all prior agreements among the parties whether written or oral.

XII. NONDISCRIMINATORY POLICY

The JAC shall make its services, facilities, and programs available to all persons regardless of race, color, age, creed, national origin, gender, sexual orientation or disability.

XIII. NO GENERAL OBLIGATION INDEBTEDNESS

Because this Agreement will extend beyond the current fiscal year, the parties understand and intend that the obligation of the parties to pay the annual fees hereunder constitutes a current expense of the parties payable exclusively from the parties' funds and appropriated each fiscal year and shall not in any way be considered to be a multi-fiscal year debt or other financial obligations within the meaning of Article X, Section 20 of the Colorado Constitution; a general obligation indebtedness of the parties within the meaning of any provision of Article XI of the Colorado Constitution, or any other constitutional or statutory indebtedness. None of the parties has pledged the full faith and credit of the state, or the parties to the payment of the charges hereunder, and this Agreement shall not directly or contingently obligate the parties to apply money from, or levy or pledge any form of taxation to, the payment of the annual operating costs.

CITY OF ENGLEWOOD

By: _____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 16
INTRODUCED BY COUNCIL
MEMBER WILSON

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A VICTIM ASSISTANCE LAW ENFORCEMENT (VALE) GRANT FROM THE VICTIM ASSISTANCE LAW ENFORCEMENT BOARD OF THE 18TH JUDICIAL DISTRICT.

WHEREAS, the City of Englewood Safety Service Department applied for funding under the VALE Grants Program to be used for funding the Victim/Witness Program in the Englewood Municipal Court; and

WHEREAS, the Victim/Witness Program in the Englewood Municipal Court has served the victims of domestic violence since 1990; and

WHEREAS, the staff seeks Council approval of an Ordinance accepting a 2010 VALE grant funding in the amount of $16,740, for the period of July 1, 2010 to June 30, 2011;

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 acceptance of the VALE Grant and accompanying intergovernmental agreement, a copy of which is marked as "Exhibit A" and attached hereto.

Section 2. The City Manager, the Chief of Police and the Director of Finance/Administrative Services are hereby authorized to sign said VALE Grant and accompanying intergovernmental agreement on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 7th day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 11th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of June, 2010 for thirty (30) days.

Read by title and passed on final reading on the 21st day of June, 2009.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 25th day of June, 2010.

Published by title on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

_____
Loucrishia A. Ellis

EXHIBIT A

VICTIM ASSISTANCE AND LAW ENFORCEMENT BOARD

CONTRACT

Pursuant to the Assistance to Victims of and Witnesses to Crimes and Aid to Law Enforcement Act, Article 4.2 Title 24 C.R.S., the Victim Assistance and Law Enforcement Board of the 18th Judicial District has made the following award:

Grantee: Englewood Department of Safety Services
3615 South Elati Street, Englewood, Colorado 80110

Grant number: 10-38

Project Title: Victim/Witness Advocate

Purpose of Grant Funds: Law Enforcement Victim Services

Services/Equipment Being Funded: Portion of Salary and Benefits for Victim Assistance Advocate

Grant Period: July 1, 2010 to June 30, 2011

Amount of Grant Award: $16,740.00

Quarterly Installments: Four (4) Quarterly Payments of $4,185.00

BE IT UNDERSTOOD THAT:

(1) All disbursements of awards are contingent upon the availability of VALE funds.

(2) The contents of the grant application will become contractual obligations of the grant recipient and are incorporated into this contract as if fully set forth herein.

(3) The grant recipient is required to submit Financial Reports quarterly: October 29, 2010, January 28, 2011, April 29, 2011 and July 29, 2011 for funding for 2010/2011. The report due on July 29, 2011 shall be the year-end report. The VALE Board will provide Financial Reporting Forms. Grant recipients are required to use these forms.

(4) The grant recipient is required to submit Program Reports on: January 28, 2011 and July 29, 2011 for funding for 2010/2011. These reports must address any special conditions that are listed in this contract. The report due on July 29, 2011 shall be the year-end report. It shall show totals for the entire year and must address any special conditions that are listed in this contract. The VALE Board will provide Program Reporting Forms. Grant recipients are required to use these forms.

Englewood Department of Safety Services
10-38

Reports shall be sent to:

Tara Lassiter, Grant Evaluator
VALE Board
District Attorney's Office
6450 S Revere Pkwy
Centennial, Colorado 80111
(720) 874-8608

(5) Failure to submit these required reports on the dates due may result in suspension of the grant, termination of the grant, return of awarded funds or the loss of future funding by VALE.

(6) Special conditions for the award which have been stipulated between the VALE Board and the grant recipient are as follows:

NONE

(7) Any equipment purchased with VALE funds must remain with the grant recipient. Equipment must be used for the purpose designated in the grant application. Any use by others or transfer of ownership must be reported to the VALE Board, in writing, prior to the occurrence of such use or transfer. The Board may approve such use or transfer or may request return of the equipment.

(8) Any change in the use of grant funds shall be approved by the VALE Board. The request for such change shall be in writing. Approval of the VALE Board shall be obtained prior to any such use.

(9) Amendment of any other terms of this contract shall have prior approval of the Board. Requests for amendment shall be in writing.

(10) The grant recipient shall submit written notification by June 1, 2011 to the VALE Board if the grant recipient will have any remaining funds at the end of the grant period.

All unused funds shall be returned to the VALE Board unless the grant recipient makes a request in writing for use of the funds beyond the grant period and such request has been approved by the VALE Board.

Such requests shall include:

The amount of remaining funds
How the funds will be used
When the funds will be expended
Why the funds were not expended.

Upon receipt of the request, the VALE Board shall decide whether to grant or deny the request without further presentation or hearing.

(11) The grant recipient agrees that all funds received under this grant shall be expended solely for the purposes stated above and that any funds not so expended, including funds lost or diverted to other purposes, shall be repaid to the VALE fund.

(12) The grant recipient agrees to comply with the letter and spirit of the Colorado Anti-discrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (C.R.S. Sec. 24-34-402) and required by Executive Order, Equal Opportunity and Affirmative Action, date April 16, 1975.

(13) Non-compliance with this contract may include failure to submit reports, making unapproved changes to the budget, performance failures or adherence to special conditions. Non-compliance with any portion of this contract may result in:

Suspension of grant funds
Termination of grant
Withholding of funds
Requiring grant recipient to return money to the VALE fund
Other action as deemed necessary by the members of the VALE Board
Any combination of the above.

(14) All grant recipients shall make available to the Board or its authorized designee all current books, records, procedures or other information relative to the grant application and implementation.

(15) The funds granted by this contract for Victim Services shall be disbursed in quarterly installments pending VALE Board approval of all required reports and verification of expenses. The funds granted by this contract for equipment may be dispersed by a single payment for the full amount, pending VALE Board approval of all required reports and verification of expenses.

Englewood Department of Safety Services
10-38

The grant recipient, through the following signatories, understands and agrees that any VALE monies received as a result of the awarding of the grant application shall be subject to the terms of this contract.

_____ Date_____
Project Director
Tom Vandermee, Chief of Police

_____ Date_____
Financial Officer
Frank Gryglewicz, F/AS Director

_____ Date_____
Authorizing Official
Gary Sears, City Manager

_____ Date_____
Kevin Duffy
Chair, VALE Board

Authorized Official: The authorized official is the person who is, by virtue of such person's position, authorized to enter into contracts for the grant recipient.

This could include: Mayor or City Manager, Chairperson of the County Commissioners, District Attorney, President or Chairperson of the Board of Directors, Superintendent, or other Chief Executive Officer.

Financial Officer: The person is responsible for all financial matters related to the program and who has responsibility for the accounting, management of funds, verification of expenditures, audit information and financial reports. The person who actually prepares the finical reports may be under the supervision of the Financial Officer. The Financial Officer must be a person other than the Authorized Official or the Project Director.

Project Director: The person who has direct responsibility for the implementation of the project. This person should combine knowledge and experience in the project area with ability to administer the project and supervise personnel. He/she shares responsibility with the financial Office for seeing that all expenditures are within the approved budget. This person will normally devote a major portion of his/her time to the project and is responsible for meeting all reporting requirements. The Project Director must be a person other than the Authorized Official or the Financial Officer.

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 a i	Bill for an Ordinance to Extend the Limited Waiver of the Waste Transfer Surcharge

Initiated By:	Staff Source:
Department of Finance and Administrative Services	Frank Gryglewicz, Director

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

This action furthers intergovernmental cooperation between the cities of Englewood, Littleton and Sheridan. The City Council passed Ordinance 30, Series of 1993 authorizing a limited waiver of waste transfer surcharge until December 31,1995, and Ordinance 22, Series of 1995 authorizing a limited waiver of waste transfer surcharge until December 31,1998. On June 7, 1999, Council approved Ordinance 31, Series of 1999 on final reading that further extended the waiver through 2001. Ordinance 14, Series of 2002 extended the waiver until December 31, 2004. Ordinance 29, Series of 2005 extended the waiver until December 31, 2007. Ordinance 1, Series of 2007/2008 extended the waiver until December 31, 2009, but the Council Communication requested extending the waiver until December 31, 2010.

RECOMMENDED ACTION

Staff recommends approval of this bill for an ordinance extending the waste transfer surcharge until December 31, 2013 (three summer seasons).

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood initially passed Ordinance 25, Series of 1987 on April 20, 1987 instituting the Waste Transfer Surcharge. The Surcharge imposes a twenty-cent surcharge on each cubic yard or portion thereof by each person disposing of trash at a waste transfer facility. The definition of "person" in the ordinance includes political subdivisions of the State of Colorado.

The City of Englewood has received requests to continue the waiver of the surcharge for public purposes. Englewood, Littleton, and Sheridan have requested waivers for their annual "clean-up" programs. The waiver sunset on December 31, 2010 so the waiver must be extended at this time for the 2011, 2012, and 2013 annual cleanups.

FINANCIAL IMPACT

The waiver will reduce potential revenues by an estimated $1,000 annually.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 17
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 4, CHAPTER 7, SECTION 11, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO THE EXTENSION OF THE LIMITED WAIVER OF THE WASTE TRANSFER SURCHARGE.

WHEREAS, the City Council of the City of Englewood, Colorado passed Ordinance No. 25, Series 1987, instituting the Waste Transfer Surcharge which imposed a twenty cent surcharge on each cubic yard or portion thereof by each person disposing of trash at a waste transfer facility; and

WHEREAS, the Englewood City Council passed Ordinance No. 30, Series of 1993, which granted a limited waiver of the Waster Transfer Surcharge until December 31, 1995; and

WHEREAS, the Englewood City Council passed Ordinance No. 22, Series of 1995, which authorized a limited waiver of the Waste Transfer Surcharge until December 31, 1998; and

WHEREAS, the Englewood City Council passed Ordinance No. 31, Series of 1999, which granted a limited waiver of the Waster Transfer Surcharge until December 31, 2001; and

WHEREAS, the Englewood City Council passed Ordinance No. 14, Series 2002 extended the waiver until December 31, 2004; and

WHEREAS, the Englewood City Council passed Ordinance No. 29, Series 2005 extended the waiver of the surcharge until December 31, 2007; and

WHEREAS, the Englewood City Council passed Ordinance No. 1, Series 2008 extending the waiver of the surcharge until December 31, 2009; and

WHEREAS, the passage of this proposed Ordinance will extend the waiver of the surcharge until December 31, 2013;

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 an Ordinance amending Title 4, Chapter 7, Subsection 11, with the extension of the Limited Waiver of the Waste Transfer Surcharge to read as follows:

4-7-11: Limited Waiver of Surcharge: The requirements of this Chapter shall not apply during the months of May, June, July, August and September to any Municipality which meets the following criteria:

A. Incorporated with a City Hall within the boundaries of Arapahoe County.

B. Does not provide municipal collection of household solid waste directly or indirectly.

C. Offers to its citizens the collection of household trash on a limited basis during the months of May, June, July, August and September.

This Section shall be effective only until December 31, ~~2009~~ 2013, after which time it shall be null and void without further action of 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 it 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 21st day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 25th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 21st day of June, 2010.

_____
Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 a ii	IGA MOU for the Mug Shot System

Initiated By:	Staff Source:
Police Department	Tom Vandermee, Chief of Police

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

N/A

RECOMMENDED ACTION

The Police Department is recommending that City Council adopt a bill for an ordinance approving an intergovernmental agreement (Memorandum of Understanding) with the Denver Police Department to partner on a mug shot repository.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Police Department's current mug shot system does not have the capability of developing photographic lineups. Consequently, detectives are required to drive to other agencies to accomplish this task. We have an opportunity to partner with the Denver Police Department on a mug shot repository. The proposed Memorandum of Understanding is an agreement between the Denver and Englewood Police Departments where an interface will be created with the Denver mug shot repository. The repository will allow for detectives to complete their work in a more efficient manner and will create a larger pool of mug shots needed to prepare photographic lineups.

FINANCIAL IMPACT

There is no cost affiliated with this Memorandum of Understanding.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 18
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT ENTITLED "MEMORANDUM OF UNDERSTANDING BETWEEN THE DENVER POLICE DEPARTMENT AND THE ENGLEWOOD POLICE DEPARTMENT FOR THE SHARING OF DATA" FORMALIZING THE SHARING OF MUG SHOT DATA.

WHEREAS, the Englewood Police Department's current mug shot system does not have the capability of developing photographic lineups; and

WHEREAS, Englewood detectives are required to drive to other agencies to accomplish this task; and

WHEREAS, the passage of this Ordinance between Denver and Englewood Police Departments will allow an interface to be created with the Denver mug shot repository; and

WHEREAS, the repository will allow Englewood detectives to complete their work in a more efficient manner and will create a larger pool of mug shots needed to prepare photographic lineups;

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 accepts and approves the "Memorandum of Understanding Between The Denver Police Department and The Englewood Police Department For Sharing of Data" attached hereto as Exhibit A.

Section 2. The Police Chief is authorized to execute the intergovernmental agreement for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 21st day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 25th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 21st day of June, 2010.

_____
Loucrishia A. Ellis

EXHIBIT A

Memorandum of Understanding
Between
The Denver Police Department
and
The Englewood Police Department
For the Sharing of Data

This Memorandum of Understanding (MOU) is made and entered on this 24 day of May, 2010, between the Denver Police Department (DPD) and the Englewood Police Department (EPD).

Purpose

The purpose of this MOU is to formalize the sharing of mug shot data between the two named departments to improve the effectiveness of each agency by providing a larger database from which to identify and/or apprehend suspects and past offenders engaged in criminal activity.

Security Requirements

Each department shall follow the CBI/CIJIS security standards when handling data from the other jurisdiction. Each department shall also follow any applicable statutory requirements in the creation and management of both adult and juvenile suspect information. The mug shot data shared between each department shall be used for public safety purposes only.

Information Ownership, Release and Accuracy

Neither department shall delete, change or modify any existing data other than add additional information to data already preserved. The mug shot data remains the property of the department which obtained and entered it.

To preserve and protect each department's proprietary interest in its own data, neither department shall release to any third party or agency, any data provided by the other without specific prior approval of the Chief of Police of the providing department.

The mug shot database contains the best information available at the time of its creation and is dynamic to allow for modifications as more complete and accurate information is obtained. Prior to acting upon any information, it is the duty of each agency to confirm the accuracy of any information derived from the mug shot database.

Technology Responsibility

Each jurisdiction is responsible for the maintenance and support of its own system.

Each jurisdiction shall notify the other of any planned outages that could affect use and or access to the system.

Term of Agreement

This MOU is subject to review by either party and remains in full force and effect until rescinded or withdrawn by either department.

Gerald R. Whitman Chief of Police Denver Police Department City and County Of Denver	Thomas E. Vandermee Chief of Police Englewood Police Department City of Englewood

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 a iii	Intergovernmental Agreement between the City and Arapahoe County

Initiated By:	Staff Source:
Community Development Department	Janet Grimmett, Housing Finance Specialist

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council passed Ordinance No. 22, Series of 2009 relating to the participation in the Urban County Entitlement Program for CDBG and HOME funds for fiscal years 2010 through 2012; and also passed Resolution No. 71, Series of 2009 supporting the submission of applications for 2010 CDBG funding.

RECOMMENDED ACTION

Staff recommends Council approve a bill for an ordinance authorizing the execution of an Intergovernmental Subgrantee Agreement for the 2010 Arapahoe County Community Development Block Grant Program between the Arapahoe Board of County Commissioners and the City of Englewood.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Federal Community Development Block Grant (CDBG) Program provides grants to units of local government and urban counties to meet housing and community development needs. The objective of the Program is achieved through projects developed by the local government that are designed to give priority to those activities that benefit low- and moderate-income families. Funds are allocated by statutory formula to each entitlement area. Arapahoe County is an approved entitlement area. The grant funds are distributed by Arapahoe County to each participating city within the county.

For FY2010, funds were approved to support the following project:

$22,500 — for the House of Hope Project to assist with staffing for employees;

FINANCIAL IMPACT

The existing employees in Community Development are available to administer the projects and their salaries and benefits are part of the City's contribution.

LIST OF ATTACHMENTS

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 19
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL SUBGRANTEE AGREEMENT (CDBG) FOR THE YEAR 2010 BETWEEN THE ARAPAHOE BOARD OF COUNTY COMMISSIONERS AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the City Council of the City of Englewood approved the execution of an Intergovernmental Agreement between the City of Englewood and Arapahoe County by passage of Ordinance No. 21, Series of 2009, covering the City's participation in the Arapahoe County CDBG Entitlement Program for funding years 2010 through 2012; and

WHEREAS, the Englewood City Council passed Resolution 71, Series of 2009, supporting Housing and Community Development that authorized submitting an application for 2010 CDBG funding; and

WHEREAS, the House of Hope Project has been categorized as a public service activity to assist with staffing for employees.

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

Section 1. The Subgrantee Agreement for 2010 Arapahoe County Community Development Block Grant – House of Hope Project, attached hereto as Exhibit A, is hereby accepted and approved by the Englewood City Council.

Section 2. Pursuant to Article V, Section 40, of the Englewood Home Rule Charter, the City Council has determined that Exhibit A, attached to this Ordinance, shall not be published because of its size. Copies are available in the Office of the Englewood City Clerk.

Section 3. The Mayor and City Clerk are hereby authorized to sign and attest said Agreements for and on behalf of the City of Englewood, Colorado.

Section 4. The City Manager shall be authorized to further extend the subgrantee agreements for the 2010 Arapahoe County Community Development Block Grant Program as needed.

Introduced, read in full, and passed on first reading on the 21st day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 25th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 21st day of June, 2010.

_____
Loucrishia A. Ellis

EXHIBIT A

SUBGRANTEE AGREEMENT FOR ARAPAHOE COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

SUBGRANTEE: CITY OF ENGLEWOOD
PROJECT NAME: HOUSE OF HOPE STAFFING
PROJECT NUMBER: ENPS 1014

This Agreement is made by and between the Board of County Commissioners of the County of Arapahoe, State of Colorado, for the Community Development Block Grant Program in the Community Resources Department (hereinafter referred to as the County) and the City of Englewood and Family Tree, Inc. (hereinafter referred to as the SubGrantee) for the conduct of a Community Development Block Grant (CDBG) Project.

I. PURPOSE

The primary objective of Title I of the Housing and Community Development Act of 1974, as amended, and of the Community Development Block Grant (CDBG) Program under this Title is the development of viable urban communities, by providing decent housing, a suitable living environment and expanding economic opportunities, principally for low and moderate income persons.

The project by the SubGrantee known as the House of Hope Staffing (Project) has been categorized as a Public Services project and the SubGrantee will maintain documentation with the national objective of Limited Clientele activities. This project has also been further categorized under Limited Clientele activities as a presumed benefit per 24 CFR 570.208 (a)(2)(i)(A). "*Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of person in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate- income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers.*"

The SubGrantee may proceed to incur costs for the Project upon receipt of an official "Notice to Proceed" from the County.

II. WORK TO BE COMPLETED BY THE SUBGRANTEE

The following provisions outline the scope of the work to be completed:

The SubGrantee will utilize CDBG funding to provide staffing at the House of Hope, which provides long-term shelter and supportive services for homeless families. The site is located at 3301 S. Grant Street, Englewood, Colorado, 80113.

A. Payment

It is expressly agreed and understood that the total amount to be paid by the County under this contract shall not exceed **$22,500**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in the Project Budget and in accordance with performance criteria established in Section II-C. The parties expressly recognize that the SubGrantee is to be paid with CDBG funds received from the federal government, and that the obligation of the County to make payment to SubGrantee is contingent upon receipt of such funds. In the event that said funds, or any part thereof, are, or become, unavailable, then the County may immediately terminate or, amend this agreement. To the extent C.R.S. § 29-1-110 is applicable, any financial obligation of the County to the SubGrantee beyond the current fiscal year is also contingent upon adequate funds being appropriated, budgeted and otherwise available.

Upon expiration of this Agreement, as identified by the deadline in Section II. C. 3. below, the SubGrantee shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. These transferred funds shall revert to the County and be utilized for other purposes.

B. Timeline

All Project activities shall be completed and draw requests submitted by **April 30, 2011** unless the Subgrantee notifies the County in writing by April 15, 2011 that the funds cannot be disbursed. An extension may be granted in which all draw requests be submitted and project activities shall be completed by May, 31, 2011. In the event that the completion deadline falls on a weekend or holiday, the deadline will be considered the work day prior to the scheduled completion date. If the project requires additional time past May 31, 2011, the Agreement must be modified by mutual agreement of the County and the SubGrantee.

C. Performance Criteria

In accordance with the funding application submitted by the SubGrantee for the Project, the criteria listed below are to be met during the execution of the Project.

1. Quantifiable Goals:

   The SubGrantee will utilize CDBG funds for the continued employment of staff at the House of Hope located at 3301 S. Grant Street, Englewood, Colorado, 80113. Staff members will be employed by Family Tree, Inc., which provides staffing and services at the facility for homeless families. By maintaining the positions, the SubGrantee will provide services for a total of 180 unique persons.

   The SubGrantee may collect nominal fees for services provided under this grant, providing the total of all client-contributed and County grant funds do not exceed the costs of program delivery.

2. Community Impact:

Public Service
Homelessness – crisis management and ability to transition through the continuum of care

3. Quarterly Performance Standards:

June 30, 2010:
No requirements established.

September 30, 2010:
Provide services to approximately 50-70 unique persons

December 31, 2010:
Provide services to approximately 50-70 unique persons

March 31, 2011:
Provide services to approximately 50-70 unique persons

April 30, 2011:
Provide services to meet cumulative grant year goal of 180 unique persons served
Submit final drawdown and completion report to County

D. Reporting Requirements

1. Project reports will be due within fifteen days following the end of each calendar year quarter (June 1 to September 30 report is due October 15; October 1 to December 31 report is due January 15; January 1 to March 31 report is due April 15; and the final completion report is due April 30) until the Project is completed.

2. The official annual audit and/or Financial Statements for the SubGrantee in which both revenues and expenditures for the CDBG Projects described herein are detailed are due annually. The last completed official annual audit report and/or Financial Statements shall be due on May 31, and for four (4) years thereafter on May 31.

E. Labor Standards (Davis-Bacon)

Project activities do not require compliance with federal labor standards (Davis-Bacon) as it is exempt (i.e., public service activity, single family home rehabilitation, purchase of materials, or other activity that has been determined exempt from federal labor standards).

F. Lead Based Paint Regulations

If the activity involves any construction, demolition, rehabilitation, or any activity related to a building, and the building was built in 1978 or prior, Lead Based Paint Laws and Regulations apply, as established in 24 CFR Parts 35 and 570.608. If the SubGrantee does not follow and

document Lead Based Paint Laws and Regulation compliance, the SubGrantee will not be eligible for reimbursement.

G. Environmental Review

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by Arapahoe County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to the project is conditioned on Arapahoe County's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review.

H. Uniform Relocation Act (URA)

It has been determined that no action under the Uniform Relocation Act (URA) is necessary.

III. RESPONSIBILITIES OF THE SUBGRANTEE

A. Federal Compliance

The SubGrantee shall comply with all applicable federal laws, regulations and requirements, and all provisions of the grant agreements received from the U.S. Department of Housing and Urban Development (HUD) by the County. These include but are not limited to compliance with the provisions of the Housing and Community Development Act of 1974 and all rules, regulations, guidelines and circulars promulgated by the various federal departments, agencies, administrations and commissions relating to the CDBG Program. A listing of some of the applicable laws and regulations are as follows:

1. 24 CFR Part 570;
2. 24 CFR Parts 84 and 85 as applicable per 24 CFR 570.502;
3. Title VI of the Civil Rights Act of 1964;
4. Title VIII of the Civil Rights Act of 1968;
5. Sections 104(b) and 109 of the Housing and Community Development Act of 1974;
6. Fair housing regulations established in the Fair Housing Act, Public Law 90-284, and Executive Order 11063;
7. Section 504 of the Rehabilitation Act of 1973;
8. Asbestos guidelines established in CPD Notice 90-44;
9. The Energy Policy and Conservation Act (Public Law 94-163) and 24 CFR Part 39;
10. Equal employment opportunity and minority business enterprise regulations established in 24 CFR part 570.904;
11. Section 3 of the Housing and Urban Development Act of 1968;
12. Non-discrimination in employment, established by Executive Order 11246;
13. Lead Based Paint regulations established in 24 CFR Parts 35 and 570.608;
14. Audit requirements established in OMB Circular A-133; and

15. Cost principles established in OMB Circulars A-87 and A-122 as applicable per 24 CFR 570.502;
16. Conflict of Interest:

a) *Applicability.*

(1) In the procurement of supplies, equipment, construction, and services by the County and by the SubGrantee, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively shall apply.

(2) In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of 24 CFR 570.611 (2) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the County or by its SubGrantees to individuals, businesses, and other private entities under eligible activities that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to 24 CFR 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to 24 CFR 570.203, 570.204, 570.455, or 570.703 (i)).

b) *Conflicts prohibited.* The general rule is that persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may not obtain a financial interest or benefit from a CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the County, or any designated public agencies, or of the SubGrantee that are receiving funds under this part.

d) *Exceptions.* Upon the written request of the County, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) *Threshold requirements.* HUD will consider an exception only after the County has provided the following documentation:

i. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

ii. An opinion of the County's attorney that the interest for which the exemption is sought would not violate State or local law.

(2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the County has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the

effective and efficient administration of the County's program or project, taking into account the following factors, as applicable:

i. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
ii. Whether an opportunity was provided for open competitive bidding or negotiation;
iii. Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
iv. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;
v. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;
vi. Whether undue hardship will result either to the County or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
vii. Any other relevant considerations.

17. The SubGrantee cannot engage in a federally funded contract with any entity registered in the Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs.

B. Non-Appropriations Clause

The SubGrantee agrees that it will include in every contract it enters, which relies upon CDBG monies for funding, a non-appropriation clause that will protect itself, and the County from any liability or responsibility or any suit which might result from the discontinuance of CDBG funding for any reason. Because this SubGrantee Agreement involves funds from a federal grant, to the extent there is a conflict the funding provisions of this SubGrantee Agreement, the federal grant and the federal statutes control rather than the provisions of Section 24-91-103.6, C.R.S. with regard to any public work projects.

C. Expenditure Restrictions

All CDBG funds that are approved by HUD for expenditure under the County's grant agreement, including those that are identified for the SubGrantee's Projects and activities, shall be allocated to the specific projects and activities described and listed in the grant agreements. The allocated funds shall be used and expended only for the projects and activities for which the funds are identified.

D. Agreement Changes

No projects or activities, nor the amount allocated therefore, may be changed without approval by the County and acceptance of the revised Final Statement and/or Consolidated Plan by HUD, if required. Changes must be requested in writing and may not begin until a modification to this Agreement is fully executed.

E. Direct Project Supervision and Administration

The SubGrantee shall be responsible for the direct supervision and administration of its respective projects or activities. This task shall be accomplished through the use of the SubGrantee's staff, agency and employees. The SubGrantee shall be responsible for any injury to persons or damage to property resulting from the negligent acts or errors and omissions of its staff, agents and employees. Because the SubGrantee is responsible for the direct supervision and administration of its projects or activities, the County shall not be liable or responsible for cost overruns by the SubGrantee on any projects or activities. The County shall have no duty or obligation to provide any additional funding to the SubGrantee if its projects or activities cannot be completed with the funds allocated by the County to the SubGrantee. Any cost overruns shall be the sole responsibility of the SubGrantee.

1. The SubGrantee agrees that all funds allocated to it for approved projects or activities shall be used solely for the purposes approved by the County. Said funds shall not be used for any non-approved purposes.

2. The SubGrantee agrees that the funds allocated for any approved projects or activities shall be sufficient to complete said projects or activities without any additional CDBG funding.

F. Indemnity

To the extent allowed by law, the SubGrantee shall indemnify and hold harmless the County and its elected and appointed officials, officers, employees and agents from and against any and all losses, damages, liabilities, claims, suits, actions or costs, including attorneys fees, made, asserted or incurred as a result of any damage or alleged damage to person or property occasioned by the acts or omissions of SubGrantee, its officers, employees, agents, contractors or subcontractors, arising out of or in any way connected with the Project or the performance of this contract.

G. Bonding and Insurance

If the SubGrantee's projects involve construction activities, any Contractor it uses for said activities shall be required to provide and maintain, until final acceptance by the SubGrantee of all work by such Contractor, the kinds and minimum amounts of insurance as follows:

1. Comprehensive General Liability: In the amount of not less than $1,000,000 combined single limit. Coverage to include:
    a. Premises Operations

b. Products/Completed Operations
c. Broad Form Contractual Liability
d. Independent Contractors
e. Broad Form Property Damage
f. Employees as Additional Insured
g. Personal Injury
h. Arapahoe County and the SubGrantee as Additional Named Insured
i. Waiver of Subrogation

2. Comprehensive Automobile Liability: In the amount of not less than $1,000,000 combined single limit for bodily injury and property damage. Coverage to include:
   a. Arapahoe County and the SubGrantee as additional Named Insured
   b. Waiver of Subrogation

3. Employers Liability and Workers Compensation: The Contractor shall secure and maintain employer's liability and Worker's Compensation Insurance that will protect it against any and all claims resulting from injuries to and death of workers engaged in work under any contract funded pursuant to this agreement. Coverage to include Waiver of Subrogation.

4. All referenced insurance policies and/or certificates of insurance shall be subject to the following stipulations:
   a. Underwriters shall have no rights of recovery subrogation against Arapahoe County or the SubGrantee; it being the intent of the parties that the insurance policies so effected shall protect the parties and be primary coverage for any and all losses covered by the described insurance.
   b. The clause entitled "Other Insurance Provisions" contained in any policy including Arapahoe County as an additional named insured shall not apply to Arapahoe County, or the SubGrantee.
   c. The insurance companies issuing the policy or policies shall have no recourse against Arapahoe County, or the SubGrantee for payment of any premiums due or for any assessments under any form of any policy.
   d. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Contractor.

5. Certificate of Insurance: The Contractor shall not commence work under any contract funded pursuant to this Agreement until he has submitted to the SubGrantee, received approval thereof, certificates of insurance showing that he has complied with the foregoing insurance requirements. The SubGrantee shall also submit a copy of the Contractor's certificates of insurance to the County.

6. Notwithstanding the provisions contained in this paragraph (H) set forth hereinabove, the County reserves the right to modify or waive said provisions for projects or activities for which these provisions would prove prohibitive. The

SubGrantee understands, however, that the decision to waive or modify those provisions is fully within the discretion of the County.

In accordance with 24 CFR parts 84 and 85, the following bonding requirements shall apply to all projects exceeding the simplified acquisition threshold (currently $100,000):

1. A bid guarantee from each bidder equivalent to 5% of the bid price;
2. A performance bond on the part of the contractor for 100% of the contract price; and
3. A payment bond on the part of the contractor for 100% of the contract price.

H. Records

The SubGrantee shall maintain a complete set of books and records documenting its use of CDBG funds and its supervision and administration of the Project. Records are to include documentation verifying Project eligibility and national objective compliance, as well as financial and other administrative aspects involved in performing the Project. The SubGrantee shall provide full access to these books and records to the County, the Secretary of HUD or his designee, the Office of Inspector General, and the General Accounting Office so that compliance with Federal laws and regulations may be confirmed. The SubGrantee further agrees to provide to the County upon request, a copy of any audit reports pertaining to the SubGrantee's financial operations during the term of this Agreement. All records pertaining to the Project are to be maintained for a minimum of five years following close-out of the Project.

I. Reporting

The SubGrantee shall file all reports and other information necessary to comply with applicable Federal laws and regulations as required by the County and HUD. This shall include providing to the County the information necessary to complete annual Performance Reports in a timely fashion.

J. Timeliness

The SubGrantee shall comply with the quarterly performance standards established in Section II-C of this Agreement. The SubGrantee understands that failure to comply with the established standards may lead to a cancellation of the Project and a loss of all unexpended funds.

K. Reimbursement for Expenses

The SubGrantee agrees that before the County can distribute any CDBG funds to it, the SubGrantee must submit to the County's Housing and Community Development Services Division documentation in the form required by that Division which properly and fully identifies the amount which the SubGrantee is requesting at that time. The County shall have ten (10) working days to review the request. Upon approval of the request, the County will distribute the requested funds to the SubGrantee as soon as possible.

L. Program Income

All program income directly derived from the Arapahoe County Community Development Block Grant Program received by the SubGrantee will be retained by the SubGrantee and will be dispersed for its approved CDBG Project activities before additional CDBG funds are requested from the County. Following completion of the SubGrantee's Arapahoe County CDBG Projects, all program income directly generated from the use of CDBG funds will be remitted to the County.

M. Real Property

Real property acquired in whole or in part with CDBG funds shall be utilized in accordance with the scope and goals identified in Sections I and II of this Agreement. Should the property in question be sold or otherwise disposed of, or the approved property usage discontinued, the SubGrantee shall adhere to the requirements of 24 CFR Parts 84 or 85 (as applicable) regarding the use and disposition of real property.

N. State and County Law Compliance

All responsibilities of the SubGrantee enumerated herein shall be subject to applicable State of Colorado statutes and County ordinances, resolutions, rules, and regulations.

O. Subcontracts

If subcontracts are used on the Project, the SubGrantee agrees that the provisions of this Agreement shall apply to any subcontract.

P. Suspension or Termination

This Agreement may be immediately suspended or terminated upon written notification from the County if the SubGrantee materially fails to comply with any term of this Agreement. This Agreement may also be terminated for convenience by mutual agreement of the County and the SubGrantee.

Q. In the event that the Unit of General Local Government should withdraw from the County's "Urban County" designation, this Agreement shall terminate as of the termination date of the County's CDBG grant Agreement with HUD.

R. The SubGrantee certifies that to the best of its knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation,

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; and,

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

S. Disallowance

If it is determined by HUD or other federal agency that the expenditure, in whole or in part, for the SubGrantee's Project or activity was improper, inappropriate or ineligible for reimbursement, then the SubGrantee shall reimburse the County to the full extent of the disallowance.

IV. RESPONSIBILITIES OF THE COUNTY

A. Administrative Control

The Parties recognize and understand that the County will be the governmental entity required to execute all grant agreements received from HUD pursuant to the County's requests for CDBG funds. Accordingly, the SubGrantee agrees that as to its projects or activities performed or conducted under any CDBG agreement, the County shall have the necessary administrative control required to meet HUD requirements.

B. Performance and Compliance Monitoring

The County's administrative obligations to the SubGrantee pursuant to paragraph A above shall be limited to the performance of the administrative tasks necessary to make CDBG funds available to the SubGrantee and to provide Housing and Community Development Services staff whose job it will be to monitor the various projects funded with CDBG monies to monitor compliance with applicable Federal laws and regulations.

C. Reporting to HUD

The County will be responsible for seeing that all necessary reports and information required of the County are filed with HUD and other applicable Federal agencies in a timely fashion.

V. EXTENT OF THE AGREEMENT

This agreement, including any documents attached as exhibits which are hereby incorporated herein by reference, represents the entire and integrated agreement between the County, and SubGrantee and supersedes all prior negotiations, representations or agreements, either written or oral. Any amendments to this agreement must be in writing and signed by both the County, and SubGrantee.

If any portion of this agreement is found by a court of competent jurisdiction to be void and/or unenforceable, it is the intent of the parties that the remaining portions of this agreement shall be of full force and effect.

VI. NOTICES

Notices to be provided under this Agreement shall be given in writing and either delivered by hand or deposited in the United States mail with sufficient postage to the addresses set forth:

To the County:

Arapahoe County Attorney
5334 S. Prince Street
Littleton, CO 80166

and

Arapahoe County Housing and Community Development Services
1690 W. Littleton Blvd., #300
Littleton, CO 80120-2069

To the SubGrantee:

City of Englewood
1000 Englewood Parkway
Englewood, CO 80110

Family Tree, Inc.
3805 Marshall Street
Wheat Ridge, CO 80033

In Witness Whereof, the Parties have caused this Agreement to be duly executed this _____ day of _____, 2010.

SubGrantee: City of Englewood

_____

Signature James K. Woodward, Mayor

_____

Title Mayor

SubGrantee: Family Tree, Inc.

_____ _____

Signature

_____

Title

Board of County Commissioners
Arapahoe County, Colorado

_____

Don Klemme on behalf of the Board of County Commissioners
Pursuant to Resolution #100140

PROJECT BUDGET

COLUMN A	COLUMN B	COLUMN C	COLUMN D
Project Activities (specify by line item)	**Estimated Total Cost of Activity**	**CDBG Funds**	**Other Funds Committed**
Personnel	$ 321,653	$22,500	$ 299,153
Operating costs	$ 187,344	$0	$ 187,344
TOTAL:	$ 508,997	$22,500	$ 486,497

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 11
INTRODUCED BY COUNCIL
MEMBER GILLIT/WILSON

AN ORDINANCE AMENDING TITLE 16, CHAPTER 5, SUBSECTION 1.1, AND CHAPTER 11, SUBSECTIONS 1 AND 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000, TO PERMIT BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES AS USES-BY-RIGHT IN THE MU-B-1 ZONE DISTRICT.

WHEREAS, a business requested a review of the Englewood Municipal Code relating to consignment stores in the MU-B-1 Zone District; and

WHEREAS, the Englewood Planning and Zoning Commission held a public hearing on April 6, 2010 and received evidence relating to the subject; and

WHEREAS, the zoning change conforms to Roadmap Englewood: 2003 Englewood Comprehensive Plan Objective 1-2: which objective is to actively engage in attracting new businesses to the City and Objective 1-3: Create a balanced mix of businesses that complement each other; and

WHEREAS, the Englewood Planning and Zoning Commission decided all four of these uses were appropriate in the MU-B-1 Zone as well as all other Business Districts; and

WHEREAS, the Englewood Planning and Zoning Commission has referred this Ordinance to Council with a favorable recommendation; and

WHEREAS, passage of this Ordinance will also transform an existing non-conforming thrift store use in the MU-B-1 Zone to a conforming status.

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 amending Title 16, Chapter 5, Section 1.1 "Table Of Allowed Uses" – Commercial Uses Section, of the Englewood Municipal Code 2000, to read as follows:

16-5-1: Table of Allowed Uses.

C. *Table of Allowed Uses.*

[**EDITOR'S NOTE**: The recommended changes are only effective in the Commercial portion of the table. The **Residential Uses** and **Public/Institutional Uses** portions of Table 16-5-1.1 Table of Allowed Uses contain no changes and are therefore not included here]

TABLE 16-5-1.1: TABLE OF ALLOWED USES
P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE
C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B—MO1**	**M1**	**M2—MO2**	**MUB1**	**MUB2**	**ISA**	**I1**	**I2**	**Additional Regulations**
COMMERCIAL USES																
Adult Use	All types as defined in Chapter 16-11											P		P		16-5-2.C.1
Agricultural Use	Greenhouse/nursery, raising of plants, flowers, or nursery stock													P	P	16-5-2.C.2
Animal Sales and Service	Animal shelter													P	P	
	Kennel/day care											L		P	P	
	Pet store (live animal sale)									P	P	P	P	P	P	
	Small animal veterinary hospital or clinic									L	L	P	C	P	P	

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		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B—MO1**	**M1**	**M2—MO2**	**MUB1**	**MUB2**	**TSA**	**I1**	**I2**	**Additional Regulations**
Assembly	Assembly hall or auditorium, hall rental for meetings or social occasions									P	P	P	C	P	P	
	Membership organization (excluding adult use)									P	P	P	C	P	P	
Dependent Care	Dependent care center (less than 24-hour care, any age)	C	C	C	C	C	P	P	P	P	P	P	C			16-5-2.C.7
Entertainment/ Amusement: Indoor	Amusement establishment									C	C	C	C	C	C	
	Hookah Lounge									P	P	P		P	P	
	Physical fitness center/spa									P	P	P	P	P	P	
	Theater and performance/concert venue, not including adult entertainment										P	P	P	P	P	

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		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B---MO1**	**M1**	**M2---MO2**	**MUB1**	**MUB2**	**TSA**	**I1**	**I2**	**Additional Regulations**
Entertainment/ Amusement: Outdoor	General outdoor recreation											C		C	C	
Financial Institution	Check cashing facility									P		P		P	P	
	Financial institution, with drive-through service											L		P	P	
	Financial institution, without drive-through service									P	P	P	P	P	P	
Food and Beverage Service	Brewpub									P	P	P	P	P	P	
	Caterer									P		P		P	P	
	Microbrewery												P	P	P	
	Restaurant, bar, tavern with or without outdoor operations									P	P	P	P	P	P	
	Restaurant, with drive-through service											L		P	P	

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	Take out and delivery only									P		P		P		
Medical/Scientific Service	Clinic							P	P	P	P	P	P	P	P	
	Hospital							P	P	P		P		P	P	
	Laboratory (dental, medical or optical)						P	P	P	P	P	P	P	P	P	
Office	Office, type 1 (general)							P	P	P	P	P	P	P	P	
	Office, type 2 (limited)						P	P	P	P	P	P	P	P	P	16-5-2.C.8
Retail Sales and Service (Personal Service)	Crematorium														C	
	Dry cleaner, drop-off site only									P	P	P	P	P	P	
	Instructional service									P		P	P	P	P	
	Massage therapy								P	P	P	P	P	P	P	
	Mortuary									P		P				
	Personal care									P	P	P	P	P	P	

TABLE 16-5-1.1: TABLE OF ALLOWED USES

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		Residential							Non-Residential							
Use Category	**Use Type**	**R 1 A**	**R 1 B**	**R 1 C**	**R 2 A**	**R 2 B**	**MU R 3 A**	**MU R 3 B --- M O 1**	**M 1**	**M 2 --- M O 2**	**MU B 1**	**MU B 2**	**T S A**	**I 1**	**I 2**	**Additional Regulations**
	Service: photography studio and photo lab, upholstery, printer, locksmith, tailor									P	P	P	P	P	P	
	Tattoo and body-piercing establishment													P	P	
	Temporary employment business													C	C	16-5-2.C.11
Retail Sales and Service (Repair and Rental)	Equipment rental											L		P	P	
	Repair shop (not including auto)									P	P	P	P	P	P	
Retail Sales and Service (Sales)	Antique store									P	P	P	P	P	P	
	Art gallery									P	P	P	P	P	P	
	Auction house											P		P	P	
	Buy-back ~~shop~~, second-hand, thrift, consignment stores, Large.									P		P		P	P	

TABLE 16-5-1.1: TABLE OF ALLOWED USES

P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE

C-A = ACCESSORY USE APPROVED CONDITIONALLY L-A = ACCESSORY USE APPROVED WITH LIMITED USE PROCEDURE

		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B---MO1**	**M1**	**M2---MO2**	**MUB1**	**MUB2**	**TSA**	**I1**	**I2**	**Additional Regulations**
	Buy-back, second-hand, thrift, consignment stores, Small									P	P	P		P	P	
	Convenience store									P		P	P	P	P	
	Grocery/specialty food store									P	P	P	P	P	P	
	Internet sales location									P		P		P	P	
	Liquor store									P	P	P	P	P	P	
	Pawnbroker													P	P	16-5-2.C.10
	Retail sales, general merchandise									P	P	P	P/C	P	P	For TSA, P if ≤20,000 sq. ft., C if > 20,000 sq. ft. of gross leasable floor area
School	Trade or business school									P	P	P	C	P	P	16-5-2.C.12

TABLE 16-5-1.1: TABLE OF ALLOWED USES

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		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B----MO1**	**M1**	**M2----MO2**	**MUB1**	**MUB2**	**TSA**	**I1**	**I2**	**Additional Regulations**
Studio	Radio/television broadcasting studio, recording/film studio									P		P		P	P	
Vehicle and Equipment	Automobile pawnbroker											P		P	P	16-5-2.C.10
	Automotive sales, rental											L		P	P	16-5-2.C.3
	Automotive service and repair, including body or fender work													P	P	16-5-2.C.4
	Automotive service and repair, not including body or fender work											L		P	P	16-5-2.C.4
	Automotive service station (gasoline facility)											L		P	P	16-5-2.C.5
	Car wash, auto detailing											L		L	L	16-5-2.C.6; 16-5-2.C.4

TABLE 16-5-1.1: TABLE OF ALLOWED USES

P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE

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		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B----MO1**	**M1**	**M2----MO2**	**MUB1**	**MUB2**	**TSA**	**I1**	**I2**	**Additional Regulations**
	Commercial storage of operable vehicles													P	P	16-5-2.C.3
	Fuel dispensing											L		P	P	
	Parking facility, structure (operable vehicles), principal use						C	C	C	C	L	L	C	P	P	16-5-2.C.3 16-5-2.C.14
	Parking area, surface (operable vehicles), principal use						C	C	C	C	L	L	C	P	P	16-5-2.C.13; 16-5-2.C.3
	Recreational vehicles and boats, sales or rental											L		P	P	
Visitor Accommodation	Bed and breakfast								P	P			P			
	Hotel								P	P		P	P	P		

TABLE 16-5-1.1: TABLE OF ALLOWED USES

P = PERMITTED USE C = CONDITIONAL USE A = ACCESSORY USE T= TEMPORARY USE L= LIMITED USE

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		Residential							Non-Residential							
Use Category	**Use Type**	**R1A**	**R1B**	**R1C**	**R2A**	**R2B**	**MUR3A**	**MUR3B—MO1**	**M1**	**M2—MO2**	**MUB1**	**MUB2**	**TSA**	**I1**	**I2**	**Additional Regulations**
	Hotel, Extended Stay								P	P				P		
Wholesale	Sales and distribution													P	P	

[**EDITOR'S NOTE**: The recommended changes are only effective in the Commercial portion of the table. The **Manufacturing/Industrial Uses, Accessory Uses, Temporary Uses, and Uses Not Mentioned portions** of Table 16-5-1.1 Table of Allowed Uses contain no changes and are therefore not included here]

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 1(F), Subsection 14, of the Englewood Municipal Code 2000, to read as follows:

16-11-1: Use Classifications.

F. *Commercial Uses.*

14. Retail Sales and Service (Sales).

a. *Characteristics.* Retail sales and service (sales) establishments are involved in the sale of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging, or repair of goods for on-site sale.

b. *Specific Use Types.* This category includes the following use types:

(1) Antique Store. Any premises used for the sale or trading of articles of which eighty percent (80%) or more are over fifty (50) years old or have collectible value. An "antique store" does not include the collection, recycling, sale, or storage of "junk" as that term is defined in this Chapter.

(2) Art Gallery. An establishment engaged in the sale, loan, or display of art, books, paintings, sculpture, or other works of art. Art galleries do not include libraries, museums, or non-commercial art galleries.

(3) Auction House. Any establishment in which is carried on the business of auctioning articles for sale by public outcry and where such items offered for auction are sold immediately to the highest bidder.

(4) ~~Buy-Back Shop, Second-Hand, Thrift, Consignment. A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances.~~

(a) Buy-Back, Second-Hand, Thrift, Consignment Store, Large: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of twelve thousand (12,000) square feet or more. This use type does not include the sale of second-hand motor vehicles, parts of accessories, scrap or waste.

(b) Buy-Back, Second-Hand, Thrift, Consignment Store, Small: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of less than twelve thousand (12,000) square feet. This use type does not include the sale of second-hand motor vehicles, parts of accessories, scrap or waste.

(5) Convenience Store. A retail establishment offering for sale food and beverage for off-site consumption, household items, newspapers and magazines, and other small convenience items typically found in establishments with long or late hours of operation. A convenience store has a gross floor area no larger than five thousand (5,000) square feet. This definition excludes delicatessens or other specialty food stores, as defined below. Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than convenience stores.

(6) Grocery/Specialty Food Store. A retail establishment offering for sale primarily food and beverage for off-site consumption, specializing in the sale of one type of food item, and/or maintaining a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood. A grocery/specialty food store may also include sales of personal convenience and small household goods. Grocery/specialty food stores include, but are not limited to, bakeries, delicatessens, seafood sales, and meat or poultry stores (e.g., butcher shops). Establishments at which twenty percent (20%) or more of the transactions are sales of prepared food for on-site consumption shall be classified as food and beverage service uses rather than grocery/specialty food stores.

(7) Liquor Store. A state-licensed, retail establishment selling packaged alcoholic liquors (including beer, wine, and spirituous liquors) for consumption off-site. Liquor stores do not include restaurants, taverns, or bars.

(8) Pawnbroker. An establishment regularly engaged in the business of making contracts for purchase or purchase transactions in the course of business.

(9) Retail Sales, General Merchandise. Establishments that sell, lease, or rent consumer, home, and business goods, but excluding merchandise/retail uses classified or defined more specifically in this chapter (e.g., food/beverage sales, convenience stores, restaurants). Typical uses include department stores, furniture stores, clothing stores, and establishments providing the following products or services: art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, hardware, home improvements, household products, jewelry, pet food, pharmaceuticals, printed material, sporting goods, stationary, and videos.

c. *Exceptions*. No outdoor display is permitted as part of, or accessory to, a retail sales and service (sales) use unless specifically authorized by this Title.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11 Section 2(B), "*Definition of Words, Terms, and Phrases*" of the Englewood Municipal Code 2000 to read as follows:

16-11-2: Definition of Words, Terms, and Phrases.

A. *Undefined Terms*. For words, terms, and phrases used in this Title that are not defined below, or elsewhere in this Title, the City Manager or designee shall interpret or define such words, terms, and phrases. In making such interpretations or definitions, the City Manager or designee may consult secondary sources related to the planning profession for technical words, terms and phrases, including but not limited to: A Glossary of Zoning, Development, and Planning Terms - Planning Advisory Service Report 491/492, edited by Michael Davidson and Fay Dolnick (American Planning Association, Chicago, Ill. 1999); A Survey of Zoning Definitions - Planning Advisory Service Report Number 421, edited by Tracy Burrows (American Planning Association, Chicago, Ill. 1989); Zoning and Development Definitions for the Next Century, edited by Michael Davidson, in Zoning News (American Planning Association, August 1999); and The Illustrated Book of Development Definitions, by Harvey S. Moskowitz and Carl G. Lindbloom (Center for Urban Policy Research, Rutgers University. N.J. Third Edition. 1987). The City Manager or designee may consult Webster's Unabridged Dictionary (Random House Reference and Information Publishing, New York, 1997), as supplemented, or other available reference source for other words, terms, and phrases.

B. *Definition of Words, Terms, and Phrases*.

~~*Buy-Back Shop, Second-Hand, Thrift, Consignment:* A specific type of retail sales and service (sales) use. A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances but does not include the sale of second-hand motor vehicles, parts or accessories, scrap or waste. See definition of "Retail Sales And Service (Sales)".~~

Buy-Back, Second-Hand, Thrift, Consignment Store;Large: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of twelve thousand (12,000) square feet or more.

Buy-Back, Second-Hand, Thrift, Consignment Store; Small: A retail establishment that deals primarily in second-hand apparel, household goods, furniture, books, or appliances with a floor area of less than twelve thousand (12,000) square feet.

Section 4. 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 5 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 it application to other persons or circumstances.

Section 6. 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 7. 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 8. 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 3rd day of May, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 7th day of May, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of May, 2010 for thirty (30) days.

A Public Hearing was held on May 17th, 2010.

The Public Hearing was re-opened on June 7th, 2010.

Re-introduced, amended, and passed as amended on the 7th day of June, 2010.

Republished in full as amended on the City's official website beginning on the 9th day of June, 2010 for thirty (30) days.

Republished in full as amended in the City's official newspaper on the 18th day of June, 2010.

Read by title and passed on final reading on the 21st day of June, 2010.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 25th day of June, 2010.

Published by title on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

_____
Loucrishia A. Ellis

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 13
INTRODUCED BY COUNCIL MEMBER PENN

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) ENTITLED "LICENSING AGREEMENT REGARDING DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT" BETWEEN THE DENVER REGIONAL COUNCIL OF GOVERNMENTS AND THE CITY OF ENGLEWOOD, COLORADO FOR THE CITY'S PARTICIPATION IN THE DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT (DRAPP).

WHEREAS, the City of Englewood has participated in the Denver Regional Council of Governments Denver Regional Aerial Photography Project in 2002, 2004, 2006 and 2008; and

WHEREAS, the Denver Regional Aerial Photography Project will provide the City with updated digital orthophotography of the DRCOG region to participating members; and

WHEREAS, the cost is substantially less than if the City were to undertake such an aerial photography project itself; and

WHEREAS, the cost to Englewood is not to exceed $5,000 and will be shared between Community Development, Utilities, Wastewater and Public Works Departments of the City of Englewood; and

WHEREAS, the updated photography is critical in keeping the City's geographic information system (GIS), permit tracking system (Trakit), water and wastewater utilities mapping up-to-date; and

WHEREAS, the passage of this Ordinance will permit the City of Englewood to participate in the DRCOG sponsored Denver Regional Aerial Photography Project;

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

Section 1. The City Council of Englewood, Colorado, hereby approves the Intergovernmental Agreement "License Agreement between the Denver Regional Council of Governments (DRCOG) and the City of Englewood for Denver Regional Aerial Photography Project" authorizing the City's participation in the Denver Regional Aerial Photography Project (DRAPP), a copy of which is attached hereto as Exhibit 1.

Section 2. The Mayor is hereby authorized to sign and the City Clerk to attest said Intergovernmental Agreement entitled "Licensing Agreement Regarding Denver Regional Aerial Photography Project" for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 7th day of June, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 11th day of June, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of June, 2010 for thirty (30) days.

Read by title and passed on final reading on the 21st day of June, 2009.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 25th day of June, 2010.

Published by title on the City's official website beginning on the 23rd day of June, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

_____
Loucrishia A. Ellis

EXHIBIT 1

LICENSING AGREEMENT BY AND BETWEEN THE

DENVER REGIONAL COUNCIL OF GOVERNMENTS
1290 Broadway, Suite 700
Denver, Colorado 80203
(DRCOG)

and

CITY OF ENGLEWOOD
1000 Englewood Parkway
Englewood, Colorado 80110
(PARTNER)

for

DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT

Project Number: 820010 Agreement Number: RV10008

RECITALS

WHEREAS, the parties desire to cooperate in the creation, preparation, use, and distribution of digital orthophotography (hereinafter referred to as the "Product") developed through the Denver Regional Aerial Photography Program (referred to as "DRAPP").

WHEREAS, the Partner is a governmental or public service entity.

NOW THEREFORE, the parties hereto mutually agree as follows:

1. **Purposes**
   The purposes of this Agreement are to define the rights and obligations of the parties with respect to the Product and to protect and control the rights, reproduction, and resale of the Product.

2. **Term**
   The term of this Agreement shall be from the date of execution of this Agreement through two years following release of the last product update in which the Partner chooses to participate.

3. **Partner Participation**
   The Partner will be notified by DRCOG of planned product updates. At that time, the Partner will be asked to submit a Letter of Intent to participate in the update. The Partner will also be asked to commit funds as appropriate in its Letter of Intent. If the Partner chooses not to participate in the next Product update, it should not submit a Letter of Intent. Following receipt of the Partner's Letter of Intent and upon completion of updated financial projections, DRCOG will invoice the Partner for its portion of the Product update costs. The Product update will not be released to the Partner until payment is received by DRCOG.

4. **Termination**
   a. Funds not Available. In the event that enough local Partner funds are not collected in order to fund the next round of Product updates, this Agreement shall terminate two years from release of the last Product update.
   b. Termination for Cause. If through any cause, either party should fail to fulfill in a timely and proper manner its obligations under this contract or violate any of the covenants or stipulations in this Agreement, the wronged party has the right to terminate this contract by giving sixty (60) days written notice to the other party of such termination. If DRCOG is at fault in this instance, the Partner will be refunded any payments received for the current Product update. If the Partner is at fault, the Partner will return all copies of the current Product version in its possession.

5. **Payment and License**
   In consideration for the payment to DRCOG of the license fee set forth in Exhibit A, attached hereto and incorporated herein by reference, DRCOG grants the Partner a non-exclusive, non-transferable license to the Product to be used strictly and only in accordance with the provisions stated in this Agreement. The Partner will receive one copy of the Product, and any Product updates in which the Partner participates, in electronic format for the geographical area they have specified. If the Partner is unable or chooses not to participate in the current Product update, this Agreement shall terminate two years following release of the latest Product update in which the Partner did participate.

   DRCOG shall provide an invoice to the Partner for the fee due (in part or in full) in accordance with Exhibit A. Partner shall remit the undisputed invoiced amount within thirty (30) days after receipt of an invoice.

6. **Use of Product**
   a. Current Product Version
      i) Permitted Use
         (1) The Partner may use the current version of the Product only to meet the goals and objectives of its business and/or governmental activities.
         (2) Contractors engaged by the Partner providing contractual services directly to the Partner may use the current version of the Product in order to fulfill these contractual services, so long as there is written agreement between the Partner and the Contractor that the Product will not be utilized beyond this purpose.
         (3) Derivative images based on the Product may be displayed on the Partner's World Wide Web site.
      ii) Restrictions on Use
         (1) Outside of the Permitted Uses listed above, the Partner shall not allow access to the current version Product by any other person or organization, by any means, unless authorized in writing by DRCOG.
      iii) The Current Product Version is considered proprietary for a period of two years following product release. After two years, the Product version is categorized as a Past Product Version, regardless of whether or not a Product update has been performed.
   b. Past Product Versions
      i) Permitted Use

(1) Past Product versions, that is, those versions that have since been replaced with a current product version or those versions that are more than two years old, may be distributed to the public at large.

7. Product Resale

a. The Partner shall not resell the Product.
b. The Partner authorizes DRCOG to sell the Product and any Product derivations.
c. The Partner authorizes DRCOG to collect proceeds from sales of the Product and any Product derivations and to hold this money for future DRAPP projects.
d. Whenever applicable, the Partner agrees to direct purchase requests for the Product to DRCOG or DRCOG's Authorized Reseller(s).

8. Limited Warranty and Remedy

a. Limited Warranty
   i) DRCOG shall use its best efforts to ensure that the Product is delivered free of physical defect.
   ii) DRCOG disclaims any other warranties, express or implied, respecting these terms and conditions or the Product.
b. Remedy
   i) Partner's sole and exclusive remedy for breach of this limited warranty will be to return the Product within 60 days of receipt.
   ii) DRCOG shall, at its discretion, replace the Product or repair the Product and return it to the Partner.

9. Assignment and Transfer

Partner shall not disclose, lease, sell, distribute, make, transfer or assign the Product or engage in any other transaction which has the effect of transferring the right of use or part of the Product without the prior written consent of DRCOG, except as noted in Section 6 above.

10. Liability

Without waiving the privileges and immunities conferred by the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., each party shall be responsible for any claims, damages, demands or suits arising out of its own negligence.

DRCOG shall not be liable for any activity involving the Product with respect to the following:

a. The fitness of the Product for a particular purpose.
b. The installation of the Product, its use, or the results obtained.

11. Colorado Law to Govern

This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Colorado.

12. No Continuing Waiver

The waiver of any default by either party or the failure to give notice of any default shall not constitute waiver of any subsequent default or be deemed to be a failure to give notice with respect to any subsequent default. Waiver of the breach of any provision of this Agreement shall not be construed to be a modification of the terms

of this Agreement unless stated to be such in writing and signed by authorized representatives of both parties.

13. Governmental Immunity

Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of the negligence of either party, their departments, institutions, agencies, boards, officials, and employees are controlled and limited by the provisions of Section 24-10-101 *et seq.*, C.S.R., as now or hereafter amended.

14. Invalid/Unenforceable Provision(s)

If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced as written to the fullest extent permitted by law.

15. Integration and Amendment

This Agreement represents the entire agreement between the parties, and there are no oral or collateral agreements or understandings. No subsequent notation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the _____ day of _____, 20_____.

DENVER REGIONAL COUNCIL OF GOVERNMENTS
"DRCOG"

By: _____
Executive Director

ATTEST:

By: _____
Administrative Officer

CITY OF ENGLEWOOD

"PARTNER"

By: _____
James K. Woodward, Mayor

ATTEST:

By: _____
Loucrishia A. Ellis,
City Clerk

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 c i	Collective Bargaining Agreement Between the City and the EEA – Wage/Benefit Reopener for 2011

Initiated By:	Staff Source:
Human Resources Department	Sue Eaton, Director of Human Resources

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The previous Collective Bargaining Agreement with the Englewood Employees Association was approved by Council for 2010 and 2011 in July, 2009. The contract provided for the reopening of negotiations for wages and certain benefits in 2010 for 2011 implementation.

RECOMMENDED ACTION

Staff requests Council approval of a resolution amending Articles 8, 11 and 21 (Compensation, Personal Leave and Insurance) of the 2010-2011 Collective Bargaining Agreement between the Englewood Employees Association and the City of Englewood. The contract covers approximately 198 employees.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood and the Englewood Employees Association entered into negotiations in May, 2010 per Article 2, "Duration of Contract", which calls for reopening discussions of wages and certain other benefits. The members of the Englewood Employees Association duly ratified by a majority vote the changes to Articles 8, 11 and 21 of the 2010-2011 Collective Bargaining Agreement. The significant changes to the contract are as follows:

1. No wage increases or merit pay will be awarded in 2011 unless total general fund revenues on October 31, 2010 meet or exceed those reached during the same period in 2008.
2. No personal leave cashout will be paid for unused personal leave in 2011 unless total general fund revenues on October 31, 2010 meet or exceed those reached during the same period in 2008.
3. The City will pay 80%, 85% or 90% (depending on level of coverage) of the premium costs for employees enrolled in the insurance plan designated as the basic City plan. If the City offers any optional medical insurance plan(s), the employee will pay the difference between the City's contribution for the basic plan and the premium cost of the optional plan chosen.

FINANCIAL IMPACT

The financial impact of #1 and #2 will not be known until October 31, 2010. If the total general fund revenues meet the stated target, it is estimated that the cost of EEA wage increases will be approximately $191,000 (2% of payroll) and $14,000 in wage associated pension contributions. If the revenue target is met, personal leave cashouts could range from $0 to a maximum of $221,576 depending on leave usage.

LIST OF ATTACHMENTS

Resolution

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION AMENDING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ENGLEWOOD EMPLOYEES ASSOCIATION AND THE CITY OF ENGLEWOOD FOR THE PERIOD OF JANUARY 1, 2010 THROUGH DECEMBER 31, 2011.

WHEREAS, the City Council of the City of Englewood authorized "The Collective Bargaining Agreement" with the Englewood Employees Association for January 1, 2010 through December 31, 2011, by the passage of Resolution 61, Series 2009; and

WHEREAS, the Collective Bargaining Agreement provided for the reopening of negotiations for wages and certain benefits in 2010 for 2011 implementation; and

WHEREAS, the City of Englewood and the Englewood Employees Association entered into negotiations in May, 2010 in accordance with the Englewood City Home Rule Charter and the contract provisions; and

WHEREAS, the members of the Englewood Employees Association, duly ratified by a majority vote approved changes to Articles 8, 11, and 21 of the 2010-2011 collective Bargaining Agreement; and

WHEREAS, the passage of this Resolution will authorize the amending of those provisions of the "Collective Bargaining Agreement" between the Englewood Employees Association and the City of Englewood for 2011; and

WHEREAS, there are several changes to the Contract, which are as follows:

1. No wage increases or merit pay will be awarded in 2011 unless total general fund revenues on October 31, 2010 meet or exceed those reached during the same period in 2008.

2. No personal leave cashout will be paid for unused personal leave in 2011 unless total general fund revenues on October 31, 2010 meet or exceed those reached during the same period in 2008.

3. The City will pay 80%, 85% or 90% (depending on level of coverage) of the premium costs for employees enrolled in the insurance plan designated as the basic City plan. If the City offers any optional medical insurance plan(s), the employee will pay the difference between the City's contribution for the basic plan and the premium cost of the optional plan chosen.

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

Section 1. The City Council of the City of Englewood, Colorado hereby approves amending Articles 8, 11 and 21 of the Collective Bargaining Agreement between the Englewood Employees Association and the City of Englewood for the period of January 1, 2011 through December 31, 2011, a copy of which is attached hereto as Exhibit A.

Section 2. The Mayor and the City Clerk are hereby authorized to sign and attest this amendment to the Collective Bargaining Agreement between the Englewood Employees Association and the City of Englewood, Colorado, for the period of January 1, 2011 through December 31, 2011.

ADOPTED AND APPROVED this 21st day of June, 2010.

ATTEST:

_____
James K. Woodward, 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 2010.

_____
Loucrishia A. Ellis, City Clerk

EXHIBIT A

COLLECTIVE BARGAINING AGREEMENT

BETWEEN THE

CITY OF ENGLEWOOD

AND THE

ENGLEWOOD EMPLOYEES ASSOCIATION

JANUARY 1, 2010 - DECEMBER 31, 2011

EXHIBIT A

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CONTRACT

BETWEEN THE CITY OF ENGLEWOOD

AND THE

ENGLEWOOD EMPLOYEES ASSOCIATION

ARTICLE 1. INTRODUCTION

This contract entered into by the City of Englewood, Colorado, and the Englewood Employees Association has as its purpose the promotion of harmonious relations between the City of Englewood and its Employees, a fair and peaceful procedure for the resolution of differences; the establishment of rates of pay and hours of work, and other conditions of employment as set out in the City Charter.

Except where limited by express provisions elsewhere in this contract, nothing in this contract shall be construed to restrict, limit or impair the rights, powers and authority of the City as granted to it under the laws of the State of Colorado and the City's Charter and Municipal Code. The rights, powers, and authority include, but are not limited to, the following:

A. To determine the overall mission of the City as a unit of government.

B. To maintain and improve the efficiency and effectiveness of City operations.

C. To determine the services to be rendered, the operations to be performed, the technology to be utilized, or the matters to be budgeted.

D. To determine the overall methods, processes, means, job classifications or personnel by which City operations are to be conducted.

E. To direct, supervise, hire, promote, transfer, assign, schedule, retain or lay-off employees.

F. To suspend, discipline, discharge, or demote for just cause, all full-time permanent classified employees.

G. To relieve employees from duties because of lack of work or funds, or under conditions where the City determines continued work would be inefficient or nonproductive.

H. To take whatever other actions may be necessary to carry out the wishes of the public not otherwise specified herein or limited by a collective bargaining contract.

I. To take any and all actions to carry out the mission of the City in cases of emergency.

J. Nothing contained herein shall preclude the City from conferring with its employees for purposes of developing policies to effectuate or implement any of the above enumerated rights.

The City retains the right to change any past practice which is not in violation of this contract. In the event a past practice is sought to be changed by the City Manager or department directors, the Englewood Employees Association will be provided reasonable written notice of the intended change. The Englewood Employees Association retains the right to grieve any change in practice which is in violation of this contract.

ARTICLE 2. DURATION OF CONTRACT

A. This contract will take effect on January 1, 2010, and shall continue in force to and including December 31, 2011, provided that either party may reopen negotiations for Article 6, Overtime, Article 8, Compensation, Article 11, Personal Leave, Article 12, Short Term Disability, by giving written notice of intent to negotiate prior to May 15, 2010.

B. This contract or any part of it may be terminated or renegotiated at any time by mutual consent of both parties.

C. If any article or section of this contract should be held invalid by operation of law or any Court of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such Court, the remainder of this contract shall not be affected thereby and this contract shall remain in full force and effect, and the parties shall promptly meet and negotiate for the purpose of attempting to arrive at a mutually satisfactory replacement for such article or section.

D. The parties agree and understand that provisions relating to employees covered by this contract shall in no way displace or modify present or future statutory case law of the State of Colorado.

E. The parties acknowledge that during negotiations which resulted in this contract, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for contract negotiations and that the understandings and agreements arrived at by the parties after this exercise of that right and opportunity are set forth in the contract.

ARTICLE 3. RECOGNITION

The City recognizes the Englewood Employees Association as the sole organization certified pursuant to the provisions of the Charter of the City of Englewood as the exclusive representative for the public employees within the following bargaining unit:

Included: All full-time, classified employees of the City.

Excluded: All supervisory, managerial, confidential, part-time, temporary, and contractual employees, and all employees hired through the use of Federal, State or other outside funding sources for special projects or programs, and all others who may be determined prior to or during the life of this contract as provided under the City Charter.

ARTICLE 4. EMPLOYEE RIGHTS

A full-time classified employee who is not excluded per Article 3. (Recognition) of this contract shall have the right:

A. To form, join, support or participate in, or to refrain from forming, joining, supporting, or participating in the employee organization or its lawful activities; and

B. Bargain collectively through their certified employee representative.

C. No employee shall be interfered with, restrained, coerced or discriminated against because of the exercise of these rights nor shall the right of an individual employee to discuss employment concerns with the City be infringed upon.

ARTICLE 5. HOURS OF WORK

All departments, functions or activities shall observe office and working hours necessary for the efficient transaction of their respective services.

A. All employees covered by this contract shall work at least forty (40) hours per week. The work week shall consist of five (5) eight-hour shifts, or other work schedules as determined by the department director per the "Modified Workweek Schedules" policy. All employees shall be scheduled to work a regular work schedule and each shift shall have a regular starting and quitting time. Should the work schedule be changed, affected employees will be notified 24 hours in advance except in the case of an emergency as determined by the department director.

B. Employees shall be entitled to two (2) paid rest periods not to exceed fifteen (15) minutes or one (1) thirty (30) minute rest period for each shift worked. Rest periods shall be under the control of the supervisor or department director.

C. When possible, employees who work beyond their regular quitting time into an overtime situation will be eligible for a fifteen (15) minute rest period before they begin the overtime work. When possible, additional rest periods will be granted under the control of the supervisor or department director similar to rest periods granted under subparagraph B. above.

D. When necessary, employees shall be granted a fifteen (15) minute personal clean-up period prior to the end of each shift. The clean-up period shall be under the control of the supervisor or department director.

E. All employees will be granted an unpaid lunch period during each shift. As a normal occurrence, this lunch break will commence between the beginning of the third hour and the beginning of the sixth hour of the shift. An employee and supervisor may agree to waive this time limit due to work related or personal issues.

See City of Englewood Administrative Policy # 2, "Hours of Work/Overtime", and Policy #3, "Meal Breaks", for further clarification.

ARTICLE 6. OVERTIME WORK

A. For all employees covered by this contract, except as specified below, duties performed over and above the assigned work schedule shall be considered overtime.

B. FLSA non-exempt (hourly) employees shall be compensated for overtime work at the rate of one and one-half (1-1/2) times the normal pay rate or compensatory time off, computed at the rate of one and one-half (1-1/2) times. Because compensatory time is accrued at one and one-half (1-1/2) times, it shall not be considered as "hours worked" for purposes of overtime calculation.

The City retains the right to assign overtime work to any employee qualified to perform the work.

ARTICLE 7. ACTING PAY

All persons appointed to an acting position, at the sole discretion of the Director, will be compensated at the minimum rate of the acting position pay range or 5% above the employee's current rate of pay, whichever is greater. The employee must be in an acting capacity for thirty (30) consecutive calendar days before said employee becomes eligible for acting pay. Such pay will be retroactive to the first day the employee assumes the responsibility of the position.

See City of Englewood Administrative Policy Manual, Policy #1, "Acting Pay" for discussion of acting pay for positions not covered by this contract.

ARTICLE 8. COMPENSATION

The City's pay philosophy is to position the maximums of EEA pay grades at the median of the maximums of the market.

A. RECLASSIFICATION OF POSITIONS

If a job is reclassified to a grade higher than it occupied prior to the Salary Survey (as defined in the Compensation and Classification Plan document) the incumbent's pay will remain the same until his/her next Performance Evaluation. If however, the employee's pay at the time of reclassification is below the minimum of the new grade range, it will be brought to the minimum of the new grade range prior and in addition to any increase based upon the Performance Evaluation score as described below.

B. WAGE INCREASES

Employees of the City of Englewood represented by the Englewood Employees Association and covered by this contract shall receive no increase (0%) on the base wage in effect as of December 31, 2010. It is agreed, however, that in November, 2010 the parties shall meet to determine if the City's year to date total general fund revenues (January 1, 2010 through October 31, 2010) meet or exceed the total general fund revenues from the same period in 2008, which were $33,512,285. If the total general fund revenues do meet or exceed total general fund revenues from the same period in 2008, the City agrees to award the wage increases described below for 2011.

Employees whose wages are below the maximum point of their grade range are eligible for a base pay building developmental increase, from 1% to a maximum of 3%, on their annual evaluation date. An employee's increase percent is based on the score received on his/her Performance Evaluation, not to exceed the maximum of the grade range. (Example: A "3" (meets expectations) score will equate to a 1% increase, a "4" (exceeds expectations) will equate to a 2% increase and "5" (outstanding) will equate to a 3% increase.)

Wages for 2012, however, will be negotiated in 2011 based on the following: employees whose wages are below the maximum point of their grade range are eligible for a base pay building developmental increase, from 3% to a maximum of 5%, on their annual evaluation date. An employee's increase percent is based on the score received on his/her Performance Evaluation, not to exceed the maximum of the grade range.

Employees who have progressed through the developmental zone and reached the maximum of their grade range will no longer be eligible for base pay building increases. They will, however, be eligible for a one-time, lump-sum, Merit Pay award. In 2011, however, no Merit Pay will be awarded unless the revenue target mentioned above is met. If the revenue target is met, Merit pay for 2011 will be awarded per the same scale as for base pay building increases. Merit Pay for 2012 will be negotiated in 2011 based on the philosophy that the award is based on the score received on the employee's Performance Evaluation.

Employees in the developmental zone whose evaluation scores would raise their pay above the maximum of the range will be given base pay increases to the maximum of the grade range only. Any additional award will be non base building and awarded in the form of Merit Pay.

Note: Regardless of the Total Score on the Performance Evaluation, no pay increase or Merit Pay award will be granted if an employee is on a Performance Improvement Plan in any area. Once the conditions of the PIP have been met, the employee will receive the appropriate increase, retroactive to the PIP completion date.

C. A change in the evaluation date will result when:

(1) The employee is on leave without pay. (See Article 27.) Leave of Absence (Without Pay)

(2) The employee terminates his/her employment and later is reemployed. The new evaluation date shall be determined by his/her new employment date.

(3) The employee is promoted, demoted or transferred.

Fundamental changes to the above will be made only with prior consultation and review with association representatives.

ARTICLE 9. LONGEVITY COMPENSATION

Effective January 1, 1984, and thereafter, all new hires shall not be eligible for longevity compensation.

ARTICLE 10. ANNUAL LEAVE

Employees covered by this contract shall earn annual leave each pay period as follows:

	Length of Service	Hours per Pay Period	Hours per Year	Earning Limits
1.	0-4 Years (thru 48 mos.)	3.08	80	160 Hrs.
2.	5-9 Years (49 thru 108 mos.)	4.62	120	240 Hrs.
3.	10+ Years (109+ mos.)	6.15	160	320 Hrs.

Accumulation of annual leave shall neither be authorized nor computed for any purpose after the maximum earning limit has been reached. Part time service is not included in the "length of service" calculation for annual leave eligibility.

Use

The schedule for use of annual leave shall be determined by the needs of the department. Annual leave shall be taken at the time convenient to and approved by the department director or supervisor. However, the City will make reasonable efforts to accommodate the request of an employee to use annual leave where a genuine emergency situation exists.

Annual Leave Pay

The rate of annual leave pay shall be the employee's regular straight time hourly rate of pay for the employee's regular job. Annual leave shall be allowed only to the total hourly amount accumulated up to and during the pay period in which the leave is taken.

Work During Annual Leave

If, after the employee has begun his/her annual leave and the City requires the employee to work during the scheduled annual leave period, the employee will not be charged with vacation time for the number of hours worked.

Annual Leave Pay Upon Separation

When an employee terminates employment with the City, they will be compensated for unused annual leave earned as of the date of separation. Annual leave is not to be used to extend an employee's date of separation.

ARTICLE 11. PERSONAL LEAVE

All employees covered by this contract shall be granted 48 hours of personal leave time with pay which an employee is entitled to use for the following purposes:

A. Employee's own illness/injury

B. Illness/injury of employee's family

C. To attend to personal business

For any employee who has not used the 48 hours of personal leave time ending October 31 of each year or any portion thereof, the City will compensate said employee for the unused time at the employee's regular wage rate to be paid during the month of November of that year. Notwithstanding the above and foregoing, and during calendar year 2011, the City shall not be required to compensate an employee for any unused personal leave time remaining on October 31, 2011, nor shall the unused time be accumulated or carried over to the calendar year 2012, unless the City's total general fund revenues meet the levels set forth in Article 8.Compensation. Personal leave time shall not exceed 48 hours nor shall it be accumulated or carried over from one year to the next. Personal leave shall be scheduled and administered under the direction of the department director or supervisor. In the event of illness/injury in which personal leave is requested, shift work employees shall notify their supervisor at least one (1) hour prior to their scheduled reporting time. Personal leave shall be prorated for employees beginning and terminating employment with the City during the November 1-October 31 time period.

ARTICLE 12. SHORT TERM DISABILITY (STD)
(Formerly Temporary Disability – Non Job-Related)

Short term disability (STD) granted for non-service connected injury or illness of an employee with at least ninety (90) days of service with the City, whose disability prevents the employee from performing his/her duties. STD is paid at 100% of the employee's regular hourly rate.

The City agrees to provide employees covered by this contract STD leave with pay for employees absent as a result of illness/injury as follows:

91 days- 4 years (thru 48 mos.)	347 working hours
5-9 years (49 thru 108 mos.)	520 working hours
10+ years (109+ mos.)	693 working hours

STD leave shall not be accumulative. January 1 of each year the City shall restore 100% of the number of hours used by an employee during the preceding year as follows:

91 days-4 years	up to a maximum of 173 working hours
5-9 years	up to a maximum of 260 working hours
10+years	up to a maximum of 347 working hours

Utilization

A. Authorization for STD leave with pay shall only be granted after the first normal daily shift of disability. The elimination shift to access STD shall be taken and paid in the following order: personal leave, annual leave, compensatory time. If all accrued leaves have been exhausted, the elimination shift shall be taken as leave without pay.

B. Authorization for STD shall only be granted for personal illness or injury, not service connected, including maternity related disability.

See City of Englewood Administrative Policy #31, "Family and Medical Leave Act (FMLA)".

Sick Leave Option

All sick leave accrued by permanent employees prior to January 1, 1980 shall vest with the employee, and may be used in the following manner:

A. After exhausting STD hours.

B. By cashing in all accrued sick leave accumulated under the previous plan upon normal retirement from the City at the rate of one hour's pay for each two hours of accrued sick leave or one hour's pay for each four hours upon separation from the City.

C. By cashing in accrued sick leave, once each year at the conversion rate of four (4) hours sick leave for one (1) hour pay, not to exceed a conversion of more than 400 hours each year.

Reporting of STD

The employee or a member of the employee's household shall notify the employee's supervisor at least one hour prior to the employee's scheduled reporting time. No STD leave will be granted to an employee who fails to notify their supervisor prior to the beginning of the employee's work shift.

Verification of Disability

If absence from work is three (3) days or more, a medical release must be provided to the employee's supervisor, who will forward it to Human Resources for possible Family and Medical Leave qualification.

Abuse of STD

Abuse of STD occurs when an employee misrepresents the actual reason for requesting STD or when an employee uses STD leave for unauthorized purposes. An employee who makes a false claim for STD leave shall be subject to disciplinary action up to and including termination.

ARTICLE 13. WORKERS' COMPENSATION

A. For any on-the-job injury which causes an employee to be absent from work as a result of such injury, the City shall pay to such employee his/her full wages from the first day of his/her absence from work up to and including the 90th calendar day of such absence, less whatever sums received by the employee as disability benefits under workers' compensation. The City requires any employee on workers' compensation to submit to an examination(s) by City-appointed physician(s) at the City's expense or under the provision of workers' compensation. If the injury or illness results in an absence of over 90 days, the employee may request to supplement the 66&2/3% wage benefit granted by the provisions of workers' compensation with personal leave, annual leave or sick leave (if applicable). Short term disability is available only for *non work related* illnesses or injuries, so cannot be used as a supplement to the workers' compensation benefit.

B. All workers' compensation injuries shall be reported to the employee's supervisor within 24 hours of the injury or before the employee leaves his/her department of employment.

ARTICLE 14. MILITARY LEAVE

The authority for this policy is derived from the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and Section 28-3-601 C.R.S. through Section 28-3-607 C.R.S.

The City is obligated to grant military leave without loss of pay for absences not exceeding fifteen (15) days in any calendar year. Fifteen (15) days equates to fifteen 8-hour days, or 120 hrs. The City cannot require an employee to use annual leave for such purposes. The employee may, however, request use of vacation, compensatory time, or leave without pay to supplement absences exceeding those covered by the fifteen (15) day military leave allowance.

Military leave of absence will result in no loss of any condition of employment that would have normally occurred if the employee had not been absent for such purposes.

Employees are responsible for providing their department directors copies of all military orders that will result in a leave of absence for active military duty. Employees are also required to notify their supervisors at the earliest possible date upon learning of scheduled military duty.

Employees who fail to return to work according to the provisions of USERRA and Section 28-3-601 C.R.S. through Section 28-3-607 C.R.S. are subject to disciplinary action up to and including termination.

Employees must remit to the City any pay received by the military for the period of time the employee is on paid military leave. This remittance shall occur immediately upon receipt of the military pay (in instances that the military pay is greater than the employee's City pay, the employee may elect to forego City paid military leave).

The City will make a reasonable effort to adjust work schedules and assignments to accommodate employees fulfilling military obligations.

ARTICLE 15. FUNERAL LEAVE

Full-time employees are eligible for up to forty (40) hours of funeral leave. Annual or personal leave may be requested if additional time off is necessary. Funeral leave applies to members of the employee's family. For purposes of this policy, "Employee's Family" will mean the employee's spouse, or the children, grandchildren, parents, grandparents, brothers, and sisters of the employee or of the employee's spouse.

ARTICLE 16. JURY DUTY AND WITNESS SERVICE

Leave will be granted to an employee called for jury duty or to appear as a witness in his/her official capacity in obedience to a subpoena or direction by legal authority. The employee will receive their regular salary for jury duty served. Any jury pay will be reimbursed to the City. The employee may retain any reimbursements for mileage and parking. Employees on jury duty or called as a witness in their official, City capacity will be expected to work as much of their regularly scheduled workday as their jury duty schedule or appearance in court permits.

When an employee is subpoenaed as a witness in private litigation to testify, not in his/her official capacity but as an individual, accumulated leaves will be used to cover the time absent. All accumulated leaves must be exhausted before the time absent can be taken as leave without pay.

Employees will not be paid overtime or earn compensatory time for time served as a juror or a witness. Overtime is computed on hours actually worked over forty (40) hours at the assigned job.

An employee must return to work after being excused from jury duty if there are more than two (2) hours left in their regularly, scheduled workday.

ARTICLE 17. HOLIDAYS

A. The following days shall be considered official holidays by the City and all employees covered by this contract shall be entitled to ninety-six (96) hours of holiday pay:

1. New Year's Day: January 1.
2. Martin Luther King Day: the third Monday in January.
3. President's Day: the third Monday in February.
4. Memorial Day: the last Monday in May.
5 Independence Day: July 4.
6 Labor Day: the first Monday in September.
7 Veteran's Day: November 11.
8. Thanksgiving Day: the fourth Thursday in November.
9 Fourth Friday of November following Thanksgiving Day.
10 Christmas Eve: December 24.
11. Christmas Day: December 25.
12. New Year's Eve Day: December 31.

B. Any employee covered by this contract who does not perform duty scheduled on the working days or have approved paid leave immediately prior to and following a holiday shall not receive pay for the holiday.

C. Employees required to work on an official City holiday will receive approved holiday pay at two and one half times the employee's regular hourly rate for holiday hours actually worked up to 8 hours. Hours worked over 8 hours will be paid at the overtime rate (time and one-half). For departments permitting other holiday compensation options, the procedures are as follows:

a. Approved overtime pay (time and one-half) for number of hours actually worked on the holiday IN ADDITION TO up to 8 hours of holiday leave to bank and take at a later date: OR

b. Approved straight time pay for number of hours actually worked on the holiday up to 8 hours (hours worked over 8 will be paid at the overtime rate of time and one-half) IN ADDITION TO up to 8 hours of Comp Time (accrued at time and one-half) to be taken at a later date; OR

c. Approved holiday pay at two and one-half times the employee's regular hourly rate for holiday hours actually worked up to 8 hours. Hours worked over 8 hours will be paid at the overtime rate (time and one-half.)

D. When one of the foregoing holidays falls on a Sunday, the following Monday shall be observed as the legal holiday. When any of the foregoing holidays fall on a Saturday, each employee shall be entitled to a day off for such holiday, which day off shall be scheduled as the City Manager determines, but no specific day shall be observed as a holiday for purpose of closing City offices and functions.

See City of Englewood Administrative Policy #33, "Official Holidays", for further clarification.

ARTICLE 18. UNIFORM CLEANING ALLOWANCE

If an employee is required to wear a uniform, the employee shall wear the uniform only as authorized by the department work rules. The City will provide uniforms, cleaning and replacements. The City will provide 50% of the cost of required work shoes up to a maximum of $90 per year except with department director approval. All employees shall maintain a presentable appearance while on duty. The employee is responsible for any damage to the uniform by negligence or deliberate act.

ARTICLE 19. TUITION REIMBURSEMENT / DEGREE ACHIEVEMENT RECOGNITION

See City of Englewood Administrative Policy #29, "Tuition Reimbursement/Degree Achievement Recognition".

ARTICLE 20. LIFE INSURANCE

Term life insurance will be provided by the City for employees covered by this contract in the amount of one time his/her annual salary. The minimum benefit is $30,000 and the maximum benefit is $50,000. Upon separation from employment, the employee may convert the life insurance per the life insurance plan conversion agreement in place at the time of his/her separation from employment.

ARTICLE 21. INSURANCE

A MEDICAL

The City will pay ninety percent (90%) of the premium cost for "employee only" coverage, eighty-five percent (85%) of the premium cost for "employee plus one" coverage and eighty percent (80%) of "family" coverage for the medical insurance plan designated as the basic City plan. Employees will pay 10%, 15% or 20% of the premium cost, depending on the level of coverage.

If the City offers any optional medical insurance plan(s), the employee will pay the difference between the City's contribution described above and the premium cost of the optional plan chosen.

B. DENTAL

The City will pay ninety percent (90%) of the premium cost for "employee only" coverage, eighty-five percent (85%) of the premium cost for "employee plus one" coverage and eighty percent (80%) of the premium cost for "family" coverage for dental insurance. Employees will pay either ten percent (10%), fifteen percent (15%), or twenty percent (20%) of the premium cost for dental insurance, depending on the level of coverage.

C Any dispute concerning the interpretation or application of benefits provided under the health or dental plans shall be subject to the plan appeal process. It is expressly understood that this article is a non-grievable item under this contract.

ARTICLE 22. RETIREE HEALTH INSURANCE ASSISTANCE

Retirees will be guaranteed conversion privileges to the Health Insurance Conversion Plan available through the City. For those who retired prior to December 31, 1996, the City will pay $50 per month. For retirees after January 1, 1997, the City will pay $75 per month. For those who retire on or after January 1, 2010, the City will pay $100 per month.

For purposes of this Article, "retiree" shall be defined as all employees who separate from the City at age 55 or older and have completed 15 years of continuous, permanent, full-time service (immediately preceding the date of separation). See City of Englewood Administrative Policy #66, "Retiree Health Assistance".

ARTICLE 23. PENSION/RETIREMENT PLANS

The pension plan description for employees covered by this contract is set forth in Title III, Chapter 4 of the Englewood Municipal Code. Additionally, the plan description for the Non-Emergency Employees Money Purchase Plan is available for inspection in the Department of Finance and Administrative Services.

ARTICLE 24. LAYOFF

A. Whenever there is lack of work, lack of funds, or under conditions where it is determined that continued work would be inefficient or nonproductive, requiring reductions in the number of employees, the appointing authority shall designate the department and positions in which the layoff is to be made. In identifying individual employees to be laid off, the appointing authority shall consider the relative ability of all employees within the position classification, taking into account the employee's documented performance history and then seniority with the City.

B. Employees laid off shall be put on a recall list for one year following their layoff. Employees recalled from layoff into the same job classification shall be recalled in inverse order of layoff. If they are recalled into a different position, those recalled must have the demonstrated ability and qualifications to perform the available work as determined by the City. No new employees shall be hired into positions covered by this contract until all employees on layoff status desiring to return to work have been recalled.

C. Employees identified for layoff shall have the right to displace an employee in any position classification which the employee formerly held in the department, taking into account both the employees' documented performance history, demonstrated ability and then seniority with the City. The employee ultimately displaced shall then be the person laid off unless that employee in turn has effective displacing rights under the provisions of this article.

ARTICLE 25. LEAVE OF ABSENCE (WITHOUT PAY)

After twelve months of continuous service and upon approval of the department director, in concurrence with the Human Resources Director, employees may be granted an unpaid leave of absence of up to one year for compelling personal reasons not related to Family and Medical Leave reasons.

All accrued, paid leave must be exhausted before the beginning of the unpaid leave of absence. Employees on such leave do not accrue personal leave, annual leave or longevity pay. Employees on unpaid leave of absence are not eligible for holiday, jury, military, funeral or administrative leave. When an employee is on an unpaid leave of absence, he/she will remain in the City health and dental insurance plans, provided the full premium is paid by the employee.

The employee may retain the benefit accrual rate they were eligible for at the beginning of the unpaid leave, provided the employee returns to work with the City on the agreed upon date. Upon return, the employee's hire date will be adjusted if the leave has exceeded thirty (30) calendar days.

An employee who engages in other employment, including self-employment, while on official leave of absence, will be terminated effective as of the last day worked, unless prior written approval has been obtained from the Human Resources Department.

Employees on an approved leave of absence, who fail to report for work by the first day after the expiration date of the leave of absence or a properly approved extension, will be terminated from their employment with the City as of the last day actually worked.

ARTICLE 26. GRIEVANCE PROCEDURE

A grievance is defined as a claim or dispute by an employee covered by the terms of this contract concerning an alleged violation of a specific provision of this contract. The employee shall be required to follow the procedure as set out below:

A general grievance is defined as a grievance that concerns a group of employees or the bargaining unit in general. A general grievance can only be filed by the Association within the time frame specified in Step 1, and the initial review will occur by the department director at Step 2 below.

A. "Work Day" means calendar days exclusive of Saturdays, Sundays, and City recognized holidays.

Step 1.

If the employee is unable to settle the grievance or dispute orally and informally through his/her immediate supervisor within five (5) working days of the date of the occurrence of the grievance, or the employee's knowledge of it, the employee may, within the succeeding five (5) work days, file a written grievance with his/her supervisor. The supervisor shall attempt to adjust the matter and shall respond in writing to the employee within five (5) work days.

Step 2.

If the answer is not satisfactory, the matter shall be presented in writing by the employee to the department director within five (5) work days following receipt of the supervisor's response. The department director shall respond in writing to the employee within five (5) work days.

Step 3.

If the grievance still remains unadjusted, it shall be presented by the employee to the City Manager in writing within five (5) work days following receipt of the response of the department director. The City Manager or his/her designated hearing officer shall have a meeting with the grievant to review the grievance and all relevant information. Within ten (10) work days of that meeting, the City Manager or his/her designated hearing officer will issue a written decision.

Step 4.

1. If the grievance is still unresolved, the Association within fourteen (14) calendar days after the reply of the City Manager or his/her designated hearing officer, may by written notice request the matter be submitted to arbitration. The parties will attempt to choose a mutually agreeable arbitrator. If within five (5) days of the request for arbitration the Association and the City cannot mutually agree on an impartial arbitrator, a request will be filed with the American Arbitration Association for a panel of seven (7) arbitrators to be sent to the parties. The arbitrator shall be selected by a method of alternative striking of names from the panel, with the first strike determined by a coin flip. The final name left on the panel shall be the arbitrator. The arbitrator shall be requested to issue a decision within thirty (30) days after conclusion of testimony and argument.

2. Each party shall be responsible for compensation to its own representatives and witnesses. The fees of the arbitrator shall be borne equally by the Association and the City.

3. Authority of Arbitrator

The arbitrator shall have no power to add to or subtract from or change the terms of this contract. The written decision of the arbitrator shall be final and binding upon the parties. The arbitrator shall limit his/her decision strictly to the grievance submitted which has been properly processed through the grievance procedure outlined.

4. Failure by an employee or the Association to comply with any time limitation shall constitute a settlement of the grievance. Should the employer not respond within the prescribed time, the grievance will automatically proceed to the next step. At the employee's option, the employer may be allowed additional time to respond.

Processing Grievance During Working Hours

Grievances may be investigated and processed by the employee or designated employee representative during working hours, within reasonable time limits, without loss of pay, provided notice is given and the workload permits.

ARTICLE 27. WRITTEN CORRECTIVE ACTION

Whenever more serious grounds for corrective action exist (i.e., more serious than those deemed by the supervisor to warrant oral corrective action) the supervisor should issue a written corrective action. The written corrective action will be addressed to the employee and will include the following information:

- The violation
- The specific behavior
- The dates of the behavior
- The warning that continuance of the specific behavior will result in disciplinary action, and
- An offer of assistance in correcting the behavior.

Both the employee and supervisor must sign the document (if necessary, the supervisor will note that the employee refuses to sign the document). A copy of the written corrective action will be forwarded to Human Resources to be included in the employee's official personnel file. The employee will have the opportunity to submit written comments in response to the written corrective action to be included in their file.

This Article shall not be grievable under this contract, nor shall it apply to probationary employees.

ARTICLE 28. DUES DEDUCTION

A. The City agrees to deduct the Englewood Employees Association dues each pay period from the pay of those employees who individually request in writing that such deductions be made, subject to the garnishment laws of the State of Colorado. The amounts to be deducted shall be certified to Human Resources by the Treasurer of the Association, and the aggregate deductions of all employees shall be remitted together with an itemized statement to the Treasurer by the 15th of the succeeding month, after such deductions are made. The authorization shall be revocable during the term of the contract, upon written notice by the employee to Human Resources.

B. If no wages are paid to an employee authorizing such deductions in any given pay period, deduction for that pay period(s) will be made from any wages which may be paid to him/her in the succeeding pay period(s). It is expressly understood that the City assumes no liability and shall not be liable for the collection or payment to the Englewood Employees Association of any dues during any time that an employee is not actually working for the City and actually on the payroll of the City. In the event of error on the check-off list, the City will not be responsible to make adjustments, until notified by the Treasurer of the Englewood Employees Association.

C. The Englewood Employees Association shall indemnify and hold the City harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provision of this Article.

D. Changes in the dues amount to be deducted shall be limited to two (2) changes each year, providing a thirty (30) day written notice is provided to Human Resources.

E. Should the change in the deduction method require a computer programming change, the Englewood Employees Association shall be responsible for the cost of such change or changes, at $30 per hour with a four (4) hour maximum. Payment from the Englewood Employees Association shall be made to the City Finance and Administrative Services Director within ten (10) days of receipt of billing.

ARTICLE 29. ASSOCIATION ACTIVITIES

The City agrees that during working hours on the City premises and without loss of pay, Englewood Employees Association members may be allowed to:

- attend two (2) EEA meetings annually. The City, however, retains the right to maintain appropriate staffing levels as determined by the department director and will not be required to pay overtime or compensatory time necessitated by attendance at the meeting. Members may be called back from such meetings to address emergencies. Other membership meetings may be called to address issues of general interest. If these additional meetings are held during employees' work shifts, the City retains the right to either approve or disapprove attendance on City time (i.e., during times other than employees' lunch and break periods). Notice of such meetings, specifying whether it is biannual or general interest will be provided to directors, managers and supervisors two weeks in advance, unless it is mutually agreed to waive this provision;
- post EEA notices on City designated bulletin boards;
- solicit EEA memberships during employee's non-work time.

Additionally, the Association may call monthly meetings of its board, to be held during the board members' lunch periods. One (1) week's notice will be given to supervisors if the meetings are expected to exceed the lunch periods.

Board members may also be allowed to represent employees on grievances. They will be allowed to represent employees at labor management committee meetings and negotiations. During negotiations, EEA negotiation team members may meet during work hours to discuss issues with appropriate notice given to directors, managers and supervisors. The Association team shall not exceed eight (8) members.

ARTICLE 30. STANDBY PAY

Standby pay is defined as compensation for employees covered by this contract who must be immediately available to respond while off duty. All employees covered by this contract and assigned standby duty shall be compensated at a rate equal to eight (8) hours at his/her regular rate of pay for one week of standby duty. Standby pay shall be prorated for standby duty of less than one week. (Example: an employee assigned standby duty for one day will be compensated at a rate equal to 8 hours / 7 = 1.14 hours).

Standby pay shall not be substituted with compensatory time.

ARTICLE 31. CALL BACK

Any time an employee on off-duty status (including stand-by duty) is called back to work he/she shall be credited with a minimum of two (2) hours pay at the rate of one and one-half (1 1/2) times his/her regular hourly rate.

With the approval of the department director and subject to departmental guidelines, the employee may choose to substitute compensatory time for call back pay.

ARTICLE 32. LABOR MANAGEMENT COMMITTEE

A labor management committee consisting of four (4) members appointed by the Association and four (4) members appointed by the City shall meet on a quarterly basis. The committee will only deal with group issues that are not dealt with through other existing committees or grievance procedures. The Association will send its agenda items to the Human Resources Director at least one (1) week prior to the date of the quarterly meeting.

City policy changes will be presented at the quarterly labor management committee meetings. Emergency policy changes will be immediately forwarded to the Association for distribution.

ARTICLE 33. EXCLUSIVENESS OF CONTRACT

The City and the Association agree that the terms and provisions herein contained constitute the entire contract between the parties. The City and the Association agree that all negotiable items have been discussed during the negotiations leading to this contract and, therefore, agree that negotiations will not be reopened on any item during the life of this contract, except by mutual agreement of the parties.

IN WITNESS THEREOF, the parties have caused this contract to be signed by their respective representatives, and their signatures placed thereon, on this _____ day of June, 2010 at Englewood, Colorado.

ENGLEWOOD EMPLOYEES ASSOCIATION

_____

Robert E. Stephenson, President

_____

Johny Lujan, Vice President

_____

_____

CITY OF ENGLEWOOD

_____

Mayor, Jim Woodward

ATTEST:

_____

City Clerk, Loucrishia A. Ellis

_____

City Manager, Gary Sears

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 c ii	Collective Bargaining Agreement Between the City and the EPBA for 2011 and 2012

Initiated By:	Staff Source:
Human Resources Department	Sue Eaton, Director of Human Resources

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The previous Collective Bargaining Agreement with the Englewood Police Benefit Association was approved by Council for 2009 and 2010 in July, 2008.

RECOMMENDED ACTION

Staff requests Council adopt a resolution approving the Collective Bargaining Agreement between the Englewood Police Benefit Association and the City of Englewood for the years 2011 and 2012. The contract covers approximately 58 employees.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood and the Englewood Police Benefit Association entered into negotiations in May of 2010 in accordance with the City of Englewood Charter. The members of the Englewood Police Benefit Association duly ratified by a majority vote the Collective Bargaining Agreement.

The significant changes to the contract are as follows:

1. A market adjustment, based on the salary survey to be conducted in the third quarter of 2010, will be made on January 1, 2011.

2. Wages for 2012 will be negotiated in 2011.

3. The maximum merit pay for eligible employees will increase from $900 to $1000 annually.

4. Employees who use all of their personal leave will be awarded either 8 hours (or 10 hours for 10 hour shift personnel) compensatory time.

5. The City will pay either 80%, 85% or 90% (depending on level of coverage) of premium costs for the medical plan designated as the basic City plan. If the City offers any optional medical insurance plan(s), the employee will pay the difference between the city's contribution for the basic plan and the premium cost of the optional plan chosen.

FINANCIAL IMPACT

The financial impact of the 2011 wage increase cannot be fully quantified until the completion of the salary survey conducted in October, 2010. Each one percent (1%) wage increase (and associated pension contribution) costs approximately $41,000. The merit pay increase will cost up to $4400 annually. Personal leave cashout is dependent upon leave use. The range is no cashout ($0.) to a maximum of approximately $88,000.

LIST OF ATTACHMENTS

Resolution

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION AUTHORIZING THE PROVISIONS OF THE COLLECTIVE BARGAINING CONTRACT BETWEEN THE ENGLEWOOD POLICE BENEFIT ASSOCIATION AND THE CITY OF ENGLEWOOD FOR THE YEARS 2011 AND 2012.

WHEREAS, the Englewood City Council authorized "The Collective Bargaining Contract Between the Englewood Police Benefit Association and the City of Englewood for the Years 2009 – 2010"; by the passage of Resolution No. 66, Series of 2008; and

WHEREAS, the City of Englewood and the Englewood Police Benefit Association entered into negotiations in May, 2010 in accordance with the Englewood City Home Rule Charter; and

WHEREAS, the members of the Englewood Police Benefit Association duly ratified, by a majority vote, the Collective Bargaining Agreement for the years 2011 and 2012; and

WHEREAS, the significant changes to the contract are:

1. A market adjustment, based on the salary survey to be conducted in the third quarter of 2010 will be made on January 1, 2011.

2. Wages for 2012 will be negotiated in 2011.

3. The maximum merit pay for eligible employees will increase from $900 to $1,000 annually.

4. Employees who use all of their personal leave will be awarded either 8 hours or 10 hours (for 10 hour shift personnel) compensatory time.

5. The City will pay either 80%, 85% or 90% (depending on level of coverage) of premium costs for the medical plan designated as the basic City plan. If the City offers any optional medical insurance plan(s), the employee will pay the difference between the City's contribution for the basic plan and the premium cost of the optional plan chosen.

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

Section 1. The City Council of the City of Englewood, Colorado hereby approves the Collective Bargaining Contract between the Englewood Police Benefit Association and the City of Englewood for the years 2011 and 2012, attached hereto as Exhibit A.

Section 2. The Mayor and the City Clerk are hereby authorized to sign and attest the Collective Bargaining Contract between the Englewood Police Benefit Association and the City of Englewood, Colorado.

ADOPTED AND APPROVED this 21st day of June, 2010.

ATTEST:

_____
James K. Woodward, 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 2010.

_____
Loucrishia A. Ellis, City Clerk

EXHIBIT A

CONTRACT BETWEEN THE

CITY OF ENGLEWOOD

AND THE

ENGLEWOOD POLICE BENEFIT ASSOCIATION

FOR THE YEARS 2011 – 2012

This reproduction of the 2011-2012 Contract has been prepared by the Human Resources Department for distribution to all covered Police officers so that everyone will be aware of the rights and benefits contained herein.

EXHIBIT A

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CONTRACT BETWEEN THE CITY OF ENGLEWOOD AND THE ENGLEWOOD POLICE BENEFIT ASSOCIATION

This Contract entered into by the City of Englewood, Colorado, and the Englewood Police Benefit Association has as its purpose the promotion of harmonious relations between the City of Englewood and its employees, a fair and peaceful procedure for the resolution of differences; the establishment of rates of pay and hours of work, and other conditions of employment mutually agreed upon.

Except where limited by express provisions elsewhere in this Contract, nothing in this Contract shall be construed to restrict, limit or impair the rights, powers and authority of the City as granted to it by constitutional provision, statute, ordinance, charter or special act, the exclusive power, duty and rights to;

A. Determine the overall mission of the City as a unit of government.

B. To maintain and improve the efficiency and effectiveness of City operations.

C. To determine the services to be rendered, the operations to be performed, the technology to be utilized, or the matters to be budgeted.

D. To determine the overall methods, processes, means, job classifications or personnel by which City operations are to be conducted.

E. To direct, supervise, hire, promote, transfer, assign, schedule, retain or lay-off employees.

F. To suspend, discipline, discharge, and demote for cause, all full-time permanent classified employees.

G. To relieve employees from duties because of lack of work or funds, or under conditions where the City determines continued work would be inefficient or nonproductive.

H. To take whatever other actions may be necessary to carry out the wishes of the public not otherwise specified herein or limited by a collective bargaining contract.

I. To take any and all actions to carry out the mission of the City in cases of emergency.

J. Nothing contained herein shall preclude the City from conferring with its employees for purposes of developing policies to effectuate or implement any of the above enumerated rights.

ARTICLE 1. DURATION OF CONTRACT

A. This Contract shall take effect on January 1, 2011 and shall continue in force to and including December 31, 2012, provided that the parties shall meet on or before May 15, 2011 to reopen negotiations for Article 9, Compensation.

B. This Contract, or any part of it, may be terminated or renegotiated at any time by mutual consent of both parties.

C. If any article or section of this Contract should be held invalid by operation of law or the District Court, or if compliance with or enforcement of any article or section should be restrained by such District Court, the remainder of this Contract shall not be affected thereby and this Contract shall remain in full force and effect, and the parties shall promptly negotiate for the purpose of attempting to arrive at a mutually satisfactory replacement of such article or section.

D. The parties agree and understand that provisions relating to employees covered by this Contract shall in no way displace or modify present or future statutory or case law of the State of Colorado.

E. The parties acknowledge that during negotiations which resulted in this Contract had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for negotiation discussions and that the understandings and agreements arrived at by the parties after this exercise of that right and opportunity are set forth in this Contract.

ARTICLE 2. RECOGNITION

The City recognizes the Englewood Police Benefit Association as the employee organization certified by the City of Englewood as the exclusive representative for sworn Police employees within the following bargaining unit:

Included: All full-time, classified sworn police officers below the rank of Sergeant of the City Police Department. (See City Charter, Article XV. 137:2 (b), (c) @www.englewoodgov.org/finance/code-intro.htm)

Excluded: All others.

ARTICLE 3. EMPLOYEE RIGHTS

1. A full-time classified employee who is not a confidential employee, a managerial employee, or a supervisor shall have the right:

A. To form, join, support or participate in, or to refrain from forming, joining, supporting, or participating in any employee organization or its lawful activities.

B. Bargain collectively through their certified employee representative.

C. No employee shall be interfered with, restrained, coerced or discriminated against because of the exercise of these rights nor shall the right of an individual employee to discuss employment concerns with the City be infringed upon.

2. The City and the Englewood Police Benefit Association mutually agree that a fair and impartial investigation of officers is deemed appropriate and necessary. A written policy has been developed and included in the operations manual specifically addressing the issue of administrative and criminal investigations and employee rights. No changes will be made in this policy without prior consultation and review with association representative(s).

ARTICLE 4. SENIORITY

For the purposes of this Contract, seniority shall be determined first by length of continuous full-time service with the City Police Department according to rank and second by length of continuous full-time service with the City Police Department from the first date of hire, provided the employee successfully completed a probationary period. In cases where two or more employees have the same hire date, the badge number as issued by the Department shall establish priority of position on the seniority list. Employees shall not continue to accrue seniority while laid off, and seniority will terminate when an employee has been laid off for a period of twelve (12) months or more.

After an employee successfully completes the probationary period, their name shall appear on the seniority list as of the first date of hire.

The seniority of an employee shall terminate under any of the following conditions:

- When a laid off employee fails to give notice of the employee's intent to return to work within seven (7) calendar days after the City has sent, to the employee's last known address on file with the City, a certified letter requesting the employee's return to work.

- When the employee gives notice but fails to return to work within seven (7) calendar days after the aforesaid letter has been sent to the employee.

- When the employee's employment with the City is terminated for any reason.

- When an employee is on leave of absence as provided under Article 22, Leaves of Absence (Without Pay).

- If an employee is absent for three (3) consecutive regularly scheduled working days without notifying the Police Chief or immediate supervisor prior to such three (3) days' absence without good cause as determined by the Police Chief.

- Failure to return to work after expiration of a formal leave of absence.

- An employee rehired but whose absence from City employment was less than eighteen (18) months will have their prior accrued seniority with the retirement plan restored.

- An employee rehired, but whose absence from City employment was less than twelve (12) months will have their prior accrued seniority restored with regard to all other City benefits.

ARTICLE 5. HOURS OF WORK

The Police Department shall observe office and working hours necessary for the efficient transaction of their respective services.

A. Work Week

A work week is a regular recurring period of 168 hours in the form of seven consecutive 24-hour periods. The workweek need not be the same as the calendar week. The workweek may begin on any day of the week and any hour of the day and need not be the same for all employees.

B. Work Schedule

1. The work schedule for officers, including roll call and meal periods, shall consist of five (5) eight (8) hour work days; four (4) ten (10) hour work days; or other work schedule as determined by the Police Chief.

2. Any change in an officer's bid or assigned schedule (starting time, quitting time, scheduled days off) will be made in accordance with paragraph C except schedule changes may be made without notice if the affected officer agrees.

The City agrees to review with Association representatives issues and concerns regarding the method and possible compensation associated with schedule changes.

C. Changing Work Schedules

The work schedule may be changed by the Police Chief provided a minimum five (5) days advance notice is given. Work schedules may be changed without advance notice in the case of emergencies as determined by the Police Chief. When an employee's work schedule is changed for purposes of training, special instruction, etc., the supervisor shall make a reasonable effort to accommodate the employee's interests concerning the scheduled change.

D. Staffing

The need for an appropriate level of staffing is recognized by the City for the purpose of efficiency and safety. The Police Department will address this issue in Department policy.

E. Meal Periods

Officers shall be granted a paid meal period of thirty (30) minutes for each eight (8) hour work shift. Employees working a ten (10) hour work shift shall be allowed a paid forty-five (45) minute meal period. An employee may conduct personal business during the meal period. The meal period shall be authorized and controlled by the employee's supervisor.

F. Rest Periods

Employees shall be granted a paid rest period not to exceed fifteen (15) minutes during approximately the first one-half of the employee's regular work day and an additional fifteen (15) minutes rest break approximately in the second one-half of the work day. Rest periods shall be authorized and controlled by the employee's supervisor.

ARTICLE 6. BIDDING PROCEDURES FOR SHIFT ASSIGNMENT

A. Seniority applicable to the seniority bid process will be determined in accordance with the total length of continuous employment as a Police Officer with the City of Englewood. Prior City employment in other than a Police Officer capacity will not apply toward seniority. Probationary employees will not be included in the bid process.

Bidding for Watches and Days Off

B. The seniority bid system will be applicable to personnel assigned to the Patrol Operations Division only, and will not be authorized in any other bureau or special assignment.

The Patrol Operations Division commander will develop and post a schedule prior to each year for a twelve-month period.

The bid process will begin after October 1 of each year and will be completed by November 30 of each year.

There will be a total of five (5) non-biddable positions which shall consist of two (2) non-biddable positions on Watch I and three (3) non-biddable positions on Watch II, provided that any new position(s) added to the Patrol Operations Division after January 1, 1997, shall be non-biddable positions, up to a maximum of nine (9) non-biddable positions in the division. The bidding process will begin with the most senior Police Officer bidding the positions of their choice. In the descending order of seniority, each remaining Police Officer will have choice of the remaining biddable positions. All specialized positions such as crime prevention officer, traffic officer, etc. will not be open to bid. The specialized assignments along with any no-bid positions on a watch, will be in addition to the biddable position on each watch. Officers may request non-biddable positions and an attempt will be made to accommodate them, but such positions will be assigned at the discretion of the division commander. If an employee fails to submit a bid in accordance with the bidding procedure, the employee will relinquish the opportunity to bid by seniority, and will be assigned at the discretion of the Patrol Operations Division commander.

An employee in another assignment, who is reassigned to the Patrol Operations Division will occupy the position vacated by the employee they are replacing. If other positions are available, the employee may request assignment to such positions, but may only be assigned at the discretion of the Patrol Operations Division commander. The officer will then be allowed to bid at the next bid process.

It is further understood that should a schedule change for unforeseen emergency circumstances arise, officers may be assigned by the Patrol Operations Division commander from one shift to the other to handle whatever emergency situation exists during the duration of the emergency.

ARTICLE 7. SPECIAL ASSIGNMENT

The Department will maintain a written process for selection and service including performance of employees for special assignments in the Police Operations Manual.

The Police Chief will consult with the Association regarding any future changes to the selection process.

ARTICLE 8. LAYOFF

Whenever there is lack of work, lack of funds, or under conditions where the City determines continued work would be inefficient or non-productive the appointing authority shall designate the positions in which the layoff is to be made.

The order of layoff shall be determined by the City Manager on the basis of the quality and length of service provided by the employees in the affected areas. Quality of work will include the employee's total employment record. This record includes annual performance evaluations, commendations, disciplinary actions, education, training, etc. Any employees who have not yet achieved permanent or regular status or who have less than twelve (12) months of full-time employment with the City shall be laid off first, regardless of performance. Permanent employees who are laid off have the right to be reemployed as a police officer, in inverse order of layoff, provided that such recall occurs within eighteen (18) months of layoff and the employee continues to meet the qualifications for that position. Laid off employees will stay on the recall list for eighteen (18) months. In the event the quality and length of service are equal, seniority shall prevail. The recall list shall terminate after eighteen (18) months. If financial conditions warrant and at the discretion of the Police Chief, an employee, recalled from layoff to a classification lower than that held at the time of the layoff, may be moved up to the highest classification previously held at an accelerated pace.

Employees shall not continue to accrue service credit, including seniority, or be eligible for any City benefits during layoff. In the event of a layoff, affected employees will be given as much advance notice as possible.

ARTICLE 9. COMPENSATION

Through December 31, 2009~~8~~10, the rate schedule is as shown below.

	Regular Straight Time Hourly Rate
Police Officer V	$23.92
Police Officer IV	$25.44
Police Officer III	$27.99
Police Officer II	$30.78
Police Officer I	$33.85

B. The schedule in "A." above will be adjusted on January 1, 2011to reflect the 2011 "market median" as determined by the 2010 Salary Survey. The "market median" will be based upon the 2011 median wage of either the top rate for the highest ranking police officer or maximum of the salary range for top ranking police officer (if the jurisdiction uses ranges vs. a flat rate) at: Arvada, Aurora, Boulder, Commerce City, Denver, Greenwood Village, Lakewood, Littleton, Longmont and Thornton. The survey will be conducted in the 4th quarter of 2010 by the Human Resources Department, with the concurrence of the EPBA. The City and the EPBA will meet by November 1, 2010 to approve the survey and finalize the revised salary table for 2011.

C. The EPBA and the City agree to meet on or before May 15, 2011 to discuss the financial implications of the 2012 salary schedule as set forth in "D" below. If the 2012 salary schedule is not modified through this negotiating process, then the provisions set forth in paragraph "D" below shall apply.

D. The schedule in "A." above will be further adjusted on January 1, 2012 to reflect the 2012 "market median" as determined by the 2011 Salary Survey. The "market median" will be based upon the 2012 median wage of either the top rate for the highest ranking police officer or maximum of the salary range for top ranking police officer (if the jurisdiction uses ranges vs. a flat rate) at: Arvada, Aurora, Boulder, Commerce City, Denver, Greenwood Village, Lakewood, Littleton, Longmont and Thornton. The survey will be conducted in the 4th quarter of 2011 by the Human Resources Department, with the concurrence of the EPBA. The City and the EPBA will meet by November 1, 2011 to approve the survey and finalize the revised salary table for 2012.

Class Increase

The wage increase provided for Police Officer 4th Class through 1st Class shall not be considered automatic, but rather based upon meritorious service. Said class increase may be granted or denied to any individual Police Officer upon recommendation of the Police Chief and with the approval of the City Manager or designee upon written notice to such individual Police Officer. The date in which the class increase is approved shall determine the new class anniversary date.

ARTICLE 10. MERIT PAY

A. Each Police Officer I shall be eligible for merit pay in an amount determined by the Police Chief, up to a total of $1000.

B. Such merit pay shall be awarded in the exercise of the Chief's discretion, based upon specific written objective and subjective performance criteria developed by the Chief and made available to employees.

C. Eligible employees who believe they meet the criteria for such an award shall submit applications to the Merit Pay Review Committee on or before thirty (30) days prior to the employee's employment anniversary date. The Committee shall make a recommendation to the Chief regarding the amount of the merit pay, if any, to be awarded to the employee. The amount recommended shall not exceed the amount set forth in Paragraph A, above. The Chief shall promptly consider and make a determination as to each such recommendation.

ARTICLE 11. OVERTIME WORK

A. Employees covered by this Contract shall be compensated at time and one-half (1 1/2) the employee's regular hourly rate of pay for all assigned hours worked over and above their regular DAILY work schedule.

B. Overtime shall not be pyramided, compounded or paid twice for the same hours worked.

C. The City retains the right to assign overtime work to any employee qualified to perform the work.

D. Overtime available during a given watch shall be offered on a voluntary basis to uniformed officers working during the preceding or succeeding watch, as determined by the watch supervisor, in order of seniority. If no officer accepts, the least senior officer may be required to work the overtime, an accommodation may be authorized, or the City may, at its discretion, call any officer in to work the overtime.

E. Employees who work overtime, call back, and/or standby hours may, in lieu of pay, take compensatory time off upon mutual agreement between the employee and the employee's supervisor. If there is no mutual agreement, the employee shall be paid. Members of the bargaining unit may accrue a maximum of eighty (80) hours of compensatory time to be utilized in accordance with City of Englewood Policy # 46 (Compensatory Time). Compensatory time is to be compensated at the rate of one and one-half hours of time off for each one hour of overtime, call back, or standby worked in excess of the daily scheduled work shift.

F. Employees required to attend firearms qualification on their off-duty time will be guaranteed two (2) hours overtime pay.

ARTICLE 12. CALL BACK

A. An employee on off-duty status who is called back to duty shall be credited with a minimum of two (2) hours of pay at the rate of one and one-half (1 1/2) the employee's regular hourly wage rate.

B. An employee called back to work during the first two (2) hours prior to the start of their regular shift shall be paid at the overtime rate for all hours actually worked up to the starting time of their regular shift.

C. Should any employee be required to testify before any court or divisional administrative hearing as a result of his/her official duties with the City, the time spent by such employee in providing such testimony shall be considered to be work time. If such appearance for testimony is at a time when the employee would otherwise be off duty, the employee shall be paid as provided under Section A and B above. The employee shall pay to the City all witness fees, and other compensation paid to the employee in conjunction with so testifying excluding mileage fees. An employee who is called for witness duty shall present to their supervisor the original summons or subpoena from the court or at the conclusion of such duty, shall provide a signed statement from the clerk of the court, or other evidence indicating the amount of time his/her person was required.

D. When an employee is subpoenaed as a witness in private litigation to testify, not in his/her official capacity but as an individual, the time absent by reasons thereof shall be taken as any accrued leave or leave without pay, if all accrued leave is exhausted.

ARTICLE 13. STANDBY

Employees assigned to standby duty shall be credited with two and one-half (2 ½) hours of pay at the overtime rate of pay for each twenty-four (24) hour period, during which they are on standby. Employees assigned to standby for less than a twenty-four (24) hour continuous period shall be credited with one (1) hour of pay at the overtime rate for each such assignment.

ARTICLE 14. CLOTHING ALLOWANCE

A. The City shall furnish, or reimburse the cost of uniforms, including leather gear, insignias, shoes and clothing, required while on duty, and shall pay all costs of maintenance, repair and cleaning thereof, provided that reimbursement of such costs shall not be required if approval of the Police Chief is not obtained in advance. All employees assigned to non-uniform positions for a period of thirty (30) days or more and not required to be in uniform during work, shall receive a monthly clothing allowance of $100. This allowance will be payable in a $1200. lump sum on January 1 of each year but shall be prorated for employees beginning and terminating employment or the assignment to a non-uniform position during the year. The employee shall be responsible for all lost or stolen items identified above, or damage to the same, as a result of THE EMPLOYEE'S negligence or deliberate act.

B. The City will provide on a replacement basis a high quality bullet proof vest (flack jacket). Replacement shall be made once every five (5) years, or at such earlier time as the City is notified of any event or condition rendering such a vest unsafe for its intended purpose. In the event of specialized or customized vests, the City will pay the same dollar amount for the City issued and authorized vest with the employee paying the differences in cost.

ARTICLE 15. ANNUAL LEAVE

Employees shall earn annual leave at the following rates.

Length of Service	Hours per Year
0-4 years	96
5-9 years	120
10-19 years	160
20 and above	170

The earning limits for annual leave shall be as follows:

Length of Service	Hours
0-4 years	192
5-9 years	240
10-19 years	320
20 and above	360

A. Annual leave shall not be granted to any employee until after completion of six (6) months consecutive service with the City.

B. The schedule for use of annual leave shall be determined by the needs of the department. Annual leave shall be taken at a time convenient to and approved by the Police Chief. (See City of Englewood Administrative Policy 30, "Annual Leave", for further details.)

Annual Leave Pay

The rate of annual leave pay shall be the employee's regular straight time hourly rate of pay for the employee's regular job. Annual leave shall be allowed only to the total hourly amount accumulated during the pay period in which the leave is taken.

Work During Annual Leave

If after the employee has begun their annual leave and the City requires the employee to work during the scheduled annual leave period, the employee shall be compensated as follows:

A. The employee shall be paid for all hours worked at the overtime rate.

B. The employee shall not be charged with annual leave for the number of hours worked.

Usage

There shall be a one-week minimum on use of annual leave time, unless otherwise authorized by the Police Chief or his/her designated representative. (Exception: If all personal leave has been exhausted and the employee is ill or injured, annual leave may be substituted for personal leave, and will serve as the elimination shift in order to access Short Term Disability. In this instance the employee must notify his/her supervisor one hour prior to the start of his/her shift.)

The maximum use of annual leave shall be no greater than the amount accumulated by the employee during the pay period in which the leave is taken, and in no event shall the annual leave exceed four (4) consecutive weeks unless otherwise authorized by the Police Chief.

Annual Leave Pay Upon Separation

Any employee who is separated from the service of the City, i.e., retirement, termination (if employee has completed six (6) months of continuous service with the City), or layoff, shall be compensated for the unused annual leave time accumulated at the time of separation at the employee's regular hourly wage rate. Annual leave is not to be used to extend an employee's date of separation.

Bidding for Annual Leave

Each officer will bid one annual leave, by seniority, for the year's period, January 1 through December 31. Additional annual leave periods will be granted, on a first requested basis, only after all seniority-bid annual leaves have been scheduled.

The bidding process for annual leave will take place in November as scheduled by the Uniform Patrol Bureau commander after completion of all bidding for watches and days off.

Annual leaves are expected to be scheduled in good faith by each employee and shall specify the exact dates desired.

Annual leave will be administered at the discretion of the Police Chief or designee for personnel assigned to any other Bureau(s).

ARTICLE 16. HOLIDAYS

A. Officers assigned to the Uniform Patrol Bureau shall be scheduled for one hundred (100) hours of holiday time with pay at the discretion of the Police Chief or designee. Holidays will be bid after all annual leave has been bid by seniority, with annual leave taking precedent over holidays. The bid time for holidays is the same time as annual leave according to the bid schedule, except that any holidays not scheduled or used by August 1 of that year may be assigned.

B. Officers assigned to the Investigative Services Bureau will be granted ninety-six (96) hours of time off on the regularly observed City holidays. If a holiday falls on one of their regularly scheduled days off, these employees will be given an alternate day off. These officers may also be granted a "floating holiday" option. They may be allowed to exchange any of the below listed holidays for any other day in the year he/she is normally scheduled to work. Scheduling will be made with the approval of the Police Chief or designee.

Presidents' Day	Labor Day
Veterans Day	Memorial Day
Friday after Thanksgiving	Christmas Eve
Martin Luther King Day	New Year's Eve

C. If after the employee has begun their holiday and the City requires the employee to work during the scheduled holiday period, the employee shall be compensated as follows:

1. The employee shall be paid for all hours worked at the overtime rate.

2. The employee shall not be charged with holiday time for the number of hours worked.

D. Upon mutual agreement of the employee and the Police Chief or designee, a maximum of fifty (50) hours of holiday time may be cashed out for pay, in lieu of time off. At the employee's option, ten (10) hours of holiday shall be guaranteed to be cashed out for employees working ten (10) hour shifts and eight (8) hours of holiday time shall be guaranteed to be cashed out for pay, in lieu of time off, for employees working eight (8) hour shifts. The rate of pay shall be at the employee's regular hourly wage.

E. When a new officer is hired, he/she receives an initial prorated holiday leave balance. When an officer terminates before the end of the year, holiday leave cash out will be prorated. If a current officer does not use all of his/her holiday leave by December 31st of a given year, the unused portion will be forfeited.

F. Holiday leave will be administered at the discretion of the Police Chief or designee for personnel assigned to any other Bureau(s).

ARTICLE 17. ADMINISTRATIVE LEAVE

Administrative leave with pay may be granted an employee at the discretion of the Police Chief or designee. This leave is used when circumstances require in the best interests of the City and/or employee that the employee should temporarily be relieved from duty.

ARTICLE 18. FUNERAL LEAVE

The Police Chief shall grant leave with pay to an employee to attend the funeral of a member of the employee's family. The number of days granted shall be governed by the circumstances of the case, but in no event shall they exceed seven (7) calendar days. For the purpose of this section, "employee's family" shall mean the employee's spouse, or the children, grandchildren, parents, grandparents, brothers and sisters of the employee or of the employee's spouse.

ARTICLE 19. PERSONAL LEAVE

All employees covered by this Contract on an eight (8) hour work day shall be granted 48 personal leave hours with pay and those on a ten (10) hour work day shall be granted 50 personal leave hours with pay which an employee is entitled to use for the following purposes:

A. Employee's own illness/injury

B. Illness/injury of employee's family

C. To attend to personal business

For any employee who has not used the 48 or 50 personal leave hours ending October 31 of each year or any portion thereof, the City will compensate said employee for the unused time at the employee's wage rate to be paid during the month of November of that year. Personal leave time shall not exceed the 48 or 50 hours as designated above nor shall it be accumulated or carried over from one year to the next. Personal leave shall be scheduled and administered under the direction of the Police Chief for personal business. In the event of illness/injury in which personal leave is requested, the employee shall notify their supervisor or other person designated by the supervisor at least one (1) hour prior to their scheduled reporting time.

However, for the duration of the 2011-2012 collective bargaining agreement, if an employee uses the entirety of the 48 or 50 hours yearly personal leave balance prior to October 31, 2011 or October 31, 2012, the employee shall be credited eight (8) or ten (10) hours of compensatory time each year the balance is exhausted to be utilized in accordance with City of Englewood Policy # 46 (Compensatory Time).

Personal leave shall be prorated for employees beginning and terminating employment with the City during the November 1 – October 31 time period.

ARTICLE 20. SHORT TERM DISABILITY (STD)

A. Definition

Upon completion of 90 days of service, STD leave is granted for non-service connected injuries (except as described below in section D.,2.,b.) or illnesses of an employee which prevents the employee from performing his/her duties as a City employee.

B. Provision

The City agrees to provide STD leave with pay for employees absent as a result of illness/injury as follows:

91 days-4 years	347 hours
5-9 years	520 hours
10+ years	693 hours

C. Accumulation and Restoration

STD leave shall not be accumulative except that on January 1 of each year, the City shall restore 100% of the number of hours previously used by an employee as follows:

91 days-4 years	up to a maximum of 174 hours
5-9 years	up to a maximum of 260 hours
10+ years	up to a maximum of 347 hours

Such restoration shall continue each year until such time as the employee accrues the maximum number of hours for which he or she is eligible under Article 24.B.

D. Utilization

1. Upon completion of 90 days of service, authorization for STD leave with pay shall only be granted after the first shift of disability. The first shift of disability will be paid with the employee's accumulated leave time in the following order: personal leave, annual leave, holiday leave. After all accrued leaves have been exhausted, the first shift of disability will be leave without pay.

2. Authorization for STD shall only be granted for the following reasons:

a. Personal illness or injury not service connected, including maternity related disability.

b. Service connected injury or illness only after the ninety days described in Article 25, Workers' Compensation, has been exhausted.

F. Reporting of STD

The employee or a member of the employee's household shall notify the employee's supervisor at least one (1) hour prior to the employee's scheduled reporting time. No STD leave will be granted to an employee who fails to notify their supervisor prior to the beginning of the employee's work schedule unless circumstances beyond the control of the employee would not permit.

G. Verification of Disability

If absence from work is three (3) days or more, a medical release must be provided to the employee's supervisor, who will forward it to Human Resources for possible Family and Medical Leave qualification.

If the Police Chief requires a physician's statement of disability in addition to the one mentioned above, the City shall bear reasonable and necessary costs required to obtain such physician's statement.

H. Abuse of STD

An employee who makes a false claim for STD leave shall be subject to disciplinary action.

ARTICLE 21. WORKERS' COMPENSATION

A. For any on-the-job injury which causes any employee to be absent from work as a result of such injury, the City shall pay to such employee his/her full wages from the first day of his/her absence from work up to and including the 90th calendar day of such absence, less whatever sums received by the employee as disability wages under workers' compensation. After exhaustion of the ninety (90) days if the employee is still disabled, he/she can utilize leave under the provisions of Article 24. The City reserves the right to require any employee on injury or disability leave to submit to an examination(s) by City-appointed physician(s) at the City's expense or under the provision of workers' compensation or the retirement/pension provisions as provided under State Statute.

B. All injuries that occur during working hours shall be reported to the employee's supervisor within 24 hours of the injury or before the employee leaves their department of employment unless circumstances beyond the control of the employee would not permit.

C. During the term of this Agreement, the City shall pay one-half (1/2) of the state-mandated contribution for death and disability pursuant to § 31-31-811(4), C.R.S., for officers hired after January 1, 1997.

ARTICLE 22. INSURANCE

A. MEDICAL

The City will pay ninety percent (90%) of the premium cost for "employee only" coverage, eighty-five percent (85%) of the premium cost for "employee plus one" coverage and eighty percent (80%) of "family" coverage for the medical insurance plan designated as the basic City plan. Employees will pay 10%, 15% or 20% of the premium cost.

If the City offers any optional medical insurance plan(s), the employee will pay the difference between the City's contribution described above and the premium cost of the optional plan chosen.

B. DENTAL

The City will pay ninety percent (90%) of the premium cost for "employee only" coverage, eighty-five percent (85%) of the premium cost for "employee plus one" coverage and eighty percent (80%) of "family" coverage for dental insurance. Employees will pay 10%, 15% or 20% of the premium cost.

C. LIFE

Term life insurance will be provided by the City for employees covered by this Contract in an amount equal to one year's salary as specified in Article 9.A or B, Compensation, whichever applies, not to exceed $50,000.

D. Any dispute concerning the interpretation or application of benefits provided under the health or dental plans shall be subject to the plan appeal process. It is expressly understood that this article is a non-grievable item under this Contract.

ARTICLE 23. RETIREE HEALTH INSURANCE ASSISTANCE

It is understood and agreed by both parties that any referral to health insurance for retirees or future retirees is not to be construed as a part of this Contract. The City agrees to pay the retiree $75.00 per month for employees who retired on or before December 31, 1994; and $100.00 per month for employees who retire on or after January 1, 1995.

ARTICLE 24. PENSION/RETIREMENT PLANS

EPBA members are enrolled in the ICMA-RC 401(a) Money Purchase Plan. The City contributes 10% of his/her base wages into the plan and the employee contributes 10% of his/her base wages into the plan.

The plan document for the City of Englewood ICMA Retirement Corporation 401(a) Money Purchase Plan is available for inspection in the Department of Finance and Administrative Services.

ARTICLE 25. RULES AND REGULATIONS

A. Except as limited by the express terms of this Contract, the City retains the right to promulgate reasonable rules, regulations, policies, procedures and directives. Said rules, regulations, policies, and procedures and directives which are an alleged violation of this Contract shall be subject to the grievance procedure.

B. The City agrees to meet and confer in a timely manner with the Association concerning the formulation of changes of rules and regulations, policies, procedures and directives.

ARTICLE 26. DUES DEDUCTION

A. The City agrees to deduct the Association dues once each pay period from the pay of those employees who individually request in writing that such deductions be made, subject to the garnishment laws of the State of Colorado. The amounts to be deducted shall be certified to the City Director of Human Resources by the Treasurer of the Association, and the aggregate deductions of all employees shall be remitted together with an itemized statement to the Treasurer by the 15th of the succeeding month, after such deductions are made. The authorization shall be revocable during the term of the Contract, upon a thirty (30) day written notice by the employee to the City Finance and Administrative Services Director.

B. If no wages are paid an authorized employee on the last pay period of a given pay period, deduction for that pay period will be made from any wages which may be paid to him/her on the next succeeding final monthly City pay period. It is expressly understood that the City assumes no liability and shall not be liable for the collection or payment to the Association of any dues during any time that an employee is not actually working for the City and actually on the payroll of the City. In the event of error on the check-off list, the City will not be responsible to make adjustments, until notified by the Treasurer of the Association.

C. The Association shall indemnify and hold the City harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provision of this Article.

D. Changes in the dues amount to be deducted shall be limited to two (2) changes each year, and provided a thirty (30) day written notice is provided the City Director of Human Resources.

E. Should the change in the deduction amount or method require a computer programming change, the Association shall be responsible for that cost of such change or changes, at $30 per hour with a four (4) hours maximum. Payment from the Association shall be made to the City Director of Human Resources within ten (10) days of receipt of billing.

ARTICLE 27. ASSOCIATION ACTIVITIES

The City agrees that during working hours on the City premises and without loss of pay, Association representatives may be allowed to: attend Association-management meetings; attend negotiation sessions; post Association notices on City designated bulletin boards; solicit Association memberships during employee's non-work time; and represent employees on grievances and disciplinary matters provided the work load permits as determined by the Police Chief or designated representative and requires no overtime pay.

ARTICLE28. LETTER OF CORRECTIVE ACTION

A. Examples of reasons that may result in an oral or written corrective action are listed under City of Englewood Administrative Policy Manual, Policy # 25, "Corrective and Disciplinary Action", and the Englewood Police Department Operation Manual, Sections 3.1, "Code of Conduct" and 3.2, "Discipline".

B. The employee shall have the opportunity to submit written comments in response to any written corrective action which is to be included in the employee's official personnel file.

C. The employee retains the right to request an administrative review of any written corrective action which is to be included in the employee's official personnel file. The Police Chief shall determine this administrative review procedure. A representative of the EPBA may be included in this administrative review process at the employee's request. Written findings of this administrative review shall be placed in the employee's official personnel file.

D. This Article shall not be grievable under this Contract.

ARTICLE29. DISCIPLINARY ACTION

Disciplinary actions are those personnel actions administered against an employee for an offensive act or poor job performance, which actions adversely affect the current pay, current status, or tenure of the employee.

1. Disciplinary action penalties include suspension, demotion, and discharge of an employee.

2. Disciplinary action may be administered concurrently with corrective actions.

3. Reasons for disciplinary action are defined under City of Englewood Administrative Policy Manual, Policy #25, "Corrective and Disciplinary Action" and the Police Operations Manual: 3.1, "Code of Conduct" and 3.2, "Discipline".

An employee shall be allowed at his/her discretion one (1) Association representative to be present during predisciplinary meetings. This provision shall apply only when an employee desires the assistance of an Association representative and only when the employee believes that disciplinary action as defined above may be taken against the employee.

ARTICLE 30. GRIEVANCE PROCEDURE

A grievance is defined as an alleged violation concerning the interpretation or application of a specific provision of this Contract. The employee and the Association shall be required to follow the procedure as set out below.

Step 1

If the employee/Association is unable to settle the grievance or dispute orally and informally through his/her immediate supervisor within seven (7) calendar days of the date of the occurrence of the grievance, or the employee's knowledge of it, the employee may within the succeeding seven (7) calendar days file a written grievance with his/her supervisor. The supervisor shall attempt to resolve the matter and shall respond in writing to the employee within seven (7) calendar days. An Association or general grievance shall be presented directly by the President of EPBA or his designee to the Police Chief.

Step 2

If the grievance still remains unresolved, it shall be presented by the employee to the Police Chief in writing within seven (7) calendar days following receipt of the supervisor's response. The Police Chief shall respond in writing within seven (7) calendar days.

Step 3

If the grievance still remains unresolved, it shall be presented by the employee to the Police Chief in writing within seven (7) calendar days following receipt of the Police Chief's response. The Police Chief shall respond in writing within seven (7) calendar days.

Step 4

If the grievance still remains unresolved, it shall be presented by the employee to the City Manager in writing within seven (7) calendar days following receipt of the Police Chief' response. The City Manager or his/her designated representative shall respond in writing within fourteen (14) calendar days.

Step 5

If the grievance is still unresolved, the employee within fourteen (14) calendar days after the reply of the City Manager or his/her designated representative, may by written notice request the matter be heard by an arbitrator. If within five days of the request for arbitration the Association and the City cannot mutually agree on an impartial arbitrator, a request will be filed with the American Arbitration Association for a panel of seven arbitrators to be sent to the parties. The arbitrator shall be selected by a method of alternative striking of names from the panel, with the first strike determined by a coin flip. The final name left on the panel shall be the arbitrator. The arbitrator shall be requested to issue a decision within thirty (30) days after conclusion of testimony and argument.

Each party shall be responsible for compensation to its own representatives and witnesses. The fees of the arbitrator shall be shared equally by the Association and the City. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, provided it pays for the record and makes copies available to the arbitrator. If the other party wishes to have a copy of the transcript, it shall share equally all costs of the transcript.

Failure by an employee or the Association to comply with any time limitation shall constitute a settlement of the grievance. Should the employer not respond within the prescribed time, the grievance will automatically proceed to the next step. At the employee's option, the employer may be allowed additional time to respond.

Authority of Arbitrator

The arbitrator shall have no power to add to or subtract from or change the terms of this Contract. The written decision of the arbitrator shall be final and binding upon the parties. The arbitrator shall limit his/her decision strictly to the grievance submitted which has been properly processed through the grievance procedure outlined.

Processing Grievance During Working Hours

Grievances may be investigated and processed by the employee and one (1) on-duty Association representative at the employee's request during working hours within reasonable time limits without loss of pay provided notice is given and the work load permits.

ARTICLE 31. EXCLUSIVENESS OF CONTRACT

The City and the Association agree that the terms and provisions herein contained constitute the entire Contract between the parties and supersede all previous communications, representatives or agreements, either verbal or written, between the parties with respect to the subject matter herein. The City and the Association agree that all negotiable items have been discussed during the negotiations leading to this Contract and, therefore, agree that negotiations will not be reopened on any item during the life of this Contract except by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their respective representatives, and their signatures placed thereon, on this _____day of June, 2010 at Englewood, Colorado.

CITY OF ENGLEWOOD

_____

ENGLEWOOD POLICE BENEFIT ASSOCIATION

_____
Acel Rowley, President

ATTEST:

_____
City Clerk

_____
City Manager

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 c iii	Resolution of support to the Englewood McLellan Reservoir Foundation for an amendment to EMRF lease with TT of Denver, Inc.

Initiated By:	Staff Source:
Englewood McLellan Reservoir Foundation	Michael Flaherty, EMRF Director

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

In 1999, City Council authorized the creation of the Englewood McLellan Reservoir Foundation (EMRF.) On December 17, 2007, Council supported EMRF in the sale of approximately 11 acres of PA85 to RTD for $3.2 million. During an Executive Session of June 2, 2008, City Council reviewed the terms of a Letter of Intent from TT of Denver to lease approximately 12.79 acres of Planning Area 84 (PA 84), and instructed EMRF to proceed with lease negotiations. City Council approved a lease agreement with TT of Denver on October 19, 2009. During an Executive Session of June 7, 2010, EMRF staff presented the proposed amendment form to City Council.

RECOMMENDED ACTION

EMRF recommends Council approval of the resolution supporting an amendment to the lease agreement between EMRF and TT of Denver.

BACKGROUND

On October 19, 2009, City Council passed a resolution supporting the lease of EMRF property to TT of Denver, d.b.a, Infiniti of Littleton. Under the terms of the lease agreement, rental rates were established for a 30-year term, following a "due diligence" period. Prior to the end of the due diligence period on June 1, 2010, the majority owner of TT of Denver, approached the EMRF Board with a request for certain rental concessions. This request was based on discovery of cost that would have to be incurred to build on the site due to soil conditions that were not evident when he entered into the lease. The total costs to develop the property would be in excess of $1 million. While TT of Denver has completed most of the planning, engineering and permitting work, short of obtaining his building permit necessary to begin construction, they have not yet completed an agreement for project financing due to the cost escalation.

EMRF is prepared to make lease adjustments in order to allow TT of Denver to go forward with the project. The rationale for recommending a rent concession is based on a number of factors. The first and most important is to preserve the 30-year lease with TT of Denver and the income that it will generate to EMRF and will be passed on to the City's LATR fund. The EMRF Board members believe that the opening of the Infiniti dealership will have a positive impact on future development of EMRF properties.

The lease term of 20 years with one renewal option of ten years and nine renewal options remains unchanged, as does the initial deposit of $200,000 and construction rent of $17,875/month.

FINANCIAL IMPACT

The table below outlines the proposed changes to the lease.

Years	Current Annual	Proposed Annual	Reduction	Cumulative
6/1/10 - 4/1/11*	$214,496	$214,496	No change	No change
1-2	$428,992	$378,992	($50,000)/year)	($100,000)
3-5	$428,992	$338,992	($90,000)/year	($370,000)
6-10	$471,891	$381,891	($90,000)/year	($820,000)
11-12	$519,080	$479,080	($40,000)/year	($900,000)
Total 12 Years	**$5,757,071**	**$4,857,071**		**($900,000)**
Value/Sqft**	**$9.06**	**$7.64**		
13-15	$519,080	$519,080	No change	($900,000)
16-20	570,988	570,988	No change	($900,000)
21-25	628,087	628,087	No change	($900,000)
26-30	690,896	690,896	No change	($900,000)
Total 30 Years	**$16,764,166**	**15,864,166**		**($900,000)**
Value/Sqft**	**$8.57**	**$8.62**		

* Construction period is 6/1/2010 - 4/1/2011 or opening of business (whichever comes first)

** Value based on 2010 dollars - Shea to Schomp Sale $7.27/sf (2005); EMRF to RTD Sale- $7.25/sf

LIST OF ATTACHMENTS

Resolution

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION SUPPORTING A RENT CONCESSION TO THE LEASE AGREEMENT BETWEEN THE ENGLEWOOD/ MCLELLAN RESERVOIR FOUNDATION (EMRF) AND TT OF DENVER, INC.

WHEREAS, the Englewood/McLellan Reservoir Foundation (EMRF) was formed to oversee the development of the McLellan Reservoir property; and

WHEREAS, City Council reviewed the Letter of Intent and passed Resolution No. 40, Series of 2008 supporting the negotiation of a lease agreement; and

WHEREAS, the Lease with TT of Denver, Inc. was for approximately 12.79 acres of the Englewood/McLellan Reservoir Foundation property; and

WHEREAS, the EMRF Board of Directors has unanimously approved the lease with TT of Denver, Inc.; and

WHEREAS, under the terms of the Lease Agreement, rental rates were established for a thirty (30) year term, following a "due diligence" period; and

WHEREAS, prior to the end of the due diligence period on June 1, 2010, Mike Ware, majority owner of TT of Denver, approached the EMRF Board with a request for certain rental concessions which was based on discovery of cost that would have to be incurred to build on the site due to soil conditions that were not evident when he entered into the Lease; and

WHEREAS, rent would be reduced in the first ten (10) years by $50,000/year and an additional reduction of $40,000/year is proposed to go into effect if and when a second dealership is developed on the property;

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 supports the Rent Concession to the Lease Agreement between the Englewood/McLellan Reservoir Foundation and TT of Denver, Inc.

ADOPTED AND APPROVED this 21st day of June, 2010.

ATTEST:

_____
James K. Woodward, 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 2010.

_____

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 c iv	Motion to approve an agreement with Ameresco, Inc. for an Energy Performance Contract

Initiated By:	Staff Source:
City Manager's Office	Michael Flaherty, Deputy City Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has expressed strong interest in promoting energy efficiency, alternative and renewal energy. Last year, staff initiated efforts to address energy efficiency and to develop a plan for implementation of "Green City" initiatives. To that end, City Council approved a Memorandum of Understanding (MOU) with the Governor's Energy Office (GEO) on October 20, 2008. On May 4, 2009, City Council approved, by Resolution #38 of 2009, selection of Ameresco, Inc. as the City's Energy Service Company. On June 1, 2009, Council approved by motion an agreement with Ameresco for performance of a Technical Energy Audit (TEA.) The Energy Audit Report was discussed at the March 8, 2010 City Council Study Session and the Energy Performance Contract was discussed during the June 7, 2010 Study Session.

RECOMMENDED ACTION

Staff recommends City Council approval, by motion, of an agreement for the Energy Performance Contract (EPC) with Ameresco, Inc.

BACKGROUND

In 2008, the Governor's Energy Office contactor completed a feasibility study for energy performance contracting for the City. On January 9, 2009, the City issued a Request for Proposals to six state certified energy service companies (ESCO) to provide for a Technical Energy Audit (TEA) and for the potential development of an Energy Performance Contract (EPC). Ameresco, Inc. was selected as the City's ESCO and an agreement with Ameresco for the TEA was approved last June. Ameresco completed the draft TEA in December and after consultation with City staff, completed the final TEA in February. On March 8, Ameresco presented the findings and recommendations to City Council at a Study Session. The EPC is based on these final findings and recommendations. Facilities included in the project include the Civic Center; the Recreation Center; Broken Tee Golf Course; Pirates Cove; Malley Senior Center; the Acoma, Jefferson and Tejon Fire Stations; the ServiCenter; and the Police/Fire Administration Building (Safety Services). Ameresco will implement twelve Energy Conservation Measures. Guaranteed energy savings total 13.2% of current electrical and 15.8% of current natural gas usage. The Energy Performance Contract document is the standard agreement format required by the Governor's Energy Office.

FINANCIAL IMPACT

The total cost of proposed project is $1,462,500, which will be funded entirely from the savings over the 15-year term of the agreement. By the terms of the EPC, Ameresco guarantees the energy savings. We will also utilize grants and rebates that will reduce cost of the program by $125,741, along with our allocation of Qualified Energy Conservation Bonds.

LIST OF ATTACHMENTS

Energy Performance Contract

ENERGY PERFORMANCE CONTRACT

BETWEEN

AMERESCO, INC.

AND

CITY OF ENGLEWOOD, COLORADO

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Schedule I	Standards of Comfort
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Exhibit II	Labor and Material Payment Bond
Exhibit III (i)	Notice of Acceptance—Technical Energy Audit and Monitoring and Verification Plan
Exhibit III (ii)	Notice of Substantial Completion
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Exhibit V	Minority and Women-Owned Business Enterprises
Exhibit VI	Certification that Lifetime of Equipment Exceeds Financing Term

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Appendix A	Lease Agreement and Documents
Appendix B	RFP for Contractor Solicitation
Appendix C	Contractor Proposal

ENERGY PERFORMANCE CONTRACT

This Energy Performance Contract (the "Contract") is made and entered into as of this _____ day of _____, 2010], by and between the City of Englewood, Colorado, ("City") and Ameresco, Inc. ("Contractor"), 111 Speen Street, Suite 410, Framingham, MA 01701, a Delaware corporation doing business in Colorado (the "State").

WITNESSETH:

WHEREAS, City is a political subdivision of the State of Colorado, and is authorized and empowered under the laws of the State, particularly Colorado Revised Statute §29-12.5 for local governments, to enter into this Contract for the purpose of the sale and installation of certain energy and water saving equipment, and provision of other services designed to save energy and reduce related costs as per the guarantee described herein for certain property and buildings owned by the City; and

WHEREAS, authority exists in the Colorado law and sufficient funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for encumbering and subsequent payment of this Contract; and

WHEREAS, City has been authorized to enter into a lease-purchase agreement for all professional services, construction/improvements, project contingencies, reimbursable expenses and miscellaneous expenses for the purchase and installation of energy and water conservation measures, collectively referred to as the Work(as herein after defined); and

WHEREAS, required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, Contractor has developed or become knowledgeable about certain procedures for controlling energy and water consumption through services provided and equipment installed and maintained at facilities similar in scope and scale of City; and

WHEREAS, Contractor was selected after a determination that its proposal was the most advantageous to City pursuant to a Request for Proposal and contract for the Technical Energy Audit Contract(as hereinafter defined); and

WHEREAS, Contractor has made an assessment of the utility consumption characteristics of facilities, which was delivered to City as a Technical Energy Audit which City has approved; and

WHEREAS, City owns and operates the Premises (as hereinafter defined); and

WHEREAS, City desires to retain Contractor to sell to it, install and service certain energy efficiency equipment of the type or class described herein and to provide other services for the purpose of achieving utility cost reductions within Premises; and

WHEREAS, Contractor has selected the Equipment (as hereinafter defined) on the basis of competitive quality, compliance with Contractor's specifications, and price;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, City and Contractor hereto covenant and agree that the following Schedules, Exhibits and Appendices are attached hereto (or will be, as provided in this Contract) and are made a part of this Contract by reference.

ARTICLE 1: DEFINITIONS, SCHEDULES, EXHIBITS AND APPENDICES

Section 1.1. Definitions.

Annual Reconciliation Report: The report prepared pursuant to Section 2.7 and **Schedule F**.

Contract: This Energy Performance Contract and all Schedules and Exhibits attached hereto.

Contract Sum: The sum of all materials, labor, auditing, design, engineering, project construction management fees, overhead, profit, contingency, outside services, and bidding and construction contingencies related to the project.

Energy and Water Cost Savings: The savings as provided in **Schedule C**

Guarantee: The Contractor's guarantee as defined in Section 2.3

Guaranteed Energy Savings:The amount of energy savings measured in dollars which are guaranteed by Contractor as set forth in Schedule C (Energy and Cost Savings Guarantee), subject to the terms of this Contract and the City's obligations herein.

Equipment: The goods enumerated on **Schedule A** that is now or hereafter from time to time become attached hereto and incorporated herein by reference, together and with any and all additions, modifications, attachments, replacements and parts thereof.

Event of Default: Those events described in **Section 17.1** and **Section 17.2** hereof.

Guaranteed Maximum Price: "Means the maximum amount of total allowable costs under this Contract, as set forth in **Section 2.1,** which shall be the total amount payable to Contractor. It is the maximum amount payable to Contractor pursuant to this Contract.

Interim Period: The period from contract execution until the Performance Commencement Date.

Measurement and Verification (M&V): The standards and definitions in the most current International Performance Monitoring and Verification Protocol ("IPMVP"), as may be amended.

M&V Services: Services relating to the monitoring and verification by Contractor of the efficiency and effectiveness of the Project, pursuant to this Contract and the most current IPMVP standards.

M&V Fee: The annual fee according to **Schedule D** for M&V Services.

Notice of Acceptance: The certificate substantially in the form provided in **Exhibit III(i).**

Performance Commencement Date: The date described in **Section 4.2**.

Performance Term: Shall begin on the Performance Commencement Date and continue for a term as defined in Article 4. Upon termination of the Performance Term, the City shall have no further liability or responsibility for any further payment to Contractor for M&V Services.

Premises: The facilities of the City at which Contractor will install the Equipment, according to **Schedule A and Schedule B.**

Professional Services: Architecture, engineering, project/construction management related to the Contract.

Work: Collectively, the Equipment, Professional Services and project construction related to the project.

Section 1.2. Schedules.

Schedule A	Equipment to be Installed by Contractor
Schedule B	Description of Premises; Pre-Existing Equipment Inventory
Schedule C	Energy and Cost Savings Guarantee
Schedule D	Contractor M&V, Maintenance and Service Agreement
Schedule E	Baseline Energy Consumption
Schedule F	Savings Measurement & Calculation Formulae; Methodology to Adjust Baseline; Measurement and Verification Plan
Schedule G	Construction and Installation Schedule
Schedule H	Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment
Schedule I	Standards of Comfort
Schedule J	Contractor's Maintenance Responsibilities
Schedule K	City's Maintenance Responsibilities
Schedule L	Facility Maintenance Checklist
Schedule M	Contractor's Training Responsibilities
Schedule N	General Conditions
Schedule O	Payment Schedule and Schedule of Values
Schedule P	Pre-Existing Service Agreements
Schedule Q	Current and Known Capital Projects at Facility
Schedule R	Projected Financial Performance
Schedule S	Certificate of Insurance

Schedule 1.3 Exhibits

Exhibit I	Form of Performance Bond

Exhibit II	Form of Labor and Material Payment Bond
Exhibit III (i)	Form of Notice of Acceptance—Technical Energy Audit and Measurement and Verification Plan
Exhibit III (ii)	Form of Notice of Substantial Completion
Exhibit IV	Form of Equipment Warranties
Exhibit V	Form of Minority and Women-Owned Business Enterprises
Exhibit VI	Form of Certification that Lifetime of Equipment Exceeds Financing Term

[Additional Exhibits]

Section 1.4. Appendices

Appendix A	Lease Agreement and Documents
Appendix B	RFP for Contractor Solicitation
Appendix C	Contractor Proposal

ARTICLE 2: PAYMENTS

Section 2.1: Purchase and Sale

City agrees to finance the acquisition of the Equipment through a third party lessor , as provided for in a separate lease document, **Appendix A (Lease Agreements and Related Documents).** Upon receipt of a Notice to Proceed and evidence of the funding of an escrow account pursuant to such separate lease documents in an amount sufficient to pay the Contract Sum, Contractor agrees to provide the Equipment described in **Schedule A**, together with installation, maintenance and other services as provided herein..

The agreed to Contract Sum for the Work is a Guaranteed Maximum Price of **$1,876,292.00** . Payment terms are described in **Schedule O** and **Schedule D**. City agrees that its obligations to make payments to Contractor are in no way contingent on the effectiveness of such lease documents.

Contractor will provide the Work and all related services identified on **Schedule A** and the services detailed on **Schedule D, Schedule H, Schedule J, and Schedule M**. Contractor shall supervise and direct the Work and shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under this Contract. Contractor shall be responsible to pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation and other facilities and services necessary for the proper execution and completion of the Work.

Section 2.2. Contractor Compensation – Interim Period.

City shall pay Contractor the portion of the Contract Sum attributable to the Work to be completed during the Interim Period in accordance with **Schedule O**. Payments will be made on a progress basis

in accordance with **CRS 24-91-103** and **Article 31** of the **Schedule N,** for Work completed and authorized by City during the Interim Period. Retainage will be withheld from each payment until the construction installation is completed as set forth in **Section 4.2**. Professional Services shall not be subject to retainage.

Section 2.3. Energy and Cost Savings Guarantee.

Subsequent to the Performance Commencement Date and throughout the term of this Contract, Contractor hereby guarantees (the "Guarantee") the level of Guaranteed Energy Savings as detailed in **Schedule C**. Contractor shall provide the Guarantee and M&V Services as defined in **Schedule D**, for every year of the contract term as legislated by C.R.S.29-12.5-101(3)(c) for Colorado local governments, or until such time that City issues a notice to terminate the M&V Services. City may terminate the Guarantee and related M&V Services, and M&V Fee, as set forth in **Section 2.9** and defined in **Schedule R,** after the first three years of the performance period as legislated by **C.R.S.29-12.5-101(3)(c) for Colorado local governments** and this Contract shall terminate and Contractor shall have no further obligations hereunder.

The Guaranteed Energy Savings are achieved as a result of the installation and operation of the Equipment and provision of services provided for in this Contract as specified in **Schedule D** and in accordance with the Savings Calculation Formula as set forth in **Schedule F**. The Guaranteed Energy Savings per **Schedule C** shall be reduced in the event of a Material Change per **Section 14.1**, in an equitable manner to account for such Material Change during the period wherein savings were affected. In the event this Contract is terminated due to an uncured Event of Default, as defined in **Section 17.1**, by City, the Guarantee and related M&V Services shall be cancelled and Contractor shall have no further obligations hereunder, except to guarantee City the prorated portion of the annual Guarantee. The prorated portion shall include all Guaranteed Energy Savings incurred prior to the termination date except that such portion should only go up until the Event of Default if the Event is related to the non-payment or other violations impacting the Energy and Cost Savings including but not limited to providing utility bills and access to the Equipment.

Contractor has structured the Guaranteed Energy Savings to be sufficient to equal or exceed any and all annual payments required by the City in connection with the acquisition of Equipment to be installed by Contractor under this Contract and the City's lease financing obligations. Actual energy and operations savings achieved by Contractor through the operation of Equipment and performance of services by Contractor, including the annual Guarantee, shall be sufficient to cover any and all annual fees to be paid by City to Contractor for the provision of services as set forth and in accordance with the provisions of **Schedule D** all payments to the third party lessor under the terms of the lease documents contained in **Appendix A**.

Section 2.4. Allowable Payment Sources.

City has pre-determined allowable payment sources to be applied to annual payments, may include: Energy and water cost savings; material/commodity savings (including avoided cost from replacement lamps, ballasts, etc.), including scheduled replacement of parts; and other cost savings including maintenance contracts.

Section 2.5. Capital Contribution from City.

In addition to the funds provided by the equipment lease described in **Appendix A,** City elects to make an initial capital contribution of $ 47,778 to pay for part of the initial cost as described in **Schedule O**.

Section 2.6. Independent Monitoring

City may hire, with consultation of Contractor and paid for by the City, an independent third party monitor to review the Contractor's measurement and verification reports and to advise City of compliance in monitoring and verifying savings. The independent monitor's responsibilities could also include verifying the prorated share of the Guaranteed Energy Savings in the Event of Contract Termination. Compliance checks will relate to the established baseline (**Schedule E**), baseline adjustments monitoring and verification plan and savings calculations (**Schedule F**).

Section 2.7. Annual Review and Reimbursement/Reconciliation.

Energy-related cost savings shall be measured and/or calculated as specified in **Schedule E** and **Schedule F** and a report (as outlined in **Schedule F**, the "Annual Reconciliation Report") provided within ninety (90) days of receipt of all Needed Data (as defined in Section 5.1 hereof) for the previous year for each anniversary of the Performance Commencement Date. Contractor has developed the measurement and verification procedures specified in **Schedule F** which is based on the *International Performance Measurement and Verification Protocol 2002.*

In the event the actual Energy and Cost Savings achieved during such Contract Year is less than the Guaranteed Energy Savings (as defined in **Schedule C** hereof), set forth for such year during the years the Guarantee is in effect, Contractor shall pay the City an amount equal to the deficiency.

If during the Contract Year the actual Energy and Cost Savings achieved are greater than the Guaranteed Energy Savings, such excess Energy and Cost Savings shall be retained by the City.

The term "Contract Year" means the 12-month period beginning on the Performance Commencement Date, and each subsequent twelve-month period during the term.

Section 2.8. Monitoring Information Procedure.

Energy and Cost Savings shall be calculated annually in the following manner:

(i) Each month, by the 10 th day after receipt, City shall provide Contractor with copies of all relevant energy bills received for the preceding month;

(ii) Reporting to City is outlined in **Schedule F.**

Section 2.9. Monitoring Fee.

Throughout the Term of this Contract, or until the Contractor monitoring services are cancelled by City, City shall pay Contractor an annual fee according to **Schedule D** for monitoring the Energy and

Cost Savings. Annual guaranteed energy and cost savings achieved shall be sufficient to cover any and all fees to be paid to Contractor pursuant to the provisions of **Schedule D**. Notwithstanding the above provisions in **Section(s) 4.1, 4.2 and 4.3** hereof,, City shall not be required to begin any monitoring fee payments to Contractor under this Contract unless and until all equipment installation is completed by Contractor in accordance with the provisions of **Article 6** and **Article 9**, **Schedule H** and **Schedule L**, and accepted by City as evidenced by the signed Notice of Substantial Completion as set forth in **Exhibit III (ii)**, and unless and until said equipment is fully and properly functioning in accordance with **Schedule A** and related details and specifications.

Section 2.10. Late Payment.

Payment during construction, the Interim Term, will be in accordance with **Schedule N and Schedule O**. Payment due during the Performance Period shall be due and payable within thirty (30) days of the invoice date. Interest shall accrue on Guaranteed Energy Savings deficiencies not in dispute and rightfully owned for past due balance, owed to City pursuant to Section 2.7, at the rate of one percent (1%) per month (or the highest rate not prohibited by law, whichever is lower).

ARTICLE 3. UTILITY AWARD PAYMENTS

Section 3.1. Utility Award Payments

Contractor will coordinate and complete the application process for obtaining all applicable rebates from the City's electricity provider, Xcel Energy. City acknowledges that Contractor is not a representative or an agent of Xcel Energy and that Contractor is not responsible for the amount of utility incentives provided by Xcel Energy to the City..

ARTICLE 4: TIME FOR COMPLETION; COMMENCEMENT DATE; TERM OF CONTRACT

Section 4.1. Construction Commencement Date and Time for Completion of Work.

Work must commence within thirty (30) days of execution of a Notice to Proceed and shall be completed as set forth in **Schedule G**. The Time for Completion of Work is of the essence of this Contract. By executing this Contract, the parties hereto confirm the Time of Completion of Work is a reasonable period for performing the Work. Except for obligation to make payments of money, Contractor shall not be responsible for any failure to fulfill, or any delay in fulfilling, its obligations hereunder, if such failure or delay is beyond the reasonable ability of such party to control, avoid or mitigate and is due to storm, flood, or other Act of God, or to fire, war, rebellion, explosion, act of terrorism, scarcity of water, insurrection, riots, strikes (other than strikes directed at subcontractor), lockouts, or is the result of some order, rule or regulation of any federal, state, municipal, or other governmental agency that could not have been reasonably anticipated or that was not scheduled to take effect. Time for Completion of the Work and the costs related thereto shall be extended and modified by Change Order, for such reasonable time and amount as the parties hereto may determine. Change

Orders in excess of contingency funds and/or completion date shall not be allowed unless mutually re-negotiated by both parties.

Section 4.2. Performance Commencement Date.

The Performance Commencement Date shall be the first day of the month after the month in which all schedules are in final form and accepted by City and when Contractor shall have delivered a Notice to City that it has installed and commissioned all of the Equipment specified in **Schedule A** and in accordance with the provisions of **Article 6** and **Schedule H**, City has inspected and accepted said installation and commissioning as evidenced by the Notice of Substantial Completion as set forth in **Exhibit III (ii)** . Notwithstanding anything to the contrary in **Article 2** and **Article 4** the Performance Commencement Date shall not occur and the City shall not be required to accept the work under this Contract unless and until: all Equipment installation for the subject Premises is completed by Contractor in accordance with the terms and conditions of this Contract. City shall have fifteen (15) days after notification by the Contractor to inspect and accept the Equipment. City reserves the right to reject the Equipment if installation fails to meet reasonable standards of workmanship, does not comply with applicable building codes, or is otherwise not in compliance with this Contract. Contractor shall not be paid in full, including retainage, until the Notice of Acceptance (Exhibit III(i) to this Contract) and Notice of Contractor's Settlement (Exhibit VIII to General Conditions) have been issued after the punch list is worked down to less than ten items. The retainage will be released after punch list is completed and Contractor has satisfied any and all claims for labor and materials.

Section 4.3. Performance Term of Contract.

Unless otherwise terminated pursuant to the terms of this Contract, the Performance Term of this Contract shall begin with the Performance Commencement Date and continue up to a maximum of Fifteen (15) years. This Contract shall be effective and binding upon the parties immediately upon its execution. All energy savings achieved during the Interim Period shall not be applicable to the Guaranteed Energy Savings after the Performance Commencement Date.

ARTICLE 5: ENERGY USAGE RECORDS AND DATA

Section 5.1. Energy Usage Records and Data

City has furnished and shall continue to furnish (or authorize its energy suppliers to furnish) during the Term of this Contract to Contractor or its designee, upon its request, all of its records and complete data concerning energy and water usage and related maintenance for the Premises ("Needed Data").

ARTICLE 6: CONSTRUCTION AND INSTALLATION BY CONTRACTOR

Section 6.1.Permits and Approvals.

City shall use its best efforts to assist Contractor in obtaining all necessary permits and approvals for installation of the Equipment. In no event shall City, however, be responsible for direct payment of any permit or license fee or the delay of any such permit or license fee.

As directed by City, design documentation will be submitted to City for review. City agrees that the City review process will not be longer than 14 calendar days. As deemed necessary by City, design documentation will be forwarded by City to the appropriate code review contractor for review. These costs of code review will be borne by City.

Section 6.2. Contractor's Duty of Proper Installation.

All services called for by this Contract which constitute the "practice of architecture" or the "practice of engineering", as those terms are defined in Title 12, Colorado Revised Statutes, as amended (C.R.S.), shall be performed by properly qualified and licensed professionals employed by Contractor and shall be performed in accordance with applicable law. Contractor shall perform all tasks/phases under this Contract, including construction, and shall install the Equipment in such a manner so as not to harm the structural integrity of the buildings or their operating systems.

Section 6.3. Use of Stated Markups.

In establishing the Contract Sum the Contractor has used the markups for overhead and profit as disclosed in the Contractor Proposal (**Appendix C**), as negotiated in the Contract for Technical Energy Audit and applied to the labor and material costs as shown in **Schedule O**. It has also provided a contingency equal to a percentage of the labor, material and direct cost budget. The Contract Sum shall be adjusted based on the actual costs of labor and materials to the Contractor multiplied by the markups agreed to by the Contractor, but in no event shall the Contract Sum be increased. In the event it is possible to reduce the Contract Sum because the actual labor and material costs are less than budgeted, the City can, at its sole option, increase the Work to include additional equipment such that the original Contract Sum is reached. If the City declines to increase the Work, at its sole option, the Contract Sum shall be reduced to an amount consistent with the pricing using the stated markups and the balance shall be applied to the lease financing amount.

Section 6.4. Open Book Pricing.

Open book pricing will be required, such that the Contractor will fully disclose all costs. Contractor will maintain cost accounting records on authorized work performed under actual costs for labor and material, or other basis requiring accounting records. Contractor will afford City access to these records and preserve them for a period of three (3) years after final payment. Costs will be evaluated through price analysis to compare costs with reasonable criteria such as established catalog and market prices or historical prices. The pricing methodology and individual cost markups disclosed during preliminary contract negotiations will be expected to be applied, providing the scope and size of the project remain the same as assumed when markups were disclosed.

Section 6.5. Administration.

The Contractor's contact person (Project Manager) shall forward all communications in writing and all documents to the Principal Representative's contact person and the Program Manager's contact person simultaneously as listed below:

For the Principal Representative:
Michael Flaherty
Deputy City Manager
1000 Englewood Parkway
Englewood, CO 80110

For the Program Manager:
Jim Kavinsky
Building Operations Manager
1000 Englewood Parkway
Englewood, CO 80110

For the Contractor Project Manager:

B. N. Tripathi
Vice President
9801 Westheimer
Suite 302
Houston, TX 77042

For the Contractor Superintendent:

Jim Reedy
Director of Construction
639 Isbell Road
Suite 360
Reno, NV 89509

ARTICLE 7: ENVIRONMENTAL REQUIREMENTS

Section 7.1. Excluded Material and Activities.

City recognizes that in connection with the installation and/or service or maintenance of Equipment at City's Premises, Contractor may encounter, but is not responsible for, any work relating to (i) asbestos, materials containing asbestos, or the existence, use, detection, removal, containment or treatment thereof, or (ii) pollutants, hazardous wastes, hazardous materials, contaminants other than those described in this Section below (collectively "Hazardous Materials"), or the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment thereof. The materials and activities listed in the foregoing sentence are referred to as "Excluded Materials and Activities". City agrees that if performance of work involves any Excluded Materials and Activities, City will perform or arrange for the performance of such work and shall bear the sole risk and responsibility therefore. In the event Contractor discovers Hazardous or Excluded Materials, Contractor shall immediately cease work, remove all Contractor personnel or subcontractors from the site, and notify the City. The City shall be responsible to handle such Hazardous Materials at its expense. Contractor shall undertake no further work on the Premises except as authorized by the City in writing. Notwithstanding anything in this Contract to the contrary, any such event of discovery or remediation by the City shall not constitute a default by the City. In the event of such stoppage of work by Contractor, the Time for Completion of Work will be automatically extended by the amount of time of the work stoppage and any additional costs incurred by Contractor as a result will be added by Change Order.

Contractor shall be responsible for any hazardous or other materials, including, without limitation, those listed in this **Section 7.1** that it may bring to the Premises.

Section 7.2. Polychlorinated Biphenyl (PCB) Ballasts; Mercury Lamps.

Contractor will enter into an agreement with an approved PCB ballast disposal Contractor who will provide an informational packet, packing receptacles and instructions, labels and shipping materials, transportation, and recycling or incineration services for PCB ballasts. All capacitors and asphalt

potting compound materials removed from City's PCB ballasts will be incinerated in a federally approved facility. After proper disposal, a Certificate of Destruction will be provided by the approved facility to City. Contractor's responsibility shall be for the proper and legal management of any of City's PCB ballasts removed as a result of the installation of the Equipment and shall be limited only until said PCB ballasts are loaded onto an approved PCB ballast disposal Contractor's vehicle for transportation.

Contractor will enter into an agreement with an approved lamp disposal contractor who will provide approved containers, materials required to label, transportation, recycling or incineration in accordance with EPA requirements, and a copy of the manifest.

City agrees to sign manifests of ownership for all PCB ballasts and mercury lamps removed from the Premises.

ARTICLE 8: ACCEPTANCE TESTING

Section8.1. Modification of Schedules.

To ensure this Contract properly accounts for as-installed conditions, which conditions may vary from the pre-installation analyses, the Contractor shall re-validate or modify **Schedule A** and **Schedule H** prior to System Start-Up.

Section 8.2. Systems Startup and Equipment Commissioning.

The Contractor shall conduct a thorough and systematic performance test of each element and total system of the installed Equipment in accordance with the procedures specified in **Schedule H** and prior to acceptance of the project by City as specified in **Exhibit III (ii).** Testing shall be designed to determine if the Equipment is functioning in accordance with both its published specifications and the Schedules to this Contract, and to determine if modified building systems, subsystems or components are functioning properly within the new integrated environment. The Contractor shall provide notice to the City of the scheduled test(s) and the City and/or its designees shall have the right to be present at any or all such tests conducted by Contractor and/or manufacturers of the Equipment. The Contractor shall be responsible for correcting and/or adjusting all deficiencies in the Equipment operation that may be observed during system commissioning procedures of **Schedule H**. The Contractor shall be responsible for correcting and/or adjusting all deficiencies in Equipment operation that may be observed during system testing procedures. At City's request, prior to City acceptance Contractor shall also provide City with reasonably satisfactory documentary evidence that the Equipment installed is the Equipment specified in **Schedule A**.

ARTICLE 9: OWNERSHIP

Section 9.1. Ownership of Certain Proprietary Property Rights.

City shall not, by virtue of this Contract, acquire any ownership interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or

similar items of property which are or may be used in connection with the Equipment. City shall, however, have a nonexclusive license to utilize all such intellectual or proprietary rights obtained by Contractor related to Equipment in connection with its use of the Equipment under this Contract. The Contractor hereby assigns to the City all license rights to any and all software or other intellectual property or proprietary rights it obtains from Equipment manufacturers necessary for the City to continue to operate, maintain, and repair the Equipment in a manner that will yield maximal energy consumption reductions. This license shall continue subsequent to any termination or expiration of this Contract other than termination due to breach by City.

Section 9.2. Ownership of Documents.

(a) Instruments of Service

Drawings, specifications and other documents, including those in electronic form, prepared by the Architect/Engineer and the Architect/Engineer's consultants are Instruments of Service for use solely with respect to this Project. The Architect/Engineer and the Architect/Engineer's consultants shall be deemed the authors and owners of their respective instruments of service and shall retain all common law, statutory and other reserved rights, including copyrights.

Upon execution of this Contract, the Architect/Engineer hereby grants to the State a perpetual nonexclusive license to reproduce and use, and permit others to reproduce and use for the State, the Architect/Engineer's Instruments of Service solely for purposes of constructing, using and maintaining the Project or for future alterations, or additions to the Project. The Architect/Engineer shall obtain similar nonexclusive licenses from the Architect/Engineer's consultants consistent with this Contract. If, and upon the date the Architect/Engineer is adjudged in default of this Contract, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the State to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project, or for future alterations, or additions to the Project.

Any unilateral use by the State of the Instruments of Service for completing, using, maintaining, adding to or altering the Project or facilities shall be at the State's sole risk and without liability to the Architect/Engineer and the Architect/Engineer's consultants; provided, however, that if the State's unilateral use occurs for completing, using or maintaining the Project as a result of the Architect/Engineer's breach of this Contract, nothing in this Article shall be deemed to relieve the Architect/Engineer of liability for its own acts or omissions or breach of this Contract.

(b) As-Built Drawings/Record Drawings

The City and its consultants shall, upon completion of the Construction Phase receive redline As-Built Drawings from the Contractor. These redline changes shall describe the built condition of the Project. This information and all of the incorporated changes directed by Bidding Addenda, Change Order/Amendment or Architect/Engineer's Supplementary Instructions shall be incorporated by the Architect/Engineer and its consultants into a Record Drawings document provided to the Principal Representative in the form of an electro-media format and a reproducible format as agreed between the parties. The Architect/Engineer shall also provide the Principal Representative with the As-Built Drawings received from the Contractor.

Section 9.3. Ownership of Existing Equipment.

Ownership of the equipment and materials existing at the Premises at the time of execution of this Contract shall remain the property of City even if it is replaced or its operation made unnecessary by work performed by Contractor pursuant to this Contract. If applicable, Contractor shall advise the City in writing of all equipment and materials to be replaced at the Premises and the City shall within fifteen (15) days designate in writing to the Contractor which equipment and materials should not be disposed of off-site by the Contractor. It is understood and agreed to by both Parties that the City shall be responsible for and designate the location and storage for any equipment and materials that should not be disposed of off-site. Except as may be otherwise provided in this Contract, the Contractor shall be responsible for the disposal of all equipment and materials designated by the City as disposable off-site in accordance with all applicable laws and regulations regarding such disposal. Except as indicated in **Section 7.1** and **Section 7.2,**, under no circumstance shall Contractor be obligated to dispose of or take responsibility for any materials identified in **Section 7.1** or **Section 7.2** of this Contract.

Section 9.4. Ownership of Measurement and Verification Equipment.

City agrees to own the equipment required to provide the ongoing measurement of energy and water savings (the "Metering Equipment"). If required, City shall provide and maintain a non-dedicated telephone line to facilitate remote monitoring of the Equipment.

ARTICLE 10: STANDARDS OF COMFORT

Section 10.1 Standards of Comfort.

Contractor will design and install the Equipment so that it is able to provide the standards of heating, cooling, ventilation, hot water supply, lighting quality and levels described in **Schedule I.** During the term of this Contract, City will maintain, according to **Schedule K,** and operate the Equipment in a manner that will provide the standards of comfort and levels of operation as described in **Schedule I**.

ARTICLE 11: EQUIPMENT WARRANTIES

Section 11.1 Equipment Warranties.

Contractor warrants that all equipment sold and installed as part of this Contract is new, unless otherwise agreed, will be materially free from defects in materials or workmanship, will be installed properly in a good and workmanlike manner, and will function properly for a period of one (1) year from the date of the Substantial Completion for the particular energy conservation measure if operated and maintained in accordance with the procedures established per building. Substantial Completion shall be defined as the stage in the progress of the Work, with respect to a particular energy conservation measure, where the Work is sufficiently complete in accordance with the Contract Documents so that the City can utilize and take beneficial use of the energy conservation measure for

its intended use or purpose. Substantial Completion does not occur until the Equipment or system has been commissioned, accepted, and the "Substantial Completion" form fully executed with respect to the particular energy conservation measure being accepted.

After the warranty period, Contractor shall have no responsibility for performing maintenance, repairs, or making manufacturer warranty claims relating to the Equipment.

Contractor further agrees to assign to City all available manufacturer's warranties relating to the Equipment and to deliver such written warranties and which shall be attached and set forth as **Exhibit IV**; pursue rights and remedies against the manufacturers under the warranties in the event of Equipment malfunction or improper or defective function, and defects in parts, workmanship and performance. Contractor shall, during the warranty period, notify the City whenever defects in Equipment parts or performance occur which give rise to such rights and remedies and those rights and remedies are exercised by Contractor. During this period, the cost of any risk of damage or damage to the Equipment and its performance, including damage to property and equipment of the City or the Premises, due to Contractor's failure to exercise its warranty rights shall be borne solely by Contractor.

All warranties, to the extent transferable, shall be transferable and extend to the City. The warranties shall specify that only new, not reconditioned, parts may be used and installed when repair is necessitated by malfunction.

Notwithstanding the above, nothing in this Section shall be construed to alleviate/relieve the Contractor from complying with its obligations to perform under all terms and conditions of this Contract and as set forth in all attached Schedules.

Section 11.2 Actions by Contractor.

Incorporated herein by reference **Schedule D, Schedule J,** and **Schedule N**.

Section 11.3. Malfunctions and Emergencies.

City shall use its best efforts to notify the Contractor or its designated subcontractor within twenty-four (24) hours after the City's actual knowledge and occurrence of: (i) any malfunction in the operation of the Equipment or any preexisting energy related equipment that might materially impact upon the Guaranteed Energy Savings, (ii) any interruption or alteration to the energy supply to the Premises, or (iii) any alteration or modification in any energy-related equipment or its operation.

Where City exercises due diligence in attempting to assess the existence of a malfunction, interruption, or alteration it shall be deemed not at fault in failing to correctly identify any such conditions as having a material impact upon the savings. City shall notify Contractor within twenty-four (24) hours upon its having actual knowledge of any emergency condition affecting the Equipment. If such malfunction, interruption, or alteration occurs during the Warranty Period, Contractor shall respond to any such notice within forty eight (48) hours for non-critical equipment, and twenty four (24) hours for critical equipment, and shall promptly thereafter proceed with corrective measures. Any telephonic notice of such conditions by City shall be followed within three business days by written notice to Contractor from City. If City unreasonably delays in so notifying Contractor of a malfunction or emergency, and

the malfunction or emergency is not otherwise corrected or remedied, Contractor may charge City for its loss, due to the delay, associated with the Guaranteed Energy Savings under this Contract for the particular time period, provided that Contractor is able to show the direct causal connection between the delay and the loss.

The Contractor will provide a written record of all service work performed. This record will indicate the reason for the service, description of the problem and the corrective action performed.

Section 11.4 Actions by City.

During the term of this Contract, City shall not move, remove, modify, alter, or change in any way the Equipment or any part thereof without the prior written approval of Contractor except as set forth in **Schedule K**. Notwithstanding the foregoing, City may take reasonable steps to protect the Equipment if, due to an emergency, it is not possible or reasonable to notify Contractor before taking any such actions. In the event of such an emergency, City shall take reasonable steps to protect the Equipment from damage or injury. City agrees to maintain the Premises in good repair and to protect and preserve all portions thereof, which may in any way affect the operation or maintenance of the Equipment, all in accordance with the same standard of care the City applies to the Premises generally, that of a reasonably prudent government owner.

ARTICLE 12: MODIFICATION, UPGRADE OR ALTERATION OF EQUIPMENT

Section 12.1. Modification of Equipment.

During the Term of this Contract, City will not, without the prior written consent of Contractor, alter, affix or install any accessory Equipment or device on any of the Equipment if such addition will change or impair the originally intended functions, value or use of the Equipment or cause a reduction in the level of efficiency or savings generated by such Equipment without Contractor's prior written approval, which shall not be unreasonably withheld.

Section 12.2. Upgrade or Alteration of Equipment.

Contractor shall at all times have the right, subject to City's prior written approval, which approval shall not be unreasonably withheld, to change the Equipment, revise any procedures for the operation of the Equipment or implement other energy saving actions in the Premises, provided that: (i) the Contractor complies with the standards of comfort and services set forth in **Schedule I** herein; (ii) such modifications or additions to, or replacement of the Equipment, and any operational changes, or new procedures are necessary to enable the Contractor to achieve greater energy and cost savings at the Premises and; (iii) any cost incurred relative to such modifications, additions or replacement of the Equipment, or operational changes or new procedures shall be the responsibility of the Contractor.

All modifications, additions or replacements of the Equipment or revisions to operating or other procedures shall be described in a supplemental Schedule(s) to be provided to the City for approval, which shall not be unreasonably withheld, provided that any replacement of the Equipment shall, unless otherwise agreed, be new and have equal or better potential to reduce energy consumption at the

Premises than the Equipment being replaced. The Contractor shall update any and all software necessary for the operation of the Equipment. All replacements of and alterations or additions to the Equipment shall become part the Equipment described in **Schedule A** and shall be covered by the provisions and terms of **Article 6** and **Article 8**.

ARTICLE 13:LOCATION AND ACCESS

Section 13.1. Contractor Access.

Contractor acknowledges that there exists sufficient space on the Premises for the installation and operation of the Equipment. City shall take reasonable steps to protect such Equipment from harm, theft and misuse during the term of this Contract. City shall provide access to the Premises for Contractor and its subcontractors to perform any function related to this Contract during regular business hours, or such other reasonable hours as may be requested by Contractor and acceptable to the City. Contractor shall be granted immediate access to make emergency repairs or corrections as it may, in its discretion, determine are needed. Contractor's access to the Premises to make emergency repairs or corrections as it may determine are needed shall not be unreasonably restricted by City. Contractor shall immediately notify the City when emergency action is taken and follow up with written notice with three (3) business days specifying the action taken, the reasons therefore, and the impact upon the Premises, if any.

Section 13.2. Utility Access.

If a Utility Award Payment is made as described in **Section 3 (Utility Award Payments)**, the following applies. Upon request by the Utility (or its agent) and with prior consent of the City which consent shall not be unreasonably withheld, the City shall agree to allow Utility to interview the City and to enter the Premises at reasonable times throughout the life of the installed equipment to install metering equipment, perform energy audits or inspect the facilities and any equipment installed. The City also agrees to cooperate with the Utility or its agent upon request and with prior consent of the City, in conducting such activities and/or in analyzing energy savings. At all times a representative of the City (or its agent) shall be present during such inspections.

ARTICLE 14: MATERIAL CHANGES

Section 14.1. Material Change Defined.

A "Material Change" shall include any change or cumulative changes in or to the Premises, whether structural, operational or otherwise in nature which reasonably could be expected to increase or decrease annual energy consumption in accordance with the provisions and procedures set forth in **Schedule E** and **Schedule F** after adjustments for climatic variations and provided a correlation exists between usage and Material Change.

Actions by the City that may result in a Material Change include but are not limited to the following: (i) manner of use of the Premises by the City; or (ii) hours of operation for the Premises or for any

equipment or energy using systems operating at the Premises; or (iii) permanent changes in the comfort and service parameters set forth in **Schedule I**; or (iv) occupancy of the Premises; or (v) structure of the Premises; or (vi) types and quantities of equipment used at the Premises or (vii) modification, renovation or construction at the Premises; or (viii) the City's failure to provide maintenance of and repairs to the Equipment in accordance with **Schedule K**; or (ix) casualty or condemnation of the Premises or Equipment, or (x) changes in utility provider or utility rate classification, or (xi) any other conditions other than climate affecting energy or water use at the Premises.

Section 14.2. Reported Material Changes; Notice by City

The City shall deliver to the Contractor a written notice describing all actual or proposed Material Changes in the Premises or in the operations of the Premises at least 30 days before any actual or proposed Material Change is implemented or as soon as is practicable after an emergency or other unplanned event. Notice to the Contractor of Material Changes which result because of a bona fide emergency or other situation which precludes advance notification shall be deemed sufficient if given by the City within five (5) business days after having actual knowledge that the event constituting the Material Change occurred or was discovered by the City to have occurred.

Section 14.3. Other Adjustments

As agreed to in Section 14.2, City will alert Contractor of Material Changes as known. Both parties have a vested interest in meeting the guaranteed savings of the Contract. As such, Contractor will work with City to investigate, identify and correct any changes that prevent the guaranteed savings from being realized. As a result of such investigation, Contractor and City shall determine what, if any, adjustments to the baseline will be made in accordance with the provisions set forth in **Schedule F** and **Schedule B.**

ARTICLE 15: TRAINING AND FOLLOW-UP ACTIVITIES BY CONTRACTOR

Section 15.1. Training.

The Contractor shall conduct the training program described in **Schedule M**. Appropriate training must be completed prior to acceptance of the Equipment installation. The Contractor shall provide reasonable ongoing training whenever needed with respect to updated or altered Equipment, including upgraded software. Such training shall be provided at no charge to the City.

Section 15.2. Application for Energy Star or LEED.

Upon request by City, the Contractor shall conduct investigation into any applicable certification program such as Collaborative for High Performance Schools, Energy Star Benchmark, US Green Building Council's Leadership in Energy and Environmental Design (LEED), etc. and facilitate requested certification process on behalf of City.

ARTICLE 16: GENERAL CONTRACTUAL PROVISIONS

Section 16.1 Additional Insurance Requirements- Professional Liability Insurance.

Contractor promises and agrees to maintain in full force and effect an Errors and Omissions Professional Liability Insurance Policy in the amounts indicated in the following table as minimum coverage. The policy, including claims made forms, shall remain in effect for the duration of the Interim Period and for one year beyond the completion and acceptance of the Equipment. The Contractor shall be responsible for all claims, damages, losses or expenses, including reasonable attorney fees, arising out of or resulting from the performance of professional services contemplated in this Contract, provided that any such claim, damage, loss or expense is caused by any negligent act, error or omission of the Contractor, any consultant or associate thereof, or anyone directly or indirectly employed by the Contractor. The Contractor shall submit a Certificate of Insurance verifying said coverage at the signing of this Contract and also any notices of renewals of the said policy as they occur.

Minimum Coverage per Claim	Minimum Coverage in the Aggregate
$1,000,000	$2,000,000

ARTICLE 17: EVENTS OF DEFAULT

Section 17.1. Events of Default by City.

Each of the following events or conditions shall constitute an "Event of Default" by City:

(i) any failure by City to pay when due any amount required to be paid pursuant to **Schedule O** and such failure continues for a period of five (5) days after the date due;

(ii) any failure by City to pay Contractor any sum due that is not in dispute, hereunder for a service and maintenance period of more than thirty (30) days after the date due;

(iii) any other failure by City to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein, provided that such failure continues for thirty (30) days after notice to City demanding that such failures to perform be cured or if such cure cannot be effected in such forty-five (45) days, City shall be deemed to have cured default upon the commencement of a cure within such forty-five (45) days and diligent subsequent completion thereof;

(iv) any representation or warranty furnished by City in this Contract that was false or misleading in any material respect when made.

Section 17.2. Events of Default by Contractor.

Each of the following events or conditions shall constitute an "Event of Default" by Contractor:

(i) the standards of comfort and service set forth in **Schedule I** are not provided due to failure of Contractor to properly design, install, maintain, repair or adjust the Equipment except that such failure, if corrected or cured within twenty-one (21) days after written notice by City to Contractor demanding that such failure be cured, shall be deemed cured for purposes of this Contract.

(ii) any representation or warranty furnished by Contractor in this Contract is false or misleading in any material respect when made;

(iii) provided that the operation of the facility is not adversely affected and provided that the Standards of Comfort in **Schedule I** are maintained, any failure by Contractor to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein except that such failure, if corrected or cured within thirty (30) days after written notice to Contractor demanding that such failure to perform be cured, shall be deemed cured for purposes of this Contract;

(iv) any lien or encumbrance upon the equipment by any subcontractor, laborer or materialman of Contractor which is not released in thirty days after notice of said filing;

(v) the filing of a bankruptcy petition whether by Contractor or its creditors against Contractor which proceeding shall not have been dismissed within 90 days of its filing, or an involuntary assignment for the benefit of all creditors or the liquidation of Contractor.

(vi) failure by Contractor to pay any amount due that is not in dispute, or perform any material obligation under the terms of this Contract, unless such amount due or failure to perform is excused pursuant to the provisions of this Contract.

17.3 Events of Default and Remedies

(A) Notice of Cure Period

In the event of any breach that is not an Event of Default, notice of such shall be given in writing by the aggrieved Party to the other Party. If such breach is not cured, cannot be cured, or if due diligence to cure the breach has not begun within 30 days of receipt of written notice, unless otherwise stated herein, or if an Event of Default has occurred, the aggrieved Party may exercise any of the remedies set forth in **Section** 17.3B. Notwithstanding anything to the contrary herein, the City, in its sole discretion,

need not provide advance notice or a cure period and may immediately terminate this Contract in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

(B) Remedies

If Contractor is in breach under any provision of this Contract or commits an Event of Default, City shall have all of the remedies listed in this Section 17(B)(i) and (ii) in addition to all other remedies set forth in other sections of this Contract following the notice and cure period set forth in Section 17.3(A). City may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

If City is in breach under any provision of this Contract or commits an Event of Default, the Contractor shall have all of the remedies listed in Section 17(B)(iii) in addition to all other remedies set forth in other sections of this Contract following the notice and cure period set forth in Section 17.3(A). Contractor may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

Anything in this Contract to the contrary notwithstanding, (1) neither party nor its respective officers, directors, agents, employees, parent, subsidiaries or affiliates or their officers, directors, agents or employees shall be liable to any other party, or its parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insureds, for any incidental, indirect, punitive or consequential damages, connected with or resulting from performance or non-performance of this Agreement (irrespective of whether such claim of liability is based upon breach of warranty, strict liability, tort, contract, operation of law or otherwise) or anything done in connection therewith including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Contract), and increased expense of, reduction in or loss of power generation production or equipment used therefor, and (2) Contractor's liability in contract under this Contract shall in all cases be limited to the sum of the payments received by Contractor under Section 2. Contractor's liability to Customer for bodily injury, death or damage to property will, in all cases, be limited to the proceeds of insurance maintained by Contractor pursuant to the requirements of this Contract. Contractor, however, in no event shall be obligated to indemnify City to the extent that any injury or damage is caused by the negligence of City or any entity for which City is legally responsible.

i. Termination for Cause and/or Breach

City may terminate this entire Contract or any part of this Contract as provided herein. Exercise by City of this right shall not be a breach of its obligations hereunder. Contractor shall continue performance of this Contract to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to City all Work not cancelled by the termination notice and may incur obligations as are necessary to do so within this Contract's terms. At the sole discretion of City, Contractor shall assign to City all of Contractor's right, title, and interest under such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which City has an interest. All materials owned by City in the possession of Contractor shall be immediately returned to City. All Work Product, at the option of City, shall be delivered by Contractor to City and shall become City's property.

b. Payments

City shall reimburse Contractor only for accepted performance up to the date of termination or as provided in the General Conditions. If, after termination by City, it is determined that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Contract had been terminated in the public interest, as described in General Conditions.

c. Damages and Withholding

Notwithstanding any other remedial action by City, Contractor shall remain liable to City for any damages sustained by City by virtue of any breach under this Contract by Contractor and City may withhold any payment to Contractor for the purpose of mitigating City's damages, until such time as the exact amount of damages due to City from Contractor is determined. City may withhold any amount that may be due Contractor as City deems necessary to protect City against loss, including loss as a result of outstanding liens, claims of former lien holders, or for the excess costs incurred in procuring similar goods or services. Contractor shall be liable for excess costs incurred by City in procuring from third parties replacement Work as cover. Liability may alternatively be assessed per the General Conditions, in City's discretion.

d. Termination of M&V Term

Notwithstanding anything to the contrary herein, City may terminate this Contract after the first three years of the M&V Term, and if so terminated, Contractor shall have no further obligations hereunder thereafter.

ii. Remedies Not Involving Termination

City, its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of this Contract pending necessary corrective action as specified by City without entitling Contractor to an adjustment in price/cost or performance schedule. Contractor shall promptly cease

performance and incurring costs in accordance with City's directive and City shall not be liable for costs incurred by Contractor after the suspension of performance under this provision.

b. Withhold Payment

Withhold payment to Contractor until corrections in Contractor's performance are satisfactorily made and completed.

c. Deny Payment

Deny payment for those obligations not performed, that due to Contractor's actions or inactions, cannot be performed or, if performed, would be of no value to City; provided, that any denial of payment shall be reasonably related to the value to City of the obligations not performed.

d. Removal

Notwithstanding any other provision herein, City may demand immediate removal of any of Contractor's employees, agents, or subcontractors whom City deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Contract is deemed to be contrary to the public interest or City's best interest.

e. Intellectual Property

If Contractor infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Contract, Contractor shall, at City's option (a) obtain for City or Contractor the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to City.

iii. Remedies and Termination by Contractor

The Contractor, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it at law and in equity:

(a) bring actions for any remedies available at law or in equity or other appropriate proceedings for the recovery of damages, and/or bring an action in equity for specific performance; or

(b) require City to pay (and City agrees that it shall pay) all out-of-pocket costs and expenses incurred by Contractor as a result of the breach or Event of Default and/or Contractor's actions under this Contract, including, without limitation, all costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment; or

(c) with or without legal process Contractor may terminate this Contract by delivery of written notice of termination.

ARTICLE 18: ASSIGNMENT

Section 18.1. Assignment by Contractor.

The Contractor acknowledges that the City is induced to enter into this Contract by, among other things, the professional qualifications of the Contractor. The Contractor agrees that except as set forth below, neither this Contract nor any right or obligations hereunder may be assigned in whole or in part to another firm, without the prior written approval of the City. Contractor may elect to use subcontractors and/or subconsultants in meeting its obligations hereunder.

(i) The assignment of this Contract, in whole or in part, to a wholly owned subsidiary of Contractor or to a related company, so long as such subsidiary or company is creditworthy, does not require the consent of the other party.

Section 18.2. Assignment by City.

City may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Premises or an interest therein with the consent of Contractor, which shall not be unreasonably withheld. The lack of financial qualification of the new owner shall be grounds for withholding such consent.

ARTICLE 19: REPRESENTATIONS AND WARRANTIES

Section 19.1. General Representations and Warranties.

Each party warrants and represents to the other that:

(i) it has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Contract and perform its obligations hereunder;

(ii) its execution, delivery, and performance of this Contract will not result in a breach or violation of, or constitute a default under any Contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected;

ARTICLE 20. ADDITIONAL REPRESENTATIONS OF THE PARTIES.

Section 20.1. By City.

City hereby warrants, represents and promises that:

(i) City is authorized under the Constitution and laws of the State of Colorado to enter into this Contract, each transaction contemplated hereby, and to perform all of its obligations under this Contract.

(ii) Subject to the provisions contained herein, City has provided or shall provide timely to Contractor, all records relating to energy and water usage and energy-related maintenance of Premises requested by Contractor and the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Contract will be true and accurate in all material respects and Contractor shall be entitled to rely thereon; and

(iii) City has not entered into any prior leases, contracts or agreements with other persons or entities regarding the leasing or acquisition of water or energy efficiency equipment or the provision of energy management services for the Premises or with regard to servicing any of the Equipment located in the Premises that would encroach upon the scope of this Contract. City shall provide Contractor with copies of any successor or additional leases of energy efficiency equipment and contracts for management or servicing of preexisting equipment at Premises that may be executed from time to time hereafter within seven days after execution thereof.

Section 20.2. By Contractor.

Contractor hereby warrants, represents and promises that:

(a) before commencing performance of this Contract:

(i) Contractor shall have become licensed or otherwise permitted to do business in the State of Colorado

(ii) Contractor shall have provided proof and documentation of all required insurance and bonds pursuant to this Contract.

(iii) Contractor shall make available, upon reasonable request, documents relating to its performance under this Contract, including contracts and subcontracts it shall enter into;

(iv) Contractor shall use subcontractors who are qualified, licensed and bonded in this State to perform the work so subcontracted pursuant to the terms hereof;

(v) Contractor has all requisite authority to license the use of proprietary property, both tangible and intangible, contemplated by this Contract;

(vi) The Equipment will meet or exceed the Acceptance Testing procedures set forth in Article 8 of this Contract.

(v) The Equipment is or will be compatible with all other Premises mechanical and electrical systems, subsystems, or components with which the Equipment interacts, and that, as installed, neither the Equipment nor such other systems, subsystems, or components will materially adversely affect each other as a direct or indirect result of Equipment installation or operation;

(vii) That Contractor is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Installation and perform its obligations under this Contract.

ARTICLE 21: MISCELLANEOUS DOCUMENTATION PROVISIONS.

Section 21.1. Waiver of Liens, Performance Bonds, Labor and Material Payment Bonds.

Such executed bonds are incorporated herein by reference as **Exhibit I (Performance Bond)** and **Exhibit II (Labor and Material Payment Bond)** per **Schedule N (General Conditions; Article 26)**. These Bonds apply only to the installation portion of the Contract during the Interim Period and do not apply in any way to energy savings guarantees, payments or maintenance provisions, except that the Performance Bond shall guarantee that the installation will be free of defective materials and workmanship for a period of twelve (12) months following completion and acceptance of the Work.

Section 21.2. Further Documents

The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Contract.

Section 21.3 City's Responsibilities.

(a) Methods of Operation by City

The Parties acknowledge and agree that said Guaranteed Energy Savings and Energy and Cost Savings would not likely be obtained unless certain procedures and methods of operation designed for energy and water conservation shall be implemented, and followed by City on a regular and continuous basis.

(b) City Maintenance Responsibilities

City agrees that it shall adhere to, follow and implement the energy conservation procedures and methods of operation to be set forth on **Schedule K**, to be attached hereto and made a part hereof after City's approval, such approval not to be unreasonably withheld, conditioned or delayed.

City assumes all risk of loss of or damage to the Equipment from any cause whatsoever except to the extent that such loss or damage was caused by the negligence of Contractor. Upon damage to any item of the equipment installed hereunder, City shall promptly notify Contractor and immediately place the same in good repair with the proceeds of any insurance received applied to the cost of such repair. If City determines that any item of the Equipment are lost, stolen, confiscated, destroyed or damaged beyond repair, City shall replace the same with like equipment in good repair in a timely fashion.

If at any time after the date of the Notice of Substantial Completion and after City's complete payment to Contractor, any fire, flood, other casualty, or condemnation renders a majority of the Premises incapable of being occupied and renders the Equipment inoperable and, in the case of a casualty, the affected portion of such Equipment is not reconstructed or restored within one hundred twenty (120) days from the date of such casualty, Contractor and/or City may terminate this Contract by delivery of a written notice to the other Party. Upon such termination, City shall pay Contractor any amounts, or pro-rata portions thereof, accrued under **Schedule D**.

(c) Inspection of Premises
During the M&V Phase of this Contract, City agrees that Contractor shall have the right once a month, with prior notice, to inspect Premises to determine if City is complying, and shall have complied with its obligations as set forth in **Section 21.3(b).** For the purpose of determining City's said compliance, the checklist to be set forth at **Schedule L** as completed and recorded by Contractor during its monthly inspections, shall be used to measure and record City's said compliance. City shall make the Premises available to Contractor for and during each monthly inspection, and shall have the right to witness each inspection and Contractor's recordation on the checklist. City may complete its own checklist at the same time. Contractor agrees to not interfere with the City operations during any monthly inspection.

ARTICLE 22: CONFLICTS OF INTEREST

Section 22.1 Conflicts of Interest.

Conflicts of interest relating to this Contract are strictly prohibited. Except as otherwise expressly provided herein, neither party hereto nor any director, employee or agent of any party hereto shall give to or receive from any director, employee or agent of any other party hereto any gift, entertainment or other favor of significant value, or any commission, fee or rebate in connection with this Contract. Likewise, neither party hereto nor any director, employee or agent of either party hereto, shall without prior notification thereof to the other party enter into any business relationship with any director, employee or agent of the other party or of any affiliate of the other party, unless such person is acting for and on behalf of the other party or any such affiliate. A party shall promptly notify the other party of any violation of this section and any consideration received as a result of such violation shall be paid over or credited to the party against whom it was charged. Any representative of any party, authorized by that party, may audit the records of the other party related to this Contract, upon reasonable notice and during regular business hours including the expense records of the party's employees involved in this Contract, upon reasonable notice and during regular business hours, for the sole purpose of determining whether there has been compliance with this section.

ARTICLE 23: CONTRACT DOCUMENTS

Section 23.1. Plan Details.

Contractor prepared a complete Technical Energy Audit which has been approved and accepted by City as set forth in **Exhibit III** (i) (Notice of Acceptance – Technical Energy Audit and Measurement and Verification Plan.

Section 23.2. General Conditions.

The State of Colorado General Conditions Articles summarized below and attached hereto as **Schedule N** and may be incorporated and made a part hereof as follows.

(a) Contract or SC6.21
shall be defined to be this Energy Performance Contract and all related Schedules, Exhibits and Appendices.

(b) Architect/Engineer
shall be defined to be the Contractor where services are required to be performed by this Contract.

(c) Overhead/Profit/Commission
amounts shall be as specified in Contractor's proposal and **Schedule R**.

Section 23.3. Order of Precedence.

Notwithstanding, the provisions of this Contract and the attached Schedules, Exhibits and Appendices shall govern in the event of any inconsistencies between the Technical Energy Audit and the provisions of this Contract.

In the event of conflicts or inconsistencies between this Contract and its Schedules, Exhibits or Appendices, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: a) Colorado Special Provisions, **Section 42**, b) Contract body, c) deleted, d) Schedules/Exhibits/Appendices (in that order), e) City RFP #RFP-08-138, Dated January 9, 2009 In the event of any conflicts between **Schedule C** and other parts of this Contract regarding Energy and Water Cost Savings calculations or measurement of the guarantee, **Schedule C** shall govern.

Section 23.4. Facsimile Signatures.
Parties agree that facsimile signatures shall be accepted as originals.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

CONTRACTOR:

_____

Ameresco, Inc.

_____

FEIN

_____

Signature of Authorized Officer

_____

_____

B. N. Tripathi, Vice President

CITY:

_____

CITY REPRESENTATIVE

By James K. Woodward, Mayor

Executive Director

Department of_____

LEGAL REVIEW:

NO LEGAL REVIEW REQUIRED

By _____

SCHEDULES

SCHEDULE A.
EQUIPMENT TO BE INSTALLED BY CONTRACTOR

The following Energy Conservation Measures are to be installed by the Contractor. The first table provides summary of the measures. The work to be installed in each individual building follows.

BUILDING	ECM NUMBER	ECM	TOTAL COST
Project Summary - All Buildings			
	2	ECM 2 - Convert Constant Volume AHU to VAV	$42,776
	3	ECM 3 - Convert Constant Volume AHU to VAV	$75,834
	4	ECM 4 - Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes	$122,920
	6	ECM 6 - Replace Boilers with High Efficiency Non-Condensing Boilers	$157,194
	7	ECM 7 - Convert Constant Flow HW Pumps to Variable Flow with VFDs	$106,254
	8	ECM 8 - Add VAV Dampers on Branch Supply Ducts/Convert RTU to VAV Operation	$50,664
	11	ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	$149,559
	12	ECM 12 - EMS Controls for Night Setback	$94,035
	14	ECM 14 - Wall & Roof Insulation and Window Replacements & Repair	$106,753
	19	ECM 19 - Water Conservation	$141,997
	20	ECM 20 - Lighting	$295,806
	21	ECM 21 - Lighting Control	$67,042
Project Summary - All Buildings			$1,410,834

BUILDING	ECM NUMBER	ECM	TOTAL COST
	12	ECM 12 - EMS Controls for Night Setback	$0
	19	ECM 19 - Water Conservation	$8,509
	20	ECM 20 - Lighting	$78,115
	21	ECM 21 - Lighting Control	$37,389
Civic Center		**Building Subtotals**	$124,013

BUILDING	ECM NUMBER	ECM	TOTAL COST
	11	ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	$47,681
	12	ECM 12 - EMS Controls for Night Setback	$12,778
	14	ECM 14 - Wall & Roof Insulation and Window Replacements & Repair	$55,790
	19	ECM 19 - Water Conservation	$14,910
	20	ECM 20 - Lighting	$61,077
	21	ECM 21 - Lighting Control	$3,596
Servicenter		**Building Subtotals**	$195,832

BUILDING	ECM NUMBER	ECM	TOTAL COST
	6	ECM 6 - Replace Boilers with High Efficiency Non-Condensing Boilers	$157,194
	7	ECM 7 - Convert Constant Flow HW Pumps to Variable Flow with VFDs	$32,632
	12	ECM 12 - EMS Controls for Night Setback	$21,039
	14	ECM 14 - Wall & Roof Insulation and Window Replacements & Repair	$50,963
	19	ECM 19 - Water Conservation	$23,640
	20	ECM 20 - Lighting	$28,847
	21	ECM 21 - Lighting Control	$6,088
Safety Services		**Building Subtotals**	$320,403

BUILDING	ECM NUMBER	ECM	TOTAL COST
	11	ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	$43,208
	19	ECM 19 - Water Conservation	$11,619
	20	ECM 20 - Lighting	$6,576
Jefferson Fire Station		**Building Subtotals**	$61,403

BUILDING	ECM NUMBER	ECM	TOTAL COST
	12	ECM 12 - EMS Controls for Night Setback	$0
	19	ECM 19 - Water Conservation	$5,680
	20	ECM 20 - Lighting	$5,206
	21	ECM 21 - Lighting Control	$1,937
Fox Street Police Annex		**Building Subtotals**	$12,823

BUILDING	ECM NUMBER	ECM	TOTAL COST
	11	ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	$29,654
	19	ECM 19 - Water Conservation	$9,274
	20	ECM 20 - Lighting	$4,974
	21	ECM 21 - Lighting Control	$325
Acoma Fire Station		**Building Subtotals**	$44,227

BUILDING	ECM NUMBER	ECM	TOTAL COST
	11	ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	$29,016
	19	ECM 19 - Water Conservation	$9,538
	20	ECM 20 - Lighting	$6,230
	21	ECM 21 - Lighting Control	$325
Tejon Fire Station		**Building Subtotals**	$54,799

BUILDING	ECM NUMBER	ECM	TOTAL COST
	8	ECM 8 - Add VAV Dampers on Branch Supply Ducts/Convert RTU to VAV Operation	$50,664
	12	ECM 12 - EMS Controls for Night Setback	$25,118
	19	ECM 19 - Water Conservation	$17,533
	20	ECM 20 - Lighting	$19,177
	21	ECM 21 - Lighting Control	$6,684
Malley Senior Center		**Building Subtotals**	$119,176

BUILDING	ECM NUMBER	ECM	TOTAL COST
	2	ECM 2 - Convert Constant Volume AHU to VAV	$42,776
	3	ECM 3 - Convert Constant Volume AHU to VAV	$75,834
	4	ECM 4 - Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes	$122,920
	7	ECM 7 - Convert Constant Flow HW Pumps to Variable Flow with VFDs	$73,622
	12	ECM 12 - EMS Controls for Night Setback	$14,896
	19	ECM 19 - Water Conservation	$27,312
	20	ECM 20 - Lighting	$56,961
	21	ECM 21 - Lighting Control	$6,684
Englewood Recreation Center		**Building Subtotals**	$421,005

BUILDING	ECM NUMBER	ECM	TOTAL COST
	12	ECM 12 - EMS Controls for Night Setback	$10,514
	19	ECM 19 - Water Conservation	$13,982
	20	ECM 20 - Lighting	$20,267
	21	ECM 21 - Lighting Control	$4,015
Broken Tee Golf Course		**Building Subtotals**	$48,778

BUILDING	ECM NUMBER	ECM	TOTAL COST
	20	ECM 20 - Lighting	$8,378
Pirates Cove		Building Subtotals	$8,378

ECM-2: CONVERT CONSTANT VOLUME AHU-1 TO VAV OPERATION

A. Existing Conditions

AHU-1 is a constant volume air-handling unit manufactured by Temtrol which serves the pool area at the Recreation Center. The unit is original to the building and is over 30 years old. It is equipped with a 20 HP fan motor, hot water coil, chilled water cooling coil, and space thermostat. The pool area space temperature is maintained at 90°F, approximately 4 to 5 degrees warmer than the water temperature in the pool. Presently, the AHU is operated 24/7 with no setback or occupancy scheduling. The unit is in fair to poor shape but operates adequately with continued maintenance. Replacement of the AHU would be difficult and expensive with no clear access available to the mechanical room. Exhaust fan (EF-7) removes a constant volume of air from the pool area maintaining the pool space at a negative pressure in relation to surrounding spaces. The existing controls system at the Recreation Center is pneumatic.

Pool area humidity is not directly controlled. The original design for the pool conditioning system included a heat recovery ventilator so that a fixed amount of tempered air was always introduced into the pool area, primarily for humidity control. That system is no longer functioning. Pool humidity is allowed to float. The pool area still receives dry outdoor air, however. The pool is maintained at negative pressure to its surroundings by EF-7, which is rated at 18,000 cfm. Not all of the exhaust air handled by EF-7 comes from the pool area, but the pool is maintained at a significant negative pressure, meaning dryer air from outdoors and other areas of the Recreation Center is continuously infiltrating into the pool space.

B. Description of Equipment

Ameresco proposes to replace the existing supply fan and exhaust fan motors at AHU-1 and EF-7 with inverter-duty rated motors and VFDs. The existing pneumatic controls system will be removed and replaced with a new DDC system. DDC supply air duct and space temperature sensors will be installed to modulate the control signal to the supply fan VFD and the heating coil valve actuator.

The current system does control space temperature and humidity to some extent. There is an opportunity to generate energy savings over night when the facility is unoccupied. The new control system will slow down EF-7 and AHU-1 overnight. AHU-1 will go from providing 6 air changes per hour to three air changes per hour. EF-7 will still be controlled so that the pool space is always under negative pressure versus its surroundings. At night when the pool water is still, evaporation from the pool surface decreases. Reduced evaporation means that less air must be moved to maintain space humidity.

A manual override switch and controls will be provided as apart of this ECM that will be enable the Recreation Center staff to increase the speed of EF-7 to its maximum design air flow rate when the pool is

super-chlorinated. In addition, when the override switch is activated, the supply fan at AHU-1 will modulate to maintain 20 percent less airflow than is delivered by EF-7.

ECM-3: CONVERT CONSTANT VOLUME AHU-2 TO VAV OPERATION

A. Existing Conditions

AHU-2 is a constant volume air-handling unit manufactured by Temptrol that serves the gymnasium at the Recreation Center. The unit is original to the building and is over 30 years old. It is equipped with a 15 HP fan motor, hot water coil, evaporative cooling section and space thermostat. The gymnasium space temperature is maintained at 70 degrees F. Presently, the AHU is operated continuously with no setback or occupancy scheduling. The unit is in fair to poor shape but operates adequately with continued maintenance. Replacement of the AHU would be difficult and expensive because there is no clear access available to the mechanical room. The existing controls system at the Recreation Center is pneumatic.

B. Description of Equipment

Ameresco proposes to convert this unit to VAV operation by installing a new inverter duty rated motor with new VFD, two new variable air volume dampers for the two main supply ducts serving the gymnasium, and new air handler controls. The new controls will modulate air flow based on space temperature. Two space temperature zones will be created to help make the gym space temperature consistent throughout.

ECM-4: CONVERT VAV INLET VANES TO VFD AND REPLACE FAN POWERED VAV BOXES

A. Existing Conditions

AHU-3 at the Recreation Center is a variable volume unit with an evaporative cooling section and a supply fan with inlet guide vanes. The air handler is manufactured by Temptrol and is original to the building. It is in fair condition but is serviceable with continued maintenance. AHU-3 serves most of the Recreation Center including the lobby, corridors, offices, activity rooms, and the youth center. The inlet guide vanes have failed and are open at all times.

AHU-3 serves a mechanical room with AHU-2 and the mechanical room also serves as the return/relief plenum. There are four 3 HP propeller relief fans that work in conjunction with AHU-3 and AHU-2. The original control sequence would stage relief fans in to maintain a building static pressure set point. In this way, as the outdoor air dampers on the air handlers modulated open, such as for outdoor economizing, then the relief fans would stage on to maintain building static pressure. That control has failed and the relief fans are manually set. All controls are pneumatic and much of the AHU control has failed.

AHU-3's air distribution system has a mix of VAV boxes without reheat coils and fan powered VAV boxes with reheat coils. The core areas have straight VAV boxes with no reheats. Perimeter zones have reheat coils. Five large reheat coils are located inside the mechanical room close to the air

handlers. There are remote reheat boxes in the ceiling spaces above the south offices and activity rooms.

See Table C4.1 below for a list of boxes.

Table C4.1: Existing VAV Boxes

Location	CFM	Heating BTU/h	Inlet Duct Connection
Mech Room	4,000	111,000	26" x 12"
Mech Room	4,000	111,000	26" x 12"
Mech Room	4,000	111,000	26" x 12"
Mech Room	4,000	111,000	26" x 12"
Mech Room	4,000	111,000	26" x 12"
Activity Room 1st Floor	2,000	81,400	12" Dia
Activity Room 1st Floor	2,000	81,400	12" Dia
Activity Room 1st Floor	2,000	81,400	12" Dia
Activity Room 1st Floor	2,000	81,400	12" Dia
Activity Room 1st Floor	2,000	81,400	12" Dia

B. Description of Equipment

Ameresco proposes to install a new inverter duty rated motor and VFD for the supply fan, new inverter duty rated motors and VFDs for four relief air fans, new DDC for the air handler, new zone boxes with reheat coils, and new DDC zone controls. The new equipment will replace controls that have failed and are over-ridden to manual operation, and will replace original, low efficiency fan motors with new premium efficiency motors with VFDs.

The existing VAV boxes and pneumatic controls will be replaced with new VAV boxes with DDC. Existing fan powered VAV boxes will be replaced with standard VAV boxes with re-heat coils (no fans) and existing standard VAV re-heat boxes will be replaced in kind.

The improved system will function better than the original design, and much better than current operations. New AHU and VAV box controls will enable a more precise delivery of heating and cooling, while also generating significant energy savings.

ECM-6: REPLACE BOILERS WITH HIGH EFFICIENCY BOILERS

A. Existing Conditions

At Safety Services, a Parker model T-4600 natural draft gas fired boiler provides heating water for multiple hot water heating coils in the Safety Services complex and next door at the Jefferson Fire Station. The boiler is rated at 4.6-MMBTU/h input and 3.68-MMBTU/h output. The boiler is original to the building and previously served a water loop heat pump system. Since the heat pump system has been abandoned, the boiler currently serves 8 hot water coils and suspended unit heaters with a total load of approximately 600,000 BTU/h. There is a pair of base mounted 3 HP heating water pumps. Controls are electronic. The existing control system is old and in poor condition.

Table C6.1: Existing Boilers

Building	Manufacturer/Model	Quantity	Capacity (BTU/h)
Safety Services	Parker T-4600	1	4.6 Million input

B. Description of Equipment

At Safety Services, Ameresco proposes to replace the existing boilers and controls with new high efficiency condensing boilers and new DDC. The proposed boilers are manufactured by Thermal Solutions. The new boilers will be installed in each existing boiler room. After installation of gas fired radiant heat at these two facilities, the boiler loads will be greatly reduced. We estimate that the peak boiler system heating load will be reduced to approximately 275,000 BTU/h at Safety Services. For this reason, the proposed new boilers are smaller than the units they replace.

The new boilers have 20:1 turn down ratios and sophisticated combustion controls allowing them to maintain very high thermal efficiencies over the full firing range.

Table C6.2: Proposed New Boiler Schedule

Building	Manufacturer/Model	Quantity	Capacity (BTU/h)
Safety Services	TS EV-750	1	500,000 input

Table C6.3: Proposed New HW Pump Schedule

Building	Quantity	Manufacturer/Model	GPM (each)	Pump Head	Hp (each)
Safety Services	2	B&G Series 80 1-1/2 x 1-1/2 x 9-1/2	65	70	3

ECM-7: CONVERT CONSTANT FLOW HW PUMPS TO VARIABLE FLOW WITH VFDS

A. Existing Conditions

The Recreation Center and Safety Services buildings have constant flow heating water pumps. At the Recreation Center, dual redundant base mounted heating water pumps circulate heating water through the boilers and out to the air handler heating coils, VAV terminal reheat coils, and fan coil units. The air handler and VAV coils are equipped with three-way valves so that the system is a constant flow heating water distribution system.

At the Safety Services building, the original heating boiler and base mounted heating water pumps were sized to provide heating to a water loop heat pump system. The heat pump system has been removed and replaced by a number of RTUs, most of which have gas fired heating sections. The original heating water system remains to serve four hot water heating coils for the courtyard RTUs, a suspended unit heater in the garage, and four suspended unit heaters in the Jefferson Street Apparatus Bay. Three way valves exist on the RTU coils and two-way valves exist on the suspended unit heaters. The RTU coils account for about two thirds of the existing heating water flow. Table C7.1 lists existing equipment.

B. Description of Equipment

Ameresco proposes to install new VFDs on the heating water pumps at the Recreation Center and the Safety Services building to convert the constant flow heating water pumping systems to variable flow. As part of the work for ECM-6, the Recreation Center will be configured as a primary/secondary pump system with primary pumps at each of four boilers and dual base-mounted secondary pumps. The Safety

Services building will be configured as a variable speed primary pumped flow system. Refer to ECM-6 for the size and types of pumps to be installed.

This measure will also require a number of heating water valves to be changed from three-way operation to two-way operation. At the Recreation Center, all air handler and VAV terminal reheat coil valves will be replaced with two-way valves. At Safety Services, the four courtyard unit heating coil valves will be replaced with two-way valves. New differential pressure sensors will be installed and tied in to the new building DDC system. The pump speed will be controlled to maintain a differential pressure set point.

ECM-8: ADD VAV DAMPERS ON BRANCH SUPPLY DUCTS/CONVERT RTU TO VAV OPERATION

A. Existing Conditions

A constant volume gas heating and DX cooling RTU serves the new Exercise Room, Meeting Rooms 116 and 117, and the Computer Lab at the Malley Center. The air distribution system has five zones with electric reheat coils. Two electric reheat coils serve the Exercise Room while single individual reheat coils serve Rooms 116, 117, and the Computer Lab. This is a constant volume reheat system.

The discharge air temperature from the unit is set at 65°F. During cold weather, when all zones require heating, the electric coils provide heating above the 65°F discharge provided by the RTU, even though the RTU is sized to handle the heat load and can discharge air at 95°F for heating. In warmer weather, the exercise room often becomes the demand zone requiring full cooling. The electric reheat coils activate for the other three zones to prevent them from getting too cold. Control is through a single zone thermostat in the exercise room which governs heating, and through individual room thermostats which control the electric reheat coils. The unit runs continuously with heating and cooling cycling based on thermostat readings.

B. Description of Equipment

Ameresco proposes to install new VAV dampers ahead of the existing electric reheat coils, add new DDC, and convert the RTU to variable flow operation through the use of a VFD and new capacity controls on the cooling coil. The new VAV dampers will be installed in the exposed ductwork just ahead of the existing reheat coils. New DDC will control VAV damper position, reheat coil start/stop, and fan speed. Table C8.1 lists the location and size of the new VAV dampers.

Table C8.1 - VAV Damper Schedule

Location	CFM	Inlet Duct Connection
Exercise Room	530	12-inch-diameter
Exercise Room	1060	14-inch-diameter
Computer Lab	900	14-inch-diameter
Room 116	990	14-inch-diameter
Room 117	990	14-inch-diameter

ECM-11: REPLACE GAS FIRED UNIT HEATERS WITH INFRARED HEATERS

A. Existing Conditions

A number of high bay areas in various City buildings are heated with gas fired suspended unit heaters or hot water suspended unit heaters. High bay areas at the Allen Water Treatment Plant are served by a combination of gas fired suspended unit heaters and hot water suspended unit heaters. Several high bay garage and work areas at the ServiCenter are heated by gas fired suspended unit heaters. The Jefferson Street Fire Station apparatus bay is heated by four suspended hot water unit heaters, the Acoma Fire Station apparatus bay is heated by a duct furnace, and the Tejon Fire Station apparatus bay is heated by a gas fired suspended unit heater. Table C11.1 lists existing equipment.

Heating control is through local line voltage thermostats wired directly to the unit heaters.

Table C11.1: Existing Equipment

Building	Area Served	Model	Quantity	Capacity (BTU/h) Each
Allen	Gallery	Unknown (cabinet heaters)	5	Unknown
Allen	Gallery	Modine	1	130,000
Allen	Pump Room	Unknown	1	200,000
Allen	Floculation	Modine	9	130,000
Allen	Belt Press	Modine	1	130,000
ServiCenter	Traffic south	Modine PA105A	1	100,000
ServiCenter	Maint Shop	Janitrol	1	
ServiCenter	North Shop	Janitrol 68-105-7	1	100,000
ServiCenter	Parks Maint Area	Janitrol S*03T110A	1	
Jefferson Street Fire	Apparatus Bay	Unknown	4	100,000
Acoma	Apparatus Bay	Unknown	1	200,000
Tejon	Apparatus Bay	Reznor FT200H	1	200,000

B. Description of Equipment

Ameresco proposes to replace gas fired and hot water suspended unit heaters with low intensity gas fired infrared heaters. Low intensity infrared heaters transfer heat by radiation to surrounding objects and people, whereas unit heaters transfer heat by convection: first transferring heat to the air and then the warm air transfers heat to objects and people. Because radiant heat warms people and objects directly, it has been demonstrated that the same comfort level can be obtained with lower space thermostat settings.

The equipment Ameresco proposes to install is low intensity IR heaters. Low intensity heaters have a burner section that fires into a long horizontal IR emitter tube that also serves as the combustion gas exhaust. The radiant tube heaters to be installed at Englewood facilities are 20- and 30-foot-long units and have been selected to provide an even heat throughout the heated area. In the Allen Gallery, U-Bend units will be used.

Table C11.2: Proposed Equipment

Building	Area Served	Model	Quantity	Peak Capacity (BTU/h) Each
Allen	Gallery	HL2-20-75 U-bend	4	75,000
Allen	Pump Room	HL2-20-65	4	75,000
Allen	Floculation	HL2-30-125	9	125,000
Allen	Belt Press	HL2-30-125	1	125,000
ServiCenter	Traffic south	HL2-30-100	1	100,000
ServiCenter	Maint Shop	HL2-30-65	2	65,000

ServiCenter	north Shop	HL2-30-100	1	100,000
ServiCenter	Parks Maint Area	HL2-30-100	1	100,000
Jefferson Street Fire	Apparatus Bay	HL2-30-75	2	75,000
Jefferson Street Fire	Apparatus Bay	HL2-20-75	2	75,000
Acoma	Apparatus Bay	HL2-30-75	2	75,000
Tijon	Apparatus Bay	HL2-30-100	2	100,000

ECM-12: EMS CONTROLS FOR NIGHT SETBACK

A. Existing Conditions

Most City buildings do not have integrated EMS. Control of HVAC equipment is primarily through local stand-alone controls or old pneumatic systems. Two buildings have an existing EMS. The Civic Center has an existing Trane Tracer System, and the Safety Services building has an existing Allen Bradley system. Table 12.1 lists all buildings included in this measure and the existing control systems.

Table C-12.1 Existing Building Controls

Building	Existing Control Systems
Civic Center	Trane Tracer EMS
Recreation Center	Pneumatic
Safety Service/Jefferson	Electronic
ServiCenter	Stand alone electric
Acoma Station	Stand alone electric
Tijon Station	Stand alone electric
Malley Center	Stand alone electric, Automated Logic DDC on Penthouse Units
Broken Tee	Stand alone electric

CIVIC CENTER

The Civic Center is the one building that has a functioning EMS that is in good condition. The system is a Trane Tracer DDC system that was installed approximately 10 years ago. The system controls all rooftop air handlers and local VAV boxes.

SAFETY SERVICES/JEFFERSON STATION

The Safety Services building and the attached Jefferson Street Fire Station have an old electronic control system that was installed when the building was constructed. The system is electronic but is not DDC. The original controls included programmable zone sensors which allowed setback scheduling of heating and cooling DX units and which also communicated with the central control computer. As these zone controls have failed, simple low voltage thermostats have replaced them. Setbacks and outdoor reset schedules are not active. The system is in poor condition.

RECREATION CENTER

The Recreation Center has perhaps the most complicated HVAC systems, but the most primitive controls. The controls are all-pneumatic and were installed original with the building in 1983. The controls are in poor condition. Many control function are no longer operational and much of the equipment is operated in manual settings.

SERVICENTER

The ServiCenter includes the main building with offices, garage bays and shops, along with a number of outbuildings that provide storage space, office space, and shop space. Controls are local electric. For instance, individual line voltage or low voltage thermostats control gas fired suspended unit heaters, IR heaters, and heating/cooling packaged DX units. There are no temperature setbacks. The boiler is controlled by an aquastat control. There is no programming or setback capability.

ACOMA STATION AND TEJON STATION

In Acoma and Tejon, controls are local electric. Individual low voltage thermostats control gas fired suspended unit heaters and heating/cooling packaged DX units. There are no temperature setbacks. The boiler is controlled by an aquastat control. There is no programming or setback capability.

MALLEY SENIOR CENTER

The Malley center has a mix of packaged heating and cooling equipment. Local line voltage or low voltage thermostats control most of the equipment. There is no programming capability. There are two pre-fabricated penthouses which contain 10 gas heating/DX cooling packaged split systems. Automated Logic DDCs control these 10 systems. The controllers are stand-alone, however, and do not communicate with an integrated building wide EMS.

BROKEN TEE GOLF COURSE

At Broken Tee controls are local electric. Individual low voltage thermostats control heating/cooling packaged DX units and there are some gas fired suspended unit heaters in maintenance shops. There is no programming or setback capability.

B. Description of Equipment

Ameresco proposes to install integrated energy management and control systems at all City buildings included in this project. The new control systems will be the latest version DDC from Alerton or approved equal. The new control systems will include all HVAC equipment controllers, sensors, actuators, and operator software to provide complete and fully functional HVAC control systems for each building. The new controls will be accessible through the City intranet so that operators will be able to access any building from any computer on the City network. The summary of the control points list to be implemented at each building is included in the appendices.

The new control systems will allow for energy savings through optimized control of all HVAC equipment, through night time temperature setbacks, and through ventilation control at select locations.

ECM-14: WALL & ROOF INSULATION AND WINDOW REPLACEMENTS & REPAIR

A. Existing Conditions

The Safety Services building was constructed without wall insulation. A number of walls, particularly north facing walls, have experienced frost formation on the interior wall surfaces during cold weather. The upper walls of the Servicenter building have 6-inch vinyl faced fiberglass insulation. Some of the insulation is missing or damaged. The ServiCenter also has a number of single pane windows and some double pane windows that are in poor condition.

B. Description of Equipment

At the Safety Services building, Ameresco proposes to install the Barricade R-12 system from OVRx or an approved equal. The OVRx Barricade system is a prefabricated insulating panel that consists of an R-12 layer of Styrofoam insulation, bonded to 0.5-inch OSB. The panels are 2 by 8 feet and are fastened to the wall with masonry screws. Finish sheetrock can be screwed directly to the installed panels.

At the ServiCenter main building in the high bay areas, Ameresco proposes to re-insulate areas with damaged or missing insulation with R-21 6-inch vinyl faced fiberglass insulation. At the ServiCenter main building office areas, Ameresco proposes to replace 10 existing single pane windows and to caulk and reseal three single pane windows with failed seals.

ECM-19: WATER CONSERVATION

A. Existing Conditions

Sanitary fixtures (toilets, urinals, lavatory faucets, kitchen scullery wands) in city buildings are a mix of standard flow and low flow fixtures. Ameresco surveyed city buildings and found that a number of city buildings have older domestic plumbing fixtures that use more water than new fixtures. Table C19.1 shows an inventory of existing standard flow fixtures at each building.

Table C19.1: Existing Standard Flow Sanitary Water Fixtures

Building	Toilets (3.5 gpf)	Urinals (2.0 gpf)	Lavatories (2.2 gpm)	Showers (2.5 gpm)	Kitchen Rinse Wand (5.0 gpm)
Civic Center	0	0	31	0	0
ServiCenter	6	2	5	4	0
Safety Services	8	3	10	6	0
Jefferson	4	1	4	6	0
Fox St Annex	2	0	2	0	0
Acoma	3	1	3	3	0
Tejon	3	1	4	3	0
Malley	6	3	4	4	1
Recreation Center	10	3	11	14	0
Broken Tee	6	1	6	2	1
Totals	53	16	85	42	2

B. Description of Equipment

Ameresco proposes to replace existing standard flow toilets, urinals, lavatory aerators, and kitchen rinse wands, one-for-one, with low flow models. For toilets, Ameresco will replace the entire toilet including the bowl and tank or flushometer valve to match existing equipment. For urinals, Ameresco will replace

the urinal and flushometer. For lavatories, Ameresco will replace only the aerator. For showers, Ameresco will replace only the shower head, except at the Jefferson Street Fire Station. The existing shower control valves are prone to failure and Englewood maintenance personnel have stated that the valves are expensive to repair and that replacement parts are becoming more difficult and costly to obtain. In this instance, Ameresco will replace the showerheads and the shower control valves. For kitchen rinse wands, Ameresco will replace the entire wand.

New equipment will have the following performance specifications:

- Toilets: MaP test score of 600 or greater.
- Toilets: 1.6 gpf
- Urinals: 1 gpf
- Lavatories Aerators: 1 gpm
- Showers: 1.8 gpm (pressure compensating)
- Kitchen Rinse Wand: 2.5 gpm

The new fixtures will meet user needs, while using significantly less water and thermal energy.

ECM-20: LIGHTING RETROFITS

Ameresco's strategy is to standardize the proposed lighting system whenever practical. This measure will retrofit three and four lamp troffer fixtures with a reflective insert, new 28-watt lamps and electronic ballast. The fixture inserts are constructed of 95 percent specular reflective material. Ballast output will be tailored to the specific applications. Refer to the appendices for the specific work to be performed.

Ameresco will provide extended life, "800" series, 28-watt, low mercury T8 lamps having a color temperature of 3400°K. The lamps will be used in all applications where 4-foot-long, straight lamps are installed.

Most acrylic recessed fixtures containing four T8 lamps will receive a 95 percent specular reflectorized insert in conjunction with the premium T8 lamps and ballasts identified above.

New high efficient compact fluorescent lamps will replace interior incandescent and halogen lamps in the common areas. A few advantages of compact fluorescent light sources over other sources are significant energy savings, improved color rendition, better lumen maintenance, and reduced color shift over the lamp life.

Interior HID fixture types will be retrofitted with new high efficient HID technology or new fluorescent technology. Incandescent and fluorescent exit signs will be replaced with new LED exit signs with battery back up.

Building Name	Location	Fixture Description	Fixture Type	Qty	Fixture Description	Fixture Qty	Watts	Existing Control Description	Control Type	Control Qty	Control % Savings
Civic Center	Dyer Office Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Dyer Office Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Dyer Office Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Mezzanine Mez (37)	2L F T8 VBL	dirty (Preferred)	12	2L F T8 2Pin HLG 9W LAMP ONLY	12	32X	NO EXISTING	none	0	0%
Civic Center	Storage Mez (37)	2L F T8 VBL	dirty (Preferred)	12	2L F T8 2Pin HLG 9W LAMP ONLY	12	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Kitchen Mez (37)	2L F T8 VBL	dirty (Preferred)	14	2L F T8 2Pin HLG 9W LAMP ONLY	14	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Office Mez (37)	2L F T8 VBL	white	3	2L F T8 2Pin LINT FOR KIT	3	32X	NO EXISTING	none	0	0%
Civic Center	Office Studio Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Open Office Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Open Office Pedestaller (37)	2L F T8 VBL	dirty (Preferred)	1	2L F T8 2Pin HLG 9W LAMP ONLY	1	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Mechanical Mez (37)	32W TC CANDELABRA INCANDESCENT	Track Head	2	32W COMPACT FLUOR.	2	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Office Mez (37)	32W TC CANDELABRA INCANDESCENT	Track Head	2	32W COMPACT FLUOR.	2	32X	NO EXISTING	none	0	0%
Civic Center	Office Mez (37)	32W TC CANDELABRA INCANDESCENT	recess	2	13W COMPACT FLUOR.	2	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Office Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Office Mez (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Office Mez (37)	32W TC CANDELABRA INCANDESCENT	Track Head	12	32W COMPACT FLUOR.	12	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Office Mez (37)	32W TC CANDELABRA INCANDESCENT	recess	6	13W COMPACT FLUOR.	6	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Conference Mez (37)	2L F T8 VBL	dirty (Preferred)	4	2L F T8 2Pin HLG 9W LAMP ONLY	4	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Kitchen Mezz (37)	2L F T8 VBL	dirty (Preferred)	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Dyer Office Mez (37)	2L F T8 VBL	bad ballasts	2	2L F T8 2Pin HLG 9W	2	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Dyer Office Mez (37)	2L F T8 VBL	white	4	2L F T8 2Pin LINT FOR KIT	4	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Office Mez (37)	32W COMPACT HARDWIRED FLUOR.	recess	5	NO EXISTING	5	32X	NO EXISTING	none	0	0%
Civic Center	Storage Ok (37)	2L F T8 VBL	white	8	2L F T8 2Pin LINT FOR KIT	8	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Hall H (37)	32W COMPACT HARDWIRED FLUOR.	recess	4	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Bath Mezz (37)	2L F T8 VBL	white	6	2L F T8 2Pin LINT FOR KIT	6	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium (37)	32W TC CANDELABRA INCANDESCENT	track head	32	32W COMPACT FLUOR.	32	32X	NO EXISTING	none	0	0%
Civic Center	Bath Womens (37)	32W TC CANDELABRA INCANDESCENT	Track head	18	32W COMPACT FLUOR.	18	32X	NO EXISTING	none	0	0%
Civic Center	Bath Womens (37)	32W TC CANDELABRA INCANDESCENT	Track head	6	32W COMPACT FLUOR.	6	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	32W TC CANDELABRA INCANDESCENT	Track head	6	32W COMPACT FLUOR.	6	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	32W TC CANDELABRA INCANDESCENT	Track head	6	32W COMPACT FLUOR.	6	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	32W HC HALOGEN	Track	6	NO EXISTING	2	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	2L F T8 VBL	white	2	2L F T8 2Pin LINT FOR KIT	2	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	2L F T8 VBL	white	2	2L F T8 2Pin LINT FOR KIT	2	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	2L F T8 VBL	white	2	2L F T8 2Pin LINT FOR KIT	2	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	13W COMPACT HARDWIRED	recess	2	NO EXISTING	2	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	2L F T8 VBL	white	2	2L F T8 2Pin LINT FOR KIT	2	32X	NO EXISTING	none	0	0%
Civic Center	Auditorium Hanover Hall (37)	32W TC CANDELABRA INCANDESCENT	recess	3	13W COMPACT FLUOR.	3	32X	NO EXISTING	none	0	0%
Civic Center	Mechanical Mez (37)	32W TC CANDELABRA INCANDESCENT	recess	2	13W COMPACT FLUOR.	2	32X	NO EXISTING	none	0	0%
Civic Center	Storage Fan Mez (37)	2L F T8 VBL	white	4	2L F T8 2Pin LINT FOR KIT	4	32X	NO EXISTING	none	0	0%
Civic Center	Hair Stylist (37)	32W COMPACT HARDWIRED FLUOR.	recess	4	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Closet Maintenance (37)	2L F T8 VBL	white	8	2L F T8 2Pin LINT FOR KIT	8	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Lobby Entry (37)	32W COMPACT HARDWIRED FLUOR.	recess	4	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Lobby Toilet Bath (37)	2L F T8 VBL	white	4	2L F T8 2Pin LINT FOR KIT	4	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Storage Remodel (37)	13W COMPACT HARDWIRED	recess	42	NO EXISTING	2	32X	NO EXISTING	none	0	0%
Civic Center	Bath Womens (37)	13W COMPACT HARDWIRED	recess	4	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Bath Womens (37)	32W TC CANDELABRA INCANDESCENT	Track head	20	32W COMPACT FLUOR.	20	32X	NO EXISTING	none	0	0%
Civic Center	Bath Mens (37)	2L F T8 VBL	bad ballasts	3	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Bath Mens (37)	2L 32W COMPACT HARDWIRED FLUOR.	recess	18	NO EXISTING	4	32X	NO EXISTING	none	0	0%
Civic Center	Lobby 2Nd Floor (37)	13W COMPACT HARDWIRED	recess	3	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Lobby 2Nd Floor (37)	32W TC CANDELABRA INCANDESCENT	Track head	32	32W COMPACT FLUOR.	32	32X	NO EXISTING	none	0	0%
Civic Center	Lobby 2Nd Floor (37)	32W COMPACT HARDWIRED FLUOR.	recess	3	NO EXISTING	3	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Lobby 2Nd Floor (37)	2L F T8 VBL	white	6	2L F T8 2Pin LINT FOR KIT	6	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Lobby 2Nd Floor (37)	32W COMPACT HARDWIRED FLUOR.	recess	3	NO EXISTING	3	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Lobby 2Nd Floor (37)	2L F T8 VBL	white	6	2L F T8 2Pin LINT FOR KIT	6	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Lobby 2Nd Floor (37)	32W COMPACT HARDWIRED	recess	37	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Hall H (37)	32W TC CANDELABRA INCANDESCENT	Track head	12	32W COMPACT FLUOR.	12	32X	NO EXISTING	none	0	0%
Civic Center	Bath Women (37)	32W TC CANDELABRA INCANDESCENT	recess	4	13W COMPACT FLUOR.	4	32X	NO EXISTING	none	0	0%
Civic Center	Bath Women (37)	2L F T8 VBL	white	7	2L F T8 2Pin LINT FOR KIT	7	32X	NO EXISTING	none	0	0%
Civic Center	Bath Mens (37)	2L F T8 VBL	bad ballasts	3	2L F T8 2Pin HLG 9W	3	32X	NO EXISTING	none	0	0%
Civic Center	Bath Mens (37)	2L F T8 VBL	bad ballasts	2	2L F T8 2Pin HLG 9W	2	32X	NO EXISTING	none	0	0%
Civic Center	Hall TR Floor (37)	32W COMPACT HARDWIRED FLUOR.	recess	14	NO EXISTING	2	32X	NO EXISTING	none	0	0%
Civic Center	Lobby TR Floor (37)	2L F T8 VBL	bad ballasts	3	2L F T8 2Pin HLG 9W	3	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Lobby TR Floor (37)	2L F T8 VBL	bad ballasts	3	2L F T8 2Pin HLG 9W	3	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Luxury Remodeling Door (37)	2L F T8 VBL	bad ballasts	2	2L F T8 2Pin HLG 9W	2	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Closet Maintenance (37)	2L F T8 VBL	bad ballasts	8	2L F T8 2Pin HLG 9W	8	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Lower Office Lab Alcove (37)	2L F T8 VBL	bad ballasts	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Open Office (37)	2L F T8 VBL	bad ballasts	8	2L F T8 2Pin HLG 9W LAMP ONLY	8	32X	OCC SENSOR DPDT 1SAME	double switch 1 gang	1	30%
Civic Center	Hall (37)	2L F T8 VBL	bad ballasts	3	2L F T8 2Pin HLG 9W LAMP ONLY	3	32X	NO EXISTING	none	0	0%
Civic Center	Office 113 (37)	2L 32W COMPACT HARDWIRED FLUOR.	dirty	3	NO EXISTING	3	32X	NO EXISTING	none	0	0%
Civic Center	Office 114 (37)	2L F T8 VBL	white	2	2L F T8 2Pin HLG 9W LAMP ONLY	2	32X	NO EXISTING	none	0	0%
Civic Center	Open Office 111 (37)	2L F T8 VBL	white	7	2L F T8 2Pin HLG 9W LAMP ONLY	7	32X	NO EXISTING	none	0	0%
Civic Center	Conference 110 (37)	2L F T8 VBL	bad ballasts	7	2L F T8 2Pin HLG 9W LAMP ONLY	7	32X	NO EXISTING	none	0	0%
Civic Center	Storage 116A (37)	2L F T8 VBL	bad ballasts	7	2L F T8 2Pin HLG 9W LAMP ONLY	7	32X	NO EXISTING	none	0	0%
Civic Center	Open Office 116A (37)	2L F T8 VBL	bad ballasts	4	2L F T8 2Pin HLG 9W LAMP ONLY	4	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%
Civic Center	Closet 116A (37)	2L 32W COMPACT HARDWIRED FLUOR.	recess	16	NO EXISTING	4	32X	NO EXISTING	none	0	0%
Civic Center	Closet Maintenance (37)	2L F T8 VBL	bad ballasts	7	2L F T8 2Pin HLG 9W LAMP ONLY	7	32X	NO EXISTING	none	0	0%
Civic Center	Mechanical 118 (37)	2L F T8 VBL	white	24	2L F T8 2Pin HLG 9W LAMP ONLY	24	32X	NO EXISTING	none	0	0%
Civic Center	Mechanical 116A (37)	2L F T8 VBL	white	20	2L F T8 2Pin HLG 9W LAMP ONLY	20	32X	NO EXISTING	none	0	0%
Civic Center	Bath Mens (37)	2L F T8 VBL	bad ballasts	3	2L F T8 2Pin HLG 9W LAMP ONLY	3	32X	NO EXISTING	none	0	0%
Civic Center	Bath Women (37)	2L F T8 VBL	bad ballasts	8	2L F T8 2Pin HLG 9W LAMP ONLY	8	32X	OCC SENSOR WALLSWITCH 1SAME	switch 1 gang	1	30%

Civic Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	3120	[illegible]	[illegible]	1	30%
Civic Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	4	[illegible]	4	3120	[illegible]	[illegible]	1	30%
Civic Center	[illegible]	[illegible]	[illegible]	5	[illegible]	5	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	3120	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	3120	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	3120	[illegible]	[illegible]	1	30%
Civic Center	[illegible]	[illegible]	[illegible]	13	[illegible]	13	3120	[illegible]	[illegible]	1	30%
Civic Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	3120	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Civic Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	17	[illegible]	17	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	14	[illegible]	14	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	24	[illegible]	24	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	13	[illegible]	13	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	13	[illegible]	13	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	4	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	13	[illegible]	13	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	high bay	22	[illegible]	22	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	8760	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	3	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	3	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	32	[illegible]	32	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	22	[illegible]	22	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	14	[illegible]	14	[illegible]	[illegible]	[illegible]	1	30%
Malley Senior Center	[illegible]	[illegible]	[illegible]	4	NO RETROFIT	4	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	13	[illegible]	17	[illegible]	NO RETROFIT	none	0	0%
Malley Senior Center	[illegible]	[illegible]	[illegible]	8	NO RETROFIT	3	[illegible]	NO RETROFIT	none	0	0%
Safety Services	[illegible]	[illegible]	[illegible]	4	[illegible]	4	3120	NO RETROFIT	none	0	0%
Safety Services	[illegible]	[illegible]	[illegible]	13	[illegible]	13	3120	NO RETROFIT	none	0	0%
Safety Services	[illegible]	[illegible]	[illegible]	5	[illegible]	5	8760	NO RETROFIT	none	0	0%
Safety Services	[illegible]	[illegible]	[illegible]	7	[illegible]	7	3120	NO RETROFIT	none	0	0%
Safety Services	[illegible]	[illegible]	[illegible]	3	[illegible]	3	3120	[illegible]	[illegible]	1	30%

Building Name	Location	Fix Description	Fix Style	Fix Qty	Post Description	Post Qty	Hours	Control Description	Control Style	Control Qty	Control Savings
Safety Service	Mechanical 1 (ST)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Closet Maintenance (ST)	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Bath Rm (ST)	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Bath Rm (ST)	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Bath Rm (ST)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	12	[illegible]	12	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	Mechanical A/C (ST)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	11	[illegible]	11	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	14	[illegible]	14	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	6	[illegible]	6	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	5	[illegible]	5	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Kitchen (ST)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	12	[illegible]	12	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	12	[illegible]	12	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	28	[illegible]	28	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	[illegible]	1	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	NO RETRO	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Mechanical A/C (ST)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Closet Maintenance (ST)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	NO RETRO	none	0	[illegible]
Safety Service	Conference (ST)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETRO	none	0	[illegible]

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Safety Services	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Building Name	Location	Fix Description	Fix Mtg	Fix Qty	Fixt Description	Fixt Qty	Hours	Control Description	Control Style	Control Qty	Control % Savings
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	38	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	8	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	4	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	22	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	11	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	5	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	5	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	5	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	2	NO RETRO	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	2	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	4	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	8	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	12	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	5	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	14	NO RETRO	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	5	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
Englewood Recreation Center	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
[illegible]	[illegible]	[illegible]	[illegible]	44	[illegible]	44	[illegible]	NO RETRO	none	0	0%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	30%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
[illegible]	[illegible]	[illegible]	[illegible]	5	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
[illegible]	[illegible]	[illegible]	[illegible]	5	[illegible]	[illegible]	[illegible]	NO RETRO	none	0	0%
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Building Name	Fixture Location	Fixture Description	Fixture Type	Fixture Qty	Fixture Description	Fixture Qty	Fixture Watts	Proposed Fixture Description	Proposed Fixture Type	Proposed Qty	Proposed Watts
Xcel Hot Center	Lockers Storage (2ft)	2L 4' F34/T12	normal	3	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG normal	3	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Lockers Storage (2ft)	2L 4' F34/T12	normal	3	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG normal	3	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Lockers Storage (2ft)	2L 4' F34/T12	white	7	1L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG/RS/MBP/MAG	7	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Lockers Storage (2ft)	2L 4' F34/T12	natural light	7	1L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG/RS/MBP/MAG natural light	7	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Staff Rm (2ft)	2L 4' F34/T12	normal	3	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG normal	3	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Lounge Storage (2ft)	2L 4' F34/T12	high permanently	18	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	18	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Hall Storage (2ft)	2L 4' F34/T12	high permanently	4	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	4	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Storage Storage (2ft)	2L 4' F32/T12/RS/MBP/MAG	reduced dial	12	2L 4' F32/T12/RS/MBP/MAG/RS/MBP/MAG reduced dial	12	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Mechanical Room (1ft)	1SW INCANDESCENT/LP11	hallway	4	1SW INCANDESCENT/LP11	4	40W	NO REPORTED	none	0	0%
Xcel Hot Center	Conference Storage (2ft)	2L 4' F34/T12	high permanently	8	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	8	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Office Hallway (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	3	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	3	312C	OCCUPANCY/VACANCY SENSORS	switch 1 lamp	1	50%
Xcel Hot Center	Office Hallway (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	3	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	3	312C	OCCUPANCY/VACANCY SENSORS	switch 1 lamp	1	50%
Xcel Hot Center	Office Conference (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	4	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	4	312C	OCCUPANCY/VACANCY SENSORS	switch 1 lamp	1	50%
Xcel Hot Center	Hall Conference (2ft)	2L 13W INCANDESCENT/CFL	exit sign	3	3 WATT LUMINAIRE EXIT BATTERY	3	87EC	NO REPORTED	none	0	0%
Xcel Hot Center	Mens Wood (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	7	2L 4' F34/T12/RS/MBP/MAG	7	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Mens Pipe (2ft)	2L 4' F34/T12	normal	7	2L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG normal	7	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Conference Cold (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	8	2L 4' F34/T12/RS/MBP/MAG	8	312C	OCCUPANCY/VACANCY SENSORS	switch 1 lamp	1	50%
Xcel Hot Center	Staff Rm (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	7	2L 4' F34/T12/RS/MBP/MAG	7	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Open Office Lockers (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	4	2L 4' F34/T12/RS/MBP/MAG	4	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Office 2 (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	3	2L 4' F34/T12/RS/MBP/MAG	3	312C	OCCUPANCY/VACANCY SENSORS	switch 1 lamp	1	50%
Xcel Hot Center	Conference Cold (2ft)	2L 13W INCANDESCENT/CFL	exit sign	7	3 WATT LUMINAIRE EXIT BATTERY	7	87EC	NO REPORTED	none	0	0%
Xcel Hot Center	Mens Area (2ft)	4L 4' F32/T12/RS/MBP/MAG	natural use	12	4L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG natural use	12	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Mens Tank (2ft)	2L 4' F34/T12	white	2	1L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG	2	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Mens Tank (2ft)	1L 4' F32/T12/RS/MBP/MAG	reduced dial	8	1L 4' F34/T12/RS/MBP/MAG/RS/MBP/MAG reduced dial	8	312C	NO REPORTED	none	0	0%
Xcel Hot Center	Mens (2ft)	2L 13W INCANDESCENT/CFL	exit sign	7	3 WATT LUMINAIRE EXIT BATTERY	7	87EC	NO REPORTED	none	0	0%
Tepee Market	Cooler Hall (2ft)	1SW INCANDESCENT	hallway	1	1SW COMPACT FL	1	18W	NO REPORTED	none	0	0%
Tepee Market	Hall Entry (2ft)	1SW INCANDESCENT	sign light	1	1SW COMPACT FL	1	18W	NO REPORTED	none	0	0%
Tepee Market	Open Office Mens (2ft)	2L 4' F34/T12	white	4	1L 4' F34/T12/RS/MBP/MAG	4	312C	NO REPORTED	none	0	0%
Tepee Market	Cooler Office Assembly (2ft)	4L 8' F96/T12/HO	natural light	12	1L 4' F34/T12/RS/MBP/MAG	12	312C	OCCUPANCY/VACANCY SENSORS	double dual lamp	1	50%
Tepee Market	Mechanical Room (2ft)	2L 4' F34/T12	white	1	1L 4' F34/T12/RS/MBP/MAG	1	312C	NO REPORTED	none	0	0%
Tepee Market	Storage Cooler (2ft)	2L 4' F34/T12	white	1	1L 4' F34/T12/RS/MBP/MAG	1	312C	NO REPORTED	none	0	0%
Tepee Market	Hall Front (2ft)	1SW INCANDESCENT	sign light	1	1SW COMPACT FL	1	18W	NO REPORTED	none	0	0%
Tepee Market	Storage Cooler (2ft)	1SW INCANDESCENT	sign light	3	1SW COMPACT FL	3	20C	NO REPORTED	none	0	0%
Tepee Market	Cooler Office Offices (2ft)	1SW INCANDESCENT	sign light	3	1SW COMPACT FL	3	18W	NO REPORTED	none	0	0%
Tepee Market	Hall Offices (2ft)	1SW INCANDESCENT/LP11	sign light	3	1SW COMPACT FL	3	40W	NO REPORTED	none	0	0%
Tepee Market	Hall Offices (2ft)	2L 13W INCANDESCENT/CFL	security	5	1SW COMPACT FL	5	20C	NO REPORTED	none	0	0%
Tepee Market	Storage Cooler (2ft)	1SW INCANDESCENT	sign light	1	1SW COMPACT FL	1	20C	NO REPORTED	none	0	0%
Tepee Market	Hall N (2ft)	1SW INCANDESCENT	sign light	3	1SW COMPACT FL	3	18W	NO REPORTED	none	0	0%
Tepee Market	Open Office S (2ft)	2L 4' F34/T12	high use	2	2L 4' F34/T12/RS/MBP/MAG	2	312C	NO REPORTED	none	0	0%
Tepee Market	Hall M (2ft)	2L 4' F34/T12	high use	3	2L 4' F34/T12/RS/MBP/MAG	3	312C	NO REPORTED	none	0	0%
Tepee Market	Kitchen Power (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	7	2L 4' F34/T12/RS/MBP/MAG	7	312C	NO REPORTED	none	0	0%
Tepee Market	Office C (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	7	2L 4' F34/T12/RS/MBP/MAG	7	312C	NO REPORTED	none	0	0%
Tepee Market	Open Office Hall (2ft)	2L 13W INCANDESCENT/CFL	high permanently	13	1SW COMPACT FL	13	18W	NO REPORTED	none	0	0%
Tepee Market	Open Office Hall (2ft)	1SW INCANDESCENT	sign light	7	1SW COMPACT FL	7	18W	NO REPORTED	none	0	0%
Tepee Market	Open Office Lockers (2ft)	2L 4' F34/T12	natural light	3	1L 4' F34/T12/RS/MBP/MAG natural light	3	312C	NO REPORTED	none	0	0%
Tepee Market	Open Office Lockers (2ft)	1SW INCANDESCENT	sign light	7	1SW COMPACT FL	7	18W	NO REPORTED	none	0	0%
Tepee Market	Staff Rm (2ft)	4L 8' F96/T12/HO	natural light	3	2L 4' F34/T12/RS/MBP/MAG	3	312C	NO REPORTED	none	0	0%
Tepee Market	Staff Rm (2ft)	2L 4' F34/T12	natural light	2	1L 4' F34/T12/RS/MBP/MAG natural light	2	312C	NO REPORTED	none	0	0%
Tepee Market	Staff Rm (2ft)	1SW INCANDESCENT	sign light	3	1SW COMPACT FL	3	20C	NO REPORTED	none	0	0%
Tepee Market	Staff Rm (2ft)	2L 13W INCANDESCENT/CFL	security	3	1SW COMPACT FL	3	20C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Cold Storage (2ft)	2L 4' F34/T12	white	18	1L 4' F34/T12/RS/MBP/MAG	18	216C	OCCUPANCY/VACANCY SENSORS	double dual lamp	1	50%
Broken Tee Golf Course Clubhouse	Cooler Office Cold Storage (2ft)	2L 4' F34/T12	white	9	1L 4' F34/T12/RS/MBP/MAG	9	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Hall (2ft)	2L 4' F34/T12	white	1	1L 4' F34/T12/RS/MBP/MAG	1	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Mechanical Valve (2ft)	2L 4' F34/T12	white	3	1L 4' F34/T12/RS/MBP/MAG	3	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Dishwash (2ft)	2L 4' F34/T12	normal	4	1L 4' F34/T12/RS/MBP/MAG normal	4	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Food Prep (2ft)	2L 4' F34/T12	normal	7	1L 4' F34/T12/RS/MBP/MAG normal	7	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Prep (2ft)	2L 4' F32/T12/RS/MBP/MAG	low use / valve	2	2L 4' F34/T12/RS/MBP/MAG	2	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Bar (2ft)	2L 4' F34/T12	normal	3	1L 4' F34/T12/RS/MBP/MAG normal	3	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Bar (2ft)	1SW INCANDESCENT	sign light	4	1SW COMPACT FL	4	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Walk (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use / table	2	2L 4' F34/T12/RS/MBP/MAG	2	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Walk (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use / table	2	2L 4' F34/T12/RS/MBP/MAG	2	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Walk (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use / table	4	2L 4' F34/T12/RS/MBP/MAG	4	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Kitchen Rest (2ft)	1SW INCANDESCENT	sign dim / wall	8	1SW COMPACT FL DIM	8	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Open Office Dining (2ft)	1SW INCANDESCENT	sign dim / wall	13	1SW COMPACT FL DIM	13	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Open Office Dining (2ft)	1SW INCANDESCENT	ceiling fan	8	1SW COMPACT FL	8	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Personal Area (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	1	2L 4' F34/T12/RS/MBP/MAG	1	216C	OCCUPANCY/VACANCY SENSORS	double dual lamp	1	50%
Broken Tee Golf Course Clubhouse	Storage Hall (2ft)	2L 4' F34/T12	normal	7	1L 4' F34/T12/RS/MBP/MAG normal	7	312C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Conference Cold (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	3	2L 4' F34/T12/RS/MBP/MAG	3	312C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Conference Cold (2ft)	1SW INCANDESCENT	sign light	8	1SW COMPACT FL	8	18W	OCCUPANCY/VACANCY SENSORS	double dual lamp	1	50%
Broken Tee Golf Course Clubhouse	Conference Cold (2ft)	1CFL COMPACT HARDWIRED	sign light	3	NO REPORTED	3	18W	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Hall N (2ft)	2L 13W CFL COMPACT HARDWIRED	sign light	10	NO REPORTED	3	18W	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Pro Shop (2ft)	1SW COMPACT HARDWIRED	high level	3	NO REPORTED	3	18W	OCCUPANCY/VACANCY SENSORS	double dual lamp	1	50%
Broken Tee Golf Course Clubhouse	Cooler Office Pro Shop (2ft)	2L 4' F34/T12	white	7	1L 4' F34/T12/RS/MBP/MAG	7	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Pro Shop (2ft)	1SW COMPACT HARDWIRED	sign light	8	NO REPORTED	4	18W	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Pro Shop (2ft)	2L 4' F32/T12/RS/MBP/MAG	high permanently	3	2L 4' F34/T12/RS/MBP/MAG	3	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office Parlor (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	3	2L 4' F34/T12/RS/MBP/MAG	3	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Office Hall (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	3	2L 4' F34/T12/RS/MBP/MAG	3	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Cooler Office (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	7	2L 4' F34/T12/RS/MBP/MAG	7	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Office Warner (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	2	2L 4' F34/T12/RS/MBP/MAG	2	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Office Hall (2ft)	2L 4' F32/T12/RS/MBP/MAG	high use	3	2L 4' F34/T12/RS/MBP/MAG	3	216C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Storage Cooler (2ft)	2L 4' F34/T12	white	3	1L 4' F34/T12/RS/MBP/MAG	3	312C	NO REPORTED	none	0	0%
Broken Tee Golf Course Clubhouse	Storage Cooler (2ft)	2L 13W COMPACT HARDWIRED	sign light	8	NO REPORTED	3	18W	NO REPORTED	none	0	0%

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	13	[illegible]	12	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	2	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	3	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	2	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	13	[illegible]	13	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	11	[illegible]	11	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	11	[illegible]	11	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	1	20%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	2%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	7	[illegible]	7	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	1%
[illegible]	[illegible]	[illegible]	[illegible]	1	[illegible]	1

Aurora Water	Storage Supply (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Aurora Water	Outer Office Lobby (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Aurora Water	Outer Office Lobby (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Office Ca (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Bath W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office Hallway (CT)	[illegible]	[illegible]	12	[illegible]	12	[illegible]	[illegible]	1	8%
Fire Alfred Police Annex	Outer Office G (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office F (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Bath W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Office Corr (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Outer Office Ser (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Outer Office Tr Talk (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Office Counter (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Office C (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Bath W (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Hall H (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Hall H (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office Corr (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	0%
Fire Alfred Police Annex	Outer Office Ser (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	1	33%
Fire Alfred Police Annex	Repair Garage Mechanic (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%
Jefferson Shelter	Repair Garage Assistant (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Jefferson Shelter	Mechanical Stor (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Jefferson Shelter	Hall Entry (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Jefferson Shelter	Locker Men (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%
Jefferson Shelter	Locker Men (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Jefferson Shelter	Hall Gym Area (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Office Da (CT)	[illegible]	[illegible]	18	[illegible]	18	[illegible]	[illegible]	0	0%
Jefferson Shelter	Bath W (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Jefferson Shelter	Bath W (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Office Stor (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Jefferson Shelter	Bath Dk (CT)	[illegible]	[illegible]	2	[illegible]	2	[illegible]	[illegible]	0	0%
Jefferson Shelter	Bath Dk (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Office W (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Office Ass (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%
Jefferson Shelter	Office C (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Jefferson Shelter	Office C (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Corridor (CT)	[illegible]	[illegible]	13	[illegible]	13	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Office Ki (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Jefferson Shelter	Gym Office Ki (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Office C (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	1	33%
Allen Water Treatment Plant	Hall H (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Hall H (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Bath Mnd Room (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Bath Mnd Room (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Bath Mnd Room (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Bath Mnd Room (CT)	[illegible]	[illegible]	7	[illegible]	7	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	1	[illegible]	1	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Gym Area (CT)	[illegible]	[illegible]	12	[illegible]	12	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Outer Office [illegible] (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Bath Mnd Room (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Bath Mnd Room (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Storage Mnd Room (CT)	[illegible]	[illegible]	5	[illegible]	5	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Gym Office Down Area (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Pump Room (CT)	[illegible]	[illegible]	24	[illegible]	24	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Water Pump (CT)	[illegible]	[illegible]	7	[illegible]	7	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Stairs Kin (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Main Mnd Room (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Chlorinator Equipment (CT)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Chlorinator Equipment (CT)	[illegible]	[illegible]	7	[illegible]	7	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Chlorinator Equipment (CT)	[illegible]	[illegible]	3	[illegible]	3	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Treatment Rm (CT)	[illegible]	[illegible]	20	[illegible]	20	[illegible]	[illegible]	0	0%
Allen Water Treatment Plant	Mechanical Treatment Rm (CT)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	[illegible]	0	0%

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Alan Water Treatment Plant	Mechanical Treatment Fac (231)	[illegible]	ordinary	3	[illegible]	3	[illegible]	NO RETRO	none	0	0%
Alan Water Treatment Plant	Mechanical Treatment Fac (231)	[illegible]	[illegible]	28	[illegible]	28	[illegible]	NO RETRO	none	0	0%
Alan Water Treatment Plant	Mechanical Treatment Fac (231)	[illegible]	high bay	8	[illegible]	8	[illegible]	NO RETRO	none	0	0%
Alan Water Treatment Plant	Open Office Over Area (231)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	NO RETRO	none	0	0%
Alan Water Treatment Plant	Open Office Over Area (231)	[illegible]	[illegible]	8	[illegible]	8	[illegible]	NO RETRO	none	0	0%
Downtown Area Lighting	Historic Area Lighting (DC)	[illegible]	[illegible]	441	[illegible]	441	[illegible]	NO RETRO	none	0	0%
Downtown Area Lighting	Historic Area Lighting (DC)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	NO RETRO	none	0	0%
Windsor Bridge	Historic Area Lighting (DC)	[illegible]	[illegible]	24	[illegible]	24	[illegible]	NO RETRO	none	0	0%
Hampden Parkway	Historic Area Lighting (DC)	[illegible]	[illegible]	4	[illegible]	4	[illegible]	NO RETRO	none	0	0%
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A

ECM-21: LIGHTING CONTROLS RETROFITS

A. Existing Conditions

The lighting for the City is controlled by a combination of wall mounted switches mounted in rooms that control a variety of fixtures. Circuit breakers control lighting circuits' in most general areas including hallways. Exterior fixtures are controlled by a combination of photo cells and time clocks. .

B. Description of Equipment

Ameresco's strategy is to control and turn lights off when areas are not occupied wherever practical. In areas where occupancy patterns show that lighting is on while the space is not occupied, ceiling mounted ultrasonic occupancy sensors or wall mounted switches will be installed. The occupancy sensor will be capable of detecting presents in the control area and turning lights on. When the occupancy sensor detects the control area as being vacated and the adjustable time delay (15 seconds to 15 minutes) has elapsed, the lighting systems automatically switch off.

Rooms receiving new controls are listed in the tables for the lighting retrofit above.

CITY OF ENGLEWOOD / AMERESCO ENERGY EFFICIENCY OPEN HOUSE

The City of Englewood and Ameresco will host a public outreach event to promote energy efficiency awareness and to identify available grant, rebate, and incentive programs related to energy efficiency and renewable energy technology (and sustainability.)*

Representatives of Ameresco will attend the event. Representatives of,the Governor's Energy Office and Xcel Energy will be invited to attend as well. The representatives will provide information and materials related to their respective rebate and incentive programs.

Amresco will provide a display area for distribution of energy efficiency related print materials with representatives available to answer questions. If possible, timing could follow GEO's roll-out of their *Recharge Colorado* program.

Ameresco representatives will provide information on the City of Englewood project. Information similar to the display and Power Point presentation to City Council.

*Optional displays:

- City of Englewood Community Garden program
- Xeriscape Colorado
- DRCOG Ride Arrangers
- Others, as applicable

SCHEDULE B.
DESCRIPTION OF PREMISES; PRE-EXISTING EQUIPMENT INVENTORY

Facility Reference	Occupied Area (SF)
Acoma Street Station	4,851
Allen Water Treatment	40,000
Broken Tee Golf Course	12,450
Civic Center	139,086
Fox Street Annex	6,600
Malley Senior Center	24,255
Recreation Center	60,170
Safety Services/Jefferson Station	39,323
ServiCenter	43,785
Tejon Street Station	4,650
Pirates Cove	7,699
Total	**382,869**

Acoma Station
FACILITY DESCRIPTION

Acoma Fire Station is a 1½ story building with a passive solar design intended to provide partial heating of the truck bay. The facility was built in approximately 1983 and has one of the higher insulation levels of any city buildings constructed during this time period. The north half of the building as well as east and west facing walls are constructed of an 8-inch concrete block with 2 inches of rigid foam insulation and 4 inches of ribbed face block. The south end of the building which houses crew's quarters, office, and living space has 2- by 6-inch wooden stud walls with R-19 fiberglass batts and 4-inch ribbed concrete face brick. The roof is standing seam metal over sheathing and wooden rafters with 6 inches of fiberglass insulation. Glazing is double pane. The building is in good condition. The Acoma Fire Station facility is operational 24/7, 365 days a year.

BUILDING HVAC SYSTEMS

The fire station building is heated and cooled by three forced air systems.

Two systems serve the living quarters and each consists of a Trane vertical discharge furnace rated at 140,000 British thermal units per hour (BTU/h) input, coupled with a 5-ton direct expansion (DX) split air conditioning unit. The furnaces have rated efficiencies of 80 percent. The fans at both furnaces are the central air distribution system for the fire station

living quarters and run continuously providing a fixed minimum outdoor air flow for ventilation. Each furnace/DX system serves about half of the living space and is controlled by a programmable cooling/heating thermostat. The systems appear to be greatly oversized.

The apparatus bay and a number of work rooms along the north side of the building are heated by a horizontal discharge furnace mounted high on the east wall in the apparatus bay which operates based on the units thermostat heating set point.

LIGHTING SYSTEMS

The general lighting for Acoma Fire Station consists of fluorescent and incandescent lamp sources that are used in different styles of fixtures.

In the crew areas, the majority of fixtures contain 34-watt T12 fluorescent lamps and magnetic ballast combinations. The fixtures types include recessed small cell mini-cube troffers in the kitchen, office and dayroom and locker areas. Rest room/bath areas fixtures contain 32-watt T8 fluorescent lamps and electronic ballast combinations in wall mounted fixture types. Other fixtures and lamp combinations include interior fixtures that use incandescent and compact fluorescent lamps in a variety of fixture types. In the apparatus area metal halide high bay fixtures are used. The shop area fixtures contain 34-watt T12 fluorescent lamps and magnetic ballast combinations. The fixture types include industrial hooded strip and strip fixtures. Exterior fixtures consist of a combination of incandescent and high intensity discharge (HID) lamp sources that are used in different styles of fixtures.

PLUG LOAD EQUIPMENT

Plug load equipment includes typical household appliances such as a dishwasher, microwave, range, and television. There is also radio equipment and specialized battery powered firefighting that is plugged in and charging continuously. There is also a hose dryer that draws approximately 6 kW when operating.

PLUMBING SYSTEMS

Fixtures are standard flow with showers at 2.5 gallons per minute (gpm), lavatories at 2.2 gpm, and toilets at 3.5 gpf. All fixtures appear to be in good condition. Domestic hot water is generated in an 80-gallon center flue gas fired commercial water heater manufactured by State.

Civic Center

FACILITY DESCRIPTION

The Civic Center, which houses City Hall, Library, and Museum of Modern Art (MOA), opened in 2000. It had formerly been Foley's Department Store but was completely gutted and remodeled for its current use. The building is three stories with no basement. The first floor has the Library, main entrance lobby, and some city offices and maintenance areas.

The second floor holds City Council chambers, courtrooms, court offices, Hampden Hall performance space, and the MOA. The third floor holds most City administrative offices.

The building is constructed of steel framing with insulation, drywall and masonry construction. Exterior walls are pre-cast concrete panels, generally with 2 inches of rigid foam insulation and steel stud with sheetrock interior finish. Some areas have fiberglass batt insulation. The roof is a white low-e membrane with tapered foam insulation. Glazing is tinted double pane. There is also some mirrored glass block wall, some as building façade and some with light transmission into occupied spaces.

BUILDING HVAC SYSTEMS

The building is heated and cooled by six gas fired DX rooftop units. Each floor is zoned approximately in half, meaning that each floor is served by two RTUs. The RTUs are VAV manufactured by Trane, with inlet guide vanes and multiple stages of cooling and heating. Heating is through gas fired heating sections within the air handlers. Additionally, each floor has multiple VAV boxes with most boxes having staged electric reheat. Some boxes are fan powered with reheat. These boxes re-circulate a constant volume of air to the space. Liebert split systems serves the data center.

The building has a Trane Tracer Summit central energy management system (EMS). This central HVAC control system can monitor and control all HVAC functions including space temperature settings; scheduling, RTU control, and VAV box control. Although the system is capable of scheduling and night time temperature set-back, the City facilities personnel discussed with Ameresco the inability to meet the space temperature set-points in many areas of the building when the HVAC equipment was allowed to shut down or to reset space temperatures during the buildings non-operational hours. Therefore, the facilities HVAC units are allowed to run continuously at the day time occupied temperature settings 24/7, 365 days a year.

LIGHTING SYSTEMS

The general lighting for the Civic Center consists of 32-watt T8 fluorescent lamps and electronic ballast combinations, incandescent lamp sources, and compact fluorescent lamp sources.

The office and library area fixtures consist of 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed parabolic troffers, direct/indirect and recessed incandescent and compact fluorescent can fixtures. Corridor area fixtures consist of 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed parabolic troffers and recessed incandescent and compact fluorescent can fixtures. Exit signs are Light Emitting Diode (LED) type. Additional fixtures types are recessed compact fluorescent can fixtures. Rest room fixture types are 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed strip fixtures. Stairwell fixture types are wall mounted wrap type fixtures with 32-watt T8 fluorescent lamps and

electronic ballast combinations. Storage, shop and mechanical areas fixture types are strip, surface and recessed 32-watt T8 fluorescent lamps and electronic ballast combinations. Additionally these areas have recessed compact fluorescent can fixtures.

PLUG LOAD EQUIPMENT

Plug load equipment is primarily desktop PCs. There is also a small amount of domestic appliances such as refrigerators, coffee makers, and microwave ovens. The data centers and their auxiliary equipment consume approximately 14 percent of all electrical energy used on site.

PLUMBING SYSTEMS

Domestic fixtures are all recent low flow models except for lavatory aerators. Toilets are 1.6 gpf, and urinals are 1 gpf. Lavatory aerators are 2.2 gpm. Domestic hot water is generated in a number of small (approximately 6 gallons) point of use electric water heaters. Distributed water heating makes sense in a large building because domestic hot water piping is minimized and standby heat losses are also minimized. A drawback is that producing hot water with electricity is approximately twice as expensive as generating hot water with natural gas.

Broken Tee Golf Course

FACILITY DESCRIPTION

The Broken Tee Golf Course facilities include a number of dispersed buildings, the largest of which is the Clubhouse. A smaller maintenance office building and maintenance garage are also located on site.

The Clubhouse was extensively remodeled in 2003. An addition constructed at that time nearly doubled the size. The Clubhouse holds a full service commercial kitchen, a dining room, lounge, meeting/function space, the pro shop, a golf instruction area, offices, and public washroom facilities. The building is constructed of wood framing with insulation, drywall and masonry construction. The roof is predominantly pitched with roof shingles and an attic space that hold HVAC equipment. The attic is insulated with 6 inches of fiberglass batts; however, much of the insulation has been disturbed. The building is not sealed well and we noted many gaps and air pathways from the conditioned space to the unconditioned attic.

BUILDING HVAC SYSTEMS

The Clubhouse is heated and cooled by a number of split systems. Five systems consist of vertical discharge furnaces ranging in size from 60,000 BTU/h to 100,000 kBTU/h serve the Starter's Booth, Proshop, Offices, Foyer and Baths, and Clubroom. The furnaces are also the central air distribution fans for both heating and cooling and run continuously providing

a fixed minimum outdoor air flow for ventilation. Each furnace system is coupled with a remote air-cooled condensing unit and indoor evaporator coil. The Dining Room and Learning Center have small air handlers with remote air-cooled condensers, DX evaporator coils and duct furnaces. Finally, there is an indirect gas fired make up air unit with evaporative cooling section that provides tempered make-up air to the kitchen, and it is interlocked with the kitchen range hood.

The Maintenance Office has a single 7.5-ton ground mounted gas heating/DX cooling RTU. The Maintenance shop has a 3-ton gas heating DX cooling RTU and the maintenance bay is heated by a gas fired suspended unit heater.

Local thermostats control all systems. There is no centralized control system. City facilities personnel discussed with Ameresco the inability to meet the space temperature set-points in many areas of the clubhouse when the HVAC equipment was allowed to shut down or to reset temperatures during the buildings non-operational hours. Therefore, the clubhouse HVAC units are allowed to run continuously at the day time occupied temperature settings 24/7, 365 days a year.

LIGHTING SYSTEMS

The general lighting for Broken Tee Golf Course Clubhouse consists of fluorescent, incandescent and compact fluorescent lamp sources in different style fixtures.

The cart storage, mechanical, kitchen, pro shop, and offices area fixtures consist of 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixture types consist of strip, wrap, and acrylic troffers. Incandescent recessed can fixtures are also in use in the bar, dining office, conference room and storage areas. Compact fluorescent lamps types are also used in these areas. Low voltage track lighting is used in the golf shop area. Exterior fixtures consist of a combination of HID lamp sources that are used in different styles of fixtures.

PLUG LOAD EQUIPMENT

Kitchen equipment includes a walk-in refrigerator, walk-in freezer, reach-in refrigerators, vertical soft drink display cases, microwaves, mixers, coffee machine, commercial batch type ware washer and other appliances typically found in commercial kitchens. There are also PCs in staff offices, cash registers, and golf instructional audio/video equipment.

PLUMBING SYSTEMS

Fixtures are standard flow with showers at 2.5 gpm, lavatories at 2.2 gpm, and toilets at 3.5 gpf. All fixtures appear to be in good condition.

Fox Street Annex
FACILITY DESCRIPTION

The Fox Street Annex is a single story building occupied by the Professional Standards Bureau, Code Enforcement, the police department weight room, and a number of storage areas. About two thirds of the building is office space with the remainder made up of storage and the weight room. The building is masonry block construction with a metal roof over metal roof trusses. There is generally 6 inches of fiberglass insulation in the roof. Glazing is double pane in aluminum frames. There are also several translucent fiberglass skylights that provide day lighting to the storage rooms and weight room.

BUILDING HVAC SYSTEMS

Office areas are heated and cooled by three gas/electric RTUs manufactured by Lennox. The units are old, original to the building and are in fair condition. There are two nominal 3-ton units and one nominal 4-ton unit. All of the units operate with a fixed minimum outdoor air (no economizers). Control is through local thermostats with heating/cooling/auto, and fan only functions. Based on an examination of utility billings and our heating and cooling load analysis, it is likely that the units do not operate continuously. Since thermostat settings and fan operation are manually set, it is likely that the unit are started and stopped periodically. While this has the beneficial energy effect of not having the fan operate continuously, it also means that units could be left operating over night or on weekends when the building is vacant.

The remainder of the building is not currently air-conditioned. Gas fired suspended unit heaters provide heat to the weight room and storage areas.

LIGHTING SYSTEMS

The general lighting for Fox Street Police Annex consists of a combination of fluorescent and incandescent lamp sources that are used in different style fixtures.

The administration area, the majority of fixtures contain a combination of 32-watt T8 fluorescent lamps and electronic ballast and 34-watt T12 fluorescent lamps and magnetic ballast combinations. The fixtures types are recessed acrylic troffers. Corridors fixture types include recessed acrylic troffers, recessed strip fixtures, recessed incandescent can fixtures and incandescent exit signs. Rest rooms fixture types include surface mounted fluorescent fixture types. Storage and mechanical spaces have surface mounted strip fluorescent fixtures. Exterior fixture types include high pressure sodium flood and metal halide recessed can and flood fixtures.

PLUG LOAD EQUIPMENT

Plug load equipment includes office PCs, printers, photocopier and domestic appliances such as a refrigerator, microwave oven, and coffee maker.

PLUMBING SYSTEMS

Fixtures are standard flow with showers at 2.5 gpm, lavatories at 2.2 gpm, and toilets at 3.5 gpf. All fixtures appear to be in good condition. Domestic hot water is generated in a 40-gallon gas fired water heater. DHW use is low, consisting mainly of hand washing.

Malley Senior Center

FACILITY DESCRIPTION

The Malley Senior Center is a day use recreation facility for City of Englewood senior citizens. The building holds a small commercial kitchen, ballroom, meeting rooms, game room, library, administrative offices, two classrooms, a computer-learning center, a fitness room, a gymnasium, and public washroom facilities. The building is mostly single story with high ceiling areas in the gymnasium and fitness center. Building walls are masonry block construction with face brick and rigid foam insulation. There is a membrane roof with rigid foam insulation over steel decking and steel roof trusses. A major expansion and facility upgrade was completed in 2003, approximately doubling the building square footage.

BUILDING HVAC SYSTEMS

Heating and cooling are provided by a number of rooftop systems. The original structure which holds the Grand Ballroom, the smaller Pike's Peak Ballroom, offices, restrooms, game room and kitchen is heated and cooled by a series of packaged DX split systems coupled with horizontal discharge furnaces. There are 10 individual systems that have been centralized in two prefabricated mechanical room pent houses. The systems consist of Lennox horizontal discharge high efficiency condensing gas fired furnaces combined with indoor evaporator coils and roof mounted air-cooled condensers. The furnaces act as the air system fans and run continuously providing a fixed minimum outdoor air flow for ventilation.

The pre-fabricated systems include advanced direct digital controls (DDC) from Automated Logic. The systems are capable of advanced control function, unit scheduling and night time temperature set-back, but the units run continuously. City facilities personnel discussed with Ameresco the inability to meet the space temperature set-points in many areas of the center when the HVAC equipment was allowed to shut down or to reset temperatures during the buildings non-operational hours. Therefore, the center HVAC units are allowed to run continuously at the day time occupied temperature settings 24/7, 365 days a year.

The new section housing the fitness center, classrooms, computer lab, gymnasium, and locker rooms is heated and cooled by two Lennox gas/electric RTUs. RTU-2, a nominal ten-ton unit provides heating and cooling to the gym. RTU-1, a nominal 15-ton unit provides heating and cooling to the remainder of the spaces. RTU-1 is controlled as a constant volume-reheat system. There are five electric duct coils that provide reheat and

heating to five zones. Local thermostats control both RTUs. They are equipped with outdoor air economizers and modulating gas burners.

LIGHTING SYSTEMS

The general lighting for Malley Senior Center consists of fluorescent and incandescent lamp sources that are used in different style fixtures.

The administration area, the majority of fixtures contain 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed acrylic and wrap fixtures. Corridors fixture types include recessed acrylic troffers, recessed strip fixtures, recessed compact fluorescent and incandescent can fixtures. Exercise area fixture types include metal halide and incandescent high bay fixtures. Rest room/shower areas fixture types include direct/indirect and surface mounted fluorescent fixture types. Recessed compact fluorescent can fixture types were present in the shower areas and entrances. Classroom fixture types include direct/indirect. Gymnasium fixtures contain compact fluorescent high bay type fixtures. Storage and mechanical spaces have surface mounted strip fluorescent fixtures. Exterior fixture types include high pressure sodium flood and metal halide recessed can and flood fixtures.

PLUG LOAD EQUIPMENT

The Malley Center has a small commercial kitchen with a vertical reach-in cooler, a vertical reach-in freezer, an under counter refrigerator, ice machine, a small commercial batch wash dish machine, microwave ovens, electric warming tables, and a coffee maker. The kitchen is not used for regular meal service. Meals are currently prepared off site and delivered on disposable dinner ware. The kitchen is used primarily to warm pre-cooked meals and for functions. The Center management has plans to begin full kitchen operations within the next year. This will increase energy and water use at the facility.

Other plug loads include office PCs, printers, a photocopier, fifteen PCs in the computer instruction lab, and various pieces of exercise equipment in the fitness room. There are televisions in the game room.

PLUMBING SYSTEMS

Domestic water fixtures are a mix of old standard flow, and new low flow fixtures. The bathrooms in the original structure have 3.5-gpf toilets and 2.2-gpm lavatory aerators. The fixtures in the new addition are 1.6-gpf toilets, 1-gpm urinals, 2.2-gpm lavatory aerators, and 2.5-gpm shower heads. There is also a standard kitchen rinse wand that has a flow rate of approximately 5 gpm. Domestic hot water is generated in two natural gas fired center flue water heaters manufactured by State Industries. There is one water heater for the original building and one for the new addition. The new addition water heater has a stack damper while the original heater does not.

Safety Services and Jefferson Street Fire Station

FACILITY DESCRIPTION

Safety Services and the Jefferson Street Fire Station is a single complex that holds Englewood's main police and downtown fire stations, along with police and fire administrative offices, the city lock-up, and city court. The building is a combination of single (some with cathedral ceilings) and two stories. Building walls are single course 6-inch brick with no insulation. Pitched roofs are cement tile over plywood sheathing and steel stringers with minimal insulation. There are also some areas of ballasted built-up roofing. Both single pane and double pane glazing is present. Safety Services and the Jefferson Street Fire Station facility is operational 24/7, 365 days a year.

BUILDING HVAC SYSTEMS

Originally, the building had a water loop heat pump system with over a dozen water source heat pumps, a central boiler, and a cooling tower. The building mechanical systems were upgraded approximately 6 years ago. The individual zone heat pumps were replaced by 13 gas/electric RTUs, most ground mounted, and six DX split systems with high efficiency furnaces with remote condensing units. Remnants of the heating water system remain. There are four RTUS located in the building courtyard that provide space heating through hot water coils located in the supply air ductwork. There are also suspended hot water unit heaters in the Jefferson apparatus bay and in the police garage.

All of the new RTUs feed in to existing ductwork.

There is a central building EMS; however, it was installed in the 1980s and has failed. The "smart" room temperature sensors are no longer manufactured and as they fail, facility staff has been replacing them with standard thermostats. Most of the building is occupied 24 hours per day, 7 days per week (24/7), except the Fire Department administrative areas and in the court rooms. Night set-back temperatures are not utilized in either of the areas.

LIGHTING SYSTEMS

The general lighting for the Safety Service consists of 34-watt T12 fluorescent lamps and magnetic ballast combinations, 32-watt T8 fluorescent lamps and electronic ballast combinations, incandescent lamp sources, compact fluorescent lamp sources and HID lamp sources.

The office area fixtures consist of a combination of 34-watt T12 fluorescent lamps and magnetic ballast combinations and 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed parabolic and acrylic troffers and recessed incandescent and compact fluorescent can fixtures. Corridor area fixtures consist of 32-watt T8 fluorescent lamps and electronic ballast combinations and compact fluorescent lamp sources. The fixtures types are recessed parabolic troffers, wrap, direct/indirect and

recessed compact fluorescent and drum fixtures. Exit signs are incandescent type. Classroom fixture types are 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed acrylic troffers. Locker room area fixture types are 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are wrap fixtures. Additional fixtures types are recessed incandescent and compact fluorescent can fixtures. Rest room/showers fixture types are 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are wrap and strip fixtures. Shower areas have recessed compact fluorescent can fixtures. Stairwell fixture types are wall mounted wrap type fixtures with 32-watt T8 fluorescent lamps and electronic ballast combinations. Storage, shop and mechanical areas fixture types are strip, surface and recessed 32-watt T8 fluorescent lamps and electronic ballast combinations. Exterior lighting consists of HID lamp sources.

PLUG LOAD EQUIPMENT

The Safety Services building has office PCs, printers and photocopiers. There are also domestic appliances such as a refrigerator, microwave, and coffee maker. The Communications Center and its UPS system draw a considerable load. In the Jefferson Street Fire Station, plug load equipment includes typical household appliances such as a dishwasher, microwave, range, and television. There is also radio equipment and specialized battery powered firefighting that is plugged in and charging continuously. There is also a hose dryer that draws approximately 6 kW when operating.

PLUMBING SYSTEMS

Fixtures are standard flow with showers at 2.5 gpm, lavatories at 2.2 gpm, and toilets at 3.5 gpf. The Speilman shower valves in Jefferson Station are prone to failure. Repair parts are in limited supply. These valves should be replaced with any domestic fixture upgrade. Domestic hot water is produced in a 100-gallon heater manufactured by State and located in the Safety Services mechanical room. The water heater is a low efficiency center flue design, but it does have a stack damper.

ServiCenter

FACILITY DESCRIPTION

The Servicenter is headquarters for the City's maintenance and operations staff. The facility consists of a the Main Building which holds administrative offices, City vehicle maintenance shops, building maintenance shops, parks and recreation maintenance shops, and traffic signal maintenance shops. There are also a number of out buildings including storage buildings, welding shops, a car wash, and road vehicle storage. The humane society animal shelter is also located on this site.

The Main Building has two wings separated by administrative offices. On the north side of the building are the parks and recreation, traffic, and building maintenance shops. The south side has all the vehicle maintenance and repair garages. The center of the building has two floors of office space, central parts storage, and the lunchroom. The wings of the building are standard steel building construction with steel posts and roof trusses, steel skin walls and roof, and six inches of fiberglass insulation. The first 5 feet of wall is poured concrete. The center office section is concrete block construction with steel roof structure. Both double- and single-pane glazing exists.

Some of the wall and ceiling insulation in the maintenance shops and garage has been damaged. We noted some areas where the vapor barrier had been torn off and the underlying insulation was damaged or had become soaked with oil vapor. This condition reduces the effectiveness of the insulation somewhat.

Other buildings on site are predominantly steel building construction or concrete block construction with steel roofs.

BUILDING HVAC SYSTEMS

The Main Building HVAC systems include a heating hot water boiler system with baseboard radiators and suspended unit heaters, gas fired suspended unit heaters, low intensity radiant heaters, high intensity radiant heaters, gas/electric RTUs and a split system DX with natural gas fired furnaces. The building was originally heated by a hot water system that had several large air handlers with hot water coils. That system was replaced and heating was decentralized.

In the north end of the building, gas fired suspended unit heaters were installed. Over the years, some of the unit heaters have been replaced or abandoned in favor of both high intensity and low intensity gas fired radiant heaters. In the south end of the building, heating is almost exclusively low intensity gas fired radiant. The original 1.5-million-British-thermal-unit-per-hour (MMBTU/h) gas fired boiler still exists on site, but the load it serves has been reduced to less than 100,000 BTU/h in the form of baseboard radiation in some offices and the stair well, two unit heaters in the south maintenance area, and a hot water fan coil in the paint shed.

The office areas are heated and cooled by three RTUs and a DX split system. The DX split consists of two Trane vertical discharge furnaces coupled with a remote air-cooled condenser and indoors evaporator coil. The furnaces are also the central air distribution fans for both heating and cooling and run continuously providing a fixed minimum outdoor air flow for ventilation. This system serves the lunchroom,conference room and second floor offices. The furnaces have rated efficiencies of 80 percent.

There are two new Trane roof mounted gas electric RTUs that serve offices on the first floor and the vehicle maintenance offices. There is also one older York RTU mounted at the side of the building that serves first floor offices and the reception area.

The remote buildings are heated and cooled by a mix of systems. Office areas of the road equipment garage and the animal shelter are heated and cooled by small gas/electric RTUs. Garage bays are generally heated by gas fired suspended unit heaters. A number of buildings are used sporadically or only for storage. Some of the buildings are not heated and others are heated with gas fired unit heaters just to prevent freezing.

There is no central control system. Units are controlled by individual thermostats. City facilities personnel discussed with Ameresco the inability to meet the space temperature set-points in many areas of the ServiCenter when the HVAC equipment was allowed to shut down or to reset temperatures during the buildings non-operational hours. Therefore, the ServiCenter HVAC equipment is allowed to run continuously at the day time occupied temperature settings 24/7, 365 days a year.

LIGHTING SYSTEMS

The general lighting for the Servicenter consists of 34-watt T12 fluorescent lamps and magnetic ballast combinations, 32-watt T8 fluorescent lamps and electronic ballast combinations, incandescent lamp sources, compact fluorescent lamp sources and HID lamp sources.

The office area fixtures consist of a combination of 34-watt T12 fluorescent lamps and magnetic ballast combinations and 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed parabolic and acrylic troffers and recessed incandescent and compact fluorescent can fixtures. Corridor area fixtures consist of 32-watt T8 fluorescent lamps and electronic ballast combinations, incandescent and compact fluorescent lamp sources. The fixtures types are recessed parabolic troffers wrap and recessed compact fluorescent fixtures. Exit signs are incandescent type. Shop fixture types are HID lamp combinations. The fixtures types are high bays. Locker room area fixture types are 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are wrap fixtures. Additional fixtures types are recessed incandescent and compact fluorescent can fixtures. Rest room/showers fixture types are 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are wrap and strip fixtures. Stairwell fixture types are wrap type fixtures with 32-watt T8 fluorescent lamps and electronic ballast combinations. Storage, shop and mechanical areas fixture types are strip, surface and recessed 32-watt T8 fluorescent lamps and electronic ballast combinations and incandescent jar and keyless fixture types. Exterior lighting consists of HID lamp sources.

PLUG LOAD EQUIPMENT

Along with the typical office loads from PCs, copiers, and domestic appliances, there are a number of industrial systems. The Main Building has a 15-hp reciprocating air compressor with non-cycling refrigerated air dryer to provide shop air for vehicle maintenance. The vehicle bays also have electric/hydraulic vehicle lifts. Other electric consuming equipment includes numerous hand tools, welding, and a vehicle wash bay.

PLUMBING SYSTEMS

Fixtures are standard flow with showers at 2.5 gpm, lavatories at 2.2 gpm, and toilets at 3.5 gpf. All fixtures appear to be in good condition.

Recreation Center

FACILITY DESCRIPTION

The Recreation Center is a large indoor multi-use sports, health and fitness facility. The building is configured with an eight-lane, 25-meter pool on the east wing, a gymnasium on the west end, and the core containing administrative offices, locker rooms, fitness rooms and mechanical rooms. The facility has a track on the second level that circles the entire building, wings to the north that hold racquet ball courts and an expanded weight room, and classroom and activity rooms to the south and west.

The building is of masonry and steel frame construction. Walls are 6- and 4-inch concrete block with an air an interstitial space and generally 2 inches of rigid foam insulation. The sloped roof has concrete roof tiles over a wood deck with 1 inches of rigid insulation. The flat roofs over new sections has built up roofing over steel decking and tapered foam insulation.

BUILDING HVAC SYSTEMS

The building has three main air handlers that provide heating and cooling to most of the building. There are some hot water unit heaters and fan coil units and three dedicated RTUs. The building has a central heating hot water boiler system and an evaporative cooling tower providing cooling water to AHU coils. The only mechanical cooling in the center is provided by the smaller RTUs.

There are three air handlers manufactured by Temtrol that provide heating and cooling to most of the facility. Air handler AHU-1 is 28,000-cubic-foot-per-minute (cfm) constant volume unit that serves the pool area. This unit has a HHW heating coil and a cooling water cooling coil. The cooling water coil for AHU-1 is never used. AHU-2 is 18,000 cfm constant volume unit that serves the gymnasium. It has a heating coil and direct evaporative cooling section. AHU-3 is the largest of the three at 48,000 cfm and it has a heating coil, a direct evaporative cooling section, and a water cooling coil. AHU-3 is a serves the core areas of the building, the track, the youth center, classrooms, and the racquet courts through a VAV distribution system. VAV boxes are straight boxes with no reheat, hot water reheat boxes, and fan powered hot water reheat boxes. All of the air handlers are original to the building and are in fair condition.

There are two dedicated gas heating/electric DX cooling RTUs that serve specific areas. A 15-ton unit serves the weight room. A 3-ton Lennox unit serves the pool party room.

There is one 5-ton Carrier RTU with electric heating and cooling that serves offices off of the main lobby.

The central boiler system has three 1.5 MMBTU/h gas fired Bryan flex tube boilers. The boilers provide hot water for heating and for generating domestic hot water. Redundant constant volume 5 HP pumps circulate heating water to the three main air handlers and to reheat coils and unit heaters located throughout the building. Cooling water comes from an open cooling tower with a 50 HP fan motor. The tower is capable of cooling water to within 10 degrees Fahrenheit (°F) of wet bulb temperature. This means that under design conditions, the tower can produce water at approximately 75°F. Off of design conditions, the tower can produce cooler water temperatures. Three cooling water pumps distribute this cooling water to the three air handlers.

Other mechanical systems include gas fired boilers dedicated to pool water heating and a hot water solar array that is tied in to the pool water heating system. Heat recovery ventilation systems were installed for the pool area and the locker room ventilation, but these systems have been abandoned.

Building control is through a pneumatic system that is in poor condition. There is no ability to schedule units or to accurately control for outdoor air, economizing cycles or other energy savings control sequences. Air leakage is a problem in that it can impact temperature and pressure readings. The building is essentially manually controlled. City facilities personnel discussed with Ameresco the inability to meet the space temperature set-points in many areas of the recreation center when the HVAC equipment was allowed to shut down or to reset temperatures during the buildings non-operational hours. Therefore, the recreation center HVAC equipment is allowed to run continuously at the day time occupied temperature settings 24/7, 365 days a year..

LIGHTING SYSTEMS

The general lighting for Recreation Center consists of fluorescent, incandescent and HID lamp sources that are used in different style fixtures.

The administration area, the majority of fixtures contain 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types are recessed acrylic troffers. Corridors fixture types include recessed strip fixtures, recessed compact fluorescent and track fixtures. Gymnasium, racquetball courts and pool area fixture types include metal halide and fluorescent high bay fixtures. Rest room/shower areas fixture types include recessed prismatic and surface mounted fluorescent fixture types. Recessed compact fluorescent can fixture types were present in the shower areas and entrances. Classroom fixture types include recessed acrylic troffers. Storage and mechanical spaces have surface mounted strip fluorescent fixtures. Exterior fixture types include high pressure sodium flood and metal halide recessed can and flood fixtures.

PLUG LOAD EQUIPMENT

Plug load equipment includes office PCs and typical domestic appliances such as a refrigerator, microwave oven, and television sets. The RecZone Youth Center has several video screens and electronic games. There is a small kitchen and food prep area adjacent to the pool that has a range, microwave and refrigerator.

PLUMBING SYSTEMS

Original domestic fixtures are 3.5-gpm flush toilets, 2.5-gpm flush urinals, 2.2-gpm aerators, and 2.5-gpm showerheads. We noted that several aerators were missing meaning that those sinks flowed on the order of 3 to 5 gpm. The new Cabanas family change areas have new low flow fixtures.

Tejon Station

FACILITY DESCRIPTION

Tejon Fire Station has a single story crew quarters and high bay garage area sized for two vehicles. The building is of masonry block construction with either rigid foam insulation or filled concrete block cores. The roof is a built up ballasted roof with rigid insulation beneath. The bay doors are mostly single pane glass. The Tejon Fire Station facility is operational 24/7, 365 days a year.

BUILDING HVAC SYSTEMS

Heating and cooling in the crew quarters is by a single Lennox 2-ton gas/electric RTU. A single Reznor suspended gas unit heater heats the apparatus bay. Both units have individual thermostats. There is no central EMS.

LIGHTING SYSTEMS

The general lighting for Tejon Fire Station consists of fluorescent and incandescent lamp sources that are used in different styles of fixtures.

In the crew areas, the majority of fixtures contain 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixtures types include recessed small cell mini-cube troffers in the kitchen, office and crew bedroom areas. Rest room/bath areas fixtures contain 32-watt T8 fluorescent lamps and electronic ballast combinations in vapor tight fixture types. Other fixtures and lamp combinations include interior fixtures that use incandescent and compact fluorescent lamps in a variety of fixture types. In the apparatus area 32-watt T8 fluorescent lamps and electronic ballast combinations are used in vapor tight fixtures. The shop area fixtures contain 32-watt T8 fluorescent lamps and electronic ballast combinations. The fixture types include industrial hooded strip and strip fixtures. Exterior fixtures consist of HID lamp sources that are used in different styles of fixtures.

PLUG LOAD EQUIPMENT

Plug load equipment includes typical household appliances such as a dishwasher, microwave, range, and television. There is also radio equipment and specialized battery powered firefighting that is plugged in and charging continuously. There is also a hose dryer that draws approximately 6 kW when operating.

PLUMBING SYSTEMS

Fixtures are standard flow with showers at 2.5 gpm, lavatories at 2.2 gpm, and toilets at 3.5 gpf. All fixtures appear to be in good condition.

SCHEDULE C:
ENERGY AND COST SAVINGS GUARANTEE

The following table shows the project energy savings for each Energy Conservation Measure. 90% of the projected energy savings are guaranteed. Operation and Maintenance savings are stipulated.

ECM NUMBER	ECM	ANNUAL kW SAVINGS	ANNUAL kWh SAVINGS	ANNUAL ELECTRIC DOLLAR SAVINGS	ANNUAL NATURAL GAS SAVINGS (Therms)	ANNUAL NATURAL GAS DOLLAR SAVINGS	ANNUAL WATER & SEWER SAVINGS (kgal)	ANNUAL WATER & SEWER DOLLAR SAVINGS	OPERATION AND MAINTENANCE SAVINGS	TOTAL SAVINGS
;										
2	ECM 2 - Convert Constant Volume AHU to VAV	0.3	49736	$1,770	0.0	$0	0.0	$0	$0	$1,770
3	ECM 3 - Convert Constant Volume AHU to VAV	57.3	71393	$3,342	0.0	$0	0.0	$0	$0	$3,342
4	ECM 4 - Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes	230.0	268938	$12,788	973.0	$555	0.0	$0	$0	$13,343
6	ECM 6 - Replace Boilers with High Efficiency Non-Condensing Boilers	0.0	0	$0	2234.0	$1,273	0.0	$0	$0	$1,273
7	ECM 7 - Convert Constant Flow HW Pumps to Variable Flow with VFDs	35.0	30452	$1,574	0.0	$0	0.0	$0	$0	$1,574
8	ECM 8 - Add VAV Dampers on Branch Supply Ducts/Convert RTU to VAV Operation	108.6	24283	$2,391	27.0	$18	0.0	$0	$0	$2,409
11	ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	9.4	2760	$232	4125.0	$2,456	0.0	$0	$0	$2,688
12	ECM 12 - EMS Controls for Night Setback	0.0	300959	$10,698	33475.0	$19,453	0.0	$0	$0	$30,151
14	ECM 14 - Wall & Roof Insulation and Window Replacements & Repair	8.8	681	$148	2310.0	$1,373	0.0	$0	$0	$1,521
19	ECM 19 - Water Conservation	0.0	1846	$66	5474.0	$3,216	2158.5	$8,547	$0	$11,829
20	ECM 20 - Lighting	1809.6	495869	$42,318	-7363.0	-$4,351	0.0	$0	$17,426	$55,393
21	ECM 21 - Lighting Control	0.0	103254	$3,795	0.0	$0	0.0	$0	$0	$3,795
ıgs		2259.0	1,350,171	$79,122	41,255	$23,993	2159	$8,547	$17,426	$129,088

The Guaranteed Energy Savings for each year of the performance period are set forth below in the final column entitled "Total Annual Dollar Savings". Contractor does not guarantee each element of savings in the table below aside from "Total Annual Dollar Savings".

Year	Guaranteed Demand Savings (kW)	Guaranteed Electric Savings (kWh)	GuaranteedNatural Gas (Therms)	Guaranteed Water & Sewer Savings (kGal)	Annual Dollar Savings from Energy	Annual Operation and Maintenance Savings	Total Annual Dollar Savings
0	None	None	None	None	None	None	None
1	2,033	1,215,154	37,130	1,943	$ 103,511	$ 17,949	$ 121,460
2	2,033	1,215,154	37,130	1,943	$ 106,616	$ 18,487	$ 125,103
3	2,033	1,215,154	37,130	1,943	$ 109,814	$ 19,042	$ 128,856
4	2,033	1,215,154	37,130	1,943	$ 113,109	$ 19,613	$ 132,722
5	2,033	1,215,154	37,130	1,943	$ 116,502	$ 20,202	$ 136,704
6	2,033	1,215,154	37,130	1,943	$ 119,997	$ 20,808	$ 140,805
7	2,033	1,215,154	37,130	1,943	$ 123,597	$ 21,432	$ 145,029
8	2,033	1,215,154	37,130	1,943	$ 127,305	$ 22,075	$ 149,380
9	2,033	1,215,154	37,130	1,943	$ 131,124	$ 22,737	$ 153,861
10	2,033	1,215,154	37,130	1,943	$ 135,058	$ 23,419	$ 158,477
11	2,033	1,215,154	37,130	1,943	$ 139,110	$ 24,122	$ 163,232
12	2,033	1,215,154	37,130	1,943	$ 143,283	$ 24,845	$ 168,128
13	2,033	1,215,154	37,130	1,943	$ 147,581	$ 25,591	$ 173,172
14	2,033	1,215,154	37,130	1,943	$ 152,009	$ 26,358	$ 178,367
15	2,033	1,215,154	37,130	1,943	$ 156,569	$ 27,149	$ 183,718

The Guaranteed Energy Savings is based on the units of energy (kWh, Therms, etc). The cost savings is calculated by multiplying the unit of energy savings by the rate for the unit of energy. The rate for each unit of energy is escalated at a fixed rate of 3% per year. The following tables show the energy rates that will be used to calculate cost savings each year.

Utility Rates for Calculating Cost Savings
Civic Center, Recreation Center, Safety Services, Jefferson Fire Station

Year	Demand $ / kW	Electricity $ / kWh	Natural Gas $ / Therm	Water & Sewer $ / kGal
0	$ 14.08	$ 0.03551	$ 0.5700	$ 3.96
1	$ 14.50	$ 0.03658	$ 0.5871	$ 4.08
2	$ 14.94	$ 0.03768	$ 0.6047	$ 4.20
3	$ 15.39	$ 0.03881	$ 0.6228	$ 4.33
4	$ 15.85	$ 0.03997	$ 0.6415	$ 4.46
5	$ 16.33	$ 0.04117	$ 0.6607	$ 4.59
6	$ 16.82	$ 0.04241	$ 0.6805	$ 4.73
7	$ 17.32	$ 0.04368	$ 0.7009	$ 4.87
8	$ 17.84	$ 0.04499	$ 0.7219	$ 5.02
9	$ 18.38	$ 0.04634	$ 0.7436	$ 5.17
10	$ 18.93	$ 0.04773	$ 0.7659	$ 5.33
11	$ 19.50	$ 0.04916	$ 0.7889	$ 5.49
12	$ 20.09	$ 0.05063	$ 0.8126	$ 5.65
13	$ 20.69	$ 0.05215	$ 0.8370	$ 5.82
14	$ 21.31	$ 0.05371	$ 0.8621	$ 5.99
15	$ 21.95	$ 0.05532	$ 0.8880	$ 6.17

Utility Rates for Calculating Cost Savings
ServiCenter, Malley Senior Center, Broken Tee Golf Course, Pirates Cove

Year	Demand $ / kW	Electricity $ / kWh	Natural Gas $ / Therm	Water & Sewer $ / kGal
0	$ 14.08	$ 0.03551	$ 0.0650	$ 3.96
1	$ 14.50	$ 0.03658	$ 0.0670	$ 4.08
2	$ 14.94	$ 0.03768	$ 0.0690	$ 4.20
3	$ 15.39	$ 0.03881	$ 0.0711	$ 4.33
4	$ 15.85	$ 0.03997	$ 0.0732	$ 4.46
5	$ 16.33	$ 0.04117	$ 0.0754	$ 4.59
6	$ 16.82	$ 0.04241	$ 0.0777	$ 4.73
7	$ 17.32	$ 0.04368	$ 0.0800	$ 4.87
8	$ 17.84	$ 0.04499	$ 0.0824	$ 5.02
9	$ 18.38	$ 0.04634	$ 0.0849	$ 5.17
10	$ 18.93	$ 0.04773	$ 0.0874	$ 5.33
11	$ 19.50	$ 0.04916	$ 0.0900	$ 5.49
12	$ 20.09	$ 0.05063	$ 0.0927	$ 5.65
13	$ 20.69	$ 0.05215	$ 0.0955	$ 5.82
14	$ 21.31	$ 0.05371	$ 0.0984	$ 5.99
15	$ 21.95	$ 0.05532	$ 0.1014	$ 6.17

Utility Rates for Calculating Cost Savings
Fox Street Police Annex, Acoma Fire Station,
Tejon Fire Station

Year	Demand $ / kW	Electricity $ / kWh	Natural Gas $ / Therm	Water & Sewer $ / kGal
0	$ -	$ 0.07998	$ 0.6500	$ 3.96
1	$ -	$ 0.08238	$ 0.6695	$ 4.08
2	$ -	$ 0.08485	$ 0.6896	$ 4.20
3	$ -	$ 0.08740	$ 0.7103	$ 4.33
4	$ -	$ 0.09002	$ 0.7316	$ 4.46
5	$ -	$ 0.09272	$ 0.7535	$ 4.59
6	$ -	$ 0.09550	$ 0.7761	$ 4.73
7	$ -	$ 0.09837	$ 0.7994	$ 4.87
8	$ -	$ 0.10132	$ 0.8234	$ 5.02
9	$ -	$ 0.10436	$ 0.8481	$ 5.17
10	$ -	$ 0.10749	$ 0.8735	$ 5.33
11	$ -	$ 0.11071	$ 0.8997	$ 5.49
12	$ -	$ 0.11403	$ 0.9267	$ 5.65
13	$ -	$ 0.11745	$ 0.9545	$ 5.82
14	$ -	$ 0.12097	$ 0.9831	$ 5.99
15	$ -	$ 0.12460	$ 1.0126	$ 6.17

SCHEDULE D:
M&V, MAINTENANCE AND SERVICE AGREEMENT

Contractor is not providing any maintenance services under this Contract.

The following table shows the annual cost of the Measurement and Verification. Costs are escalated at a fixed rate of 4% each year. The Measurement and Verification fees will be invoiced after the Annual Reconciliation Report is provided by the Contractor.

Year	Measurement & Verification Fee
1	$ 19,869
2	$ 20,664
3	$ 21,491
4	$ 22,351
5	$ 23,245
6	$ 24,175
7	$ 25,142
8	$ 26,148
9	$ 27,194
10	$ 28,282
11	$ 29,413
12	$ 30,590
13	$ 31,814
14	$ 33,087
15	$ 34,410

SCHEDULE E:
BASELINE ENERGY CONSUMPTION

The base year consumption and cost is provided in the table below.

The baseline was selected by studying the existing utility bills. The baseline that was selected was the most recent 12-month period that could be used without much interruption of utility consumption due to construction or missing bills.

Base Year Consumption

Facility Reference	Occupied Area (SF)	Annual kW	Annual kWh	Electric Cost	Annual Therm	Gas Cost	Annual kGal	Water & Sewer Cost	Total Cost
Acoma Fire Station	4,851	191	68,249	$6,410	3,878	$3,428	N/A	N/A	$9,838
Civic Center	139,086	5,896	2,750,812	$206,899	39,970	$23,706	N/A	N/A	$230,605
Fox Street Annex	6,600	0	51,617	$3,622	4,411	$4,381	N/A	N/A	$8,003
Malley Center	24,255	1,293	426,880	$38,209	9,406	$6,449	N/A	N/A	$44,658
Recreation Center	60,170	2,306	1,232,640	$81,244	104,470	$60,774	N/A	N/A	$142,018
Safety Services	39,323	1,383	637,280	$48,189	29,500	$18,741	N/A	N/A	$66,930
ServiCenter	43,785	1,422	404,029	$38,159	6,466	$7,524	N/A	N/A	$45,683
Tejon Fire Station	4,650	160	47,858	$5,967	1,723	$2,964	N/A	N/A	$8,931
Broken Tee Clubhouse	8,000	502	215,520	$14,163	10,138	$7,681	N/A	N/A	$21,844
Broken Tee Maintenance House	1,650	0	716	$167	704	$796	N/A	N/A	$963
Broken Tee Maintenance Office	1,650	0	17,404	$1,602	1,220	$1,231	N/A	N/A	$2,833
Broken Tee Mechanic Shop	2,800	106	26,621	$2,434	1,130	$1,165	N/A	N/A	$3,599
Broken Tee Clubhouse Entry Sign	N/A	0	1,310	$170	0	$0	N/A	N/A	$170
Broken Tee Equipment Storage	2,800	0	3,718	$434	0	$0	N/A	N/A	$434
Broken Tee Maintenance Area Lights	1,650	0	2,434	$889	0	$0	N/A	N/A	$889
Broken Tee Street Lights	N/A	0	15,296	$3,118	0	$0	N/A	N/A	$3,118
Pirates Cove	7,699	102	10,880	$2,406	48,385	$48,805	N/A	N/A	$51,211

SCHEDULE F:
SAVINGS MEASUREMENT AND CALCULATION FORMULAE; METHODOLOGY TO ADJUST BASELINE; MEASUREMENT AND VERIFICATION PLAN

The matrix in the following table represents a summary of specific details included in the ECM-specific M&V Plan that follows the table.

Table D-4: M&V Summary Matrix

ECM	ECM Description	IPMVP Option	Minimum Baseline M&V Requirements	Minimum Post Retrofit M&V Requirements	Measurement and Metering	Stipulated Variables	Minimum Performance Period M&V Requirements
2	Convert Constant Volume AHU-1 to VAV	B	Existing motor kW draw.	Power draw of the new motor and VSD combination will be performed at commissioning.	The speed of the VSD will be trend logged through the energy management system.	Operating hours and load	Annual inspection of installed systems to verify equipment is installed and operating. Annual reporting will demonstrate that variable speed drives are modulating according to the sequence of operation.
3	Convert Constant Volume AHU-2 to VAV	B	Existing motor kW draw.	Power draw of the new motor and VSD combination will be performed at commissioning.	The speed of the VSD will be trend logged through the energy management system.	Operating hours and load	Annual inspection of installed systems to verify equipment is installed and operating. Annual reporting will demonstrate that variable speed drives are modulating according to the sequence of operation.
4	Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes	B	Existing motor kW draw.	Power draw of the new motor and VSD combination will be performed at commissioning.	The speed of the VSD will be trend logged through the energy management system.	Operating hours and load	Annual inspection of installed systems to verify equipment is installed and operating. Annual reporting will demonstrate that variable speed drives are modulating according to the sequence of operation.
6	Replace Boilers with High Efficiency Non-Condensing Boilers	A	Measurement of combustion efficiency and building model calibrated to baseline utility information.	Measurement of combustion efficiency of newly installed systems.	Baseline measurement of combustion efficiency to be completed. Post construction measurement at time of commissioning	Baseline system efficiency and proposed system efficiency (adjusted at time of commissioning for actual combustion efficiency values).	Annual inspection of installed systems to identify ability to maintain persistence of savings.
7	Convert Constant Flow HW Pumps to Variable Flow with VFDs	B	Existing motor kW draw.	Power draw of the new motor and VSD combination will be performed at commissioning.	The speed of the VSD will be trend logged through the energy management system.	Operating hours and load	Annual inspection of installed systems to verify equipment is installed and operating. Annual reporting will demonstrate that variable speed drives are modulating according to the sequence of operation.
8	Add VAV Dampers on Branch Supply	B	Existing motor kW draw.	Power draw of the new motor and VSD combination will be	The speed of the VSD will be trend logged through the energy	Operating hours and load	Annual inspection of installed systems to verify equipment is installed and operating. Annual

ECM	ECM Description	IPMVP Option	Minimum Baseline M&V Requirements	Minimum Post Retrofit M&V Requirements	Measurement and Metering	Stipulated Variables	Minimum Performance Period M&V Requirements
	Ducts/Convert RTU to VAV Operation			performed at commissioning.	management system.		reporting will demonstrate that variable speed drives are modulating according to the sequence of operation.
11	Replace Gas Fired Unit Heaters with Infrared Heaters	A	Baseline parameters are based on temperature bins and nameplate efficiency of existing equipment	Combustion measurements will be performed at commissioning of new equipment	Calibration of burners will be performed at commissioning	Operating hours, efficiency of existing equipment, temperature setpoints	Annual inspection of installed systems to identify ability to maintain persistence of savings.
12	EMS Controls for Night Setback	B	Baseline parameters are based on short-term metering of run hours and space temperatures during the financial grade audit.	Commissioning of system to ensure installed system performs as designed. Monitoring of operating hours and space temperatures.	Calibration of temperature sensors, CO2 sensors, RH sensors (if present), economizer dampers and valves controlling AHU coils, boilers, chiller equipment & pumps at the time of commissioning.	Operating hours and space temperatures due to facility operations.	Annual inspection of installed systems to identify ability to maintain persistence of savings. Annual monitoring and reporting of operating hours, set-points, and space temperatures.
14	Wall & Roof Insulation and Window Replacements & Repair	A	Baseline parameters are based on heat loss through the existing walls and nameplate efficiency of existing equipment	Space temperature data loggers will be installed for a period of two weeks to demonstrate space temperature consistency.	Temperature data loggers installed at the time of commissioning	Operating hours, efficiency of existing equipment, heat loss through the existing walls, temperature setpoints	Annual inspection of installed systems to identify ability to maintain persistence of savings.
19	Water Conservation	A	Measure water flow at a statistically significant number of the fixtures.	Measure water flow at a statistically significant number of the fixtures.	Baseline and post retrofit measurement of water flow.	Run hours and use information.	Annual inspections of installed systems.
20	Lighting	A	Fixture wattages will be from sample measurements. Operating hours will be based on discussions with facility personnel and sample short-term metering.	Input power for a statistically significant sample of each lamp/ballast combination of retrofitted fixtures will be measured at time of commissioning.	Baseline run hour metering completed during the Financial Grade Audit. Baseline fixture wattage to be completed prior to construction. Post installation wattages measured prior to acceptance.	Baseline and post-installation (subject to one-time verification) fixture power draw. Operating hours of each usage group. Interactive effects.	Ameresco will visually inspect a sample of lamps to verify the lamp types are as efficient as those proposed in the FGOA.
21	Lighting Control	A	Baseline parameters based on lighting audit. Short-term metering to establish baseline run hours.	Commissioning of system to ensure sensing device is calibrated to perform as designed.	Baseline run hour metering completed during the Financial Grade Audit.	Fixture power draw (based on ECM-20) and operating hours.	Ameresco will spot check the lighting controls to verify they are still operational.

ECM-2: Convert Constant Volume AHU-1 to VAV

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option B.

Energy Savings Calculation Methodology

This measure produces electrical energy savings. It is assumed that there is no heat transferred from the space to the water due to less than a 2°F difference between the two temperatures. A block load model for the pool space was created. The block load and energy model calculates fan energy savings, and it provides the baseline model for ECM-6 and -12.

Power for Constant Volume Systems (Base Condition):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower
LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions
η_{motor} = Motor efficiency

Power for a Variable Volume System with VFD (Post Installation Condition):

$$kW_{drive} = kW_{motor} * \left(\frac{Q}{Q_0}\right)^{2.2}$$

Where:

kW_{drive} = Fan power at load point
kW_{motor} = Motor power at full load (see above)
Q_0 = Flow rate at design conditions (i.e., full-speed)
Q = Flow rate at reduced speed

Energy for Fans and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Fan or Auxiliary Load Electrical Energy Consumption
kW = Fan or Auxiliary Load kW from formulae above
Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

METERING PLAN

Ameresco will also conduct a yearly inspection on the motors, VFDs, equipment and other systems installed to verify the equipment and systems are operating as intended. VFD speeds will be trend logged using the new energy management system at the Recreation Center. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-3: Convert Constant Volume AHU-2 to VAV Operation

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option B.

Energy Savings Calculation Methodology

This measure produces only fan motor electrical energy savings. The same amount of heating will be required post installation. Ameresco created a building block load model, as described in ECM-1 under section C, to calculate the fan load profile and operating savings. The building block load model also serves as the baseline load profile for ECM-6 and ECM-12.

Power for Constant Volume Systems (Base Condition):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower
LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions
η_{motor} = Motor efficiency

Power for a Variable Volume System with VFD (Post Installation Condition):

$$kW_{drive} = kW_{motor} * \left(\frac{Q}{Q_0}\right)^{2.2}$$

Where:

kW_{drive} = Fan power at load point
kW_{motor} = Motor power at full load (see above)
Q_0 = Flow rate at design conditions (i.e., full-speed)
Q = Flow rate at reduced speed

Energy for Fans and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Fan or Auxiliary Load Electrical Energy Consumption
kW = Fan or Auxiliary Load kW from formulae above
Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

METERING PLAN

Ameresco will also conduct a yearly inspection on the motor, VFD, equipment and other systems installed to verify the equipment and systems are operating as intended. VFD speeds will be trend logged using the new energy management system at the Recreation Center. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-4: Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option B.

Energy Savings Calculation Methodology

A six zone block load model was created in order to calculate the overall building load profile, and to calculate the required air delivery (fan speed) to meet load conditions. The multi-zone model also calculates the amount of re-heat needed to maintain temperature in each zone. Savings come from reduced fan energy consumption and from reducing re-heat loads. Cooling energy reductions are small and made negligible because the unit does not have mechanical cooling. The building block load model also serves as the baseline load profile for ECM-6 and -12.

Power for Constant Volume Systems (Base Condition):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower
LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions
η_{motor} = Motor efficiency

Power for a Variable Volume System with VFD (Post Installation Condition):

$$kW_{drive} = kW_{motor} * \left(\frac{Q}{Q_0}\right)^{2.2}$$

Where:

kW_{drive} = Fan power at load point
kW_{motor} = Motor power at full load (see above)
Q_0 = Flow rate at design conditions (i.e., full-speed)
Q = Flow rate at reduced speed

Energy for Fans and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Fan or Auxiliary Load Electrical Energy Consumption
kW = Fan or Auxiliary Load kW from formulae above
Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

Air Heating Energy at Each Load Point (Base and Post Installation Conditions):

$$Therms_{heating} = \left(\frac{\dot{m} * c * \Delta t}{\eta_{heating}}\right) * Hours$$

Where:

$Therms_{heating}$= Heating Natural Gas Energy Consumption (Therms)
$\eta_{heating}$ = Heating Efficiency (%)
$\dot{m}$ = the mass flow of air
c = the specific heat of air
Δt = the temperature difference between outdoor air temperature and discharge air temperature

Hours = Hours at Load Point (from bin data modified by daily and monthly equipment on/off schedules)

Conversions: 1 Therm = 100,000 Btu, 1 MMBTU = 1 Dtherm = 10 Therms = 1,000,000 Btu, 1 kBtu = 1,000 Btu.

METERING PLAN

Ameresco will also conduct a yearly inspection on the motors, VFDs, equipment and other systems installed to verify the equipment and systems are operating as intended. VFD speeds will be trend logged using the new energy management system at the Recreation Center. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-6: Replace Boilers with High Efficiency Non-Condensing Boilers

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option A.

Energy Savings Calculation Methodology

In all cases, building block load models were created for the areas served by the existing boiler systems. For the Recreation Center, the three block load models created for ECMs 2, 3, and 4. The post installation case was used as the baseline for this measure. For the other three buildings, we created block load models specifically for this ECM and for ECM-7.

Heating Energy at Each Load Point (Baseline and Post Conditions):

$$Therms_{heating} = \left(\frac{HeatingLoad}{\eta_{heating}} \right) * Hours$$

Where:

$Therms_{heating}$ = Heating Natural Gas Energy Consumption (Therms)

$\eta_{heating}$ = Heating Efficiency (%)

Hours = Hours at Load Point (from bin data modified by daily and monthly equipment on/off schedules)

Conversions: 1 Therm = 100,000 Btu, 1 MMBTU = 1 Dtherm = 10 Therms = 1,000,000 Btu, 1 kBtu = 1,000 Btu.

Power for Constant Volume Systems (Baseline and Post Conditions):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower
LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions

η_{motor} = Motor efficiency

Energy for Pumps and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Pump or Auxiliary Load Electrical Energy Consumption
kW = Pump or Auxiliary Load kW from formulae above
Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

METERING PLAN

Ameresco will also conduct a yearly inspection on the boilers, pumps, equipment and other systems installed to verify the equipment is operating as intended. Entering and discharge water temperatures & combustion efficiency will be measured at commissioning. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-7: Convert Constant Flow HW Pumps to Variable Flow with VFDs

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option B.

Energy Savings Calculation Methodology

The block load models created for ECM-6 also calculate pump energy savings for this measure.

Power for Constant Volume Systems (Baseline Condition):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower
LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions
η_{motor} = Motor efficiency

Power for a Variable Volume System with VFD (Post Installation Condition):

$$kW_{drive} = kW_{motor} * \left(\frac{Q}{Q_0}\right)^{2.2}$$

Where:

kW_{drive} = Fan power at load point
kW_{motor} = Motor power at full load (see above)
Q_0 = Flow rate at design conditions (i.e., full-speed)
Q = Flow rate at reduced speed

Energy for Pumps and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Pump or Auxiliary Load Electrical Energy Consumption
kW = Pump or Auxiliary Load kW from formulae above
Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

METERING PLAN

Ameresco will also conduct a yearly inspection on the VFDs, equipment and other systems installed to verify the equipment is operating as intended. VFD speeds will be trend logged using the new energy management systems at the Recreation Center and Safety Service/Jefferson Station buildings. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-8: Add VAV Dampers on Branch Supply Ducts/Convert RTU to VAV Operation

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option B.

Energy Savings Calculation Methodology

Savings come from reduced electric energy for reheat and from reduced fan energy year round.

Power for Constant Volume Systems (Base Condition):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower

LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions

η_{motor} = Motor efficiency

Power for a Variable Volume System with VFD (Post Installation Condition):

$$kW_{drive} = kW_{motor} * \left(\frac{Q}{Q_0}\right)^{2.2}$$

Where:

kW_{drive} = Fan power at load point

kW_{motor} = Motor power at full load (see above)

Q_0 = Flow rate at design conditions (i.e., full-speed)

Q = Flow rate at reduced speed

Energy for Fans and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Fan or Auxiliary Load Electrical Energy Consumption

kW = Fan or Auxiliary Load kW from formulae above

Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

Air Heating Energy at Each Load Point (Base and Post Installation Conditions):

$$Therms_{heating} = \left(\frac{\dot{m} * c * \Delta t}{\eta_{heating}}\right) * Hours$$

Where:

$Therms_{heating}$= Heating Natural Gas Energy Consumption (Therms)

$\eta_{heating}$ = Heating Efficiency (%)

$\dot{m}$ = the mass flow of air

c = the specific heat of air

Δt = the temperature difference between outdoor air temperature and discharge air temperature

Hours = Hours at Load Point (from bin data modified by daily and monthly equipment on/off schedules)

Conversions: 1 Therm = 100,000 Btu, 1 MMBTU = 1 Dtherm = 10 Therms = 1,000,000 Btu, 1 kBtu = 1,000 Btu.

METERING PLAN

Ameresco will also conduct a yearly inspection on the VFDs, equipment and other systems installed to verify the equipment is operating as intended. VFD speeds will be trend logged using the new energy management systems at the Malley Senior Center. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-11: Replace Gas Fired Unit Heaters with Infrared Heaters

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option A.

Energy Savings Calculation Methodology

Block load models were created for all spaces to be retrofitted. Heating savings come from reduced heat load due to lower thermostat settings. Electric savings come from the difference in radiant tube burner electric consumption versus the electric fan consumption in the existing units.

Air Heating Energy at Each Load Point (Baseline Condition):

$$Therms_{heating} = \left(\frac{\dot{m} * c * \Delta t}{\eta_{heating}} \right) * Hours$$

Where:

$Therms_{heating}$ = Heating Natural Gas Energy Consumption (Therms)

$\eta_{heating}$ = Heating Efficiency (%)

$\dot{m}$ = the mass flow of air

c = the specific heat of air

Δt = the temperature difference between outdoor air temperature and discharge air temperature

Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

Conversions: 1 Therm = 100,000 Btu, 1 MMBTU = 1 Dtherm = 10 Therms = 1,000,000 Btu, 1 kBtu = 1,000 Btu.

Power for Constant Volume Systems (Baseline Condition):

$$kW_{motor} = \frac{NHP * LF * 0.746 \frac{kW}{hp}}{\eta_{motor}}$$

Where:

kW_{motor} = Electrical input power (in kW)
NHP – Nameplate Horsepower
LF = Load Factor, a fraction that represents the average percentage loading of the motor over the range of operating conditions
η_{motor} = Motor efficiency

Energy for Fans and Auxiliary Loads:

$$kWh = kW * Hours$$

Where:

kWh= Fan or Auxiliary Load Electrical Energy Consumption
kW = Fan or Auxiliary Load kW from formulae above

Hours = Hours at Load Point (from bin data; modified by daily and monthly equipment on/off schedules)

METERING PLAN

Ameresco will also conduct a yearly inspection on the infrared heaters, equipment and other systems installed to verify the equipment is operating as intended. Calibration of IR burners and combustion measurements will be performed at commissioning. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-12: EMS Controls for Night Setback

Measurement and Verification Overview

The M&V protocol for this measure is based on IPMVP Option B.

Energy Savings Calculation Methodology

Block load models developed for other ECMs were utilized to calculate savings for this measure. This measures savings are calculated after all other measures. The baseline for ECM-12 is the post installation condition for all other measures. In some instances, such as for the original half of the Malley Center, new models were created.

Nearly all of the projected savings comes from nighttime temperature set back. Night time set back temperatures reduce heating and cooling loads by lowering the space heating set point temperature and raising the space cooling set point temperature so that heating and cooling equipment does not require as much energy to maintain space temperature. Additionally, nighttime set backs allow much equipment to be turned off over night. For most fan systems, we modeled nighttime operation as "cycle with load". In addition to night set back savings, there is a small amount of savings in the Recreation Center pool area due to reducing space air temperature set point by 4°F.

There are other sources of savings. Much of the existing controls, especially at the Recreation Center and Safety Services, are not running properly. Determining savings from specific repairs to control sequences and establishing sequences where none are currently functioning would require a thorough re-commissioning effort. Savings will result from upgrading the existing HVAC equipment controls and commissioning the control systems to operate properly. These savings have not been claimed. The savings projected in this measure are conservative.

Air Heating Energy at Each Load Point:

$$Therms_{heating} = \left(\frac{\dot{m} * c * \Delta t}{\eta_{heating}} \right) * Hours$$

Where:

$Therms_{heating}$ = Heating Natural Gas Energy Consumption (Therms)
$\eta_{heating}$ = Heating Efficiency (%)
$\dot{m}$ = the mass flow of air
c = the specific heat of air
Δt = the temperature difference between outdoor air temperature and discharge air temperature
Hours = Hours at Load Point (from bin data modified by daily and monthly equipment on/off schedules)
Conversions: 1 Therm = 100,000 Btu, 1 MMBTU = 1 Dtherm = 10 Therms = 1,000,000 Btu, 1 kBtu = 1,000 Btu.

Air Cooling Energy at Each Load Point:

$$kWh_{cooling} = \dot{m} * \Delta h * \eta_{cooling} \times Hours$$

Where:

$Therms_{heating}$ = Heating Natural Gas Energy Consumption (Therms)
$\eta_{cooling}$ = Cooling Efficiency(kW/ton)
$\dot{m}$ = the mass flow of air
Δh = the enthalpy difference between outdoor air and discharge air
Hours = Hours at Load Point (from bin data modified by daily and monthly equipment on/off schedules)
Conversions: 3,413 Btu/kW.

METERING PLAN

Ameresco will also conduct a yearly inspection on the equipment and control systems installed to verify the equipment is operating as intended. Monitoring of operating hours and space temperatures will be trend logged using the new and existing energy management systems at all buildings. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-14: Wall & Roof Insulation and Window Replacements & Repair

Measurement and Verification Overview
The M&V protocol for this measure is based on IPMVP Option A.

Energy Savings Calculation Methodology
Block load models were developed for the solar & conductive, cooling and heating, loads in the areas of the ServiCenter and Safety Services/Jefferson Station where no windows or insulation was added.

Savings in heating energy and cooling energy is the baseline energy use minus the post installation energy use.

METERING PLAN

Ameresco will also conduct a yearly inspection on the installed windows, insulation and wall assemblies to verify the products are intact and no leakage is occurring. Results of the inspection will be reported in the Annual Reconciliation Report. Operating hour variations from the baseline values may warrant adjustment to the baseline/savings. Block load models were developed for the solar & conductive, cooling and heating, loads in the ar

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-19: Water Conservation

Measurement and Verification Overview
The M&V protocol for this measure is based on IPMVP Option A.

Energy Savings Calculation Methodology
See Analysis Methodology shown in ECM-19 under section C of this report.

METERING PLAN

Ameresco will also conduct a yearly inspection on the installed plumbing fixtures, equipment and other systems installed to verify the equipment is operating as intended. Water flow measurement readings will be performed on a certain percentage of installed fixtures at commissioning. Results of the inspection will be reported in the Annual Reconciliation Report. Consumption variations from the baseline values may warrant adjustment to the baseline/savings.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-20: Lighting Retrofits

Measurement and Verification Overview

The M&V protocol for this ECM is based on the guidelines of the IPMVP Option A. Option A involves verifying that the measure has the potential to perform and to generate savings. Performance verification techniques include engineering calculations with one-time representative measured values, resulting in measured verification of performance. With the chosen method, hours of operation are agreed to. Fixture wattages will be determined from one-time before and after spot measurements of representative fixture types.

Under this M&V plan, Ameresco assumes performance risk for the operation of the new fixtures. We will perform equipment measurements to verify that the performance of the installed equipment will operate at the levels defined in the TEA (power output at stated conditions). This will be established by measuring 10 percent of fixtures (either individual fixtures or on a given lighting circuit) of the same lamp/ballast combination. If the lighting systems do not perform as proposed, Ameresco will either change the systems or compensate the customer. For the site operating hours, Ameresco has no control over the hours of operation of the facility and cannot be reasonably requested to assume the risk for this variable. Therefore, the customer and Ameresco will agree to the run hours for the life of the contract.

Energy Savings Calculation Methodology

METERING PLAN

Ameresco will measure the fixture input power for 10 percent of the installed lamp/ballast combinations. For the post retrofit measurement, the measurement will occur at the time of commissioning, and if the total sample values are within 10 percent of the TEA values no change will be made. If the total sample values are not within 10 percent, Ameresco will take corrective action for them to be within this limit or will use the measured values.

Ameresco will visually inspect 25 percent of the fixtures per year to confirm the same lamp/ballast combinations are installed as designed.

EXPECTED ACCURACY

The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

ECM-21: Lighting Controls Retrofits

Measurement and Verification Overview

The M&V protocol for this ECM is based on the recommendations of IPMVP Option A. Option A involves verifying that the measure has the potential to perform and to generate savings. Performance verification techniques include engineering calculations with one-time representative measured values, resulting in measured verification of performance. With the chosen method,

hours of operation are agreed to. Fixture wattages will be determined from one-time before and after spot measurements of representative fixture types.

Under this measurement plan, Ameresco assumes performance risk for the operation of the new fixtures and the operability of the new controls. We will perform equipment measurements to verify the performance of the installed equipment will operate at the levels defined in the TEA (power output at stated conditions). This will be established by measuring 10 percent of fixtures (either individual fixtures or on a given lighting circuit) of the same lamp/ballast combination at full operating output and at the programmed dimming level output. If the lighting systems do not perform as proposed, Ameresco will either change the systems or compensate the customer. The customer will agree to the run-hours for the proposed system at the high output level and at the dimming output level. Ameresco has no control over the hours of operation of the facility and cannot be reasonably requested to assume the risk for this variable. Therefore, the customer and Ameresco will agree to the run hours for the life of the contract.

Energy Savings Calculation Methodology

METERING PLAN

Power consumption measurements of the fixtures are covered under ECM-13. The lighting controls will be commissioned after installation of the measure. The facility representatives will be on site to confirm proper operation of the equipment per the commissioning plan.

Annual hours reflect a 30 percent reduction in the baseline run hours. Ameresco will inspect the lighting controls each year to confirm the systems are installed as designed.

EXPECTED ACCURACY

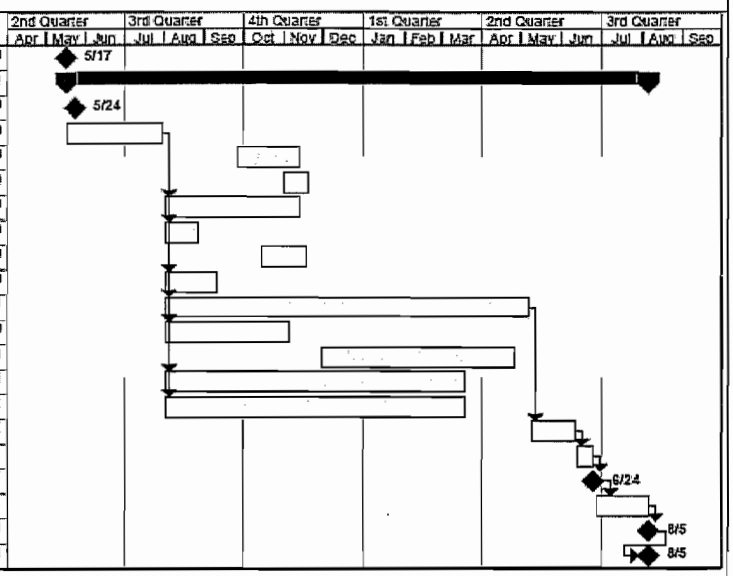
The M&V for this ECM allows for a level of confidence in the calculation of savings, while limiting the costs of verification and, therefore, not negating the benefits of implementing the measure.

SCHEDULE G:
CONSTRUCTION AND INSTALLATION SCHEDULE

Construction shall be complete 445 calendar days from the date this contract is executed by all parties.

CITY OF ENGLEWOOD
PRELIMINARY CONSTRUCTION SCHEDULE

ID	Task Name	Duration	Start	Finish
1	EPC Contract Execution	0 days	Mon 5/17/10	Mon 5/17/10
2	Construction Period	320 days	Mon 5/17/10	Fri 8/5/11
3	Pre-Construction Meeting	0 days	Mon 5/24/10	Mon 5/24/10
4	Engineering	55 days	Mon 5/17/10	Fri 7/30/10
5	Constant volume to VAV	35 days	Mon 9/27/10	Fri 11/12/10
6	Inlet Vanes to VFD & VAV	15 days	Mon 11/1/10	Fri 11/19/10
7	Replace Boilers	75 days	Mon 8/2/10	Fri 11/12/10
8	Variable volume pumping	20 days	Mon 8/2/10	Fri 8/27/10
9	Convert RTU to VAV operi	25 days	Fri 10/15/10	Thu 11/18/10
10	Infrared Heaters	30 days	Mon 8/2/10	Fri 9/10/10
11	EMS Controls	200 days	Mon 8/2/10	Fri 5/6/11
12	Wall & Roof Insulation	70 days	Mon 8/2/10	Fri 11/5/10
13	Water Conservation	105 days	Wed 12/1/10	Tue 4/26/11
14	Lighting Retrofits	165 days	Mon 8/2/10	Fri 3/18/11
15	Lighting Controls	165 days	Mon 8/2/10	Fri 3/18/11
16	Commissioning	25 days	Mon 5/9/11	Fri 6/10/11
17	Training	10 days	Mon 6/13/11	Fri 6/24/11
18	Substantial Completion	0 days	Fri 6/24/11	Fri 6/24/11
19	Punch Lists	30 days	Mon 6/27/11	Fri 8/5/11
20	Construction Complete	0 days	Fri 8/5/11	Fri 8/5/11
21	Begin Measurement and V	0 days	Fri 8/5/11	Fri 8/5/11



Project: Attachment G - Project Sched
Date: Mon 3/15/10

Task | Split | Progress | Milestone | Summary | Project Summary | External Tasks | External Milestone | Deadline

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SCHEDULE H:
SYSTEMS START-UP AND COMMISSIONING; OPERATING PARAMETERS OF INSTALLED EQUIPMENT

Pre-functional and functional reports will be modified during the design and construction phases based on actual system design and installation. Results of pre-functional and functional testing will be included in the O&M manuals.

Table D-2: Performance Testing and Commissioning Matrix

ECM	Equipment/ Systems to be Performance Tested	Observations, Tests, and Inspections during Construction (Pre-functional)	Pre-functional Responsibility	Observations, Tests, and Inspections prior to Acceptance (Functional)	Functional Responsibility	Testing Documentation
ECM-2: Convert Constant Volume AHU-1 to VAV	Fan Motors, VFDs and Thermostats	Measure air flow and HW flow rate at AHU prior to construction. Verify proper wiring terminations at new fan motors.	Mechanical Contractor and Ameresco	Verify proper installation of the fan motors and VFDs. Measure the full load amp draw of the VFDs and each fan motor. Air balance the total volume of the AHU, and exhaust fan EF-7. Calibrate thermostats and pressure sensors.	Mechanical Contractor, Controls Contractor and Ameresco	Measurements to be part of commissioning report
ECM-3: Convert Constant Volume AHU-2 to VAV	Fan Motor, VFD, VAV Boxes, Piping, Ductwork and Thermostats	Measure air flow and HW flow rate at AHU prior to construction. Verify proper wiring terminations at new fan motor. Verify proper VAV box installation in existing ductwork. Verify installation of new HW piping.	Mechanical Contractor and Ameresco	Verify proper installation of the fan motors and VFDs. Measure the full load amp draw of the VFDs and each fan motor. Air balance the total volume supplied by the AHU and total volume supplied at the VAV boxes. Calibrate thermostats and pressure sensors.	Mechanical Contractor, Controls Contractor and Ameresco	Measurements to be part of commissioning report
ECM-4: Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes	Fan Motors, VFDs, VAV Boxes, Piping, Ductwork and Thermostats	Measure air flow at AHU prior to construction. Measure air flow and HW flow rate at each VAV and fan powered box prior to construction. Verify proper wiring terminations at new fan motors. Verify proper VAV box installation in existing ductwork. Verify installation of new HW piping.	Mechanical Contractor and Ameresco	Verify proper installation of the fan motors and VFDs. Measure the full load amp draw of the VFDs and each fan motor. Air balance the total volume of the AHU, VAV boxes, and building relief fans. Calibrate thermostat and pressure sensors s.	Mechanical Contractor, Controls Contractor and Ameresco	Measurements to be part of commissioning report
ECM-6: Replace Boilers with High Efficiency Non-Condensing Boilers	Boilers, HW Pumps, Piping and Piping Appurtenances.	Measure water flow at pumps prior to construction. Verify proper wiring terminations at new boilers and pump motors. Verify installation of new HW piping.	Mechanical Contractor and Ameresco	Verify proper installation of the boilers and pumps. Measure power draw of new pump motors. Water balance the total flow of the new pumps.	Mechanical Contractor, Controls Contractor and Ameresco	Measurements to be part of commissioning report.
ECM-7: Convert Constant Flow HW Pumps to Variable Flow with VFDs	VFDs, Piping and Valves	Verify proper two-way & three-way valve installations in existing and new piping.	Mechanical Contractor and Ameresco	Verify proper installation of the VFDs. Measure the full load amp draw of the VFDs and pump motors. Water balance the total flow of the pumps. Water balance	Mechanical Contractor, Controls Contractor and Ameresco	Measurements to be part of commissioning report.

ECM	Equipment/ Systems to be Performance Tested	Observations, Tests, and Inspections during Construction (Pre-functional)	Pre-functional Responsibility	Observations, Tests, and Inspections prior to Acceptance (Functional)	Functional Responsibility	Testing Documentation
				HW valves at AHUs, heating coils, hot water furnaces and each VAV reheat coil. Calibrate pressure sensors.		
ECM-8: Add VAV Dampers on Branch Supply Ducts/Convert RTU to VAV	Fan Motor, VFD, VAV Dampers, Ductwork and Thermostats	Measure air flow at RTU and reheat zones prior to construction. Verify proper wiring terminations at new fan motors. Verify proper VAV damper installation in existing ductwork.	Mechanical Contractor and Ameresco	Verify proper installation of the fan and VFD. Measure the full load amp draw of the VFD on the fan motor. Air balance the total flow of the AHUs and VAV dampers. Calibrate thermostats and pressure sensors.	Mechanical Contractor, Controls Contractor and Ameresco	Measurements to be part of commissioning report.
ECM-11: Replace Gas Fired Unit Heaters with Infrared Heaters	Infrared Heaters	Verify proper wiring, gas and exhaust flue terminations at new Infrared Heaters.	Mechanical Contractor and Ameresco	Verify proper operation of Infrared Heaters.	Mechanical Contractor and Ameresco	Measurements to be part of M&V report.
ECM-12: EMS Controls for Night Setback	All existing and new HVAC equipment connections to new DDC Energy Management System, Schedules, Set Points, Sequences, Lockouts, Alarms, Interlocks, Control Strategies, and Trending	Perform point-to-point check and verify all sequences of operation are in accordance with design.	Mechanical and Controls Contractor	Perform Functional Performance Test (FPT) in accordance with FPT Reports. A matrix will also be provided at the conclusion of the design period that will be used during the FPT period. The matrix will identify each piece of equipment to be controlled and "expected results" and "actual results" for schedules, set points, sequences and control strategies. For a typical AHU, FPT will include verification of temperature sensor calibration using a calibrated hand held device. Damper and valve operation will be visually verified by manipulating temperature set points.	Mechanical Contractor, Controls Contractor and Ameresco	FPT Reports will be completed for each system.
ECM-14: Wall & Roof Insulation and Window Replacements & Repair	N/A	N/A	N/A	Verify proper installation of windows, insulation and drywall.	Mechanical Contractor and Ameresco	N/A
ECM-19: Water Conservation	Toilets, Lavatories, Urinals and Shower Heads	N/A	N/A	Verify proper installation and operation of all new low-flow plumbing fixtures. Measure water flow at a statistically significant number of fixtures.	Mechanical Contractor and Ameresco	Measurements to be part of commissioning report.

ECM	Equipment/ Systems to be Performance Tested	Observations, Tests, and Inspections during Construction (Pre-functional)	Pre-functional Responsibility	Observations, Tests, and Inspections prior to Acceptance (Functional)	Functional Responsibility	Testing Documentation
ECM-20: Lighting Retrofits	Lighting Fixtures	Verify operation of all fixtures as completed	Ameresco and Electrical contractor	Verify operation, measure light levels, and measure power input at the switch for a statistically significant number of fixtures installed for each lamp/ballast group as mutually agreed to by customer and Ameresco.	Electrical contractor and Ameresco	Lighting Commissioning Data Sheets included in the appendices will be completed for the 10% lighting sample.
ECM-21: Lighting Control Retrofits	Lighting Controls	Verify operation of sensors as completed.	Ameresco and Electrical Contractor	Verify operation of a statistically significant number of each sensor type to ensure sensing devices are calibrated to perform as designed. Operational testing shall include visual verification at different operational settings.	Electrical Contractor and Ameresco	Results of lighting control function test for sample control groups will be provided in spreadsheet format indicating area(s) served, sensor location, sensor type, and fixtures controlled.

SCHEDULE I:
STANDARDS OF COMFORT

Existing Schedules and Setpoints

Building	Unit	Schedule	Heating Setpoints		Cooling Setpoints	
			Occupied	Unoccupied	Occupied	Unoccupied
Broken Tee GC	Clubhouse, Dining room, Foyer, Baths, Pro Shop	24/7	72	N/A	75	N/A
Broken Tee GC	Pro Shop Offices	24/7	72	N/A	75	N/A
Civic Center	RTU-1	24/7	72	N/A	73	N/A
Civic Center	RTU-2	24/7	72	N/A	73	N/A
Civic Center	RTU-3, RTU-4, RTU-5, RTU-6	24/7	72	N/A	73	N/A
Fox Street Annex	Unit 1, Unit 2, Unit 3	24/7	72	N/A	75	N/A
Malley Center	New Addition RTU-1, RTU-2	24/7	72	N/A	75	N/A
Malley Center	AHUs 1-10	24/7	72	N/A	75	N/A
Recreation Center	Pool AHU-1	24/7	85	N/A	85	N/A
Recreation Center	Gym AHU-2	24/7	68	N/A	75	N/A
Recreation Center	AHU-3	24/7	72	N/A	75	N/A
Safety Services	RTUs 1-13	24/7	72	N/A	75	N/A
Safety Services	Adminstration, Court Rooms	24/7	72	N/A	75	N/A
ServiCenter	1st Floor Offices (3 RTUs), Lunchroom, 2nd Floor Offices	24/7	72	N/A	75	N/A
ServiCenter	Fleet Offices, 2nd Floor Heating Units	24/7	72	N/A	75	N/A

Proposed Schedules and Setpoints

Building	Unit	Schedule	Heating Setpoints		Cooling Setpoints	
			Occupied	Unoccupied	Occupied	Unoccupied
Broken Tee GC	Clubhouse, Dining room, Foyer, Baths, Pro Shop	06:00-22:00 Mon-Sun	72	60	75	Off
Broken Tee GC	Pro Shop Offices	07:00-20:00 Mon-Sun	72	60	75	Off
Civic Center	RTU-1	08:00-22:00 Mon-Fri 10:00-18:00 Sat-Sun	72	65	73	80
Civic Center	RTU-2	08:00-21:00 Mon-Fri 10:00-18:00 Sat-Sun	72	65	73	80
Civic Center	RTU-3, RTU-4, RTU-5, RTU-6	08:00-17:00 Mon-Fri Off Sat-Sun	72	65	73	80
Fox Street Annex	Unit 1, Unit 2, Unit 3	07:00-22:00 Mon-Fri 06:00-10:00 Sat-Sun	72	60	75	80
Malley Center	New Addition RTU-1, RTU-2	07:00-20:00 Mon-Fri 09:00-19:00 Sat-Sun	72	60	75	80
Malley Center	AHUs 1-10	07:00-20:00 Mon-Fri 09:00-19:00 Sat-Sun	72	68	75	78
Recreation Center	Pool AHU-1	05:30-22:00 Mon-Thur 05:30-20:00 Fri-Sat 12:00-18:00 Sun	85	Off	85	Off
Recreation Center	Gym AHU-2	05:30-22:00 Mon-Thur 05:30-20:00 Fri-Sat 12:00-18:00 Sun	68	60	75	Off
Recreation Center	AHU-3	05:30-22:00 Mon-Thur 05:30-20:00 Fri-Sat 12:00-18:00 Sun	72	60	75	80
Safety Services	RTUs 1-13	24/7	72	N/A	75	N/A
Safety Services	Adminstration, Court Rooms	04:00-20:00 Mon-Fri 05:00-18:00 Sat-Sun	72	65	75	80
ServiCenter	1st Floor Offices (3 RTUs), Lunchroom, 2nd	06:00-18:00 Mon-Fri Off Sat-Sun	72	60	75	80
ServiCenter	Fleet Offices, 2nd Floor Heating Units	07:00-17:00 Mon-Fri Off Sat-Sun	72	60	75	80

SCHEDULE J:
CONTRACTOR'S MAINTENANCE RESPONSIBILITIES

No Operation or maintenance services will be provided by the Contractor under this Contract.

SCHEDULE K:
CITY'S MAINTENANCE RESPONSIBILITIES

This schedule describes the operations and maintenance responsibilities that may be assigned to facility staff as agreed to by both parties.

Operation and maintenance of the Equipment installed as part of this contract will be the responsibility of the City.

(a) **Operations:** City shall operate the Equipment installed hereunder in accordance with the manufacturers' recommendations and any supplemental procedures supplied to City by Contractor.

(b) **Maintenance:** City shall, at its expense, repair, operate and maintain the Premises in good working order during the Term. Following the date of Substantial Completion of an energy conservation measure, City shall, at its expense, repair and maintain (i) the Equipment and all other components which comprise the Equipment and (ii) all other equipment which is attached thereto and/or is integral to the proper functioning of the Equipment.

(c) **Measurement System:** City shall not alter, move, modify or otherwise change the measurement and verification system or any component thereof without the prior written consent of Contractor unless such action is in accordance with operating procedures provided by Contractor.

(d) **Insurance and Risk of Loss or Damage:** Without limiting any of its obligations or liabilities under this Agreement, City shall, at its expense, provide and maintain at all times during the Term, sufficient insurance against the loss or theft of or damage to the Equipment, the related equipment and all components installed hereunder, for the full replacement value thereof. City's insurance shall be primary for any and all property damage during the performance of the work hereunder.

(e) **Telephone and Internet:** City shall be responsible for installing and maintaining telephone lines and all associated costs, including internet/Ethernet charges, for the energy management system's telephone and communication lines. Contractor may use City's LAN for the purposes of the energy management system.

(f) **Storage:** City shall provide reasonable rent free space for Contractor and/or its subcontractors, to mobilize and store their supplies, tools and equipment during installation of the Equipment or other activities by Contractor within the Premises pursuant to this Contract for which such storage may be required. Such storage space shall be provided with locking capacity reasonably acceptable to Contractor. Only Contractor and/or its subcontractors and City's assigned personnel shall have access to the storage. City assumes no responsibility nor will City provide any additional security for the storage provided.

(g) **Fuel:** Customer shall procure and pay for all energy and fuel for the operation of the Premises.

SCHEDULE L:
FACILITY MAINTENANCE CHECKLIST

The maintenance checklist will be provided as part of the Operation and Maintenance Manuals. Maintenance requirements will be those recommended by the equipment manufacturer.

SCHEDULE M:
CONTRACTOR'S TRAINING RESPONSIBILITIES

Training will be provided by the Contractor during the construction phase of the project. No training services are provided during the performance period of the contract. Training and orientation on the systems installed will vary depending on the complexity of the specific equipment installed for each ECM. Training will be provided in the following levels:

1. For systems and/or equipment that are essentially direct replacements of existing equipment, and where no additional specific skills will be required to perform operations and maintenance functions, training will be limited to a general overview of the equipment installed and a review of the O&M manuals. Training will be directed to the City O&M personnel. The review of the O&M manuals will provide staff with familiarity with the equipment that is installed, manufacturer's recommended maintenance procedures, and warranty information. Training should be provided at the completion of construction of each of the ECMs. This level of training will apply to ECM - 14, -19, and -20,
2. For systems/equipment that are new to the site and require some general understanding as to their function and operation, training will include a minimal amount of classroom time that will provide an overview of the technology and any specific maintenance or operations requirements. Following the classroom training, a site tour will be conducted to view the installation and operation of the equipment. Training should occur at both the onset and completion of construction. Equipment cut sheets will be provided at the beginning of construction and that will provide a general description of the equipment, function, and operation. At the conclusion of construction, the O&M manuals will provide parts lists and warranty information. ECM-2, -3, -4, -8, -11, and -21.
3. For systems and/or equipment that are new to the site and more complex in nature like ECM-6, -7 and -12 training will be directed to both the facilities engineering and the O&M personnel. In general, training will consist of classroom training followed by hands-on instruction in the field. Training will be provided through a complement of Ameresco personnel, design engineers, installation contractors, and manufacturer's representatives, as necessary, and will be dictated by the complexity of the installation, participant's prior experience with the equipment that is proposed/installed and contractual obligations. Specifics on the training program, including schedule and training materials, will be further refined during the design process, but the training, in general, will consist of the following:
    - Explanation of the design concept
        - Design intent
        - Energy efficiency considerations
        - Seasonal modes of operation
        - Emergency conditions and operation
        - Comfort conditions and indoor air quality
    - Systems operation

- Operation of individual components, instruction from authorized factory technicians, if required
- Physical location of critical shut-off valves, fire, smoke, and balancing dampers, relief valves, safeties, and control panels
- System operational procedures for all modes in manual and automatic modes

- Operation of the control systems
  - Sequences of Operation
  - Use of Graphical User Interfaces
  - Alarms and problem indicators
  - Diagnostics and corrective actions
- Service and Maintenance
  - Use of the O&M manuals
  - Instruction and logging procedures for lubrication
  - Instruction from authorized factory technicians, where applicable
  - Troubleshooting and investigation of malfunctions
  - Recommended procedures for collecting, interpreting, and storing specific performance data

4. Training will be provided during construction, commissioning, and acceptance phases as dictated by the complexity of the ECM. All training activities will be coordinated carefully with the City facilities personnel.

ECM	Training Level Planned
ECM 2 - Convert Constant Volume AHU to VAV	Level 2
ECM 3 - Convert Constant Volume AHU to VAV	Level 2
ECM 4 - Convert VAV Inlet Vanes to VFD and Replace Fan Powered VAV Boxes	Level 2
ECM 6 - Replace Boilers with High Efficiency Non-Condensing Boilers	Level 3
ECM 7 - Convert Constant Flow HW Pumps to Variable Flow with VFDs	Level 3
ECM 8 - Add VAV Dampers on Branch Supply Ducts/Convert RTU to VAV Operation	Level 2
ECM 11 - Replace Gas Fired Unit Heaters with Infrared Heaters	Level 2
ECM 12 - EMS Controls for Night Setback	Level 3
ECM 14 - Wall & Roof Insulation and Window Replacements & Repair	Level 1
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ECM 20 - Lighting	Level 1
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ARTICLE 1. DEFINITIONS

A. CONTRACT DOCUMENTS

The "Contract Documents" consist of:

1. The Energy Performance Contract between the City and Contractor and all its Schedules, Exhibits, and Attachments;
2. Performance Bond (SC-6.22) (Exhibit I) and Labor and Material Payment Bond (SC-6.221) (Exhibit II);
3. General Conditions of the Contract (SC-6.23) (this Exhibit A);
4. Detailed Specification Requirements, including any addenda issued prior to the opening of bids; and,
5. Drawings, including all addenda issued prior to the opening of the bids.
6. Change Orders (SC-6.31) (Exhibit XVII) and any Amendments (SC-6.0) (Exhibit XVIII) executed pursuant to State law and regulations.

B. PROCEDURAL DOCUMENTS

The Procedural Documents used in the administration and performance of this Contract consist of:

1. *Intentionally deleted;*
2. *Intentionally deleted;*
3. *Intentionally deleted*;
4. *Intentionally deleted*;
5. *Intentionally deleted*;
6. Certificates of Insurance (Exhibit XIII);
7. *Intentionally deleted*;
8. Notice to Proceed (SBP-6.26) (Exhibit X);
9. Notice of Approval of Occupancy/Use (SBP-01) (Exhibit XIXI)
10. Notice of Partial Substantial Completion (SBP-071) (Exhibit XV);(Per ECM)
11. Notice of Substantial Completion (SBP-07) (Exhibit III); (For the Project)
12. Notice to Proceed to Commence Construction Phase (SBP 7.26) (Exhibit XVI);
13. Notice of Final Acceptance (SBP-6.27) Exhibit VII; (Per ECM and for the Project)
14. *Intentionally deleted;*
15. Notice of Contractor's Settlement (SBP-7.3) (Exhibit VIII);
16. Certificate for Contractor's Payment (SBP-7.2) (Exhibit XIX)
17. Other procedural and reporting documents or forms referred to in the General Conditions, the Specifications or required by the City or the Principal Representative. www.colorado.gov/dpa/dfp/sbrep/.

C. DEFINITIONS OF WORDS AND TERMS USED

1. *Intentionally deleted;*
2. ARCHITECT/ENGINEER. The term "Architect/Engineer" shall mean either the architect of record or the engineer of record under Contract to Contractor for the Work identified in the Contract Documents, which all Architect/ Engineer's

decisions are subject to City approval, and which Architect/Engineer is subject to Contractor's control. Contractor shall be responsible for the performance and decisions of the Architect/ Engineer.

3. OCCUPANCY. The term "Occupancy" means occupancy taken by the City as owner after the Date of Substantial Completion at a time when a building or other discrete physical portion of the Project (ECM) is used for the purpose intended. The Date of Occupancy shall be the date of such first use, but shall not be prior to the date of execution of the Notice of Approval of Occupancy/Use. Prior to the date of execution of a Notice of Approval of Occupancy/Use, the City shall have no right to occupy and the project may not be considered safe for occupancy/use for the intended use.
4. CHANGE ORDER. The term "Change Order" means a written order, signed by a Procurement Officer or other authorized representative of the Principal Representative, directing Contractor to make changes in the Work, in accordance with Article 35A, Changes in the Work, a form of which is attached to the Contract as Exhibit XVII.
5. COLORADO LABOR. The term "Colorado labor" shall be as defined in §8-17-101, C.R.S. (2007), and as may be amended, as any person who is a resident of the state of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, age, or religion except when sex or age is a bona fide occupational qualification, or shall have such other meaning as the term may otherwise be given in §8-17-101, C.R.S.(2007), as amended.
6. DAYS. The term "days" whether singular or plural, shall mean calendar days unless expressly stated otherwise. Where the term "business days" is used it shall mean "business days of the City".
7. DRAWINGS. The term "Drawings" shall mean all drawings approved by appropriate City officials which have been prepared by the Architect/Engineer showing the Work to be done, except that where a list of drawings is specifically enumerated in the Specifications, the term shall mean the drawings so enumerated, including all addenda drawings.
8. EMERGENCY FIELD CHANGE ORDER. The term "Emergency Field Change Order" shall mean a written change order for extra Work or a change in the Work necessitated by an emergency as defined in Article 35C executed on Exhibit XIV and identified as an Emergency Field Change Order. The use of such orders is limited to emergencies and to the amounts shown in Article 35C.
9. FINAL ACCEPTANCE. The terms "final acceptance" or "finally complete" mean the stage in the progress of the Project, after substantial completion, when all items of Work have been completed, all requirements of the Project portion of the Contract Documents are satisfied and the Notice of Final Acceptance is issued. Discrete physical portions of the Project may be separately and partially deemed finally complete at the discretion of the Principal Representative when that portion of the Project reaches such stage of completion and a Partial Notice of Substantial Completion is issued.
10. NOTICE. The term "Notice" shall mean any communication <u>in writing</u> from either contracting party to the other by such means of delivery that receipt cannot properly be denied. Notice shall be provided to the person identified to receive it in Article 2.D,Partnering, Communications, and Cooperation, or to such other person

as either party identifies in writing to receive Notice. Notice by facsimile transmission where proper transmission is evidence shall be adequate where facsimile numbers are included in Article 2.D. Notwithstanding an email delivery or return receipt, email Notice shall not be adequate. Acknowledgment of receipt of a voice message shall not be deemed to waive the requirement that Notice, where required, shall be in writing.

11. OWNER. The term "Owner" shall mean the Principal Representative.
12. PRINCIPAL REPRESENTATIVE. The term "Principal Representative " shall be defined, as provided in §24-30-1301(11), C.R.S. (2007), and as may be amended, by the City. The Principal Representative may delegate authority. Contractor shall have the right to inquire regarding the delegated authority of any of the Principal Representative's representatives on the project and shall be provided with a response in writing when requested. The Principal Representative also includes the City, as that term is defined in the Contract.
13. PROCUREMENT OFFICER. The term "Procurement Officer" means any person duly authorized to enter into and administer contracts and make written determinations with respect thereto. "Procurement Officer" includes an authorized representative of the Principal Representative acting within the limits of his or her authority.
14. PRODUCT DATA. The term "Product Data" shall mean all submittals in the form of printed manufacturer's literature, manufacturer's specifications, and catalog cuts.
15. REASONABLY INFERABLE: The phrase "reasonably inferable" means that if an item or system is either shown or specified, all material and equipment normally furnished with such items or systems and needed to make a complete installation shall be provided whether mentioned or not, omitting only such parts as are specifically excepted, and shall include only components which Contractor could reasonably anticipate based on his or her skill and knowledge using an objective, industry standard, not a subjective standard. This term takes into consideration the normal understanding that not every detail is to be given on the Drawings and Specifications.
16. SAMPLES. The term "Samples" shall mean examples of materials or Work provided to establish the standard by which the Work will be judged.
17. SC. The term "SC" means "State Contract" which is used in connection with labeling applicable State form documents (e.g. "SC 6.23" is the State form number for these General Conditions of the Contract).
18. SHOP DRAWINGS. The term "Shop Drawings" shall mean any and all detailed drawings prepared and submitted by Contractor, Subcontractor at any tier, vendors or manufacturers providing the products and equipment specified on the Drawings or called for in the Specifications.
19. SPECIFICATIONS. The term "Specifications" shall mean the requirements of [divisions 1 through 17 of the project manual] prepared by the Architect/Engineer describing the Work to be accomplished.
20. SUBMITTALS. The term "submittals" means drawings, lists, tables, documents and samples prepared by Contractor to facilitate the progress of the Work as required by these General Conditions or the Drawings and Specifications. They consist of Shop Drawings, Product Data, Samples, and various administrative support documents including but not limited to lists of Subcontractors, construction

progress schedules, schedules of values, applications for payment, inspection and test results, requests for information, various document logs, and as-built drawings. Submittals are required by the Contract Documents, but except to the extent expressly specified otherwise are not themselves a part of the Contract Documents.

21. SUBSTANTIAL COMPLETION. The terms "substantial completion" or "substantially complete" mean the stage in the progress of the Work when the construction is sufficiently complete, in accordance with the Contract Documents, so that the Work, or at the discretion of the Principal Representative, any designated portion thereof, is available for its intended use by the Principal Representative and a Notice of Substantial Completion may be issued as described in the Contract Documents.
22. SURETY. The term "Surety" shall mean any company providing labor and material payment and performance bonds for Contractor as obligor.
23. WORK. The term "Work" shall mean all or part of the labor, materials, equipment, and other services required by the Contract Documents or otherwise required to be provided by Contractor to meet Contractor's obligations under the Contract, and as defined in the Energy Performance Contract at Section 4.UU.

ARTICLE 2. EXECUTION, CORRELATION, INTENT OF DOCUMENTS, COMMUNICATION AND

COOPERATION

A. EXECUTION

Contractor, within ten (10) days from the Effective Date, shall be required to:

1. Furnish fully executed Performance and Labor and Material Payment Bonds, Exhibits I and II
2. Furnish Certificate(s) of Insurance, as described in Exhibit XIII to the Contract, which shall evidence all required insurance; and
3. Furnish certified copies of any insurance policies requested by the Principal Representative.

B. CORRELATION

Upon execution of the Agreement Contractor represents that Contractor has visited the Premises, has become familiar with local conditions and local requirements under which the Work is to be performed, including the building code programs of the City as implemented by the Principal Representative, and has correlated personal observations with the requirements of the Contract Documents.

C. INTENT OF DOCUMENTS

The Contract Documents are complementary, and what is called for by any one document shall be as binding as if called for by all. The intention of the Contract Documents is to include all labor, materials, equipment and transportation necessary for

the proper execution of the Work. Words describing materials or Work which have a well-known technical or trade meaning shall be held to refer to such recognized standards.

In the event any error exists, or appears to exist, in the requirements of the Drawings or Specifications, or if any disagreement exists as to such requirements, Contractor shall have the same explained or adjusted and approved by the State before proceeding with the Work in question. In the event of Contractor's failure to give prior written Notice of any such errors or disagreements of which Contractor or the Subcontractors are aware, Contractor shall, at no additional cost to the Principal Representative, make good any damage to, or defect in, Work which is caused by such omission.

Where a conflict occurs between or within standards, Specifications or Drawings, which is not resolved by reference to the precedence between the Contract Documents, the more stringent or higher quality requirements shall apply so long as such more stringent or higher quality requirements are reasonably inferable. The Principal Representative shall decide which requirements will provide the best installation.

D. PARTNERING, COMMUNICATIONS AND COOPERATION

In recognition of the fact that conflicts, disagreements and disputes often arise during the performance of construction contracts, Contractor and the Principal Representative aspire to encourage a relationship of open communication and cooperation between the employees and personnel of both, in which the objectives of the Contract may be better achieved and issues resolved in a more fully informed atmosphere.

Contractor and the Principal Representative each agree to assign an individual who shall be fully authorized to negotiate and implement a voluntary partnering plan for the purpose of facilitating open communications between them. Such individuals are hereby named as:

For the City:
Name:
Title:
Address:
Phone Number:
Email:

For Contractor:
Name:
Title:
Address:
Phone Number:
Email:

Within thirty days (30) of the issuance of the Notice to Proceed, the assigned individuals shall meet to discuss development of an informal agreement to accomplish these goals.

The assigned individuals shall endeavor to reach an informal agreement, but shall have no such obligation. Any plans these parties voluntarily agree to implement shall result in no change to the Contract amount, and no costs associated with such plan or its development shall be recoverable under any Contract clause. In addition, no plan developed to facilitate open communication and cooperation shall alter, amend or waive any of the rights or duties of either party under the Contract unless and except by written Amendment to the Contract, nor shall anything in this clause or any subsequently developed partnering plan be deemed to create fiduciary duties between the parties unless expressly agreed in a written Amendment to the Contract. It is also recognized that projects with relatively low Contract values may not justify the expense or special efforts required. In the case of small projects with an initial Fixed Limit of Construction Cost under $500,000, the requirements of the preceding paragraph shall not apply. In no circumstance may the City agree to or participate in binding arbitration.

ARTICLE 3. COPIES FURNISHED

The State shall furnish to Contractor, free of charge, the number of copies of Drawings and Specifications as specified in the Contract Documents, or if no number is specified, all copies reasonably necessary for the execution of the Work.

ARTICLE 4. OWNERSHIP OF DRAWINGS

Drawings or Specifications, or copies of either, are not to be used on any other Work. At the completion of the Work, at the written request of the City, Contractor shall return all Drawings and Specifications to the City.

Contractor may retain Contractor's Contract Document set, copies of Drawings and Specifications used to Contract with others for any portion of the Work and a marked up set of as-built drawings.

ARTICLE 5. ARCHITECT/ENGINEER'S STATUS

The Architect/Engineer is the representative of Contractor for purposes of administration of the Contract. In case of termination of employment or the death of the Architect/Engineer, Contractor shall appoint a capable Architect/Engineer against whom the City makes no reasonable objection, whose status under the Contract shall be the same as that of the former Architect/Engineer.

ARTICLE 6. CITY DECISIONS AND JUDGMENTS, ACCESS TO WORK AND INSPECTION

A. DECISIONS

The City shall, within a reasonable time, make decisions on all matters relating to the execution and progress of the Work or the interpretation of the Contract Documents.

B. JUDGMENTS

The City is the judge of the performance required by the Contract Documents as it relates to compliance with the Drawings and Specifications and quality of workmanship and materials.

The City shall make judgments regarding whether directed Work is extra or outside the scope of Work required by the Contract Documents at the time such direction is first given. If, in Contractor's judgment, any performance directed by the City is not required by the Contract Documents or if the City does not make the judgment required, it shall be a condition precedent to the filing of any claim for additional cost related to such directed Work that Contractor, before performing such Work, shall first obtain in writing, the City's written decision that such directed Work is included in the performance required by the Contract Documents. If the City's direction to perform the Work does not state that the Work is within the performance required by the Contract Documents, Contractor shall, in writing, request the City to advise in writing whether the directed Work will be considered extra Work or Work included in the performance required by the Contract Documents. Disagreement with the decision of the City shall not be grounds for Contractor to refuse to perform the Work directed or to suspend or terminate performance.

C. ACCESS TO WORK

The Principal Representative and representatives of the City shall at all times have access to the Work. Contractor shall provide proper facilities for such access and for their observations or inspection of the Work.

D. INSPECTION

Contractor's Architect/Engineer shall agree to make, or that structural, mechanical, electrical engineers or other consultants shall make, periodic visits to the Premises to generally observe the progress and quality of the Work to determine in general if the Work is proceeding in accordance with the Contract Documents. Observation may extend to all or any part of the Work and to the preparation, fabrication or manufacture of materials.

Without in any way meaning to be exclusive or to limit the responsibilities of the Architect/Engineer or Contractor, Contractor's Architect/Engineer shall agree to observe, among other aspects of the Work, the following for compliance with the Contract Documents as applicable:

1. Bearing surfaces of excavations before concrete is placed based upon the findings and recommendations of the Principal Representative's soils engineering consultant;
2. Reinforcing steel after installation and before concrete is poured;
3. Structural concrete;
4. Laboratory reports on all concrete testing based upon the findings and recommendations of the Principal Representative's testing consultant;
5. Structural steel during and after erection and prior to its being covered or enclosed;
6. Steel welding; Principal Representative will furnish steel welding inspection consultant/agency if required or necessary for the Project;
7. Mechanical and plumbing Work following its installation and prior to its being covered or enclosed;
8. Electrical Work following its installation and prior to its being covered or enclosed;
9. Compaction testing reports based upon the findings and recommendations of the Principal Representative's testing consultant; and
10. Any special or quality control testing required in the Contract Documents provided by the Principal Representative's testing consultant.

If the Specifications, the Architect/Engineer's instructions, the City's instructions, or the laws or ordinances of any public authority require any Work to be specifically tested or approved, Contractor shall give the City timely notice of its readiness for observation by the City or inspection by another authority, and if the inspection is by another authority, of the date fixed for such inspection, required certificates of inspection being secured by Contractor. Contractor shall give all required Notices to the Principal Representative or his or her designee for inspections required for the building inspection program. It shall be the responsibility of Contractor to determine the Notice required for inspection by the City. If any such Work is covered up without approval or consent of the City or prior to any building code inspection, it must, if required by the City, the Principal Representative be uncovered for examination, at Contractor's expense. If such Work is found to be not in accordance with the Contract Documents, Contractor shall pay such costs, unless he or she shall show that the defect in the Work was caused by another contractor engaged by the Principal Representative. In that event, the Principal Representative shall pay such cost. In addition, examination of questioned Work may be ordered, and if so ordered, the Work must be uncovered by Contractor. If such Work be found in accordance with the Contract Documents, Contractor shall be reimbursed the cost of examination and replacement.

ARTICLE 7. CONTRACTOR'S SUPERINTENDENCE AND SUPERVISION

Satisfactory to the Principal Representative, Contractor shall employ and assure that a competent superintendent and any necessary assistants are assigned and present on-site during the active periods of the scope of work installation which is to also coincide with the Project schedule. The superintendent shall not be changed except with the consent of the Principal Representative, unless the superintendent proves to be unsatisfactory to Contractor and ceases to be in his or her employ. The superintendent shall represent Contractor in his or

her absence and all directions given to the superintendent shall be as binding as if given to Contractor. Directions received by the superintendent shall be documented by the superintendent and confirmed in writing with Contractor.

Contractor shall give efficient supervision to the Work, using his or her best skill and attention. He or she shall carefully study and compare all Drawings, Specifications and other written instructions and shall without delay report any error, inconsistency or omission which he or she may discover in writing to the State.

The superintendent shall see that the Work is carried out in accordance with the Contract Documents and in a uniform, thorough and first-class manner in every respect. Contractor's superintendent shall establish all lines, levels, and marks necessary to facilitate the operations of all concerned in Contractor's Work. Contractor shall lay out all Work in a manner satisfactory to the City, making permanent records of all lines and levels required for excavation, grading, foundations, and for all other parts of the Work.

ARTICLE 8. MATERIALS AND EMPLOYEES

Unless otherwise stipulated, Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of the Work.

Unless otherwise specified, all materials and Equipment shall be new and both workmanship and materials shall be-of uniform quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contractor is fully responsible for all acts and omissions of Contractor's employees and shall at all times enforce strict discipline and good order among employees on the Premises. Contractor shall not employ on the Work any person reasonably deemed unfit by the Principal Representative or anyone not skilled in the Work assigned to him.

ARTICLE 9. SURVEYS, PERMITS, LAWS, TAXES AND REGULATIONS

A. SURVEYS

The Principal Representative shall furnish all surveys, property lines and bench marks, unless otherwise specified.

B. PERMITS AND LICENSES

Permits and licenses necessary for the prosecution of the Work shall be secured and paid for by Contractor. Contractors' employees shall become personally familiar with these local conditions and requirements and shall fully comply with such requirements. City electrical and plumbing permits are required, unless the requirement to obtain such permits is altered by the City. Contractor shall obtain and pay for such permits.

Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Principal Representative, unless otherwise specified.

C. TAXES

1. REFUND OF SALES AND USE TAXES

Contractor shall pay all local taxes required to be paid, including but not necessarily limited to all sales and use taxes. If requested by the Principal Representative prior to issuance of the Notice to Proceed or directed in the Specifications, Contractor shall maintain records of such payments in respect to the Work, which shall be separate and distinct from all other records maintained by Contractor, and Contractor shall furnish such data as may be necessary to enable the City, acting by and through the Principal Representative, to obtain any refunds of such taxes which may be available under the laws, ordinances, rules or regulations applicable to such taxes. When so requested or directed, Contractor shall require Subcontractors to pay all local sales and use taxes required to be paid and to maintain records and furnish Contractor with such data as may be necessary to obtain refunds of the taxes paid by such Subcontractors. No State sales and use taxes are to be paid on material to be used in this Project. On application by the purchaser or seller, the City shall issue to a Contractor or to a Subcontractor at any tier, a certificate or certificates of exemption.

2. FEDERAL TAXES

Contractor shall exclude the amount of any applicable federal excise or manufacturers' taxes from the proposal. The Principal Representative will furnish Contractor, on request exemption certificates.

D. LAWS AND REGULATIONS

Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn or specified. If Contractor observes that the Drawings or Specifications require Work which is at variance therewith, Contractor shall without delay notify the City in writing and any necessary changes shall be adjusted as provided in Article 35, Changes In The Work.

Drawings and specifications are to be reviewed by the City's approved Code Review Agents at appropriate phases. If Contractor observes that the Drawings or Specifications require Work at variance therewith, Contractor shall immediately notify the City in writing and any necessary changes shall be adjusted as provided in Article 35, Changes In The Work.

Contractor shall bear all costs arising from the performance of Work required by the Drawings or Specifications that Contractor knows to be contrary to such laws, ordinances, rules or regulations, if such Work is performed without giving Notice to the City.

ARTICLE 10. PROTECTION OF WORK AND PROPERTY

A. GENERAL PROVISIONS

Contractor shall continuously maintain adequate protection of all Work and materials, protect the property from injury or loss arising in connection with this Contract and adequately protect adjacent property as provided by law and the Contract Documents. Contractor shall be responsible for any damage, injury or loss, except to the extent:

1. *Intentionally deleted*
2. Caused by agents or employees of the Principal Representative; and,
3. Due to causes beyond Contractor s control and not to fault or negligence.

B. SAFETY PRECAUTIONS

Contractor shall take all necessary precautions for the safety of employees on the Project, and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the Premises where the Work is being performed. He or she shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials; and he or she shall designate a responsible member of his or her organization on the Project, whose duty shall be the prevention of accidents. The name and position of any person so designated shall be reported to the City by Contractor within fifteen (15) days of issuance of the Notice to Proceed.

With respect to the Work, Contractor shall provide all necessary bracing, shoring and tying of all structures, decks and framing to prevent any structural failure of any material which could result in damage to property or the injury or death of persons; take all precautions to insure that no part of any structure of any description is loaded beyond its carrying capacity with anything that will endanger its safety at any time during the execution of this Contract; and provide for the adequacy and safety of all scaffolding and hoisting equipment. Contractor shall not permit open fires within the building enclosure. Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations and floors, pits and trenches free of water. Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work, except as otherwise noted.

Contractor shall take due precautions when obstructing sidewalks, streets or other public ways in any manner, and shall provide, erect and maintain barricades, temporary walkways, roadways, trench covers, colored lights or danger signals and any other devices necessary or required to assure the safe passage of pedestrians and automobiles.

C. EMERGENCIES

In an emergency affecting the safety of life or of the Work or of adjoining property, Contractor without special instruction or authorization from the Principal Representative, is hereby permitted to act, at his or her discretion, to prevent such threatened loss or injury; and he or she shall so act, without appeal, if so authorized or instructed. Provided Contractor has no responsibilities for the emergency, if Contractor incurs additional cost not otherwise recoverable from insurance or others on account of any such emergency Work, the Fixed Limit of Construction Cost shall be equitably adjusted in accordance with Article 35, Changes In The Work.

ARTICLE 11. DRAWINGS AND SPECIFICATIONS ON THE WORK

When applicable, as determined in the sole discretion of the City, Contractor shall keep on the Premises one copy of the Contract Documents in good order, including current copies of all Drawings and Specifications for the Work, and any approved Shop Drawings, Product Data or Samples, and as-built drawings. All such documents shall be available to representatives of the City. In addition, Contractor shall keep on the Premises one copy of all approved addenda, Change Orders and requests for information issued for the Work.

Contractor shall develop procedures to insure the currency and accuracy of as-built drawings and shall maintain on a current basis a log of requests for information and responses thereto, a Shop Drawing and Product Data submittal log, and a Sample submittal log to record the status of all necessary and required submittals.

ARTICLE 12. REQUESTS FOR INFORMATION AND SCHEDULES

A. REQUESTS FOR INFORMATION

The City shall furnish additional instructions with reasonable promptness, by means of drawings or otherwise, necessary for the proper execution of the Work. All such drawings and instructions shall be consistent with the Contract Documents and reasonably inferable there from. The City shall determine what additional instructions or drawings are necessary for the proper execution of the Work.

The Work shall be executed in conformity with such instructions and Contractor shall do no Work without proper Drawings, Specifications or instructions. If Contractor believes additional instructions, Specifications or Drawings are needed for the performance of any portion of the Work, Contractor shall give Notice of such need in writing through a request for information furnished to the City sufficiently in advance of the need for such additional instructions, Specifications or Drawings to avoid delay and to allow the City a reasonable time to respond. Contractor shall maintain a log of the requests for information and the responses provided.

B. SCHEDULES

1. SUBMITTAL SCHEDULES

Within thirty (30) days of the Effective Date, Contractor shall prepare a schedule which may be preliminary to the extent required, fixing the dates for the submission and initial review of required Shop Drawings, Product Data and Samples for the beginning of manufacture and installation of materials, and for the completion of the various parts of the Work. It shall be prepared so as to cause no delay in the Work or in the Work of any other contractor. The schedule shall be subject to change from time to time in accordance with the progress of the Work, and it shall be subject to the review and approval by the City. It shall fix the dates at which the various Shop Drawings Product Data and Samples will be required from Contractor. The City, after review and agreement as to the time provided for initial review, shall review and comment on the Shop Drawings, Product Data and Samples in accordance with that schedule. The schedule shall be finalized, prepared and submitted with respect to each of the elements of the Work in time to avoid delay, considering reasonable periods for review, manufacture or installation.

At the time the schedule is prepared, Contractor, the Architect/Engineer and Principal Representative shall jointly identify the Shop Drawing, Product Data and Samples, if any, which the Principal Representative shall receive simultaneously with the Architect/Engineer for the purposes of Owner coordination with existing facility standards and systems. Contractor shall furnish a copy for the Principal Representative when so requested. Transmittal of Shop Drawings and Product Data copies to the Principal Representative shall be solely for the convenience of the Principal Representative and shall neither create nor imply responsibility or duty of review by the Principal Representative.

Contractor may also, or at the direction of the Principal Representative at any time, shall prepare and maintain a schedule, which may also be preliminary and subject to change to the extent required, fixing the dates for the initial responses to requests for information or for detail drawings which will be required from the Architect/Engineer to allow the beginning of manufacture, installation of materials and for the completion of the various parts of the Work. The schedule shall be subject to review and approval by the City. The Architect/Engineer shall, after review and agreement, furnish responses and detail Drawings in accordance with that schedule. Any such schedule shall be prepared and approved in time to avoid delay, considering reasonable periods for review, manufacture or installation, but so long as the request for information schedule is being maintained, it shall not be deemed to transfer responsibility to Contractor for errors or omissions in the Contract Documents where circumstances make timely review and performance impossible.

The City shall not unreasonably withhold approval of Contractor's schedules and shall inform Contractor and the Principal Representative of the basis of any refusal to agree to Contractor's schedules. The Principal Representative shall attempt to resolve any disagreements.

2. SCHEDULE OF VALUES

Within twenty-one (21) calendar days after the date of the Notice to Proceed, Contractor shall submit to the Principal Representative, for approval, and to the City when specifically requested, a complete itemized Schedule of Values of the various parts of the Work, as estimated by Contractor, aggregating the total Project price. The Schedule of Values, attached to the Contract as Schedule O, shall be in such detail as the Principal Representative shall require, prepared on forms acceptable to the Principal Representative. It shall, at a minimum, identify on a separate line each division of the Specifications including the general conditions costs to be charged to the Project. Contractor shall revise and resubmit the Schedule of Values for approval when, in the opinion of the Principal Representative, such resubmittal is required due to changes or modifications to the Contract Documents.

The total cost of each line item so separately identified shall, when requested by the Principal Representative, be broken down into reasonable estimates of the value of:

a. Material, which shall include the cost of material actually built into the Project plus any local sales or use tax paid thereon; and,
b. Labor and other costs.

The cost of subcontracts shall be incorporated in Contractor's Schedule of Values, and when requested by the Principal Representative, shall be separately shown as line items.

The Principal Representative shall review the proposed schedules and approve or advise Contractor of any required revisions within ten (10) days of its receipt. In the event no action is taken on the submittal within ten days, Contractor may utilize the Schedule of Values as its submittal for payment until it is approved or until revisions are requested.

When the City deems it appropriate to facilitate certification of the amounts due to Contractor, further breakdown of subcontracts, including breakdown by labor and materials, may be directed.

This Schedule of Values, when approved by the City, shall be used in preparing Contractor's applications for payment.

3. CONSTRUCTION SCHEDULES

Within twenty-one (21) calendar days after the date of the City's acceptance of the Pre-Construction Report, shall submit to the Principal Representative, and to the City when specifically requested, on a form acceptable to them, an overall timetable of the construction schedule for the Project. Unless the Specifications allow scheduling with bar charts or other less sophisticated scheduling tools, Contractor's schedule shall be a critical-path method (CPM) construction

schedule. The CPM schedule shall start with the date of the Notice to Proceed and include submittals activities, the various construction activities, change order Work (when applicable), close-out, testing, demonstration of equipment operation when called for in the Specifications, and acceptance. The CPM shall at a minimum correlate to the schedule of values line items and shall be cost loaded if requested by the Principal Representative. The completion time shall be the time specified in the Agreement and all Project scheduling shall allocate float utilizing the full period available for construction without indication of early completion, unless such earlier completion is approved in writing by the Principal Representative and the City.

The time shown between the starting and completion dates of the various elements within the construction schedule shall represent one hundred per cent (100%) completion of each element.

All other elements of the CPM schedule shall be as required by the Specifications. In addition, Contractor shall submit monthly updates of the construction schedule. These updates shall reflect Contractor's "Work in place" progress.

When requested by the Principal Representative or the City, Contractor shall revise the construction schedule to reflect changes in the Schedule of Values.

When the testing of materials is required by the Specifications, Contractor shall also prepare and submit to the Principal Representative a schedule for testing in accordance with Article 14, Samples and Testing.

ARTICLE 13. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

A. SUBMITTAL PROCESS

Contractor shall check and field-verify all dimensions. Contractor shall check, approve and submit to the Architect/Engineer and the City in accordance with the schedule described in Article 12, Requests for Information and Schedules, all Shop Drawings, Product Data and Samples required by the specifications or required by Contractor for the Work of the various trades. All Drawings and Product Data shall contain identifying nomenclature and each Submittal shall be accompanied by a letter of transmittal identifying in detail all enclosures. The number of copies of Shop Drawings and Product Data to be submitted shall be as specified in the Specifications and if no number is specified then three copies shall be submitted.

The Architect/Engineer and the City shall review and comment on the Shop Drawings and Product Data within the time provided in the agreed upon schedule for conformance with information given and the design concept expressed in, or reasonably inferred from, the Contract Documents. The nature of all corrections to be made to the Shop Drawings and Product Data, if any, shall be clearly noted, and the submittals shall be returned to Contractor for such corrections. If a change in the scope of the Work is intended by revisions requested to any Shop Drawings and Product Data, Contractor shall prepare a change proposal in accordance with Article 35, Changes In The Work.

On resubmitted Shop Drawings, Product Data or Samples, Contractor shall direct specific attention in writing on the transmittal cover to revisions other than those corrections requested by the Architect/Engineer or the City on any previously checked submittal. The Architect/Engineer shall and the City promptly review and comment on, and return, the resubmitted items.

Contractor shall thereafter furnish such other copies in the form approved by the City as may be needed for the prosecution of the Work.

B. FABRICATION AND ORDERING

Fabrication shall be started by Contractor only after receiving approved Shop Drawings from the Architect/Engineer and approval of such Shop Drawings by the City. Materials shall be ordered in accordance with approved Product Data. Work which is improperly fabricated, whether through incorrect Shop Drawings, faulty workmanship or materials, will not be acceptable.

C. DEVIATIONS FROM DRAWINGS OR SPECIFICATIONS

The review and comments of the Architect/Engineer or the City of Shop Drawings, Product Data or Samples shall not relieve Contractor from responsibility for deviations from the Drawings or Specifications, unless he or she has in writing called the attention of the Architect/Engineer and the City to such deviations at the time of submission, nor shall it relieve Contractor from responsibility for errors of any sort in Shop Drawings or Product Data. Review and comments on Shop Drawings or Product Data containing identified deviations from the Contract Documents shall not be the basis for a Change Order or a claim based on a change in the scope of the Work unless Notice is given to the Principal Representative in accordance with Articles 35 and 36.

D. CONTRACTOR REPRESENTATIONS

By preparing, approving, and/or submitting Shop Drawings, Product Data and Samples, Contractor represents that Contractor has determined and verified all materials, field measurements, and field construction criteria related thereto, and has checked and coordinated the information contained within each submittal with the requirements of the Work, the Project and the Contract Documents and prior reviews and approvals.

ARTICLE 14. SAMPLES AND TESTING

A. SAMPLES

Contractor shall furnish for approval, with such promptness as to cause no delay in his or her Work or in that of any other Contractor, all Samples as directed by the City. The City shall check and approve such Samples, with reasonable promptness, but only for conformance with the design intent of the Contract Documents and the Project, and for compliance with any submission requirements given in the Contract Documents.

B. TESTING - GENERAL

Contractor shall provide such equipment and facilities as the City may require for conducting field tests and for collecting and forwarding samples to be tested. Samples themselves shall not be incorporated into the Work after approval without the permission of the City.

All materials or equipment proposed to be used may be tested at any time during their preparation or use. Contractor shall furnish the required samples without charge and shall give sufficient Notice of the placing of orders to permit the testing thereof. Products may be sampled either prior to shipment or after being received at the Premises of the Work.

Tests shall be made by an accredited testing laboratory. Except as otherwise provided in the Specifications, sampling and testing of all materials, and the laboratory methods and testing equipment, shall be in accordance with the latest standards and tentative methods of the American Society of Testing Materials (ASTM). The cost of testing which is in addition to the requirements of the Specifications shall be paid by Contractor if so directed by the City, and the Fixed Limit of Construction Cost shall be adjusted accordingly by Change Order; provided however, that whenever testing shows portions of the Work to be deficient, all costs of testing including that required to verify the adequacy of repair or replacement Work shall be the responsibility of Contractor.

C. TESTING - CONCRETE AND SOILS

Unless otherwise specified or provided elsewhere in the Contract Documents, if applicable in the sole discretion of the Principal Representative, the Principal Representative will Contract for and pay for the testing of concrete and for soils compaction testing through an independent laboratory or laboratories selected and approved by the Principal Representative. Contractor shall assume the responsibility of arranging, scheduling and coordinating the concrete sample collection efforts and soils compaction efforts. Testing shall be performed in accordance with the requirements of the Specifications, and if no requirements are specified, Contractor shall request instructions and testing shall be as directed by the City, or the soils engineer, as applicable, and in accordance with standard industry practices.

The Principal Representative and the Architect/Engineer shall be given reasonable advance notice of each concrete pour and reserve the right to either increase or decrease the number of cylinders or the frequency of tests.

Soil compaction testing shall be at random locations selected by the soils engineer. In general, soils compaction testing shall be as directed by the soils engineer and shall include all substrate prior to backfill or construction.

D. TESTING - OTHER

Additional testing required by the Specifications will be accomplished and paid for by the Principal Representative in a manner similar to that for concrete and soils unless noted otherwise in the Specifications. In any case, Contractor will be responsible for arranging, scheduling and coordinating additional tests. Where the additional testing will be contracted and paid for by the Principal Representative Contractor shall give the Principal Representative not less than one month advance written Notice of the date the first such test will be required.

ARTICLE 15. SUBCONTRACTS

A. SUBCONTRACTOR PROPOSALS

If Contractor utilizes any Subcontractor on this Project, Contractor shall request and receive proposals from the Subcontractors and subcontracts will be awarded after the proposals are tabulated in a pre-approved format which compares to each Fixed Limit of Construction Cost budgeted line item, as indicated in the finalized Schedule J, and, reviewed by, Contractor, and Principal Representative.

Should Contractor submit a proposal for subcontract work, the proposal conditions used shall be the same as for all subcontractor proposals. These Contractor proposals for subcontract work shall be submitted to the Principal Representative twenty-four (24) hours prior to receipt of other subcontractor proposals and be opened with the other proposals.

B. SUBCONTRACTOR PREQUALIFICATION

At the commencement of the Construction Term, Contractor shall submit to the Principal Representative a complete list of all proposed pre-qualified Subcontractors which shall be on a schedule prepared by Contractor for such submittal. Contractor shall not employ any subcontractor that the Principal Representative objects to in writing as being unacceptable.

Contractor shall use only Subcontractors who have been pre-qualified by Contractor and are acceptable to the Principal Representative, which acceptance shall not be unreasonably withheld. Contractor shall, within forty five (45) days after the date of the Notice to Proceed, submit to the Principal Representative and the City a preliminary list of Subcontractors, including Contractor's Architect/ Engineer. It shall be as complete as possible at the time, showing all known Subcontractors planned for the Work. The list shall be supplemented as other Subcontractors are determined by Contractor and any list, supplemental or otherwise, shall be submitted to the Principal Representative and the City not less than ten (10) days before the Subcontractor commences Work.

If the Principal Representative refuses to accept a subcontractor recommended by Contractor, Contractor shall recommend an acceptable substitute.

Contractor shall not employ any Subcontractor that the City, within seven (7) days after the date of receipt of Contractor's list of Subcontractors or any supplemental list,

objects to in writing as being unacceptable to either the Principal Representative or the City. If a Subcontractor is deemed unacceptable, Contractor shall propose a substitute Subcontractor..

C SUBCONTRACTOR FORMS

All subcontracts will be between Contractor and the Subcontractors. The form of subcontracts shall be furnished to the Principal Representative for review and consent as to form, which consent shall not be unreasonably withheld.

D. CONTRACTOR RESPONSIBLE FOR SUBCONTRACTORS

Contractor shall be responsible to the Principal Representative for the acts and omissions of its agents and employees, suppliers, Subcontractors performing work under a Contract with Contractor, and such Subcontractors' lower tier Subcontractors, agents or employees.

E. SUBSTITUTION OF SUBCONTRACTORS

Contractor shall make no substitution for any subcontractor, person or entity previously selected without the prior written approval of the Principal Representative, which approval shall not be unreasonably withheld.

F. PRINCIPAL REPRESENTATIVE/SUBCONTRACTOR RELATIONSHIP

Upon notice by the City, Contractor agrees to meet and confer with the City and other invited, interested persons at the City offices or at the Premises, the choice of such location to be made by the City, or at some other location mutually agreeable to the City and Contractor, concerning its pre-qualification, and subcontracting procedures. Contractor agrees to meet within three (3) business days of an election by the City and to comply with reasonable requests for information to be provided at such meeting. The City agrees that this administrative procedure will be exhausted prior to the City's exercising any contractual or other remedy relating to the pre-qualification–or subcontracting procedures specified herein.

Nothing contained in the Contract Documents, including this Agreement, shall be deemed to create any contractual relationship between any subcontractor of any tier and the Principal Representative. Further, nothing in the Contract Documents, including this Agreement and the pre-qualification and subcontracting procedures specified herein, is intended to create or shall be deemed to create third party beneficiary or other rights inuring to the benefit of any prospective subcontractor, subcontractor, or any other third person.

ARTICLE 16. RELATIONS OF CONTRACTOR AND SUBCONTRACTOR

Contractor agrees to bind each Subcontractor to the terms of these General Conditions and to the requirements of the Drawings and Specifications, and any Addenda thereto, and also all the other Contract Documents and Procedural Documents, as applicable to the Work of such Subcontractor. Contractor further agrees to bind each Subcontractor to those terms of the General Conditions which expressly require that Subcontractors also be bound, including without limitation, requirements that Subcontractors waive all rights of subrogation, provide adequate general commercial liability and property insurance, automobile insurance and workers' compensation insurance as provided in Article 25, Insurance. Contractor shall be fully responsible to the Principal Representative for the acts and omissions of Subcontractors and of persons either directly or indirectly employed by them. All instructions or orders in respect to Work to be done by Subcontractors shall be given to Contractor. Nothing contained in the Contract Documents shall be deemed to create any contractual relationship whatsoever between any Subcontractor and the City acting by and through its Principal Representative.

ARTICLE 17. MUTUAL RESPONSIBILITY OF CONTRACTORS

Should Contractor cause damage to any separate contractor on the Work, Contractor agrees to settle with such contractor by agreement, if he or she will so settle on a mutually acceptable agreement. If such separate contractor sues the Principal Representative on account of any damage alleged to have been so sustained, the Principal Representative shall notify Contractor, who shall hold harmless, indemnify, and defend the Principal Representative at such proceedings if requested to do so by Principal Representative. If any judgment against the Principal Representative arises there from, Contractor shall pay or satisfy it and pay all costs and reasonable attorney fees incurred by the Principal Representative, in accordance with this Article 17 and the Contract, only if Contractor was given due notice and an opportunity to settle.

ARTICLE 18. SEPARATE CONTRACTS

The Principal Representative reserves the right to enter into other contracts in connection with the Project or the Contract. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall properly connect and coordinate his or her Work with theirs. If any part of Contractor's Work depends, for proper execution or results, upon the Work of any other contractor, Contractor shall inspect and promptly report to the City any defects in such Work that render it unsuitable for such proper execution and results. Failure of Contractor to so inspect and report shall constitute an acceptance of the other contractor's Work as fit and proper for the reception of Work, except as to defects which may develop in the other Contractor's Work after the execution of Contractor's Work.

To insure the proper execution of subsequent Work, Contractor shall measure Work already in place and shall immediately report to the State any discrepancy between the executed Work and the Drawings.

ARTICLE 19. USE OF PREMISES

Contractor shall confine apparatus, the storage of materials and the operations of workmen to limits indicated by law, ordinances, permits and any limits lines shown on the Drawings. Contractor shall not unreasonably encumber the premises with materials. Contractor shall enforce all of the City's instructions and prohibitions regarding, without limitation, such matters as signs, advertisements, fires and smoking.

ARTICLE 20. CUTTING, FITTING OR PATCHING

Contractor shall do all cutting, fitting or patching of Work that may be required to make its several parts come together properly and fit it to receive or be received by Work of other Contractors shown upon, or reasonably inferred from, the Drawings and Specifications for the complete structure, and shall provide for such finishes to patched or fitted Work as the City may direct. Contractor shall not endanger any Work by cutting, excavating or otherwise altering the Work and shall not cut or alter the Work of any other Contractor save with the consent of the City.

ARTICLE 21. UTILITIES

A. TEMPORARY UTILITIES

Unless otherwise specifically stated in the Specifications or on the Drawings, the Principal Representative shall be responsible for the placement of all utilities as shown on the Drawings or indicated elsewhere in the Specifications, subject to Contractor's compliance with all statutory or regulatory requirements. When actual conditions deviate from those shown in the Drawings and Specifications, Contractor shall comply with the requirements of Article 37, Differing Premises ConditionsThe Superintendent shall have full authority over all trades and Subcontractors at any tier to prevent waste. The cut-off date on permanent meters shall be either the agreed date of the Notice of Substantial Completion of the Project, whichever shall be the earlier date.

B. PROTECTION OF EXISTING UTILITIES

Where existing utilities, such as water mains, sanitary sewers, storm sewers and electrical conduits, are shown on the Drawings, Contractor shall be responsible for the protection thereof, without regard to whether any such utilities are to be relocated or removed as a part of the Work. If any utilities are to be moved, the moving must be conducted in such manner as not to cause undue interruption or delay in the operation of the same.

C. CROSSING OF UTILITIES

When new construction crosses highways, railroads, streets, or utilities under the jurisdiction of State, City or other public agency, public utility or private entity, Contractor shall secure proper written permission before executing such new construction. Contractor will be required to furnish a proper release before final acceptance of the Work.

ARTICLE 22. UNSUITABLE CONDITIONS

Contractor shall not Work at any time, or permit any Work to be done, under any conditions contrary to those recommended by manufacturers or industry standards which are otherwise proper, unsuited for proper execution, safety and performance. Any loss, damage, or increased cost caused by ill-timed Work shall be borne by Contractor unless the timing of such Work shall have been directed by the Principal Representative, and Contractor provided Notice of any additional cost.

ARTICLE 23. TEMPORARY FACILITIES

A. OFFICE FACILITIES

Contractor shall provide and maintain without additional expense for the duration of the Project temporary office facilities, as required and as specified, for his or her own use and the use of the Principal Representative.

B. TEMPORARY HEAT – Intentionally Deleted

C. WEATHER PROTECTION

Contractor shall, at all times, provide protection against weather, so as to maintain all Work, materials, apparatus and fixtures free from injury or damages.

D. DUST PARTITIONS

If the Work involves Work in an occupied existing building, Contractor shall erect and maintain during the progress of the Work, suitable dust-proof temporary partitions, or more permanent partitions as specified, to protect such building and the occupants thereof.

E. BENCH MARKS

Contractor shall maintain any Premises bench marks provided by the Principal Representative and shall establish any additional benchmarks specified by the City as necessary for Contractor to layout the Work and ascertain all grades and levels as needed.

F. SIGN

Contractor shall erect and permit one 4' x 8' sign only at the Premises to identify the Project as specified or directed by the City which shall be maintained in good condition during the life of the Project.

G. SANITARY PROVISION

Contractor shall provide and maintain suitable, clean, temporary sanitary toilet facilities for any and all workmen engaged on the Work, for the entire construction period, in strict compliance with the requirement of all applicable codes, regulations, laws and ordinances, and no other facilities, new or existing, may be used by any person on the Project. When the Project is complete Contractor shall promptly remove them from the Premises, disinfect, and clean or treat the areas as required. If any new construction surfaces in the Project other than the toilet facilities provided for herein are permanently soiled at any time, the entire areas so soiled shall be completely removed from the Project and rebuilt.

ARTICLE 24. CLEANING UP

Contractor shall keep the building and premises free from all surplus material, waste material, dirt and rubbish caused by employees or Work, and at the completion of the Work shall remove all such surplus material, waste material, dirt, and rubbish, as well as all tools, equipment and scaffolding, and shall wash and clean all window glass and plumbing fixtures, perform cleanup and cleaning required by the Specifications and leave all of the Work clean unless more exact requirements are specified.

ARTICLE 25. INSURANCE

A. GENERAL LIABILITY and COMMERCIAL AUTOMOBILE and UMBRELLA/EXCESS GENERAL LIABILITY

The Contractor shall procure and maintain comprehensive commercial general liability insurance and commercial automobile liability and property damage insurance and an umbrella/excess general liability policy as hereinafter specified, at his or her own expense, during the life of this Contract. Evidence of coverage shall be provided within ten (10) days of the Effective Date, and annually thereafter using a Certificate of Insurance or evidence of self-insurance. This insurance shall include a provision preventing cancellation without thirty (30) days' (except for non-payment ten (10) days) prior Notice by certified mail. The Contractor shall obtain insurance unless otherwise agreed in writing by the Principal Representative. A completed Certificate of Insurance or evidence of self-insurance shall be filed with the City and the Principal Representative within ten (10) days after the date of the Notice of Award, said Certificate to specifically state the inclusion of the coverages and provisions set forth herein.

This insurance shall be sufficient to protect the Contractor from payment of any claims for bodily injury, including death, and any claims for destruction of or damage to property, arising out of or in connection with, any operations under this Contract, whether

such operations be by the Contractor or by any Subcontractor under him or anyone directly or indirectly employed by the Contractor or by a Subcontractor. All such insurance shall be written with limits and coverages as specified below and shall be written on a Comprehensive Form of Policy. In the event any of the hazards or exposures, normally listed in standard policies as "Exclusions", are involved or required under this Contract, then such hazards or exposures shall be covered and protection afforded under the policy and such exclusions (X), (c) and (u), as excerpted from standard policies, shall be removed from the policy as listed below:

> "(X) Injury to or destruction of any property arising out of blasting or explosion, other than the explosion of air or steam vessels, piping under pressure, prime movers, machinery of power transmitting equipment"
>
> "(c) The collapse of or structural injury to any building or structure due to: (1) grading of land, excavating, burrowing, filling, backfilling, tunneling, pile driving, cofferdam Work or caisson Work; or (2) moving, shoring, underpinning, raising or demolition of any building or structure, or removal or rebuilding of any structural support thereof;"
>
> "(u) (1) injury to or destruction of wires, conduits, pipes, mains, sewers or other similar property, or any apparatus in connection therewith, below the surface of the ground, if such injury or destruction is caused by and occurs during the use of mechanical equipment for the purpose of grading of land, paving, excavating or drilling; or, (2) injury to or destruction of property at any time resulting there from."

Such insurance shall be written with limits and coverages as follows, and the City shall be named as an additional insured on the Commercial General Liability Policy:

1. **Commercial General Liability (CGL)**, (including bodily injury, personal injury and property damage) with the following coverages depending upon format:

   a. Annual Aggregate limit policy-not less than $2,000,000

   Minimum limits: $1,000,000 each occurrence
   $2,000,000 general aggregate with dedicated limits per Premises
   $2,000,000 products and completed operations aggregate

   b. The following coverages shall be included in the Commercial General Liability Policy:

      1. Premises-Operations
      2. Explosion/Collapse Hazard
      3. Underground Hazard
      4. Products/Completed Operations Hazard

5. Broad Form Contractual
6. Broad Form Property Damage
7. Personal Injury
8. Comprehensive Form

2. Commercial Automobile Liability and including owned, hired and non-owned autos.

Minimum limit: $1,000,000 combined single limit each accident

3. Umbrella/Excess General Liability: Contractor shall maintain umbrella/excess liability insurance on the underlying insurance described in Sections A and B of this Article 25, which is at least as broad as each and every area of the underlying policies. The amounts of insurance required in this Article 25, Sections A and B may be satisfied by the Contractor purchasing coverage for the limits specified or by any combination of underlying and umbrella/Excess General Liability limits, so long as the total amount of insurance is not less than the limits specified in each section previously mentioned.

Minimum limit: $5,000,000 combined single limit and aggregate limit
Coverages:

1. Concurrency of effective dates with primary
2. Blanket contractual liability

B. WORKERS' COMPENSATION INSURANCE

Contractor shall procure and maintain Workers' Compensation Insurance at his or her own expense during the term of this Contract, including occupational disease provisions for all employees. This insurance shall contain the same thirty (30) days' Notice of cancellation as required in Article 25, Insurance, for the Comprehensive General Liability Insurance. Evidence of such insurance shall be by the issuance of Certificate of Insurance, and such Certificate shall be filed with the City. The Certificate shall be filed within ten (10) days after the date of the Notice of Award.

The Contractor shall also require each Subcontractor to furnish Workers' Compensation Insurance, including occupational disease provisions for all of the latter's employees.

C. Intentionally deleted.

D.

E. ADDITIONAL MISCELLANEOUS INSURANCE PROVISIONS

Insurance policies required under this Contract shall be subject to the following stipulations and additional requirements:

1. Contractors General Liability policy shall be primary and non contributory to any general liability insurance carried by the City.
2. Any and all deductibles or self-insured retentions contained in any Insurance policy shall be assumed by and at the sole risk of the Contractor;
3. If any of the said policies shall fail at any time to meet the requirements of the Contract Documents as to form or substance, or if a company issuing any such policy shall be or at any time cease to be approved by the City, or cease to be in compliance with any stricter requirements of the Contract Documents, Contractor shall promptly obtain a new policy, submit the same to City for approval if requested, and submit a Certificate of Insurance as hereinbefore provided. Upon failure of Contractor to furnish, deliver and maintain such insurance as provided herein, this Contract, in the sole discretion of the City, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification;
4. All requisite insurance shall be obtained from financially responsible insurance companies, authorized to do business in the City and acceptable to the City;
5. Receipt, review or acceptance by the City of any insurance policies or certificates of insurance required by this Contract shall not be construed as a waiver or relieve the Contractor from its obligation to meet the insurance requirements contained in these General Conditions.
6. The Contractor shall waive all rights of subrogation as regards to the City, its officials, its officers, its agents and its employees, all while acting within the scope and course of their employment. Contractor shall be responsible for obtaining insurance that meets this requirement if insurer shall not voids such insurance policy by reason of the Contractor waiving said rights. The Contractor shall require all Subcontractors at any tier to similarly waive all such rights of subrogation and shall expressly include such a waiver in all subcontracts.
7. In lieu of the insurance requirements hereunder, Contractor may self insure with written approval from Principal Representative. Contractor will notify the City in writing 30 days prior to cancellation or of Contractor's ability to self insure.

ARTICLE 26. CONTRACTOR'S PERFORMANCE AND PAYMENT BONDS

Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond on forms included in following Exhibits I and II , executed by a corporate Surety authorized to do business in the State of Colorado and in the full amount of the Fixed Limit of Construction Cost. The expense of these bonds shall be borne by the Contract and the bonds shall be filed with The City.

These Bonds apply only to the installation portion of the Contract and do not apply in any way to energy savings guarantees, payments or maintenance provisions, except that the Performance Bond shall guarantee that the installation will be free of defective materials and

workmanship for a period of twelve (12) months following completion and acceptance of the Contract.

If, at any time, a Surety on such a bond is found to be, or ceases to be in strict compliance with any qualification requirements of the Contract Documents or the bid documents, or loses its right to do business in the State of Colorado, another Surety will be required, which Contractor shall furnish to the City within ten (10) days after receipt of Notice from the City or after Contractor otherwise becomes aware of such conditions. The bonds shall be maintained in full force and effect until Final Completion of the construction work but are not being furnished to cover any energy guarantee or guaranteed savings under this Contract. Upon Final Completion the bonds shall be released.

ARTICLE 27. LABOR AND WAGES

In accordance with laws of Colorado, C.R.S. §8-17-101, et. seq., as amended, Colorado labor shall be employed to perform the Work to the extent of not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on the Project. If the Federal Davis-Bacon Act shall be applicable to the Project, as indicated in this Article , the minimum wage rates to be paid on the Project will be specified in the Contract Documents.

Application of the Federal Davis-Bacon Act:

If the box is marked and the Principal Representative has initialed, then the Federal Davis-Bacon Act shall be applicable to the Project. The minimum wage rates to be paid on the Project shall be furnished by the Principal Representative and included in the Contract Documents and cost shall be included in the Fixed Limit of Construction Cost.

☐ _____ Principal Representative initial

ARTICLE 28. ROYALTIES AND PATENTS

Contractor shall be responsible for assuring that all rights to use of products and systems have been properly arranged and shall take such action as may be necessary to avoid delay, at no additional charge to the Principal Representative, where such right is challenged during the course of the Work. Contractor shall pay all royalties and license fees required to be paid and shall defend all suits or claims for infringement of any patent rights and shall save the City harmless from loss on account thereof, in accordance with Article 17 and Section 23.B. provided, however, Contractor shall not be responsible for such loss or defense for any copyright violations contained in the Contract Documents prepared by the Principal Representative of which Contractor is unaware, or for any patent violations based on specified processes that Contractor is unaware are patented or that Contractor should not have had reason to believe were patented.

ARTICLE 29. ASSIGNMENT

The City may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Premises or an interest therein with the consent of Contractor, which shall not be unreasonably withheld.

ARTICLE 30. CORRECTION OF WORK BEFORE ACCEPTANCE

Contractor shall promptly remove from the premises all Work or materials condemned or declared irreparably defective as failing to conform to the Contract Documents on receipt of written Notice from the Principal Representative, whether incorporated in the Work or not. If such materials shall have been incorporated in the Work, or if any unsatisfactory Work is discovered, Contractor shall promptly replace and re-execute his or her Work in accordance with the requirements of the Contract Documents without expense to the Principal Representative, and shall also bear the expense of making good all Work of other contractors destroyed or damaged by the removal or replacement of such defective material or Work.

If Contractor does not remove such condemned or irreparably defective Work or material within a reasonable time, the Principal Representative may, after giving a second seven (7) day advance Notice to Contractor and the Surety, remove them and may store the material at Contractor's expense. The Principal Representative may accomplish the removal and replacement with its own forces or with another Contractor. If Contractor does not pay the expense of such removal and pay all storage charges within ten (10) days thereafter, the Principal Representative may, upon ten (10) days' written Notice, sell such material at auction or at private sale and account for the net proceeds thereof, after deducting all costs and expenses which should have been borne by Contractor. If Contractor shall commence and diligently pursue such removal and replacement before the expiration of the seven day period, or if Contractor shall show good cause in conjunction with submittal of a revised CPM schedule showing when the Work will be performed and why such removal of condemned Work should be scheduled for a later date, the Principal Representative shall not proceed to remove or replace the condemned Work.

Should any defective Work or material be discovered during the term of this Contract, the value of such defective work or material shall not be included in any application for payment, or if previously included, shall be deducted by the City from the next application submitted by Contractor.

If Contractor does not perform repair, correction and replacement of defective Work, in lieu of proceeding by issuance of a Notice of intent to remove condemned Work as outlined above, the Principal Representative may, not less than seven (7) days after giving the original written Notice of the need to repair, correct, or replace defective Work, deduct all costs and expenses of replacement or correction as instructed by the City from Contractor's next application for payment in addition to the value of the defective Work or material. The Principal Representative may also make an equitable deduction from the Fixed Limit of Construction Cost by unilateral Change Order, in accordance with Article 33, Payments Withheld and Article 35, Changes In The Work.

If Contractor disagrees with the Notice to remove Work or materials condemned or declared irreparably defective, Contractor may request facilitated negotiation of the issue and the Principal Representative's right to proceed with removal and to deduct costs and expenses of repair shall be suspended and tolled until such time as the parties meet and negotiate the issue

During construction, whenever the City has advised Contractor in writing, in the Specifications, by reference to Article 6, State Decisions And Judgments, of these General Conditions or elsewhere in the Contract Documents of a need to observe materials in place prior to their being permanently covered up, it shall be Contractor's responsibility to notify the City at least forty-eight (48) hours in advance of such covering operation. If Contractor fails to provide such notification, Contractor shall, at his or her expense, uncover such portions of the Work as required by the City for observation, and reinstall such covering after observation. When a covering operation is continued from day to day, notification of the commencement of a single continuing covering operation shall suffice for the activity specified so long as it proceeds regularly and without interruption from day to day, in which event Contractor shall coordinate with the City regarding the continuing covering operation.

ARTICLE 31. APPLICATIONS FOR PAYMENTS

A. CONTRACTOR'S SUBMITTALS

On or before the first day of each month and no more than five days prior thereto, Contractor may submit applications for payment for the Work performed during such month covering the portion of the Work completed as of the date indicated, and payments on account of this Contract shall be due within thirty (30) days after the last day of the period for which payment is requested. Contractor shall submit the application for payment to the City, Certificate for Contractor's Payment, in an itemized format in accordance with the Schedule of Values, supported to the extent reasonably required by the Principal Representative by receipts or other vouchers, showing payments for materials and labor, prior payments and payments to be made to Subcontractors and such other evidence of Contractor's right to payments as the Principal Representative may direct.

If payments are made on account of materials not incorporated in the Work but delivered and suitably stored at the Premises, or at some other location agreed upon in writing, such payments shall be conditioned upon submission by Contractor of bills of sale or such other procedure as will establish the Principal Representative's title to such material or otherwise adequately protect the Principal Representative's interests, and shall provide proof of insurance whenever requested by the Principal Representative and shall be subject to the right to inspect the materials at the request of the Principal Representative.

All applications for payment, except the final application, and the payments there under, shall be subject to correction in the next application rendered following the discovery of any error.

B. Intentionally deleted.

C. RETAINAGE WITHHELD

Unless otherwise provided, an amount equivalent to ten percent (10%) of the amount shown to be due Contractor on each application for payment shall be withheld until fifty percent (50%) of the Work required by the Contract has been performed. Thereafter, the remaining Certificates for Contractor's Payment shall be paid without retaining additional funds, if in the opinion of the Principal Representative, satisfactory progress is being made in the Work. The withheld percentage of the Contract price of any such Work, improvement, or construction shall be administered according to Article 31D, shall be retained until the Work or discrete portions of the Work, have been completed satisfactorily, finally or partially accepted, and advertised for final settlement as further provided in Article 41.

D. RELEASE OF RETAINAGE

Contractor may, for satisfactory and substantial reasons shown to the Principal Representative's satisfaction, make a written request to the Principal Representative for release of part or all of the withheld percentage applicable to the Work of a Subcontractor which has completed the subcontracted Work in a manner finally acceptable to Contractor and the Principal Representative. Any such request shall be supported by a written approval from the Surety furnishing Contractor's bonds and any surety that has provided a bond for the Subcontractor. The release of any such withheld percentage shall be further supported by such other evidence as the Principal Representative may require, including but not limited to, evidence of prior payments made to the Subcontractor, copies of the Subcontractor's Contract with Contractor, any applicable warranties, as-built information, maintenance manuals and other customary close-out documentation. The Principal Representative shall be obligated to review such documentation nor shall they be deemed to assume any obligations to third parties by any review undertaken.

Contractor's obligation under these General Conditions to guarantee Work for one year from the date of the Notice of Substantial Completion or the date of any Notice of Partial Substantial Completion of the applicable portion or phase of the Project, shall be unaffected by such partial release.

Any rights of the Principal Representative which might be terminated by or from the date of any final acceptance of the Work, whether at common law or by the terms of this Contract, shall not be affected by such partial release of retainage prior to any final acceptance of the entire Project.

Contractor remains fully responsible for the Subcontractor's Work and assumes any risk that might arise by virtue of the partial release to the Subcontractor of the withheld percentage, including the risk that the Subcontractor may not have fully paid for all materials, labor and equipment furnished to the Project.

If the Principal Representative considers Contractor's request for such release satisfactory and supported by substantial reasons, the City may make a "final inspection" of the applicable portion of the Project to determine whether the Subcontractor 's Work has been completed in accordance with the Contract Documents. A final punch list shall be made for the Subcontractor's Work and the procedures of Article 41, shall be followed for that portion of the Work, except that advertisement of the intent to make final payment to the Subcontractor shall be required only if the Principal Representative has reason to believe that a supplier or Subcontractor to the Subcontractor for which the request is made, may not have been fully paid for all labor and materials furnished to the Project.

ARTICLE 32. CERTIFICATES FOR PAYMENTS

The Certificate For Contractor's Payment, and its continuation detail sheets, when submitted, shall constitute the Certificate of Contractor 's Application for Payment, and shall be a representation by Contractor to the Principal Representative that the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and materials for which payment is requested have been incorporated into the Project except as noted in the application. If requested by the Principal Representative the Certificate of Contractor's Application for Payment shall be sworn under oath and notarized.

ARTICLE 33. PAYMENTS WITHHELD

The Principal Representative or the City may withhold, or on account of subsequently discovered evidence nullify, the whole or any part of any payment application on account of, but not limited to any of the following:

1. Defective Work not remedied;
2. Claims filed or reasonable evidence indicating probable filing of claims;
3. Failure of Contractor to make payments to Subcontractors for material or labor;
4. A reasonable doubt that the Contract can be completed for the balance of the Fixed Limit of Construction Cost then unpaid;
5. Damage or injury to another contractor or any other person, persons or property except to the extent of coverage by a policy of insurance;
6. Failure to obtain necessary permits or licenses or to comply with applicable laws, ordinances, codes, rules or regulations or the directions of the City;
7. Failure to submit a monthly construction schedule;
8. Failure of Contractor to keep Work progressing in accordance with the time schedule;
9. Failure to keep a superintendent on the Work;
10. Failure to maintain as built drawings of the Work in progress;
11. Unauthorized deviations by Contractor from the Contract Documents; or
12. On account of liquidated damages.

ARTICLE 34. DEDUCTIONS FOR UNCORRECTED WORK

If the Principal Representative deems it inexpedient to correct Work injured or not performed in accordance with the Contract Documents, the Principal Representative may, after ten (10)

days' Notice to Contractor of intent to do so, make reasonable reductions from the amounts otherwise due Contractor on the next application for payment. Notice shall specify the amount or terms of any contemplated reduction. Contractor may during this period elect to correct or perform the Work. If Contractor does not elect to correct or perform the Work, an equitable deduction from the Fixed Limit of Construction Cost shall be made by Change Order, in accordance with Article 35, Changes In The Work. If either party elects facilitation of this issue after Notice is given, the ten-day notice period shall be extended and tolled until facilitation has occurred.

ARTICLE 35. CHANGES IN THE WORK

The Principal Representative, or such other Procurement Officer as the Principal Representative may designate, without invalidating the Agreement, and with the approval of the City, may order extra Work or make changes with the consent of Contractor as hereafter provided, by altering, adding to or deducting from the Work, and Guarantee being adjusted accordingly. All such changes in the Work shall be within the general scope of and be executed under the conditions of the Contract, except that any claim for extension of time or additional cost made necessary due to the change or any claim of other delay or other impacts caused by or resulting from the change in the Work shall be presented by Contractor and adjusted by Change Order to the extent known at the time such change is ordered and before proceeding with the extra or changed Work. Any claims for extension of time or of delay or other impacts, and any costs associated with extension of time, delay or other impacts, which are not presented before proceeding with the change in the Work, and which are not adjusted by Change Order to the extent known, shall be waived.

The City shall have authority to make minor changes in the Work, not involving extra cost, and not inconsistent with the intent of the Contract Documents, but otherwise, except in an emergency endangering life or property, no extra Work or change in the Contract Documents shall be made unless by 1) a written Change Order, approved by the Principal Representativeand the City prior to proceeding with the changed Work; or 2) by an Emergency Field Change Order approved by the Principal Representative and the City as hereafter provided in Article 35C, Emergency Field Ordered Changed Work; or 3) by an allocation in writing of any allowance already provided in the encumbered Contract amount, the Fixed Limit of Construction Cost being later adjusted to decrease the Fixed Limit of Construction Cost by any unallocated or unexpended amounts remaining in such allowance. No change to the Fixed Limit of Construction Cost shall be valid unless so ordered.

A. THE VALUE OF CHANGED WORK

1. The value of any extra Work or changes in the Work shall be determined by agreement in the following way:
    a. By actual cost plus a fixed fee in a lump sum amount for profit, overhead and all indirect and off-Premises home office costs, the latter amount agreed upon in writing prior to starting the extra or changed Work.

2.

The Principal Representative reserves the right to Contract with any person or firm other than Contractor for any or all extra Work; however, unless specifically required in the Contract Documents, Contractor shall have no responsibility without additional compensation to supervise or coordinate the Work of persons or firms separately contracted by the Principal Representative.

B. Intentionally Deleted.

C. EMERGENCY FIELD CHANGE ORDERED WORK

The Principal Representative, without invalidating the Agreement, and with the approval of the City, may order extra Work or make changes in the case of an emergency that is a threat to life or property or where the likelihood of delays in processing a normal Change Order will result in substantial delays and or significant cost increases for the Project. Emergency Field Orders are not to be used solely to expedite normal Change Order processing absent a clear showing of a high potential for significant and substantial cost or delay. Such changes in the Work may be directed through issuance of an Emergency Field Change Order signed by Contractor, the Principal Representative (or by a designee specifically appointed to do so in writing), and approved by the City.
If the amount of the adjustment of the Contract price and time for completion can be determined at the time of issuance of the Emergency Field Change Order, those adjustments shall be reflected on the face of the Emergency Field Change Order. Otherwise, the Emergency Field Change Order shall reflect a not to exceed (NTE) amount for any schedule adjustment (increasing or decreasing the time for completion) and an NTE amount for any adjustment to Fixed Limit of Construction Cost, which NTE amount shall represent the maximum amount of adjustment to which Contractor will be entitled, including direct and indirect costs of changed Work, as well as any direct or indirect costs attributable to delays, inefficiencies or other impacts arising out of the change. Emergency Field Change Orders directed in accordance with this provision need not bear the approval signatures of the City.

On Emergency Field Change Orders where the price and schedule have not been finally determined, Contractor shall submit final costs for adjustment as soon as practicable. No later than seven (7) days after issuance, except as otherwise permitted, and every seven days thereafter, Contractor shall report all costs to the Principal Representative. Weekly cost reports and the final adjustment of the Emergency Field Change Orders amount and the adjustment to the Project time for completion shall be prepared in accordance with the procedures described in Article 35A, The Value of Changed Work, and B, Detailed Breakdown, above. Unless otherwise provided in writing signed by the City to the Principal Representative and Contractor, describing the extent and limits of any greater authority, individual Emergency Field Change Orders shall not be issued for more than $25,000, nor shall the cumulative value of Emergency Field Change Orders exceed an amount of $100,000.

D. APPROPRIATION LIMITATIONS - §24-91-103.6, C.R.S., as amended

No Change Order, Emergency Field Change Order, or other type of order or directive shall be issued by the Principal Representative, or any agent acting on his or her behalf,

or accepted by Contractor, which directs additional compensable Work to be performed, which Work causes the aggregate amount payable under the Contract to exceed the Fixed Limit of Construction Cost plus any Contingency Funds, for the original Contract, as shown on the Agreement, and only if such Contingency Funds are properly used and released pursuant to the Contract

ARTICLE 36. CLAIMS

It is the intent of these General Conditions to provide procedures for speedy and timely resolution of disagreements and disputes at the lowest level possible. In the spirit of on the job resolution of issues relating to the Premises, the parties are encouraged to use the partnering processes of Article 2D, Partnering, Communications and Cooperation, before turning to the more formal claims processes described in this Article 36, Claims. The use of non-binding dispute resolution, whether through the formal processes described in Article 39, Non-Binding Dispute Resolution – Facilitated Negotiations, or through less formal alternative processes developed as part of a partnering plan, are also encouraged. Where such process cannot resolve the issues in dispute, the claims process that follows is intended to cause the issues to be presented, decided and where necessary, documented in close proximity to the events from which the issues arise. To that end, and in summary of the remedy granting process that follows commencing with the next paragraph of this Article 36, Claims, Contractor shall 1) first, informally present the claim to Principal Representative as described hereafter, and 2) failing resolution in the field, give Notice of intent to exercise statutory rights of review of a formal Contract controversy, and 3) seek resolution outside the Contract as provided by the Procurement Code.

If Contractor claims that any instructions, by detailed drawings, or otherwise, or any other act or omission of the Principal Representative affecting the scope of Contractor's Work, involve extra cost, extra time or changes in the scope of the Work under this Contract, Contractor shall have the right to assert a claim for such costs or time, provided that before either proceeding to execute such Work (except in an emergency endangering life or property), or filing a Notice of claim, Contractor shall have obtained or requested a written decision of the City following the procedures as provided in Article 6A and B, City Decisions and Judgments, respectively; provided, however, that in the case of a directed change in the Work pursuant to Article 35A, no written judgment or decision of the City is required. If Contractor is delayed by the lack of a response to a request for a decision by the City, Contractor shall give Notice in accordance with Article 38, Delays And Extensions Of Time.

Unless it is the City's judgment and determination that the Work is not included in the performance required by the Contract Documents, Contractor shall proceed with the Work as originally directed. Where Contractor's claim involves a dispute concerning the value of Work unilaterally directed pursuant to Article 35A4 Contractor shall also proceed with the Work as originally directed while his or her claim is being considered.

Contractor shall give the Principal Representative Notice of any claim promptly after the receipt of the City's decision, but in no case later than three (3) business days after receipt of the City's decision (or no later than ten (10) days from the date of Contractor's request for a decision when the Architect/Engineer fails to decide as provided in Article 6). The Notice of

claim shall state the grounds for the claim and the amount of the claim to the extent known in accordance with the procedures of Article 35, Changes In The Work. The period in which Notice must be given may be extended by the Principal Representative if requested in writing by Contractor with good cause shown, but any such extension to be effective shall be in writing.

The Principal Representative shall respond in writing, with a copy to the City, within a reasonable time, and except where a request for facilitation of negotiation has been made as hereafter provided, in no case later than seven (7) business days (or at such other time as Contractor and Principal Representative agree) after receipt of Contractor 's Notice of claim regarding such instructions or alleged act or omission. If no response to Contractor's claim is received within seven (7) business days of Contractor's Notice (or at such other time as Contractor and Principal Representative agree) and the instructions have not been retracted, it shall be deemed that the Principal Representative has denied the claim.

The Principal Representative may grant or deny the claim in whole or in part, and a Change Order shall be issued if the claim is granted. To the extent any portion of claim is granted where costs are not clearly shown, the Principal Representative may direct that the value of that portion of the Work be determined by any method allowed in Article 35A, The Value Of Changed Work. Except in the case of a deemed denial, the Principal Representative shall provide a written explanation regarding any portion of Contractor's claim that is denied.

If Contractor disagrees with the Principal Representative's judgment and determination on the claim and seeks an equitable adjustment of the Fixed Limit of Construction Cost or time for performance, he or she shall give Notice of intent to exercise his or her statutory right to seek a decision on the Contract controversy within ten (10) days of receipt of the Principal Representative's decision denying the claim. A "Contract controversy," as such term is used in the Colorado Procurement Code, §24-109-106, C.R.S., shall not arise until the initial claim process described above in this Article 36 has been properly exhausted by Contractor.

At the time of filing the Notice of intent to exercise his or her statutory right to seek a decision on the Contract controversy, Contractor may request that the Principal Representative defer a decision on the Contract controversy until a later date or until the end of the Project. If the Principal Representative agrees, he or she shall so advise Contractor in writing. If no such request is made, or if the Principal Representative does not agree to such a request, the Principal Representative shall render a written decision within twenty (20) business days and advise Contractor of the reasons for any denial. Unless the claim has been decided by the Principal Representative (as opposed to delegees of the Principal Representative), the person who renders the decision on this statutory Contract controversy shall not be the same person who decided the claim. To the extent any portion of the Contract controversy is granted where costs are not clearly shown, the Principal Representative may direct that the value of that portion of the Work be determined by any method allowed in Article 35A, The Value Of Changed Work. In the event of a denial the Principal Representative shall give Notice to Contractor of his or her right to administrative and judicial reviews as provided in the Colorado Procurement Code, §24-109-201 *et seq*, C.R.S., as amended. If no decision regarding the Contract controversy is issued within twenty (20) business days of Contractor's giving Notice (or such other date as Contractor and Principal Representative have agreed),

and the instructions have not been retracted or the alleged act or omission have not been corrected, it shall be deemed that the Principal Representative has ruled by denial on the Contract controversy. Except in the case of a deemed denial, the Principal Representative shall provide an explanation regarding any portion of the Contract controversy that involves denial of Contractor's claim.

Either Contractor or the Principal Representative may request facilitation of negotiations concerning the claim or the Contract controversy, and if requested, the parties shall consult and negotiate before the Principal Representative decides the issue. Any request for facilitation by Contractor shall be made at the time of the giving of Notice of the claim or Notice of the Contract controversy. Facilitation shall extend the time for the Principal Representative to respond by commencing the applicable period at the completion of the facilitated negotiation, which shall be the last day of the parties' meeting, unless otherwise agreed in writing.

Disagreement with the decision of the Architect Engineer, or the decision of the Principal Representative to deny any claim or denying the Contract controversy, shall not be grounds for Contractor to refuse to perform the Work directed or to suspend or terminate performance. During the period that any claim or Contract controversy decision is pending under this Article 36, Claims, Contractor shall proceed diligently with the Work directed.

In all cases where Contractor proceeds with the Work and seeks equitable adjustment by filing a claim and or statutory appeal, Contractor shall keep a correct account of the extra cost, in accordance with Article 35B, Detailed Breakdown supported by receipts. The Principal Representative shall be entitled to reject any claim or Contract controversy whenever the foregoing procedures are not followed and such accounts and receipts are not presented.

The payments to Contractor in respect of such extra costs shall be limited to reimbursement for the current additional expenditure by Contractor made necessary by the change in the Work, plus a reasonable amount for overhead and profit, determined in accordance with Article 35B, Detailed Breakdown, determined solely with reference to the additional Work, if any, required by the change.

ARTICLE 37. DIFFERING PREMISES CONDITIONS

A. NOTICE IN WRITING

Contractor shall promptly, and where possible before conditions are disturbed, give the Principal Representative Notice in writing of:

1. subsurface or latent physical conditions at the Premises differing materially from those indicated in or reasonably assumed from the information provided in the Contract Documents; and,
2. unknown physical conditions at the Premises, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents.

The City shall promptly investigate the conditions, and if it is found that such conditions do materially so differ and cause an increase or decrease in Contractor 's costs of performance of any part of the Work required by the Contract Documents, whether or not such Work is changed as a result of such conditions, an equitable adjustment shall be made and the Fixed Limit of Construction Cost shall be modified in accordance with Article 35, Changes In The Work.

If the time required for completion of the Work affected by such materially differing conditions will extend the Work on the critical path as indicated on the CPM schedule, the time for completion shall also be equitably adjusted.

B. LIMITATIONS

No claim of Contractor under this clause shall be allowed unless Contractor has given the Notice required in Article 37A, Notice In Writing. The time prescribed for presentation and adjustment in Articles 36, Claims and 38, Delays And Extensions Of Time, shall be reasonably extended by the City to the extent required by the nature of the differing conditions; provided, however, that even when so extended no claim by Contractor for an equitable adjustment hereunder shall be allowed if not quantified and presented prior to the date Contractor requests a final inspection pursuant to Article 41A, Notice Of Completion.

ARTICLE 38. DELAYS AND EXTENSIONS OF TIME

If Contractor is delayed at any time in the progress of the Work by any act or neglect of the City, or by any separately employed contractor or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any other causes beyond Contractor's control, including weather delays as defined below, the time of Completion of the Work shall be extended for a period equal to such portion of the period of delays directly affecting the completion of the Work as Contractor shall be able to show he or she could not have avoided by the exercise of due diligence.

Contractor shall provide Notice in writing to the Principal Representative and the City within three (3) business days from the beginning of such delay and shall file a written claim for an extension of time within seven (7) business days after the period of such delay has ceased, otherwise, any claim for an extension of time is waived.

Provided that Contractor has submitted reasonable schedules for approval when required by Article 12, Requests for Information and Schedules, if no schedule is agreed to fixing the dates on which the responses to requests for information or detail drawings will be needed, or Shop Drawings, Product Data or Samples are to be reviewed as required or allowed by Article 12B, Schedules, no extension of time will be allowed for the Architect/ Engineer's failure to furnish such detail drawings as needed, or for the failure to initially review Shop Drawings, Product Data or Samples, except in respect of that part of any delay in furnishing detail drawings or instructions extending beyond a reasonable period after written demand for such detailed drawings or instructions is received by the City. In any event, any claim for an extension of time for such cause will be recognized only to the extent of delay directly caused

by failure to furnish detail drawings or instructions or to review Shop Drawings, Product Data or Samples pursuant to schedule, after such demand.

All claims for extension of time due to a delay claimed to arise or result from ordered changes in the scope of the Work, or due to instructions claimed to increase the scope of the Work, shall be presented to the Principal Representative and the City as part of a claim for extra cost, if any, in accordance with Article 36, Claims, and in accordance with the Change Order procedures required by Article 35, Changes In The Work.

Except as otherwise provided in this paragraph, no extension of time shall be granted when Contractor has failed to utilize a CPM schedule or otherwise identify the Project's critical path as specified in Article 12, Requests for Information and Schedules, or has elected not to do so when allowed by the Supplementary General Conditions or the Specifications to use less sophisticated scheduling tools, or has failed to maintain such a schedule. Delay directly affecting the completion of the Work shall result in an extension of time only to the extent that completion of the Work was affected by impacts to the critical path shown on Contractor's CPM schedule. Where the circumstances make it indisputable in the opinion of the City that the delay affected the completion of the Work so directly that the additional notice of the schedule impact by reference to a CPM schedule was unnecessary, a reasonable extension of time may be granted.

Extension of the time for completion of the Work will be granted for delays due to weather conditions only when Contractor demonstrates that such conditions were more severe and extended than those reflected by the ten-year average for the month, as evidenced by the Climatological Data, U. S. Department of Commerce, for the Project area.

Extensions of the time for completion of the Work due to weather will be granted on the basis of one and three tenths (1.3) calendar days for every day that Contractor would have worked but was unable to Work, with each separate extension figured to the nearest whole calendar day.

For weather delays and delays caused by events, acts or omissions not within the control of the Principal Representative or any person acting on the Principal Representative's behalf, Contractor shall be entitled to an extension of time only and shall not be entitled to recovery of additional cost due to or resulting from such delays. This Article does not, however, preclude the recovery of damages for delay by either party under other provisions in the Contract Documents.

ARTICLE 39. NON-BINDING DISPUTE RESOLUTION – FACILITATED NEGOTIATIONS

Contractor and Principal Representative agree to designate one or more mutually acceptable persons willing and able to facilitate negotiations and communications for the resolution of conflicts, disagreements or disputes between them at the specific request of either party with regard to any Project decision of either of them or any decision of the City. The designation of such person(s) shall not carry any obligation to use their services except that each party agrees that if the other party requests the intervention of such person(s) with respect to any

such conflict, dispute or disagreement, the non-requesting party shall participate in good faith attempts to negotiate a resolution of the issue in dispute. If the parties cannot agree on a mutually acceptable person to serve in this capacity one shall be so appointed; provided, however, that either party may request the City to appoint such a person, who, if appointed, shall be accepted for this purpose by both Contractor and the Principal Representative.

The cost, if any, of the facilitative services of the person(s) so designated shall be shared if the parties so agree in any partnering plan; or in the absence of agreement the cost shall be borne by the party requesting the facilitation of negotiation.

Any dispute, claim, question or disagreement arising from or relating to the Contract or an alleged breach of the Contract may be subject to a request by either party for facilitated negotiation subject to the limitations hereafter listed, and the parties shall participate by consultation and negotiation with each other, as guided by the facilitator and with recognition of their mutual interests, in an attempt to reach an equitable solution satisfactory to both parties.

The obligation to participate in facilitated negotiations shall be as described above and elsewhere in these General Conditions, as by way of example in Article 36, Claims, or Article 34, Deductions for Uncorrected Work, and to the extent not more particularly described or limited elsewhere, each party's obligations shall be as follows:

1. a party shall not initiate communication with the facilitator regarding the issues in dispute; except that any request for facilitation shall be made in writing with copies sent, faxed or delivered to the other party;
2. a party shall prepare a brief written description of its position if so requested by the facilitator (who may elect to first discuss the parties' positions with each party separately in the interest of time and expense);
3. a party shall respond to any reasonable request for copies of documents requested by the facilitator, but such requests, if voluminous, may consist of an offer to allow the facilitator access to the parties' documents;
4. a party shall review any meeting agenda proposed by a facilitator and endeavor to be informed on the subjects to be discussed;
5. a party shall meet with the other party and the facilitator at a mutually acceptable place and time, or, if none can be agreed to, at the time and place designated by the facilitator for a period not to exceed four hours unless the parties agree to a longer period;
6. a party shall endeavor to assure that any facilitation meeting shall be attended by any other persons in their employ that the facilitator requests be present, if reasonably available, including the City;
7. each party shall participate in such facilitated face-to-face negotiations of the issues in dispute through persons fully authorized to resolve the issue in dispute;
8. each party shall be obligated to participate in negotiations requested by the other party and to perform the specific obligations described in paragraphs (1) through (10) this Article 39 no more than three times during the course of the Project;
9. neither party shall be under any obligation to resolve any issue by facilitated negotiation, but each agrees to participate in good faith and the Principal

Representative shall appropriately document any resolution or agreement reached and to execute any Amendment or Change Order to the Contract necessary to implement their agreement; and,

10. any discussions and documents prepared exclusively for use in the negotiations shall be deemed to be matters pertaining to settlement negotiations and shall not be subsequently available in further proceedings except to the extent of any documented agreement.

Nothing in this Article 39 shall be deemed to call for arbitration or otherwise obligate the City to participate in any form of binding alternative dispute resolution.

A partnering plan developed as described in Article 2D, Communications and Cooperation, may modify or expand the requirements of this Article but may not reduce the obligation to participate in facilitated negotiations when applicable.

ARTICLE 40. RIGHT OF OCCUPANCY

The Principal Representative shall have the right to take possession of and to use any completed or partially completed portions of the Work, even if the time for completing the entire Work or portions of the Work has not expired and even if the Work has not been finally accepted, and Contractor shall fully cooperate with the Principal Representative to allow such possession and use. Such possession and use shall not constitute an acceptance of such portions of the Work.

Prior to any occupancy of the Project, an inspection shall be made by the City and Contractor. Such inspection shall be made for the purpose of ensuring that the building is secure, protected by operation safety systems as designed, operable exits, power, lighting and HVAC systems, and otherwise ready for the occupancy intended. The inspection shall also document existing finish conditions to allow assessment of any damage by occupants. The contractor shall assist the Principal Representative in completing and executing of the appropriate occupancy/use form, prior to the Principal Representative's possession and use. Any and all areas so occupied will be subject to a final inspection when Contractor complies with Article 41, Completion, Final Inspection, Acceptance And Settlement.

ARTICLE 41. COMPLETION, FINAL INSPECTION, ACCEPTANCE AND SETTLEMENT

A. NOTICE OF COMPLETION

When the Work, or a discrete physical portion of the Work (as hereafter described) which the Principal Representative has agreed to accept separately, is substantially complete and ready for final inspection, Contractor shall file a written Notice with the City that the Work, or such discrete physical portion, in the opinion of Contractor, is substantially complete under the terms of the Contract. Contractor shall prepare and submit with such Notice a comprehensive list of items to be completed or corrected prior to final payment, which shall be subject to review and additions as the Principal Representative shall determine after inspection. If the Principal Representative believe

that any of the items on the list of items submitted, or any other item of Work to be corrected or completed, or the cumulative number of items of Work to be corrected or completed, will prevent a determination that the Work is substantially complete, those items shall be completed by Contractor and the Notice shall then be resubmitted.

B. FINAL INSPECTION

Within ten (10) days after Contractor files written Notice that the Work is substantially complete, the Principal Representative, and Contractor shall make a "final inspection" of the Project to determine whether the Work is substantially complete and has been completed in accordance with the Contract Documents. The City shall be notified of the inspection not less than three (3) business days in advance of the inspection. Contractor shall provide the Principal Representative and the City an updated punch list in sufficient detail to fully outline the following:

1. Work to be completed, if any; and
2. Work not in compliance with the Drawings or Specifications, if any.

A final punch list shall be made by the City in sufficient detail to fully outline to Contractor:

1. Work to be completed, if any;
2. Work not in compliance with the Drawings or Specifications, if any; and
3. unsatisfactory Work for any reason, if any.

The required number of copies of the final punch list will be countersigned by the authorized representative of the Principal Representative and will then be transmitted by the City to the Contractor. The final punch list shall control over Contractor's preliminary punch list.

C. NOTICE OF SUBSTANTIAL COMPLETION (Per Energy Conservation Measure and Project)

Notice of Substantial Completion shall establish the date of substantial completion of each ECM or the Project, as indicated on the form of Notice of Substantial Completion. Contractor acknowledges and agrees that because the departments, agencies and institutions of the City are generally involved with the business of the public at large, greater care must be taken in establishing the date of substantial completion than might otherwise be the case to ensure that a project or building or discrete physical portion of the Work is fully usable and safe for public use, and that such care necessarily raises the standard by which the concept of substantial completion is applied for a public building.

The Notice of Substantial Completion shall not be issued until the following have been fully established:

1. *Intentionally deleted*;

2. All required building code inspections have been called for and the appropriate code officials have affixed their signatures to the Building Inspection Record indicating successful completion of all required code inspections;
3. All required corrections noted on the Building Inspection Record shall have been completed unless the Principal Representative and the City, in their complete and absolute discretion, all concur that the condition requiring the remaining correction is not in any way life threatening, does not otherwise endanger persons or property, and does not result in any undue inconvenience or hardship to the Principal Representative or the public;
4. The building, structure or Project can be fully and comfortably used by the Principal Representative and the public without undue interference by Contractor's employees and workers during the completion of the final punch list taking into consideration the nature of the public uses intended and taking into consideration any stage or level of completion of HVAC system commissioning or other system testing required by the Specifications to be completed prior to issuance of the Notice of Substantial Completion;
5. The Project has been fully cleaned as required by these General Conditions, and as required by any stricter requirements of the Specifications, and the overall state of completion is appropriate for presentation to the public; and
6. Contractor has provided a schedule for the completion of each and every item identified on the punch list which specifies the Subcontractor or trade responsible for the Work, and the dates the completion or correction of the item will be commenced and finished; such schedule will show completion of all remaining final punch list items within the period indicated in the Contract for final punch list completion prior to Final Acceptance, with the exception of only those items which are beyond the control of Contractor despite due diligence. The schedule shall provide for a reasonable punch list inspection process. The cost to the Principal Representative, if any, for re-inspections due to failure to adhere to Contractor's proposed punch-list completion schedule shall be the responsibility of Contractor and may be deducted by the Principal Representative from final amounts due to Contractor.

Substantial completion of the entire Project shall not be conclusively established by a decision by the Principal Representative to take possession and use of a portion, or all of the Project, where portions of the Project cannot meet all the criteria noted above. Notice of Substantial Completion for the entire Project shall, however, only be withheld for substantial reasons when the Principal Representative has taken possession and uses all of the Project in accordance with the terms of Article 40, Right Of Occupancy. Failure to furnish the required completion schedule shall constitute a substantial reason for withholding the issuance of any Notice of Substantial Completion.

Contractor shall have the right to request a final inspection of any discrete physical portion of the Project when in the opinion of the City a final punch list can be reasonably prepared, without confusion as to which portions of the Project are referred to in any subsequent Notice of Partial Final Settlement which might be issued after such portion is finally accepted. Discrete physical portions of the Project may be, but shall not necessarily be limited to, such portions of the Project as separate buildings where a

Project consists of multiple buildings. Similarly, an addition to an existing building where the Project also calls for renovation or remodeling of the existing building may constitute a discrete physical portion of the Project. In such circumstances, when in the opinion of the Principal Representative and the City, the requirements for issuance of a Notice of Substantial Completion can be satisfied with respect to the discrete portion of the Project, a partial Notice of Substantial Completion may be issued for such discrete physical portion of the Project. The ability to beneficially occupy a discrete physical portion of the Project shall also be considered.

D. NOTICE OF FINAL ACCEPTANCE (Per Energy Conservation Measure and Project)

The Notice of Final Acceptance shall establish the completion date of the Project. It shall not be authorized until Contractor shall have performed all of the Work to allow completion and approval of the Pre-Acceptance Checklist. It shall not be authorized until the Pre-Acceptance Punch List shall have been prepared and approved containing no more than ten items of Work remaining to be completed or repaired.

Where partial Notices of Substantial Completion have been issued, partial Notices of Final Acceptance may be similarly issued when appropriate for that portion of the Work. Partial Notice of Final Acceptance may also be issued to exclude the Work described in Change Orders executed during late stages of the Project where a later completion date for the Change Ordered Work is expressly provided for in the Contract as amended by the Change Order, provided the Work can be adequately described to allow partial advertisement of any Notice of Partial Final Settlement to be issued without confusion as to the Work included for which final payment will be made.

E. NOTICE OF CONTRACTOR'S SETTLEMENT.

Upon the Notice of Final Acceptance for both ECMs and the Project, the City will issue a Notice of Contractor's Settlement in which Contractor will have 60 days to file a verified statement of amount due and unpaid or as otherwise stated in Exhibit VIII.

F. SETTLEMENT

Final payment and settlement shall be made on the date fixed and published for such payment except as hereafter provided. The Principal Representative shall not authorize final payment until all items on the Pre-Acceptance Punch List have been completed, the Notice of Acceptance issued, and the Notice of Contractors Settlement published. If the Work shall be substantially completed, but final acceptance and completion thereof shall be prevented through delay in correction of minor defects, or unavailability of materials or other causes beyond the control of Contractor, the Principal Representative in his or her discretion may release to Contractor such amounts as may be in excess of three times the cost of completing the unfinished Work or the cost of correcting the defective Work, as estimated and approved by the City. Before the Principal Representative may issue the Notice of Contractor's Settlement and advertise the Project for final payment, Contractor shall have corrected all items on the punch list

except those items for which delayed performance is expressly permitted, subject to withholding for the cost thereof, and shall have:

1. Delivered to the City:

    a. All guarantees and warranties;
    b. All statements to support local sales tax refunds, if any;
    c. Three (3) complete bound sets of required operating maintenance instructions; and,
    d. One (1) set of as-built Contract Documents showing all job changes.

2. Demonstrated to the operating personnel of the Principal Representative the proper operation and maintenance of all equipment.

Upon completion of the foregoing the Project shall be advertised in accordance with the Notice of Contractor's Settlement by two publications of Notice, the last publication appearing at least ten (10) days prior to the time of final settlement. Publication and final settlement should not be postponed or delayed solely by virtue of unresolved claims against the Project or Contractor from Subcontractors, suppliers or materialmen based on good faith disputes; the resolution of the question of payment in such cases being directed by statute.

Except as hereafter provided, on the date of final settlement thus advertised, provided Contractor has submitted a written Notice to the City that no claims have been filed, and further provided the Principal Representative shall have received no claims, final payments and settlement shall be made in full. If any unpaid claim for labor, materials, rental machinery, tools, supplies or equipment is filed before payment in full of all sums due Contractor, the Principal Representative and the City shall withhold from Contractor on the date established for final settlement, sufficient funds to insure the payment of such claim, until the same shall have been paid or withdrawn, such payment or withdrawal to be evidenced by filing a receipt in full or an order for withdrawal signed by the claimant or his or her duly authorized agent or assignee. The amount so withheld may be in the amount of 125% of the claims or such other amount as the Principal Representative reasonably deems necessary to cover expected legal expenses. Such withheld amounts shall be in addition to any amount withheld based on the cost to compete unfinished Work or the cost to repair defective Work. However, as provided by statute, such funds shall not be withheld longer than ninety (90) days following the date fixed for final settlement with Contractor, as set forth in the published Notice of Contractor's Settlement, unless an action at law shall be commenced within that time to enforce such unpaid claim and a Notice of such action at law shall have been filed with the Principal Representative and the City. At the expiration of the ninety (90) day period, the Principal Representative shall authorize the City to release to Contractor all other money not the subject of such action at law or withheld based on the cost to compete unfinished Work or the cost to repair defective Work.

Notices of Partial Final Settlement may be similarly advertised, provided all conditions precedent have been satisfied as though that portion of the Work affected stood alone, a

Notice of Partial Acceptance has been issued, and the consent of surety to the partial final settlement has been obtained in writing. Thereafter, partial final payments may be made to Contractor subject to the same conditions regarding unpaid claims.

ARTICLE 42. GENERAL WARRANTY AND CORRECTION OF WORK AFTER ACCEPTANCE

Contractor warrants that the materials used and the equipment furnished shall be new and of good quality unless specified to the contrary. Contractor further warrants that the Work shall in all respects be free from material defects not permitted by the Specifications and shall be in accordance with the requirements of the Contract Documents.

ARTICLE 43. LIENS

Colorado statutes do not provide for any right of lien against public buildings. In lieu thereof, §38-26-107, C.R.S., provides adequate relief for any claimant having furnished labor, materials, rental machinery, tools, equipment, or services toward construction of the particular public Work in that final payment may not be made to a Contractor until all such creditors have been put on Notice by publication in the public press of such pending payment and given opportunity for a period of up to ninety (90) days to stop payment to Contractor in the amount of such claims.

ARTICLE 44. ONE-YEAR WARRANTIES OF THE WORK

A. ONE YEAR WARRANTY OF THE WORK

Contractor hereby warrants to remedy defects and repair or replace the Work for a period of one year from the date of the Notice of Substantial Completion or from the dates of any Partial Notices of Substantial Completion issued for discrete physical portions of the Work. Contractor shall remedy any defects due to faulty materials or workmanship and shall pay for, repair and replace any damage to other Work resulting there from, which shall appear within a period of one year from the date of such Notice(s) of Substantial Completion. Contractor shall also remedy any deviation from the requirements of the Contract Documents which shall later be discovered within a period of one year from the date of the Notice of Substantial Completion; provided, however, that Contractor shall not be required to remedy deviations from the requirements of the Contract Documents where such deviations were obvious, apparent and accepted by the Principal Representative at the time of the Notice of Final Acceptance. The Principal Representative shall give Notice of observed defects or other Work requiring correction with reasonable promptness. Such Notice shall be in writing to Contractor.

The one year warranty of Contractor's Work may run separately for discrete physical portions of the Work for which partial Notices of Substantial Completion have been issued, however, it shall run from the last Notice of Substantial Completion with respect to all or any systems common to the Work to which more than one Notice of Substantial Completion may apply.

This one-year warranty shall not be construed to limit Contractor's general warranty described in Article 42, General Warranty and Correction of Work After Acceptance, that all materials and equipment are new and of good quality, unless specified to the contrary, and that the Work shall in all respects be free from material defects not permitted by the Specifications and in accordance with the requirements of the Contract Documents.

B. SPECIAL WARRANTIES

In case of Work performed for which product, manufacturers or other special warranties are required by the Specifications, Contractor shall secure the required warranties and deliver copies thereof to the Principal Representative upon completion of the Work.

These products, manufacturers or other special warranties, as such, do not in any way lessen Contractor's responsibilities under the Contract. Whenever guarantees or warranties are required by the Specifications for a longer period than one year, such longer period shall govern.

ARTICLE 45. GUARANTEE INSPECTIONS AFTER COMPLETION

The Principal Representative and Contractor together shall make at least two (2) complete inspections of the Work after the Work has been determined to be substantially complete and accepted. One such inspection, the "Six-Month Guarantee Inspection," shall be made approximately six (6) months after date of the Notice of Substantial Completion, Another such inspection, the "Eleven-Month Guaranty Inspection" shall be made approximately eleven (11) months after the date of the Notice of Substantial Completion. The Principal Representative shall schedule and so notify all parties concerned, including the City, of these inspections. If more than one Notice of Substantial Completion has been issued at the reasonable discretion of the Principal Representative separate eleven month inspections may be required where the one year guarantees do not run reasonably concurrent.

Written punch lists and reports of these inspections shall be made by Contractor and forwarded to the Principal Representative and the City within ten (10) days after the completion of the inspections. The punch list shall itemize all guarantee items, prior punch list items still to be corrected or completed and any other requirements of the Contract Documents to be completed which were not waived by final acceptance because they were not obvious or could not reasonably have been previously observed. Contractor shall immediately initiate such remedial Work as may be necessary to correct any deficiencies or defective Work shown by this report, and shall promptly complete all such remedial Work in a manner satisfactory to the Principal Representative and the City.

If Contractor fails to promptly correct all deficiencies and defects shown by this report, the Principal Representative may do so, after giving Contractor ten (10) days written Notice of intention to do so.

The City, acting by and through the Principal Representative, shall be entitled to collect from Contractor all costs and expenses incurred by it in correcting such deficiencies and defects, as well as all damages resulting from such deficiencies and defects.

ARTICLE 46. TIME OF COMPLETION AND LIQUIDATED DAMAGES

It is hereby understood and mutually agreed, by and between the parties hereto, that the date of beginning, rate of progress, and the time for completion of the Work to be done hereunder are ESSENTIAL CONDITIONS of this Agreement, and it is understood and agreed that the Work embraced in this Contract shall be commenced at the time specified in the Notice to Proceed.

It is further agreed that time is of the essence of each and every portion of this Contract, and of any portion of the Work described on the Drawings or Specifications, wherein a definite and certain length of time is fixed for the performance of any act whatsoever. The parties further agree that where under the Contract additional time is allowed for the completion of the Work or any identified portion of the Work, the new time limit or limits fixed by such extension of the time for completion shall be of the essence of this Agreement.

Contractor acknowledges that subject to any limitations in the Lease Purchase Agreement, the Fixed Limit of Construction Cost is consistent with and considers the number of days to substantially complete the Project and the number of days to finally complete the Project to which the parties may have stipulated in the Agreement, which stipulation was based on the Fixed Limit of Construction Cost. Contractor agrees that Work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will ensure the Project will be substantially complete, and fully and finally complete, as recognized by the issuance of all required Notices of Substantial Completion and Notices of Final Acceptance, within any times stipulated and specified in the Agreement, as the same may be amended by Change Order or other written modification, and that the Principal Representative will be damaged if the times of completion are delayed.

It is expressly understood and agreed, by and between the parties hereto, that the times for the Substantial Completion of the Work or for the final acceptance of the Work as may be stipulated in the Agreement, and as applied here are reasonable times for these stages of completion of the Work, taking into such consideration all factors, including the average climatic range and usual industrial conditions prevailing in the locality of the building operations.

If Contractor shall neglect, fail or refuse to complete the Work within the times specified in the Agreement, such failure shall constitute a breach of the terms of the Contract and the City, acting by and through the Principal Representative, shall be entitled to liquidated damages for such neglect, failure or refusal, as specified in Article 54C, Modification of Article 46.

Contractor and Contractor's Surety shall be jointly liable for and shall pay the Principal Representative, or the Principal Representative may withhold, the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the entire Project is 1) substantially completed, and the Notice (or all Notices) of Substantial Completion are issued, 2) finally complete and accepted and the Notice (or all Notices) of Acceptance are issued, or

3) both. Delay in substantial completion shall be measured from the Date of the Notice to Proceed and delay in final completion and acceptance shall be measured from the Date of the Notice of Substantial Completion.

In the first instance, specified in Article 54C(1), Modification of Article 46, liquidated damages, if any, shall be the amount specified therein, for each calendar day of delay beginning after the stipulated number of days for Substantial Completion from the date of the Notice to Proceed, until the date of the Notice of Substantial Completion. Unless otherwise specified in any Supplementary General Conditions, in the event of any partial Notice of Substantial Completion, liquidated damages shall accrue until all required Notices of Substantial Completion are issued.

In the second instance, specified in Article 54C(2), Modification of Article 46, liquidated damages, if any, shall be the amount specified in Article 54C, Modification of Article 46, for each calendar day in excess of the number of calendar days specified in Contractor 's bid for the Project and stipulated in the Agreement to finally complete the Project (as defined by the issuance of the Notice of Acceptance) after the final Notice of Substantial Completion has been issued.

In the third instance, when so specified in both Articles 54C(1) and (2), both types of liquidated damages shall be separately assessed where those delays have occurred.

The parties expressly agree that said amounts are a reasonable estimate of the presumed actual damages that would result from any of the breaches listed, and that any liquidated damages that are assessed have been agreed to in light of the difficulty of ascertaining the actual damages that would be caused by any of these breaches at the time this Contract was formed; the liquidated damages in the first instance representing an estimate of damages due to the inability to use the Project; the liquidated damages in the second instance representing an estimate of damages due to the additional administrative, technical, supervisory and professional expenses related to and arising from the extended closeout period including delivery of any or all guarantees and warranties, the submittals of sales and use tax payment forms, the calling for the final inspection and the completion of the final punch list.

The parties also agree and understand that the liquidated damages to be assessed in each instance are separate and distinct, although potentially cumulative, damages for the separate and distinct breaches of delayed substantial completion or final acceptance. Such liquidated damages shall not be avoided by virtue of the fact of concurrent delay caused by the Principal Representative, or anyone acting on behalf of the Principal Representative, but in such event the period of delay for which liquidated damages are assessed shall be equitably adjusted in accordance with Article 38, Delays And Extensions Of Time.

ARTICLE 47. DAMAGES

If either party to this Contract shall suffer damage under this Contract in any manner because of any wrongful act or neglect of the other party or of anyone employed by either of them, then the party suffering damage shall be reimbursed by the other party for such damage. Except to the extent of damages liquidated for Contractor's failure to achieve timely

completion as set forth in Article 46, Time of Completion, the Principal Representative shall be responsible for, and at his or her option may insure against, loss of use of any existing property not included in the Work, due to fire or otherwise, however caused. Notwithstanding the foregoing, or any other provision of this Contract, to the contrary, no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq. The parties understand and agree that liability for claims for injuries to persons arising out of negligence of the City, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of CRS §24-10-101, *et seq.,* as now or hereafter amended and the risk management statutes, CRS §24-30-1501 et seq.

Notice of intent to file a claim under this clause shall be made in writing to the party liable within a reasonable time of the first observance of such damage and not later than the time of the final payment made by the City or any Third-party Lessor on the City's behalf, except that in the case of claims by the Principal Representative involving warranties against faulty Work or materials Notice shall be required only to the extent stipulated elsewhere in these General Conditions. Claims made to the Principal Representative involving extra cost or extra time arising by virtue of instructions to Contractor to which Article 36, Claims, applies shall be made in accordance with Article 36. Other claims arising under the Contract involving extra cost or extra time which are made to the Principal Representative under this clause shall also be made in accordance with the procedures of Article 36, whether or not arising by virtue of instructions to Contractor; provided however that it shall not be necessary to first obtain or request a written judgment of the City.

Provided written Notice of intent to file a claim is provided as required in the preceding paragraph, nothing in this Article shall limit or restrict the rights of either party to bring an action at law or to seek other relief to which either party may be entitled, and shall not be construed to limit the time during which any action might be brought. Nothing in these General Conditions shall be deemed to limit the period of time during which any action may be brought as a matter of Contract, tort, warranty or otherwise, it being the intent of the parties to allow any and all actions at law or in equity for such periods as the law permits. All such rights shall, however be subject to the obligation to assert claims and to appeal denials pursuant to Article 36, Claims, where applicable.

Neither Contractor nor City nor their respective officers, directors, agents, employees, parent, subsidiaries or affiliates or their officers, directors, agents or employees shall be liable to the other, or to the other's parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insureds, for any incidental, indirect, punitive or consequential damages, connected with or resulting from performance or non-performance of this Contract (irrespective of whether such claim of liability is based upon breach of warranty, strict liability, tort, contract, operation of law or otherwise) or anything done in connection therewith including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Contract), and increased expense of, reduction in or loss of power generation production or equipment used therefor.

ARTICLE 48. CITY'S RIGHT TO DO THE WORK; TEMPORARY SUSPENSION OF WORK; DELAY; DAMAGES

A. CITY'S RIGHT TO DO THE WORK

If after receipt of Notice to do so, Contractor should neglect to prosecute the Work properly or fail to perform any provision of the Contract, the Principal Representative, after a second seven (7) days' advance written Notice to Contractor and the Surety may, without prejudice to any other remedy the Principal Representative may have, take control of all or a portion of the Work, as the Principal Representative deems necessary and make good such deficiencies deducting the cost thereof from the payment then or thereafter due Contractor, as provided in Article 30, Correction Of Work Before Acceptance and Article 33, Payments Withheld, provided, however, that the City shall approve the amount charged to Contractor by approval of the Change Order.

B. TEMPORARY SUSPENSION OF WORK

The City shall have the authority to suspend the Work, either wholly or in part, for such period or periods as may be deemed necessary due to:

1. Unsuitable weather;
2. Faulty workmanship;
3. Improper superintendence;
4. Contractor 's failure to perform any provision of the Contract Documents;
5: Loss of, or restrictions to, appropriations;
6. Conditions, which may be considered unfavorable for the prosecution of the Work.

If it should become necessary to stop Work for an indefinite period, Contractor shall store materials in such manner that they will not become an obstruction or become damaged in any way; and he or she shall take every precaution to prevent damage to or deterioration of the Work, provide suitable drainage and erect temporary structures where necessary. Contractor shall be reimbursed for all costs incurred due to such suspension including demobilization.

Notice of suspension of Work shall be provided to Contractor in writing stating the reasons therefore. Contractor shall again proceed with the Work when so notified in writing.

Contractor understands and agrees that the City cannot predict with certainty future revenues and could ultimately lack the revenue to fund the appropriations applicable to this Contract. Contractor further acknowledges and agrees that in such event that State may, upon Notice to Contractor, suspend the Work in anticipation of a termination of the Contract for the convenience of the State, pursuant to Article 50, Termination For the Public Interest of State. If the Contract is not so terminated the Fixed Limit of Construction Cost and the Contract time shall be equitably adjusted at the time the

Principal Representative directs the Work to be recommenced and gives Notice that the revenue to fund the appropriation is available.

C. DELAY DAMAGES

The Principal Representative and the City shall be liable to Contractor for the payment of any claim for extra costs, extra compensation or damages occasioned by hindrances or delays encountered in the Work only when and to the limited extent that such hindrance or delay is caused by an act or omission within the control of the Principal Representative or other persons or entities acting on behalf of the Principal Representative. Further, the Principal Representative and the City shall be liable to Contractor for the payment of such a claim only if Contractor has provided required Notice of the delay or impact, or has presented its claim for an extension of time or claim of other delay or other impact due to changes ordered in the Work before proceeding with the changed Work. Except as otherwise provided, claims for extension of time shall be Noticed and filed in accordance with Article 38, Delays and Extensions of Time, within three (3) business days of the beginning of the delay with any claim filed within seven (7) days after the delay has ceased, or such claim is waived. Claims for extension of time or for other delay or other impact resulting from changes ordered in the Work shall be presented and adjusted as provided in Article 35, Changes in the Work.

ARTICLE 49. CITY'S RIGHTS TO TERMINATE CONTRACT

A. GENERAL

If Contractor should be (i) adjudged bankrupt, or (ii) if he or she should make a general assignment for the benefit of his or her creditors, or (iii) if a receiver should be appointed to take over his affairs, and, in the case of (i), (ii), or (iii), such proceedings are not dismissed within sixty (60) days, or if he or she should fail to prosecute his or her Work with due diligence and carry the Work forward in accordance with the construction schedule and the time limits set forth in the Contract Documents, or if he or she should fail to subsequently perform one or more of the provisions of the Contract Documents to be performed by him, the Principal Representative may serve written Notice on Contractor and the Surety on performance and payment bonds, stating his or her intention to exercise one of the remedies hereinafter set forth and the grounds upon which the Principal Representative bases his or her right to exercise such remedy.

In such event, unless the matter complained of is satisfactorily cleared within ten (10) days after delivery of such Notice, the Principal Representative may, without prejudice to any other right or remedy, exercise one of such remedies at once..

B. CONDITIONS AND PROCEDURES

1. The Principal Representative may terminate the services of Contractor, which termination shall take effect immediately upon service of Notice thereof on Contractor and his or her Surety, whereupon the Surety shall have the right to take over and perform the Contract. If the Surety does not provide Notice to the

Principal Representative of its intent to commence performance of the Contract within ten (10) days after delivery of the Notice of termination, the Principal Representative may take over the Work, take possession of and use all materials, tools, equipment and appliances on the premises and prosecute the Work to completion by such means as he or she shall deem best. In the event of such termination of his or her service, Contractor shall not be entitled to any further payment under the Contract until the Work is completed and accepted. If the Principal Representative takes over the Work and if the unpaid balance of the Contract price exceeds the cost of completing the Work, including compensation for any damages or expenses incurred by the Principal Representative through the default of Contractor, such excess shall be paid to Contractor. If, however, the cost, expenses and damages as certified by the City exceed such unpaid balance of the Contract price, Contractor and his or her Surety shall pay the difference to the Principal Representative.

2. The Principal Representative may require the Surety on Contractor 's bond to take control of the Work and see to it that all the deficiencies of Contractor are made good, with due diligence within ten (10) days of delivery of Notice to the Surety to do so. As between the Principal Representative and the Surety, the cost of making good such deficiencies shall all be borne by the Surety. If the Surety takes over the Work, either by election upon termination of the services of Contractor pursuant to Section B(1) of this Article 49, City's Right To Terminate Contract, or upon instructions from the Principal Representative to do so, the provisions of the Contract Documents shall govern the Work to be done by the Surety, the Surety being substituted for Contractor as to such provisions, including provisions as to payment for the Work, the times of completion and provisions of this Article as to the right of the Principal Representative to do the Work or to take control of all or a portion of the Work.

   The Principal Representative may take control of all or a portion of the Work and make good the deficiencies of Contractor, or the Surety if the Surety has been substituted for Contractor, with or without terminating the Contract, employing such additional help as the Principal Representative deems advisable in accordance with the provisions of Article 48A, State's Right To Do The Work; Temporary Suspension Of Work; Delay Damages. In such event, the Principal Representative shall be entitled to collect from Contractor and his or her Surety, or to deduct from any payment then or thereafter due Contractor, the costs incurred in having such deficiencies made good and any damages or expenses incurred through the default of Contractor, provided the City approves the amount thus charged to Contractor. If the Contract is not terminated, a Change Order to the Contract shall be executed, unilaterally if necessary, in accordance with the procedures of Article 35, Changes In The Work.

C. ADDITIONAL CONDITIONS

If any termination by the Principal Representative for cause is later determined to have been improper, the termination shall be automatically converted to and deemed to be a termination by the Principal Representative for convenience and Contractor shall be limited in recovery to the compensation provided for in Article 50, Termination For Public Interest Of the City. Termination by Contractor shall not be subject to such conversion.

ARTICLE 50. TERMINATION FOR PUBLIC INTEREST OF CITY

A. NOTICE OF TERMINATION

The performance of Work under this Contract may be terminated, in whole or from time to time in part, by the City whenever for any reason the Principal Representative shall determine that such termination is in the best interest of City. Termination of Work hereunder shall be effected by delivery to Contractor of a Notice of such termination specifying the extent to which the performance of Work under the Contract is terminated and the date upon which such termination becomes effective.

B. PROCEDURES

After receipt of the Notice of termination, Contractor shall, to the extent appropriate to the termination, cancel outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition, Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of all applicable outstanding commitments covering personal performance of any Work terminated by the Notice. With respect to such canceled commitments, Contractor agrees to:

1. settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with approval or ratification of the Principal Representative, to the extent he or she may require, which approval or ratification shall be final for all purposes of this clause; and,
2. assign to the City, in the manner, at the time, and to the extent directed by the Principal Representative, all of the right, title, and interest of Contractor under the orders and subcontracts so terminated, in which case the City shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

Contractor shall submit his or her termination claim to the Principal Representative promptly after receipt of a Notice of termination, but in no event later than three (3) months from the effective date thereof, unless one or more extensions in writing are granted by the Principal Representative upon written request of Contractor within such three month period or authorized extension thereof. Upon

failure of Contractor to submit his or her termination claim within the time allowed, the Principal Representative may determine, on the basis of information available to him, the amount, if any, due to Contractor by reason of the termination and shall thereupon pay to Contractor the amount so determined.

Costs claimed, agreed to, or determined pursuant to the preceding and following paragraph shall be in accordance with the provisions of §24-107-101, C.R.S., as amended and associated Cost Principles of the Colorado Procurement Rules as in effect on the date of this Contract.

Subject to the preceding provisions, Contractor and the Principal Representative may agree upon the whole or any part of the amount or amounts to be paid to Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by Contractor and any reasonable loss upon outstanding commitments for personal services which he or she is unable to cancel; provided, however, that in connection with any outstanding commitments for personal services which Contractor is unable to cancel, Contractor shall have exercised reasonable diligence to divert such commitments to other activities and operations. Any such agreement shall be embodied in an Amendment to this Contract and Contractor shall be paid the agreed amount.

The City may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by Contractor in connection with the termination portion of this Contract, whenever, in the opinion of the Principal Representative, the aggregate of such payments is within the amount to which Contractor will be entitled hereunder.

Contractor agrees to transfer title and deliver to the City, in the manner, at the time, and to the extent, if any, directed by the Principal Representative, such information and items which, if the Contract had been completed, would have been required to be furnished to the City, including:

a. completed or partially completed plans, Drawings and information; and,
b. materials or equipment produced or in process or acquired in connection with the performance of the Work terminated by the Notice.

Any disputes as to questions of fact, which may arise hereunder, shall be subject to the Remedies provisions of the Colorado Procurement Code, §§24-109-101, et seq., C.R.S., as amended.

ARTICLE 51. INTENTIONALLY DELETED.

ARTICLE 52. INTENTIONALLY DELETED.

ARTICLE 53. INTENTIONALLY DELETED.

ARTICLE 54. OPTIONAL PROVISIONS AND ELECTIONS

The provisions of this Article 54 alter the preceding Articles or enlarge upon them as indicated:

The Principal Representative and or the State Buildings Programs shall mark boxes and initial where applicable.

A. MODIFICATION OF ARTICLE 45. GUARANTEE INSPECTIONS AFTER COMPLETION

If the box below is marked the six month guarantee inspection is not required.

☐ ___x___ Principal Representative initial

B. MODIFICATION OF ARTICLE 39. NON-BINDING DISPUTE RESOLUTION – FACILITATED NEGOTIATIONS

If the box is marked, and initialed by the City as noted, the requirement to participate in facilitated negotiations shall be deleted from this Contract. Article 39, Non-Binding Dispute Resolution – Facilitated Negotiations, shall be deleted in its entirety and all references to the right to the same where ever they appear in the contract shall be similarly deleted.

The box may be marked only for projects with an estimated value of less than $500,000.

☐ _____ Principal Representative initial

C. MODIFICATION OF ARTICLE 46. TIME OF COMPLETION AND LIQUIDATED DAMAGES

If an amount is indicated immediately below, liquidated damages shall be applicable to this Project as, and to, the extent shown below. Where an amount is indicated below, liquidated damages shall be assessed in accordance with and pursuant to the terms of Article 46, Time Of Completion And Liquidated Damages, in the amounts and as here indicated. The election of liquidated damages shall limit and control the parties right to damages only to the extent noted.

1. For the inability to use the Project, for each day after the number of calendar days specified in the Contractor's bid for the Project and the Contract for achievement of Substantial Completion, until the day that the Project has achieved Substantial

Completion and the Notice of Substantial Completion is issued, the Contractor agrees that an amount equal to zero dollars ($0) shall be assessed against Contractor from amounts due and payable to the Contractor under the Contract, or the Contractor and the Contractor's Surety shall pay to the Principal Representative such sum for any deficiency, if amounts on account thereof are deducted from remaining amounts due, but amounts remaining are insufficient to cover the entire assessment.

2. For damages related to or arising from additional administrative, technical, supervisory and professional expenses related to and arising from the extended closeout period, for each day in excess of the number of calendar days specified in the Contractor's bid for the Project and the Agreement to finally complete the Project as defined by the issuance of the Notice of Final Acceptance) after the issuance of the final Notice of Substantial Completion, the Contractor agrees that an amount equal to zero dollars($0) shall be assessed against Contractor from amounts due and payable to the Contractor under the Contract, or the Contractor and the Contractor's Surety shall pay to the Principal Representative such sum for any deficiency, if amounts on account thereof are deducted from remaining amounts due but amounts remaining are insufficient to cover the entire assessment.

D. NOTICE IDENTIFICATION

All Notices pertaining to General Conditions or otherwise required to be given shall be transmitted in writing, to the individuals at the addresses listed below, and shall be deemed duly given when received by the parties at their addresses below or any subsequent persons or addresses provided to the other party in writing.

Notice to Principal Representative: _____
_____

With copies to: State Buildings Programs (or Delegate)
State of Colorado
_____
_____

Notice to Contractor: B.N.Tripathi
Vice President
9801 Westheimer
Suite 302
Houston, TX 77042

With copies to: General Counsel
Ameresco
111 Speen Street
Suite 410
Framingham, MA 01701

SCHEDULE O:

PAYMENT SCHEDULE AND SCHEDULE OF VALUES

Monthly invoices will be prepared by the Contractor based on actual construction progress. The following table shows all of the cost components of the project. A building by building breakdown of the costs is shown in Schedule A.

ECM #	ECM Name	Materials & Labor	Mark-Up 22%	Design 8%	Project Management 6%	Contingency 5%	Commissioning 1.5%	Warranty 1.5%	Training 0.5%	Financing Evaluation 0.5%	Total
2	Convert CV AHU to VAV at Recreation Center Pool AHU-1	$29,501	$6,490	$2,360	$1,770	$1,475	$442	$442	$148	$148	$42,776
3	Convert CV AHU to VAV at Recreation Center Gym AHU-2	$52,299	$11,506	$4,184	$3,138	$2,615	$785	$785	$261	$261	$75,834
4	Convert VAV Inlet Vanes to VFD, Replace Fan Powered VAV AHU-3	$84,772	$18,650	$6,782	$5,086	$4,238	$1,272	$1,272	$424	$424	$122,920
6	Replace Boilers with High Efficiency Boilers	$108,410	$23,850	$8,673	$6,505	$5,420	$1,626	$1,626	$542	$542	$157,194
7	Convert Constant Flow HW Pumps to Variable Flow with VFDs	$73,279	$16,121	$5,863	$4,397	$3,664	$1,099	$1,099	$366	$366	$106,254
8	Add VAV Dampers on Branch Supply, Convert RTU to VAV Operation	$34,941	$7,687	$2,795	$2,096	$1,747	$524	$524	$175	$175	$50,664
11	Replace Gas Unit Heaters with Infrared	$103,144	$22,692	$8,251	$6,189	$5,157	$1,547	$1,547	$516	$516	$149,559
12	Controls	$64,852	$14,267	$5,188	$3,891	$3,243	$973	$973	$324	$324	$94,035
14	Insulate Roof, Walls, Windows	$73,623	$16,197	$5,890	$4,418	$3,681	$1,104	$1,104	$368	$368	$106,753
19	Water Conservation	$97,929	$21,544	$7,834	$5,876	$4,896	$1,469	$1,469	$490	$490	$141,997
20	Lighting Retrofits	$204,004	$44,881	$16,320	$12,241	$10,200	$3,060	$3,060	$1,020	$1,020	$295,806
21	Lighting Control Retrofits	$46,236	$10,172	$3,699	$2,774	$2,311	$694	$694	$231	$231	$67,042
	Technical Energy Audit										$34,458
	Performance and Payment Bond										$17,208
Total		**$972,990**	**$214,057**	**$77,839**	**$58,381**	**$48,647**	**$14,595**	**$14,595**	**$4,865**	**$4,865**	**$1,462,500**

SCHEDULE P:
PRE-EXISTING SERVICE AGREEMENTS

Information regarding the scope and cost of pre-existing equipment service contracts should be located in this schedule. This gives both the City and Contractor information about how and when the existing equipment is being serviced. As well, if the Contractor is credited with any maintenance savings or is taking over any existing service contracts, the scopes and costs of such Contracts will useful in tracking the performance of the Contractor in providing the required services and documenting any attributable cost savings.

None

SCHEDULE Q:
CURRENT AND KNOWN CAPITAL PROJECTS AT FACILITY

If there are any current or planned capital projects to be implemented in the facility, that information should be contained in this schedule. This information could prove to be very useful in the out-years of the contract to avoid potential disputes over long-term energy savings performance, overall facility energy consumption and costs..

None

SCHEDULE R:
PROJECTED FINANCIAL PERFORMANCE

3-2:14 PM

Project Pro-Forma - Final Technical Energy Audit
City of Englewood

AMERESCO
Green • Clean • Sustainable

Initial Project Costs:		
Detailed Energy Audit	$	34,456
Performance and Payment Bond	$	17,258
Implementation costs	$	1,216,634
Total Initial Project Costs	$	1,268,500
Utility Rebates	$	(108,612)
Energy Audit Rebate	$	(17,258)
Qualified Energy Conservation Bond	$	-
Broken Tee Golf Course Projects	$	(48,778)
Customer Contribution	$	-
Net Project Costs Remaining	$	1,287,981
Construction Period Interest on OECB Lease Purchase		53,501
Total Amount Financed	$	1,341,685

Financial Assumptions	
Term of Project (yrs)	15.0 yrs
Term of Financing (yrs)	15.0 yrs
Estimated OECB Lease Purchase Financing Rate	2.50%
Payments per year (frequency)	12
Discount Rate	3.50%
Energy escalation rate (annual)	3.00%
O&M Cost escalation rate (annual)	2.00%
O&M Cost escalation rate (annual)	2.00%
Project Simple Payback	[illegible]

Pro-forma		Initial Values	Year 1	2	3	4	5	6	7	8	9	10
	SAVINGS											
1	Projected Annual Energy Cost Savings	$ 111,663	$ 115,012	$ 118,462	$ 122,016	$ 125,677	$ 129,447	$ 133,330	$ 137,330	$ 141,450	$ 145,694	$ 150,064
2	Guaranteed Energy Cost savings	$ 100,456	$ 103,511	$ 106,615	$ 109,814	$ 113,109	$ 116,501	$ 119,997	$ 123,597	$ 127,305	$ 131,124	$ 135,058
3	O&M Savings	$ 17,259	$ 17,949	$ 18,667	$ 19,042	$ 19,913	$ 20,304	$ 20,808	$ 21,432	$ 22,075	$ 22,737	$ 23,419
4	Total Project Savings (Line 2 + Line 3)	$ 117,922	$ 121,460	$ 125,103	$ 128,856	$ 132,722	$ 136,704	$ 140,806	$ 145,029	$ 149,380	$ 153,861	$ 158,477
	COSTS											
5	Payments for OECB Lease Purchase Financing		$ 96,035	$ 97,935	$ 100,795	$ 103,729	$ 106,718	$ 109,514	$ 112,136	$ 116,218	$ 119,259	$ 123,313
6	Payments for Measurement & Verification Services	$ 19,669	$ 20,664	$ 21,491	$ 22,351	$ 23,245	$ 24,175	$ 25,142	$ 26,148	$ 27,194	$ 28,282	$ 29,413
7	Payments for Operation & Maintenance Services	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
	Total Project Costs		$ 116,700	$ 119,363	$ 122,146	$ 124,971	$ 130,893	$ 134,664	$ 138,276	$ 143,412	$ 148,111	$ 152,726
8	Net annual benefit		$ 5,761	$ 5,761	$ 5,760	$ 5,751	$ 5,811	$ 6,142	$ 6,753	$ 5,968	$ 5,750	$ 5,751
9	Cumulative cash flow	$ 88,288	$ 5,761	$ 11,522	$ 17,282	$ 23,033	$ 28,844	$ 34,986	$ 41,739	$ 47,707	$ 53,457	$ 59,208
10	Net Present Value of cash flow	$ 88,231										

Line #		11	12	13	14	15	Totals
	SAVINGS						
	Projected Annual Energy Cost Savings	$ 154,666	$ 159,203	$ 163,879	$ 168,699	$ 173,663	$ 2,135,056
	Guaranteed Energy Cost Savings	$ 139,130	$ 143,283	$ 147,591	$ 152,029	$ 156,569	$ 1,926,185
	O&M Savings	$ 24,124	$ 24,846	$ 25,591	$ 26,356	$ 27,145	$ 333,625
	Total Project Savings	$ 163,252	$ 168,128	$ 173,172	$ 178,387	$ 183,713	$ 2,259,810
	COSTS						
	Payments for OECB Lease Purchase Financing	$ 125,651	$ 130,364	$ 134,235	$ 138,197	$ 142,163	$ 1,736,067
	Payments for Measurement & Verification Services	$ 30,830	$ 31,915	$ 33,057	$ 34,410	$ 35,756	$ 419,743
	Payments for Operation & Maintenance Services	$ -	$ -	$ -	$ -	$ -	$ -
	Total Project Costs	$ 167,481	$ 162,278	$ 167,452	$ 172,617	$ 177,918	$ 2,172,766
	Net annual benefit	$ 5,761	$ 5,761	$ 5,760	$ 5,751	$ 5,795	$ 86,958
	Cumulative cash flow	$ 63,256	$ 69,007	$ 74,757	$ 80,507	$ 86,258	

Notes:
1 This Proforma Cash Flow reflects an estimated effective OECB Lease Purchase rate of 2.5%. The actual rate will increase or decrease based on market conditions and customer credit rating at the time of lease funding.
2 Revenues are based on current utility rate structures and usage information provided for purposes of this project.
3 The Performance & Payment Bonds apply only to the installation portion of the contract and do not apply in any way to energy savings guarantees, payments or maintenance provisions, except that the Performance Bond shall guarantee that the installation will be free of defective materials and workmanship for a period of twelve (12) months following completion and acceptance of the work.
4 The Utility Rebate is an estimated amount and is not guaranteed. The final rebate amount will be determined by the utility company.

SCHEDULE S
CERTIFICATE OF INSURANCE

To be provided by the Contractor after execution of the contract.

EXHIBIT I
PERFORMANCE BOND

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that Ameresco, Inc., (Principal) a corporation organized under the laws of the State of Delaware with its principal place of business at Suite 410,111 Speen Street, Framingham, MA. 01701 as Principal, and Western Surety Company a corporation organized under the laws of the State of South Dakota with its office located at 101 South Phillips Street, Sioux Falls, South Dakota, and Safeco Insurance Company of America, a corporation organized under the laws of the State of Washington with its office located at Safeco Plaza, Seattle, Washington 98185, as Co-Sureties, each being authorized to transact business in the State of _____, are held and firmly bound unto

_____("Obligee"), in the penal sum of _____

_____ Dollars for the payment of which Principal and Co-Sureties bind themselves, their heirs, executors administrators, successors and assigns, jointly and severally, firmly by these presents. It is understood among the parties hereto that in no event shall the surety be liable for a greater sum than the penalty of this bond.

WHEREAS, Principal has by written agreement dated , 20 entered into a contract with Obligee for Furnish and Install energy savings equipment in accordance with

_____

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract, and

WHEREAS, this Performance Bond applies only to the installation portion of the Contract and does not apply in any way to energy savings guarantees, payments or maintenance provisions, except that this Performance Bond shall guarantee that the installation will be free of defective materials and workmanship for a period of twelve (12) months following completion and acceptance of the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if the Principal shall promptly and faithfully perform the installation pursuant to the undertakings, covenants, agreements, terms and conditions of said Contract, and any extension thereof that may be granted by the Obligee, with or without notice to the Co-Sureties, and truly keep and perform all the undertakings, covenants, agreements, terms and conditions of any and all duly authorized modifications, alterations, changes or additions to said Contract that may hereafter be made, notice to the co-Sureties of such modifications, alterations, changes or additions being hereby waived, then this obligation shall become void, otherwise to remain in full force and virtue.

PROVIDED, HOWEVER, that no right of action shall accrue upon or by reason hereof to or for the use or benefit of anyone other than the Obligee(s) named herein; and that any suit, action or proceeding by the Obligee to recover on this Performance Bond shall be instituted within two years from the date of acceptance of the installation of the equipment by the Obligee, and

PROVIDED FURTHER, that whenever the Principal shall be and declared by the Obligee to be in default of the obligations under the Contract for equipment installation, the Obligee having performed its obligations under the Contract, the Co-Sureties shall: (a) arrange for the Principal, with the consent of the Obligee, to perform and complete the Contract; or (b) undertake to perform and complete the Contract itself through its agents or through Independent contractors; or (c) after investigation, determine the amount for which it may be liable to the Owner and, as soon as practical after the amount is determined, tender payment therefore to the Owner.

IN WITNESS, WHEREOF, we have hereunto set our hands and seals this day of 20 .

AMERESCO, INC.
BY:_____

WESTERN SURETY COMPANY

BY:_____
Richard F. Caruso, Attorney-in-Fact

SAFECO INSURANCE COMPANY OF AMERICA
BY:_____
Richard F. Caruso, Attorney-in-Fact

EXHIBIT II
LABOR AND MATERIAL PAYMENT BOND

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that Ameresco, Inc.,(Principal) a corporation organized under the laws of the State of Delaware with its principal place of business at Suite 410 111 Speen Street, Framingham, MA. 01701,as Principal and Western Surety Company a corporation organized under the laws of the State of South Dakota with its office located at 101 South Phillips Street, Sioux Falls, South Dakota and Safeco Insurance Company of America, a corporation organized under the laws of the State of Washington with its office located at Safeco Plaza, Seattle, Washington 98185, as Co-Sureties, each being authorized to transact business in the State of _____, are held and firmly bound unto

_____("Obligee") in the penal sum of _____

_____ Dollars for the payment of which Principal and Co-Sureties bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents. It is understood among the parties hereto that in no event shall the surety be liable for a greater sum than the penalty of this bond.

WHEREAS, Principal has by written agreement dated 20 entered into a contract with Obligee for installation of certain equipment more specifically described as follows:

WHEREAS, this Payment Bond applies only to the installation portion of the Contract and does not apply in any way to energy savings guarantees, payments or maintenance provisions thereof.

NOW, THEREFORE, the condition of this obligation is such that, if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used in the performance of the installation portion of the Contract, then this obligation shall be null and void, other wise to remain in full force and virtue, subject, however, to the following conditions:

A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, materials or both, used or reasonably required for use in the performance of the installation portion of the Contract.

No suit or action shall be commenced hereunder by any claimant.

(a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Obligee or Co-Sureties above named within ninety (90) days after such claimant did or performed the last of the work or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Obligee, or Co-Sureties, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which the legal process

may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
(b) After the expiration of one (1) year following the date on which claimant performed labor or last furnished materials on the installation portion of said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

IN WITNESS, WHEREOF, we have hereunto set our hands and seals this day of 20 .

AMERESCO, INC.
BY:_____

WESTERN SURETY COMPANY

BY:_____
Richard F. Caruso, Attorney-in-Fact

SAFECO INSURANCE COMPANY OF AMERICA

BY:_____
Richard F. Caruso, Attorney-in-Fact

EXHIBIT III (i)
NOTICE OF ACCEPTANCE—TECHNICAL ENERGY AUDIT AND MEASUREMENT AND VERIFICATION PLAN

To be provided by the City.

EXHIBIT III (ii)
Notice of Substantial Completion

STATE OF COLORADO

OFFICE OF THE STATE ARCHITECT

STATE BUILDINGS PROGRAMS

Date of Partial Substantial Completion:: _____

DATE TO BE INSERTED BY THE PRINCIPAL REPRESENTATIVE

Institution/Agency: _____

Project No./Name: _____

TO:

Principal Representative

and

Contractor

This is to advise you that the Work has been reviewed, inspected and determined, to the best knowledge, information and belief of the Architect/Engineer, to be substantially complete as of the date noted above in accordance with the criteria outlined in Article 41 of The General Conditions of the Contract and the Specifications, including without limitation a) suitable for occupancy, b) inspected for code compliance with Building Inspection Records signed by code officials for the State, c) determined to be fully and comfortably usable, and d) fully cleaned and appropriate for presentation to the public.

A punch list of work to be completed, work not in compliance with the Drawings or Specifications, and unsatisfactory work is attached hereto, along with the Contractor's schedule for the completion of each and every item identified on the punch list specifying the Subcontractor or trade responsible for the work, and the dates the completion or correction will be commenced and finished within any period indicated in the Agreement for punch list completion prior to Final Acceptance.

Except as stated on the reverse side of this Notice of Partial Substantial Completion, all manufacturers' warranties, other special warranties and the Contractor's one-year obligation to perform remedial work, shall commence on the Date of Substantial Completion noted above.

This Notice of Partial Substantial Completion shall be effective and establish the Date of Substantial Completion only when fully executed on the reverse by the Contractor and the Principal Representative. The Principal Representative accepts the Work as substantially complete as of the Date of Substantial Completion herein noted. The Contractor agrees to complete or correct the Work identified on the attached punch list and to do so in accordance with attached punch list completion schedule

Architect/Engineer	Date	Contractor	Date
City of Englewood James K. Woodward, Mayor	Date	Principal Representative (Institution or Agency)	Date

The responsibilities of the Principal Representative and the Contractor for security, maintenance, heat, utilities, and insurance shall be as specified in the Contract Documents or as otherwise hereafter noted:

Exceptions, if any, to the commencement of warranties shall be:

The attached final punch list consists of _____ pages, and the attached Contractor's schedule showing the dates of commencement and completion of each punch list item consists of _____ pages.

When completely executed, this form shall be sent to the Contractor and the Principal Representative with a copy to State Buildings Programs.

EXHIBIT IV
EQUIPMENT WARRANTIES

This will be provided as part of the As-Built documentation provided at the end of construction and commissioning.

EXHIBIT V
MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

STATE OF COLORADO

OFFICE OF THE STATE ARCHITECT
STATE BUILDINGS PROGRAMS

Institution/Agency: _____

Project No./Name: _____

TO BE ELIGIBLE FOR AWARD OF THIS CONTRACT, EACH CONTRACTOR (INCLUDING ARCHITECT/ENGINEER/CONSULTANT/CONTRACTOR) IS REQUESTED TO COMPLY WITH THESE REQUIREMENTS.

I. The undersigned Architect/Engineer/Consultant/Contractor hereby certifies that the (company) (joint venture) (is) (is not)* a minority enterprise as defined in this report. The undersigned Architect/Engineer/Consultant/Contractor hereby certifies the (company) (joint venture) (is) (is not)* a woman-owned business enterprise as defined. (*Strike out where inapplicable.)

*Persons signing hereby swear and affirm that they are authorized to act on Architect/Engineer/Consultant/Contractor's behalf and acknowledge that the State is relying on their representations to that effect. **Principal is not a recognized title and will not be accepted**

ARCHITECT/ENGINEER/CONSULTANT/CONTRACTOR

_____
Legal Name of Contracting Entity

_____
*Signature

By: _____
Name (print) Title

Date: _____

II. It is the general policy of the State of Colorado to be as inclusive as possible to all member communities when spending taxpayer dollars.

III. REQUIREMENTS

A. Minority Business Enterprise (MBE) means, for the purpose of this report, a business enterprise at least 51 percent that is owned and controlled by minority group members, or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned and controlled by minority group members. Eligible persons are expected to be engaged full time in the day-to-day operation and management of the business. Minority group members are ethnic minorities including African American, Hispanic American, Native American or Asian/Pacific American.

B. Women Business Enterprise (WBE) means, for the purpose of this report, a business enterprise of at least 51 percent of which is owned and controlled by a woman or women, or, in the case of a publicly-owned business, at least 51 percent of the stock of

which is owned and controlled by women. Women are expected to be engaged full time in the day-to-day operation and management of the business.

C. The State of Colorado does not have a certification process nor does it require MBE's and WBE's to be certified EXCEPT for certain contracts for highway and bridge construction administered by the Colorado Department of Transportation.

D. The percentages of minority and women-owned business participation will be determined by dollar value of the work subcontracted to or joint ventured with minority and women-owned firms, as compared to the total dollar value of the bid amount for all work bid under this contract.

E. Prior to the award of this contract, the contractor will be required to provide to the Principal Representative a list of M/WBE enterprises, stipulating the dollar amount of each subcontract or supplier of materials on page 2 of this Minority and Women Business Enterprises Participation Report.

F. The contractor will retain records and documents showing the level of participation for two years following completion of this contract. These records and documents, or copies thereof, will be made available at reasonable times and places for inspection by an authorized representative of the Principal Representative, or its designated representatives, and will be submitted to such representatives upon written request.

MBE: Yes ☐ No ☐ WBE: Yes ☐ No ☐

Total Contract Amount: $_____

Name and Address of M/WBE Subcontractors and/or Suppliers and/or Self-Performed Work by M/WBE Primes*	**MBE Contract Amounts**	**WBE Contract Amounts**	**Type of Work**

*Indicate ethnicity based on Paragraph III. A. above.

Total MBE Contracts: $ _____

Total WBE Contracts: $ _____

Total MBE %: _____

Total WBE %: _____

EXHIBIT VI
CERTIFICATION THAT LIFETIME OF EQUIPMENT EXCEEDS FINANCING TERM

This form will be provided by the Governor's Energy Office when the Technical Energy Audit is approved. This document will confirm that the lifecycle cost exceeds the term of the contract.

APPENDICES

APPENDIX A:
LEASE AGREEMENTS AND DOCUMENTS

APPENDIX B:
RFP FOR CONTRACTOR SOLICITATION

APPENDIX C:
CONTRACTOR PROPOSAL

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
June 21, 2010	11 c v	Motion to approve a Power Purchase Agreement with Ameresco

Initiated By:	Staff Source:
City Manager's Office	Michael Flaherty, Deputy City Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has expressed strong interest in promoting energy efficiency, alternative and renewal energy. In 2008, staff initiated efforts to address energy efficiency and to develop a plan for implementation of "Green City" initiatives. To that end, City Council approved a Memorandum of Understanding (MOU) with the Governor's Energy Office (GEO) on October 20, 2008. On May 4, 2009, City Council approved, by Resolution #38 of 2009, the selection of Ameresco, Inc. as the City's Energy Service Company. On June 1, 2009, City Council approved, by Motion, an agreement between the City and Ameresco for the provision of a Technical Energy Audit (TEA). On November 16, 2009, Council approved Amendment #1 to the TEA to provide for the investigation, design, development, and implementation of photovoltaic (solar) systems at various City facilities. The Energy Audit Report was discussed at the March 8, 2010 City Council Study Session and the Power Purchase Agreement was discussed during the June 7, 2010 Study Session.

RECOMMENDED ACTION

Staff recommends City Council approval, by motion, of a Power Purchase Agreement with Ameresco, Inc.

BACKGROUND

During the Technical Energy Audit (TEA) the City asked Ameresco to investigate the potential use of alternative energy solutions. Under the terms of Amendment #1 to the TEA, Ameresco proposed to conduct the necessary research in order to determine the feasibility of provision of photovoltaic (PV) solar panel installation at various City facilities.

Based on the findings of their research, Ameresco has determined photovoltaic systems to be feasible, pending a more thorough structural analysis, at various City facilities. Provision of PV systems on City facilities is proposed to be done by Ameresco under a Power Purchase Agreement (PPA) in which Ameresco would provide the solar systems at no cost to the City and the City would purchase the energy produced from the PV system at an established rate. Ameresco will be eligible for certain Xcel Energy rebates and federal tax credit benefits that apply to a private corporation but not a public (tax exempt) entity.

Ameresco will provide PV systems at the Civic Center, the Malley Senior Center, the Police/Fire Administration (Safety Services) Building, and the Servicenter. The PV systems proposed will provide renewable energy for 4.7% of the total electricity the City currently uses and 10.3% of the electrical energy usage of the selected buildings. Ameresco will design, build, own, operate and maintain the PV systems for the term of the agreement. The City will receive electricity output from the systems to displace purchases from Xcel. The contract term is 20 years, with purchase option at any time during the term at fair market value and at the end of a 5-year renewal term (25 years) for $1 each.

FINANCIAL IMPACT

The cost of the systems to Ameresco is $1,582,878, with rebate offsets of $554,000. The City's purchase price for the electricity is set at $0.088 per kWh, escalating at 2% per year, as compared to the average current rate for the selected buildings of $0.0905/kWh and the historic Xcel escalation rate of 3.4%

LIST OF ATTACHMENTS

Email from Michael Castonguay of Ameresco in response to Council questions
Power Purchase Agreement

CONFIDENTIAL

POWER PURCHASE AGREEMENT

Dated as of _____, 2010

by and between

Ameresco Solar Englewood LLC

as Provider

and

the City of Englewood, Colorado

as Customer

CONFIDENTIAL

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Exhibit B - Description of Systems
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Exhibit D - Termination Values
Exhibit E - License Agreement

POWER PURCHASE AGREEMENT

This POWER PURCHASE AGREEMENT, dated as of _____, 2010 (the "Effective Date") (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Agreement") is by and between Ameresco Solar Englewood LLC, a Delaware limited liability company ("Provider"), and the City of Englewood, a municipal corporation formed under the laws of the State of Colorado ("Customer") (each a "Party" and collectively, the "Parties").

RECITALS:

WHEREAS, Customer desires that Provider construct, install, maintain and operate, and Provider desires to construct, install, maintain and operate solar generated electrical systems to be located at one or more facilities owned by Customer; and

WHEREAS, Provider desires to sell, and Customer desires to purchase, (i) the entire energy output of such solar generated electrical systems and (ii) other services pursuant to the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT:

1. Definitions. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement shall have the respective meanings set forth in this Section 1; (b) the singular shall include the plural and vice versa; (c) the word "including" shall mean "including, without limitation", (d) references to "Sections" and "Exhibits" shall be to sections and exhibits hereof; (e) the words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection hereof; and (f) references to this Agreement shall include a reference to all exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time.

"Agreement" shall have the meaning set forth in the preamble.

"Annual Rate Escalator" shall mean two percent (2.00%).

"Applicable Law" shall mean, with respect to any Governmental Authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such Governmental Authority, enforceable at law or in equity, along with the interpretation and administration thereof by any Governmental Authority.

"Claim Notice" shall have the meaning set forth in Section 13.3.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Commercial Operation Date" shall have the meaning set forth in Section 3.4.1.

"Confidential Information" shall have the meaning set forth in Section 15.

"Customer" shall have the meaning set forth in the preamble.

"Customer Default" shall have the meaning set forth in Section 11.1.

"Energy" shall mean the electrical energy generated by the Systems.

"Environmental Attributes" means any and all environmental, power source, and emission characteristics, credits, reductions, offsets, allowances, and benefits, howsoever entitlted, directly or indirectly attributable to the generation of electricity from the Systems. Environmental Attributes include but are not limited to (i) any benefit accruing from the renewable nature of solar PV-generated energy; (ii) any avoided emissions of pollutants to the air, soil, or water (such as sulfur oxides, nitrogen oxides, and carbon monoxide; (iii) any avoided emissios of carbon dioxide, methane and other greenhouse gases that may contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (iv) any property rights that may exist with respct to the foregoing attributes, howsoever entitled; (v) displacements of energy generation by fossil-fuel-consuming or GHG-emitting generation resources; (vi) any reporting rights to these avoided emissions, such as Green Tag Reporting Rights; and (vii) Solar Renewable Energy Credits.

"Environmental Financial Incentives" shall mean each of the following financial rebates and incentives that is in effect as of the Effective Date or may come into effect in the future: (i) performance-based incentives under the state's solar program or initiative, incentive tax credits (including investment tax credits arising under the Code) other tax benefits, and accelerated depreciation, any financial incentives in the form of credits, rebates, grants or subsidies for which the Systems may be eligible from a utility or any other party (collectively, "allowances"), however named or referred to, with respect to any and all fuel, emissions, air quality, energy generation, or other environmental or energy characteristics, resulting from the use of solar generation or the avoidance of the emission of any gas, chemical or other substance into the air, soil or water attributable to the sale of Energy generated by the System; and (ii) all reporting rights with respect to such allowances.

"Expiration Date" shall have the meaning set forth in Section 10.1.

"Fair Market Value" shall have the meaning set forth in Section 10.3.2.

"Force Majeure Event" shall mean, when used in connection with the performance of a Party's obligations under this Agreement, any of the following events to the extent not caused by such Party or its agents or employees:

(a) war, riot, acts of a public enemy or other civil disturbance;

(b) acts of God, including but not limited to, storms, floods, lightning, earthquakes, hailstorms, ice storms, tornados, typhoons, hurricanes,

landslides, volcanic eruptions, fire including but not limited to range or forest fires, and objects striking the earth from space (such as meteorites), sabotage or destruction by a third party (other than any contractor retained by or on behalf of the Party) of facilities and equipment relating to the performance by the affected Party of its obligations under this Agreement; and

(c) strikes, walkouts, lockouts or similar industrial or labor actions or disputes.

"Governmental Authority" shall mean any federal, state, regional, county, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

"Indemnified Party" shall have the meaning set forth in Section 13.3.

"Indemnifying Party" shall have the meaning set forth in Section 13.3.

"Installation Work" shall mean all work performed by Provider in connection with the installation, testing and commissioning of each System.

"Interconnection Point" shall have the meaning set forth in Section 3.5.

"kWh" shall have the meaning set forth in Section 4.3.1

"kWh Rates" shall have the meaning set forth in Section 6.1.

"License Agreement" means that License Agreement entered into by Provider and the Customer in the form of Exhibit E hereto.

"Licensed Areas" shall mean the property or properties owned by Customer upon which one or more Systems shall be installed under this Agreement, and as further described in the License Agreement.

"Liens" shall have the meaning set forth in Section 7.1.3.

"Meter" shall have the meaning set forth in Section 4.3.1.

"Monthly Period" shall mean the period commencing on the Commercial Operation Date and ending on the last day of the calendar month in which the Commercial Operation Date occurs, and, thereafter, all subsequent one (1) calendar-month periods during the Term.

"Monthly Production" shall mean, for each Monthly Period, the amount of Energy delivered during such Monthly Period.

"O&M Work" shall have the meaning set forth in Section 4.1.

"Party" shall have the meaning set forth in the preamble.

"Person" shall mean any individual, corporation, partnership, company, joint venture, association, trust, unincorporated organization or Governmental Authority.

"Provider" shall have the meaning set forth in the preamble. For purposes of access rights and other rights necessary for Provider to perform its obligations hereunder, the term "Provider" shall include Provider's authorized agents, contractors and subcontractors.

"Provider Default" shall have the meaning set forth in Section 11.2.

"Rebates" shall mean any and all state or utility rebates or other funding offered for the development of photovoltaic system projects.

"Reporting Rights" means the right of Provider to report to any federal, state, or local agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992 and provisions of the Energy Policy Act of 2005, or under any present or future domestic, international or foreign emissions trading program, that Provider owns the Environmental Attributes and the Environmental Financial Incentives associated with the Energy.

"Representatives" shall have the meaning set forth in Section 15.

"Scheduled Outage" shall have the meaning set forth in Section 4.5.

"Site" or "Sites" shall mean, individually or collectively, the site or sites owend by Customer at which a System or Systems is/are installed which are listed by address on Exhibit A.

"Solar Renewable Energy Credits" shall mean a tradeable certificate representing the Environmental Attributes of 1000kWh (1MWh) of electricity generated fro the Systems.

"Solar Services" shall mean all services provided to Customer by Provider hereunder, namely the provision of Energy, operation and maintenance of the Systems and monitoring of the energy systems at each Site.

"System" or "Systems" shall mean each of the solar photovoltaic systems installed pursuant to this Agreement and more fully described in Exhibit B hereto, as such systems may be modified from time to time; provided, however, that the term Systems shall only include equipment and materials up to but not including the Interconnection Point of any such System.

"Term" shall have the meaning set forth in Section 10.1.

"Termination Date" shall have the meaning set forth in Section 10.1.

"Termination Value" shall mean, on any date of determination, the amount specified for such date on Exhibit D to this Agreement as applicable.

"Transfer Taxes" shall have the meaning set forth in Section 6.2.

2. Purchase and Sale of Solar Services. Customer engages Provider to provide the Solar Services to Customer, and Provider agrees to provide the Solar Services to Customer, all in accordance with the terms and conditions set forth herein. Provider will sell to Customer and Customer shall purchase from Provider all of the Energy produced by the Systems, as and when the same is produced, at the Price in effect at the time of delivery beginning on the Commercial Operation Date. Provider will deliver the Energy to the Interconnection Point and Customer shall accept and pay for the Energy delivered throughout the Term.

Customer shall provide Provider with access (as described in 3.1, below) to the Sites as necessary for Provider to carry out its obligations under this Agreement. If Customer does not own any one or more of the Sites, prior to the commencement of construction, Customer shall obtain and provide to Provider all consents and approvals necessary for Provider to obtain access to such Site sufficient to enable Provider to carry out its obligations under this Agreement. Provider may retain one or more contractors or subcontractors to fulfill its obligations hereunder; provided that Provider shall remain liable for performance hereunder. Notwithstanding any provision to the contrary, nothing in this Agreement shall prohibit, impair, or otherwise adversely affect the Customer's right to occupy, operate, maintain, repair or improve the buildings located at the Sites, or otherwise exercise its authority.

Neither Party may claim that by this Agreement Provider is an electric utility subject to regulation as an electric utility or subject to regulated electricity rates. Provider shall not claim to be providing electric utility services to Customer and shall not interfere with Customer's ability to select an electric utility provider except that, to the extent Customer has a choice in selecting an electric utility provider or electricity provider, Customer shall not select an electric utility provider or electricity provider that requires, as part of their conditions for service, removal or discontinued operation of the System or the sales hereunder.

3. Construction, Installation and Testing of Systems. With respect to each System:

3.1 Installation. Subject to Section 3.2, Provider will cause each System to be designed, engineered, installed and constructed substantially in accordance with the terms of this Agreement and the License Agreement. Provider shall have the right, during the term of this Agreement, to alter, modify, improve, expand or increase the output or efficiency of each System. Customer shall have the right to review and approve, such approval not to be unreasonably withheld or delayed, all construction plans, including engineering evaluations of the impact of each System on the structural integrity and strength of the locations where the Systems are installed. If Customer does not approve such plans or evaluations, such System or portion thereof will be deleted from the scope of work In the event that Provider determines in its sole discretion that the results of the inspections obtained pursuant to Section 3.2.4 indicate that Provider will be unable to install a System at a Site for the cost budgeted for such System, unless Customer is

willing to fund such additional costs, Provider shall be under no obligation to do so, and the provisions of this Agreement shall be terminated and be of no further force and effect with respect to the Solar Services related to such System upon written notice from Provider to Customer to that effect and the exhibits to this Agreement shall be modified and/or amended to reflect to exclusion of such Site or Sites.Customer shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers (if requested) and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of each System and access for rigging and material handling. Licensor shall provide Licensee a reasonable area for construction laydown. Subject to the terms of the License Agreement, Provider shall perform Installation Work between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday in a manner that minimizes inconvenience to and interference with Customer and Customer's guests' and Customers' use of the Sites to the extent commercially practical. In the event that Provider determines in its sole discretion that it is unable to install a System at a Site or interconnect a System to any Interconnection Point, it shall be under no obligation to do so, and the provisions of this Agreement shall be terminated and be of no further force and effect with respect to the Solar Services related to such System upon written notice from Provider to Customer to that effect and the exhibits to this Agreement shall be modified and/or amended to reflect to exclusion of such Site or Sites. At Customer's request, Provider and Customer shall participate in a preliminary construction meeting with the installation contractor(s) prior to commencement of construction to discuss the stages of the work and the timing of such stages.

3.2 Conditions Precedent to Construction. Commencement by the Provider of construction and installation activities with respect to a System shall be subject to the satisfaction of the following conditions precedent (in addition to the condition set forth in Section 3.3):

3.2.1 Provider shall have either (a) closed full financing for the Installation Work and the Solar Services to be performed and, to the extent required pursuant to the applicable financing documentation, Provider shall have reached written agreement with a third party financing institution, pursuant to which Provider may assign some or all of its rights and obligations hereunder to such third party (or its designated corporate affiliate) under this Agreement, or (b) notified Customer that it is not relying on financing to install the Systems;

3.2.2 Provider shall have obtained all the permits, licenses and other approvals required by Applicable Law to be obtained by Provider, except the utility interconnection permit;

3.2.3 Provider and Customer shall have executed the License Agreement;

3.2.4 Provider shall have obtained inspections (such as a roof inspection, where applicable, and inspection of a structural engineer) verifying load-bearing capacity and suitability of the Sites for construction, installation and ongoing operation of the Systems;

3.2.5 Customer shall have received all required corporate or municipal approvals of this Agreement and the License Agreement; and

3.2.6 Provider shall have executed a purchase and sale agreement for the sale of Environmental Attributes, on terms acceptable to Provider, in its sole discretion.

If the foregoing conditions precedent are not completed within one hundred twenty (120) days after the Effective Date, either Party may terminate the Agreement without triggering the default provisions of this Agreement or any liability under this Agreement. Provider shall have the option to extend such date up to sixty days by delivering written notice to Customer prior to expiration of such 120-day period. Alternatively, in the event that such conditions precedent are not satisfied by such date, the Parties may mutually agree to amend this Agreement to revise the Commercial Operation Date and Term of this Agreement.

3.3 Utility Approvals. Notwithstanding that Provider shall have the primary responsibility for preparing applications and obtaining all permits, licenses and approvals required for the performance of work under this Agreement, Customer agrees to assist Provider in obtaining necessary permits, licenses and approvals in connection with the installation, operation and maintenance of the Systems, including the submission of applications for interconnection of the Systems with the local electric utility. Customer shall not make any material changes to its electrical equipment at any Site after the date on which the applicable utility interconnection application is submitted unless any such changes, individually or in the aggregate, would not adversely affect the approval by such utility of such interconnection. Should the local electric utility fail to approve the interconnection of the Systems with respect to any Site, after providing notice to the Customer of Provider's intent to terminate and allowing Customer reasonable time to cure, Provider may terminate this Agreement with respect to such Site. The Parties shall not be obligated to go forward with installation of a System if the applicable utility approvals are conditioned upon material upgrades to the existing electrical infrastructure and neither Party elects to provide for such upgrades. Customer also agrees to assist Provider and make all reasonable necessary repairs or changes to the existing electrical infrastructure so that each System is eligible for rebate funding.

After a utility has approved an interconnection agreement, Customer shall maintain and fulfuill all contractual obligations with respect to such utility, including with respect to such interconnection service, power supply service, net-metering and delivery service, and meet all requirements imposed by the utility and the [Board of

Public Utilities] with respect to such service. Provider is responsible for the interconnection of each System to each Site. Provider will provide Customer with a copy of each approved interconnection agreement.

Provider agrees that as of the Effective Date (a) it has taken or will take all required actions, if any, necessary to comply with the Public Utility Holding Company Act of 2005, as amended, to the extent applicable to Provider and (b) it is not subject to rate regulation by any Government Authority

3.4 Commercial Operations Date; Rebates.

3.4.1 Commercial Operations Date. The Commercial Operation Date shall be the date that Provider gives written notice to Customer that delivery of Energy to a particular Site has commenced, provided that Provider is under no obligation to begin delivering Energy to a Site unless and until the following have occurred: (a) all commissioning and operating tests of the Systems have been successfully completed, and the Systems are available for commercial operation, (b) all permits and licenses required to be obtained under Applicable Law in connection with the operation of each System shall have been obtained and be in full force and effect, and (c) Customer shall have entered into an interconnection agreement with the local electricity utility and all required interconnections have been established.

3.4.2 Ownership of Rebates; Customer Rebate Assistance. Customer will instruct the applicable utility company or government agency to send to Provider 100% of the rebates or other incentives resulting from the installation and operation of the System, by whatever name assigned to those monies. If direct payment to Provider of this amount is not allowed, then Customer shall forward such rebates, incentives or monies to Provider promptly upon receipt by Customer. It is expressly understood that the Provider is entitled to one-hundred percent (100%) of the monies Customer receives or would receive from the serving utility or government agency regardless of the characterization or designation of such monies as a rebate, incentive or otherwise, and regardless of the fact that Provider may be the owner of the System at the time any such additional monies may be received.

3.5 Risk of Loss; Exclusive Control. As between the Parties, Provider will be deemed to be in exclusive control (and responsible for any property damage or injuries to persons caused thereby) of the Energy up to but excluding the point where the System is interconnected to Customer's electrical intertie (the "Interconnection Point") and Customer will be deemed to be in exclusive control (and responsible for any property damage or injuries to persons caused thereby) of the Energy at and from the Interconnection Point. Risk of loss related to Energy will transfer from Provider to Customer at the Interconnection Point.

3.6 Additional Systems. The Parties recognize that financial incentives that may be available from time to time from the utility, tax code or other sources as well as

changes in the cost of providing solar generated electricity may permit Provider to offer Solar Services as provided hereunder through additional Systems at existing or additional Sites. Subject to Customer's reasonableapproval, this Agreement may be expanded to include additional Systems and Sites.

4. Operation and Maintenance of Systems.

4.1 O&M Work; Phone/Data Line.

4.1.1 O&M Work. Provider, at its sole cost and expense, shall provide operation, repair, monitoring and maintenance services to the Systems during the Term of this Agreement, including the monitoring and maintenance of metering equipment determining the quantity of electricity produced by the Systems (collectively, the "O&M Work"). Provider shall perform the O&M Work to ensure that each System is capable of delivering Energy in accordance with the specifications set forth in Exhibit B, normal wear and tear excepted.

4.1.2 Phone/Data Line. Customer shall properly maintain, pay for and provide access to the necessary phone, computer, or other communication lines necessary to permit Provider to record the electrical output of the Systems for the entire Term.

4.2 Malfunctions and Emergencies.

4.2.1 Each of Customer and Provider shall notify the other within twenty-four (24) hours following the discovery by it of (a) any material malfunction in the operation of any System or (b) an interruption in the supply of Solar Services. Provider and Customer each shall notify the other Party immediately upon the discovery of an emergency condition in a System.

4.2.2 Provider shall commence repairs to any malfunctioning System and restore the supply of Energy as soon as reasonably possible after notice or upon its own discovery of any of the conditions specified in Section 4.2.1. If an emergency condition exists, Provider shall dispatch the appropriate personnel immediately upon becoming aware thereof and shall perform the necessary repairs or corrective action in an expeditious and safe manner. The cost to repair the malfunctioning System shall be borne entirely by the Provider, unless the cause of the malfunction was due to Customer's fault. For routine and emergency repairs, the Parties shall contact the persons set forth below:

For Ameresco, Inc:

William Martin, CEM

Telephone: 508-661-2299

Facsimile: 508-661-2201

Email: wmartin@ameresco.com

For the City of Englewood:

Jim Kavinsky, Building Services Operations Manager (or successor(

Telephone: 303-762-2450

Facsimile: 303-762-1683

Email: jkavinsky@englewoodgov.org

4.3 Metering.

4.3.1 Maintenance and Testing. At each Site Provider shall install and maintain a utility-grade kilowatt-hour ("kWh") meter ("Meter") for the measurement of Energy provided to Customer at such Site, which shall measure the kWh of Energy received by Customer at each Site on a continuous basis. Upon Customer's written request, Provider shall furnish a copy of all technical specifications and accuracy calibrations for each Meter, as well as all metering data and energy production calculations.

4.3.2 Customer Audits and Inspections. Once per calendar year, Customer shall have the right to audit all such Meter data upon reasonable notice, and any such audit shall be at Customer's sole cost. Customer shall have a right of access to all meters at reasonable times and with reasonable prior notice for the purpose of verifying readings and calibrations.

4.3.3 Adjustments. If testing of a Meter indicates that such Meter is in error by more than two percent (2.00%), then Provider shall promptly repair or replace such Meter. Provider shall make a corresponding adjustment to the records of the amount of Energy based on such test results for (a) the actual period of time when such error caused inaccurate meter recordings, if such period can be determined to the mutual satisfaction of the Parties, or (b) if the actual period cannot be so determined, then an estimated period equal to one-half (1/2) of the period from the later of (i) the date of the last previous test confirming accurate metering or (ii) the date the Meter was placed into service; provided, however, that such estimated period shall in no case exceed one (1) year.

4.4 Title to Systems; Customer Not Provider. Subject to the purchase option in Section 10.3, Provider shall at all times during the Term retain title to and be the legal and beneficial owner of all Systems, and all alterations, additions or improvements made thereto and the Systems shall remain the property of Provider or Provider's assigns. Customer warrants and represents that it shall keep the Systems free from all liens, claims and encumbrances of its lenders and any other third parties (other than those created by Provider or its creditors). Provider shall be entitled to, and is hereby authorized to, file one or more precautionary UCC Financing Statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the Systems in order to protect its rights in the Systems. The Parties intend that neither Customer nor any party related to Customer shall acquire the right to operate any System or be deemed to operate any

System for purposes of Section 7701(e)(4)(A)(i) of the Code, as amended, and the terms of this Agreement shall be construed consistently with the intention of the Parties. The Paties specifically acknowledge and agree that Provider shall be and is the owner of the Systems for federal income tax purposes, and in that connection, shall be entitled to the depreciation deductions associated with the Systems as well as any tax credits or other tax benefits provided under the Code to which such owner of the Systems may be entitled.

4.5 Outages.

4.5.1 If necessary for Customer to conduct repairs, maintenance or other activities that require acceptance of Energy from the System(s) to be suspended, Customer shall be permitted two (2) twenty-four (24) consecutive hour days offline (each, a "Scheduled Outage") per Site per calendar year during the Term, during which days Customer shall not be obligated to accept Energy, and shall not have to pay for Energy not accepted; provided, however, that Customer shall have notified Provider in writing of each such Scheduled Outage at least five days in advance of the commencement of such Scheduled Outage. In the event that Scheduled Outages at a given Site exceed two (2) days per calendar year for a reason other than a Force Majeure Event, Provider shall reasonably estimate the amount of Energy that would have been delivered to Customer during each hour of such excess Scheduled Outages or unscheduled outages and shall invoice Customer for such amount, which shall be payable in accordance with Section 6.3. If Customer's repair of any roof at a Site requires temporary removal and replacement of the System or portions thereof, Provider shall perform such work in coordination with Customer and at Customer's expense and Customer shall pay for any estimated Energy not delivered during such unscheduled outage.

.5.2 If delivery of Energy from a System at any Site is suspended under the provisions of Section 4.5.1, the term of the Agreement shall be extended by an equivalent number of days.

4.5.3 Notwithstanding anything to the contrary herein, Provider shall be entitled to suspend delivery of Energy to a Site for the purpose of maintaining and repairing any System and such suspension of service shall not constitute a breach of this Agreement, provided that Provider shall use commercially reasonable efforts to minimize any interruption in service to the Customer. Whenever Provider suspends power, for any reason other than a Scheduled Outage by the Customer pursuant to Section 4.5.1, that goes beyond two (2) consecutive twenty-four (24) hour periods, Customer will not be required to pay for energy it did not receive during such suspension of service.

4.6 Compliance with Utility Specifications. Provider shall ensure that all Energy generated by each System conforms to applicable utility specifications in effect as of the Effective Date for Energy being generated and delivered to the applicable Site's electric distribution system, which shall include the installation of proper power conditioning and safety equipment, submittal of necessary specifications, coordination of utility testing and verification, and all related costs.

5. Environmental Attributes.

5.2.1 With respect to each System installed pursuant to this Agreement until such time as Customer exercises its right to purchase the System as provided herein, Customer's purchase of Solar Services does not include Environmental Attributes, Environmental Financial Incentives or Reporting Rights, all of which shall be retained and owned by Provider. Any Enviornmental Financial Incentives or Enviornmental Attributes which are initially credited or paid to Customer during the Term shall be held by Customer in trust for Provider and assigned by Customer to Provider without delay. Customer shall execute all such documents and instruments reasonably necessary or desirable to effect or evidence Provider's right, title and interest in and to the Environmental Attributes. If the standards used to qualify the Environmental Attributes to which Provider is entitled under this Agreement are changed or modified, Customer shall, at Provider's request and expense, use all reasonable efforts to cause the Environmental Attributes to comply with new standards as changed or modified. If Customer purchases the System under Article 10, Customer shall acquire ownership of all Environmental Financial Incentives and Reporting Rights related to Environmental Financial Incentives, including ownership of the Environmental Attributes and Reporting Rights related the Environmental Attributes, upon termination of this Agreement, notwithstanding that Provider has previously sold such rights to a third-party, and the term of such third-party agreement is in effect at the time of the Customer's purchase.

5.2.2 Customer shall not take any action or suffer any omission at any Site that would have the effect of impairing the value to Provider of the Environmental Attributes and Environmental Financial Incentives. Customer shall be solely responsible for notifying Provider of any action or omission that could impair such value and for consulting with Provider as necessary to prevent impairment of the value of Environmental Attributes and Environmental Financial Incentives.

6. Price and Payment.

6.1 Price. Customer shall pay Provider for the Energy at the rates per kWh (the "kWh Rates") set forth in Exhibit C, plus any additional amount required pursuant to Section 6.2. Notwithstanding the foregoing, in the event that Customer elects to extend the Term of this Agreement pursuant Section 10.3.1, the same Annual Escalation Rate shall apply during such extension.

6.2 Taxes. Customer shall pay all sales, use, excise, ad valorem, transfer and other similar taxes ("Transfer Taxes"), but excluding in all events taxes based on or measured by net income, that are imposed by any taxing authority arising out of or with respect to the purchase or sale of the Solar Services (regardless of whether such Transfer Taxes are imposed on Provider or Customer), together with any interest, penalties or additions to tax payable with respect to such Transfer Taxes. Provider will be responsible for and pay or reimburse Customer, as applicable, for any sales or use tax imposed with

respect to Provider's acquisition and installation of the Systems and such taxes as are included in the kWh Rates of Exhibit C. Notwithstanding the foregoing, Customer shall pay and be responsible for sales and use taxes, if any, arising upon any purchase of the Systems by Customer pursuant to this Agreement. If Customer shall be required by law to withhold or deduct any Transfer Taxes or other taxes imposed by any jurisdiction or any political subdivision from or in respect of any sum payable hereunder, the sum payable shall be increased as may be necessary so that, after making all required deductions, Provider shall have received an amount equal to the sum it would have received had no such deductions been made.

6.3 Billing and Payment. Billing and payment for the Solar Services sold and purchased under this Agreement and any other amounts due and payable hereunder shall be as follows:

6.3.1 Invoice. Provider shall provide a consolidated invoice to Customer on a monthly basis, by the 15th business day of each calendar month (or on such other schedule as is mutually agreed on by Provider and Customer). The Invoice will include (i) the output delivery to Customer and (ii) the total amount to be paid by Customer to Provider, for energy provided in the preceding month.

6.3.2 Payments. Subject to adjustment in accordance with the following Section 6.3.3, Customer shall pay to Provider for each Monthly Period during the Term within thirty (30) days following the receipt of the monthly invoice, a payment for the Energy delivered by each System during each such Monthly Period equal to the product of (a) Monthly Production for such System multiplied by (b) the relevant kWh Rate for Energy relating to such System, which payment shall be in U.S. Dollars and paid by check or by wire transfer of immediately available funds to the account identified by the Provider in writing to the Customer.

6.3.3 Invoice Errors. Within thirty (30) days after receipt of any invoice, or within thirty (30) days of discovering such invoice errors, whichever occurs later, Customer may provide written notice to Provider of any alleged error therein. Customer shall pay all undisputed amounts, including the undisputed portion of any invoice, in accordance with Section 6.3.2. If Provider notifies Customer in writing within thirty (30) days of receipt of such notice that Provider disagrees with the allegation of error in the invoice, the Parties shall meet, by telephone conference call or otherwise, within ten (10) days of Customer's response for the purpose of attempting to resolve the dispute and diligently pursue a resolution thereof. If the Parties are unable to resolve the dispute within thirty (30) days after such initial meeting, either Party may refer the dispute to mediation. If the parties are unable to resolve the dispute within thirty (30) days of the commencement of mediation, either Party may refer the dispute to a court of competent jurisdiction.

6.3.4 Late Payments. All payments hereunder, over which no good faith dispute exists, shall be made without setoffs or deduction. Any such payment not made within the

time limits specified in Section 6.3.2 shall bear interest from the date on which such payment was required to have been made through and including the date such payment is actually received by the Provider. Such interest shall accrue at a monthly rate equal to the lesser of the then prevailing prime rate of interest as published in *The Wall Street Journal* plus two percent (2%) or the maximum interest rate permitted by applicable law.

6.4 Adjustments to Contract Price. In the event there is any change in Applicable Law (for purposes of this Section 6.4, imposition of additional or new sales taxes or property taxes on Provider and/or the Systems shall be considered a change in law), the result of which is to increase Provider's costs to provide the Solar Services, Provider will promptly submit to Customer a written notice setting forth (a) a description of the change in Applicable Law, (b) the manner in which such change in Applicable Law has changed or will change Provider's costs to provide the Solar Services, including reasonable computations in connection therewith and (c) Provider's proposed adjustment to the kWh Rate for the Solar Services payable by Customer to reflect such expected material increase in Provider's costs. Customer agrees to negotiate with Provider an adjustment in the kWh Rate such that the new rate compensates Provider for the total cost increase related to the change in Applicable Law, which adjustment shall remain in effect over the remaining years of the Term of this Agreement or until the Applicable Law that caused the increase in costs is altered, repealed, or made inapplicable to the Systems. The Parties further acknowledge that changes may occur in the utility billing procedures or rates, or the application or availability of credits, offsets, reductions, discounts or other benefits other than those directly related to the actual kWh generated. Any and all credits, reductions, discounts, historical pricing or other type of benefit made available by the applicable utility, Governmental Authority or from any other source, whether arising directly or indirectly from the Systems or the Energy furnished by the Systems belong to Provider as long as it continues to own the System and Customer shall promptly pay over to Provider any such amounts that may have been received by Customer, except as otherwise provided herein.

7. General Representations, Warranties and Covenants.

7.1 Representations, Warranties, Covenants of Provider. As a material inducement to Customer's execution and delivery of this Agreement, Provider covenants and agrees to the following:

7.1.1 Permits and Approvals. While providing Solar Services, Provider shall obtain and maintain all approvals, consents, licenses, permits, and inspections from relevant Governmental Authorities, utility personnel, and the Project Site's owners, if Customer is not the owner of such Project Site, and other agreements and consents required to be obtained and maintained by Provider and to enable Provider to perform such work. Provider shall deliver copies of all permits and approvals obtained pursuant to this Section to Customer.

7.1.2 Health and Safety. Provider shall take all reasonably necessary safety precautions in providing the Solar Services and shall comply in all material respects with all Applicable Laws pertaining to the safety of persons and real and personal property.

7.1.3 Removal of Liens. Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the Sites or any interest therein; provided that this Section 7.1.3 shall not limit Liens on any System. If Provider breaches its obligations under this Section, it shall immediately notify Customer in writing, shall promptly cause such Lien to be discharged and released of record without cost to Customer, and shall defend and indemnify Customer against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

7.1.4 Provider Records. Provider shall keep complete and accurate records of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item relevant to this Agreement. Customer shall have the right at its expense to examine all such records insofar as may be necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of costs relating to transactions hereunder.

7.2 Representations, Warranties and Covenants of Customer. As a material inducement to Provider's execution of this Agreement, Customer represents, warrants and covenants to Provider and agrees as follows:

7.2.1 Health and Safety. Customer shall at all times maintain the Sites consistent with all Applicable Laws pertaining to the health and safety of persons and property.

7.2.2 Security; Avoid Causing Damage to Systems. Customer shall provide and take reasonable measures for security of the Systems, including commercially reasonable monitoring of each Site's alarms, if any. Customer shall instruct its employees, contractors or agents to avoid any damage to the Systems, and shall be responsible for the cost of repairing any damage to the Systems caused by Customer's employees, contractors or agents.

7.2.3 Notice of Damage. Customer shall promptly notify Provider of any matters it is aware of pertaining to any damage to or loss of the use of any System or that could reasonably be expected to adversely affect any System.

7.2.4 Liens. Customer shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to any System or any interest therein. Customer also shall pay promptly before a fine or penalty may attach to any System any taxes, charges or fees of whatever type of any relevant Governmental Authority for which Customer is responsible under Section 6.2. If Customer breaches its obligations under this Section, it shall immediately notify Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Provider and shall be responsible for all costs and expenses incurred in discharging and releasing such Lien.

7.2.5 Consents and Approvals. Customer shall obtain and maintain, and secure and deliver to Provider copies of, all consents, approvals, permits, licenses, and authorizations relating to the performance of Customer's obligations and the rights granted by Customer hereunder, and that are required by the terms, conditions or provisions of any restriction or any agreement or instrument to which Customer is a party or by which Customer is bound, including completing applications for interconnection with Customer's local electric utility. Customer shall use best efforts to assist Provider in fulfilling Provider's responsibilities under Section 7.1.1.

7.2.6 Maintenance of Interconnection. Customer shall ensure that all of the facilities to which Energy is delivered hereunder remain interconnected to the electrical grid during the entire Term, except as permitted under Section 4.2, Section 4.4 and Section 9.

7.2.7 Solar Easement and Access. Provider shall provide assistance to Customer in seeking a solar access easement for each Site to prevent other buildings, structures or flora from overshadowing or otherwise blocking access of the sunlight to the System, which easement Customer will use best efforts to secure. Customer shall bear all costs and expenses related to obtaining any such easement. Customer shall ensure that each System remains free of overshadowing or other blocked access to sunlight during the Term.

7.2.8 Customer Records. Customer shall keep complete and accurate records of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item relevant to this Agreement. Provider shall have the right to examine all such records at its expense insofar as may be necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of costs relating to transactions hereunder.

7.2.9 Interconnection Point. Customer represents and warrants to Provider that there is a suitable electrical interconnection point of sufficient capacity to accommodate the Systems as designed located within a reasonable distance of each of the planned locations of the Systems on the respective Licensed Areas.

7.2.10 Condition of Premises. Customer shall keep the Sites neat, clean and in good order and condition. Customer shall give Provider prompt notice of any damage to or defective condition in any part or appurtenance of the Sites (including mechanical, electrical, plumbing, heating, ventilating, air conditioning and other equipment facilities and systems located within or serving the Sites). Customer shall exercise reasonable care to keep and make the Sites safe and to warn those lawfully on the Sites of existing dangers.

7.2.11 Utilities. Customer shall provide Provider with Station Power during the term of this Agreement. "Station Power" shall mean electric energy consumed in the start-up and operation of the System, which is distinct from the alternating current output of the System.

7.2.12 Hazardous Materials. Customer represents and warrants that there are no substances, chemicals or wastes, identified as hazardous, toxic or dangerous materials in any applicable law or regulation, present on, in or under the Sites in violation of any applicable law or regulation. Customer shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Sites in violation of any applicable law or regulation. If Customer becomes aware of any such hazardous, toxic or dangerous materials, Customer shall promptly notify Provider of the type and location of such materials in writing. Customer agrees to assume full responsibility for (any liability or cleanup obligations for any contamination or pollution or breach of environmental laws related to the Sites, unless directly attributable to the actions of Provider.

7.2.13 Premises Conditions. Customer represents and warrants to Provider that Customer is unaware of any site conditions or construction requirements (a) that would materially increase the cost of installing the Systems at the planned locations on the Sites or would materially increase the cost of maintaining the Systems at the Sites over the cost that would be typical or customary for solar photovoltaic systems substantially similar to the Systems or (b) that would adversely affect the ability of the Systems as designed to produce electricity once installed.

8. Insurance Requirements.

8.1 Provider's Insurance. Provider shall maintain, at its sole expense, commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of two million dollars ($2,000,000) per occurrence and in the aggregate, endorsed to provide contractual liability in said amount, specifically covering Provider's obligations under this Agreement and naming Customer as an additional insured. The minimum coverage amount of $2,000,000 per occurrence and in the aggregate may be satisfied by a combination of a general liability policy and an excess/umbrella liability policy. Provider, if it has employees, shall also maintain at all times during the term of this Agreement workers' compensation insurance coverage in accordance with the applicable requirements of federal and state law. Within thirty (30) days after execution of this Agreement and upon Customer's request annually thereafter, Provider shall deliver to Customer certificates of insurance evidencing such coverage, which shall specify that Customer shall be given at least thirty (30) days' prior written notice by the applicable insurer in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Customer.

8.2 Customer's Insurance. Customer shall provide and maintain "all risk" property insurance covering each System installed on all Customer Sites during all periods of operation that Provider is the beneficial owner of such Systems, and naming Provider as loss payee. Within thirty (30) days after execution of this Agreement and upon Provider's request annually thereafter, Customer shall deliver to Provider certificates of insurance evidencing such coverage, which shall specify that Provider shall

be given at least thirty (30) days' prior written notice by the applicable insurer in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Provider. Provider shall provide Customer with Builder's Risk insurance policy during construction.

8.3 Waiver of Claims. Provider shall not be liable for any damage to any Site or any equipment or personal property located thereon that results from perils that would be insured against in an"all-risk property damage" insurance policy, unless such damage is caused by Provider's negligence or willful misconduct.

9. Force Majeure Events. If either Party is prevented from or delayed in performing any of its obligations under this Agreement by reason of a Force Majeure Event, such Party shall notify the other Party in writing as soon as practicable after the onset of such Force Majeure Event and shall be excused from the performance of its obligations under this Agreement to the extent that such Force Majeure Event has interfered with such performance. The Party whose performance under this Agreement is prevented or delayed as the result of a Force Majeure Event shall use reasonable efforts to remedy its inability to perform. If a Party's failure to perform its obligations under this Agreement is due to a Force Majeure Event, then such failure shall not be deemed a Provider Default or a Customer Default, as the case may be. Notwithstanding anything in this Section 9 to the contrary, no payment obligation of Customer under this Agreement may be excused or delayed as the result of a Force Majeure Event. In case a Force Majeure Event continues for at least one (1) year with respect to any Site then either Party may terminate this Agreement with respect to such Site by written notice to the other. If Customer terminates the Agreement, Customer shall pay Provider the greater of (a) the Fair Market Value of the System (as determined under Section 10.3.2) or (b) the Termination Value.

10. Term; Customer Options; Termination.

10.1 Term. The term of this Agreement commences on the Effective Date and shall continue in effect until 11:59:59 p.m. on the date (the "Expiration Date") that is the last day of the month in which the twentieth (20th) anniversary of the Commercial Operation Date occurs (the "Term"). The Term may be extended by Customer as provided in Section 10.3. The Parties respective purchase and sale obligaions with respect to Energy shall commence at 12:00 a.m. on the Commercial Operation Date and shall expire at 11:59:59 p.m. on the Expiration Date unless and until terminated earlier with respect to the applicable Site or all Sites pursuant to Sections 3.1, 3.3, 9, 10.2.3 or 12 (the date of any such termination, the "Termination Date").

10.2 Customer Options Upon Cessation of Business Operations at Site(s). If, prior to the end of the Term for any particular Site, Customer ceases to conduct business operations at such Site, vacates such Site, or is prevented from allowing operation of a System or Systems on such Site:

10.2.1 Substitute Site. So long as such event occurs on or after the sixth anniversary of the Commercial Operation Date, Customer shall have the right to propose a mutually agreeable substitute Site located within the same utility district to relocate each applicable System, or, if not available, in a location with similar solar insolation and utility rates. Provider's determination that inferior solar insolation at the new Site or negative economic impact to Provider shall be considered a reasonable basis to withhold consent. If such alternate Site is available and is acceptable to Provider, the definition of Site set forth herein shall thereafter be deemed amended to delete the prior Site and add the new Site, but otherwise this Agreement shall remain in full force in accordance with its terms and shall not be deemed otherwise amended. Customer shall pay all costs arising in connection with the relocation of each such System, including but not limited to engineering costs, removal costs, installation costs, any applicable interconnection fees, other costs of deployment at the substitute Site, and lost revenue to Provider based on delivered Energy averaged over the prior twelve months. After any relocation of a System under this Section 10.2.1, Customer shall cause such System to be kept in operation at such new Site and continue to pay Provider for all Energy delivered under this Agreement for the remainder of the Term.

10.2.2 Termination of Site(s) and Payment of Termination Value. If (a) such event occurs prior to the sixth anniversary of the Commercial Operation Date or, (b) thereafter ***and*** a substitute Site cannot be located in accordance with Section 10.2.1, Provider shall transfer title to the System to Customer. In addition, Customer shall pay to Provider the greater of (a) the Fair Market Value of the System as determined under Section 10.3.2, or (b) the then-applicable Termination Value specified in Exhibit D, in respect of each such System as liquidated damages, whereupon this Agreement shall terminate with respect to the applicable Site. The Parties agree that actual damages to Provider if this Agreement is terminated with respect to one or more Sites as contemplated in this Section 10.2 would be difficult to ascertain, and the applicable Fair Market Value or Termination Value is a reasonable approximation of the damages suffered by Provider as a result of early termination of this Agreement with respect to such Site or Sites.

10.3 Customer Options Upon Expiration of Term.

10.3.1 Extension of Term. To the extent permitted by law at the time, and upon prior written notice to Provider at least one-hundred eighty (180) days prior to the Expiration Date, Customer shall have the option to extend the term of this Agreement with respect to one or more of the for five (5) additional one (1)-year period, for a total extension period of five (5) years. At the end of the fifth such extension of term, ownership of the System shall be transferred to Customer on an as-is where is basis without any further amounts due from Customer, and Provider shall have no obligation to remove the Sytems at the end of such 5-year extension of the term.

10.3.2 Purchase of Systems. If Customer does not extend the Term of this Agreement in accordance with Section 10.3.1, then upon at least one hundred twenty

(120) days prior written notice to Provider, Customer shall purchase any System for which it does not extend the Term of this Agreement under Section 10.3.1 by paying Provider the Fair Market Value for such System(s) on or before the Expiration Date. Customer and Provider shall use reasonable good-faith efforts to determine the "Fair Market Value" of any System by mutual agreement within ten (10) days after receipt by Provider of Customer's notice of its election to purchase a System. If Customer and Provider cannot mutually agree to a Fair Market Value within such 10-day period, then within ten (10) days thereafter the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to value such equipment. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be jointly selected by the appraiser firm proposed by the Customer and the appraiser firm proposed by Provider. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties no later than sixty (60) days prior to the Expiration Date. The "Fair Market Value" shall reflect a System's condition and performance capability going forward from the effective date of an appraisal. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Within thirty (30) days after receipt of the appraisal, Customer shall notify Provider whether Customer wishes to purchase the applicable System(s) for the Fair Market Value. If Customer elects to purchase the applicable System, then on the Expiration Date (a) Customer shall pay Provider the purchase price in the amount of the Fair Market Value, and (b) title to the relevant System or Systems shall transfer to Customer as-is, where-is, and to the extent transferable, the remaining period, if any, on all warranties for the applicable System or Systems will be transferred from Provider to Customer at Customer's sole expense.

10.4 Customer Purchase Option Prior to Expiration Date. Customer may elect to purchase each System effective on the sixth anniversary of the Commercial Operation Date respecting such System, and effective on such date every fifth year thereafter, upon one hundred eighty (180) days prior written notice, provided no Customer Default shall have occurred and be continuing. If Customer elects to so purchase any System, the purchase price shall be the greater of (a) the then Fair Market Value of such System (calculated in accordance with the definition of "Fair Market Value" set forth in Section 10.3.2) or (b) the Termination Value with respect to such System set forth on Exhibit D. Not less than one-hundred eighty (180) days prior to the exercise of the purchase option, Customer shall provide written notice to Provider of Customer's exercise thereof. Upon the exercise of the foregoing purchase option plus receipt of the purchase option price and all other amounts then owing by Customer to Provider, the Parties will execute all documents necessary to cause title to each relevant Systems to pass to Customer as-is, where-is; provided, however, that Provider shall remove any encumbrances placed on the relevant Systems by Provider.

10.5 Payment of Termination Value on Termination Date. In the event that a Termination Date for any System occurs for reasons attributable to Customer, Customer shall be required to pay to Provider the greater of (a) the Fair Market Value of the System as determined under Section 10.3.2, or (b) then-applicable Termination Value for such Systems as liquidated damages. The Parties agree that actual damages to Provider in the event this Agreement terminates prior to the expiration of the Term for causes attributable to Customer would be difficult to ascertain, and the applicable Termination Value is a reasonable approximation of the damages suffered by Provider as a result of early termination of this Agreement.

10.6 Provider Termination. Provider shall have the further right, upon sixty (60) days written notice to terminate:

10.6.1 this Agreement upon elimination or alteration of one or more Environmental Financial Incentives or other change in law that results in a material adverse economic impact on Provider;

10.6.2 this Agreement, if the aggregate annual level of direct beam solar resource availability is less than or equal to 90% of historical averages as measured by long-term weather data (minimum of five (5) years) collected at all Sites or other reliable calibrated and appropriate weather station representative of such Sites;

10.6.3 this Agreement solely as it relates to any particular Site, if the annual direct beam solar resource availability for such Site is less than or equal to 90% of historical averages as measured by long-term weather data (minimum of five (5) years) collected at such Site and/or other reliable calibrated and appropriate weather station representative of such Site; or

10.6.4 this Agreement, if a material breach by the Licensor under the License Agreement occurs.

In the event of termination under 10.6.1, 10.6.2 or 10.6.3, Provider shall remove all Systems and repair any damage caused by such removal. A termination under 10.6.4 shall be treated as termination for Customer's default and Provider shall have the remedies under Section 12.2.

11. Defaults.

11.1 Customer Default. The occurrence at any time of any of the following events shall constitute a "Customer Default":

11.1.1 Failure to Pay. The failure of Customer to pay any amounts owing to Provider on the date due and payable;

11.1.2 Failure to Maintain Phone/Data Line. Unless due to a Force Majeure Event excused by Section 9, the failure of Customer to maintain and grant Provider access to the phone and other communications lines required to be maintained pursuant to Section 4.1.2 and Customer's failure to cure such failure within twenty (20) days after Customer

receives written notice of such failure from Provider; provided that in any event if such failure shall result in lost revenue to Provider, Provider shall be entitled to reasonably estimate the amount of revenue that would have been obtained and shall invoice Customer therefor;

11.1.3 Failure to Perform Other Obligations. Unless due to a Force Majeure Event excused by Section 9, the failure of Customer to perform or cause to be performed any other obligation required to be performed by Customer under this Agreement, or the failure of any representation and warranty set forth herein to be true and correct as and when made; provided, however, that if such failure by its nature can be cured, then Customer shall have a period of thirty (30) days after receipt of written notice from Provider of such failure to Customer to cure the same and a Customer Default shall not be deemed to exist during such period; provided, that in any event if such failure shall result in lost revenue to Provider, Provider shall be entitled to reasonably estimate the amount of revenue that would have been obtained and shall invoice Customer therefore;

11.1.4 Bankruptcy, Etc. If Customer: (a) admits in writing its inability to pay its debts generally as they become due; (b) files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any State, district or territory thereof; (c) makes an assignment for the benefit of creditors; (d) consents to the appointment of a receiver of the whole or any substantial part of its assets; (e) has a petition in bankruptcy filed against it, and such petition is not dismissed within 90 days after the filing thereof; or if (f) a court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of Customer's assets, and such order, judgment or decree is not vacated or set aside or stayed within 90 days from the date of entry thereof; or (g) under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of Customer's assets and such custody or control is not terminated or stayed within 90 days from the date of assumption of such custody or control; or

11.1.5 License Default. A material breach of the License Agreement by the Customer (if the Customer is the Licensor) under the License occurs.

11.2 Provider Default. The occurrence at any time of the following events shall constitute a "Provider Default":

11.2.1 Failure to Perform Obligations. Unless due to a Force Majeure Event excused by Section 9, the failure of Provider to perform or cause to be performed any material obligation required to be performed by Provider under this Agreement; provided, however, that if such failure by its nature can be cured, then Provider shall have a period of thirty (30) business days after receipt of written notice from Customer of such failure to Provider to cure the same and a Provider Default shall not be deemed to exist during such period; provided, further, that if Provider commences to cure such failure during such period and is diligently and in good faith attempting to effect such cure, said period shall be extended for sixty (60) additional days;

11.2.2 Bankruptcy, Etc. If Provider (a) admits in writing its inability to pay its debts generally as they become due; (b) files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any State, district or territory thereof; (c) makes an assignment for the benefit of creditors (other than a collateral assignment for financing purposes); (d) consents to the appointment of a receiver of the whole or any substantial part of its assets; (e) has a petition in bankruptcy filed against it, and such petition is not dismissed within 90 days after the filing thereof; or if (f) a court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of Provider's assets, and such order, judgment or decree is not vacated or set aside or stayed within 90 days from the date of entry thereof; or (g) under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of Provider's assets and such custody or control is not terminated or stayed within 90 days from the date of assumption of such custody or control; or

11.2.3 License Default. A material default by Provider under the License occurs and is not cured within thirty (30) days after Provider's receipt of Customer's written notice to Provider and any Lender of same; provided, further, that if Provider commences to cure such failure during such period and is diligently and in good faith attempting to effect such cure, said period shall be extended for sixty (60) additional days.

12. Remedies Following Default.

12.1 Customer's Remedies Upon Occurrence of a Provider Default.

12.1.1 Termination. If a Provider Default as described in Section 11.2 above has occurred and Provider has not cured a Provider Default within the applicable cure period, Customer may terminate this Agreement by written notice, and this Agreement shall be of no further force or effect as of the date the termination notice is given.

12.1.2 Other Rights and Remedies. If any Provider Default described under Section 11.2 has occurred and Customer has terminated this Agreement as a result thereof in accordance with the terms of Section 12.1.1 above, then Provider's sole liability to Customer in respect of such Provider Default shall be the payment of an amount not to exceed the then present value (discounted at the prevailing prime rate of interest as published in *The Wall Street Journal* on the day preceding the date of determination) of the cash flows equal to the product of (i) the positive difference, if any, of the price per kWh for commercially available and/or utility-provided energy in the applicable market(s) (excluding any utility charges that are not strictly based on an electricity usage or kWh unit rate) minus the kWh Rate of Energy hereunder (as such kWh Rate would have been escalated over time pursuant to the terms hereof), multiplied by (ii) the number of days remaining in the term of the Agreement times the expected daily number of kWh of Energy to be delivered under this Agreement, calculated by dividing the Estimated Annual 1st Year Production set forth in Schedule 1 to Exhibit B by 365. Except as

provided in Sections 10, 12.1.1, 13.1 and 14.11, Customer shall have no right to terminate this Agreement and shall have no other remedies.

12.2 Provider's Remedies Upon Customer Default. In addition to any other remedies available under this Agreement or at law, if a Customer Default as described in Section 11.1 has occurred beyond applicable notice and cure periods, Provider may terminate this Agreement and the License Agreement by written notice to Customer. Upon termination, Customer shall pay to Provider as liquidated damages the greater of (a) the Fair Market Value of the Systems as determined under Section 10.3.2 or (b) the applicable Termination Value specified on Exhibit D. If Provider elects to remove the Systems, Customer shall pay 100% of the reasonable expenses of Provider incurred in connection with removing the Systems.

12.3 Limitation of Damages. Nothing in this Agreement is intended to cause either Party to be, and neither Party shall be, liable to the other Party for any lost business, lost profits or revenues from others or other special or consequential damages, all claims for which are hereby irrevocably waived by Customer and Provider. Notwithstanding the foregoing, none of the payments for Energy or any other amount specified as payable by Customer to Provider under the terms of this Agreement upon the termination of this Agreement shall be deemed consequential damages. Provider's liability in contract hereunder shall be in all respects limited to direct, actual damages which shall be limited to amounts paid to Provider hereunder during the most recent twenty-fourth (24)-month period.

12.4 Effect of Termination of Agreement. Upon the Termination Date or the Expiration Date, as applicable, any amounts then owing by a Party to the other Party shall become immediately due and payable. Such termination shall not relieve either Party from obligations accrued prior to the effective date of termination or expiration.

13. Indemnification.

13.1 Indemnification by Provider. Provider shall fully indemnify, save harmless and defend Customer from and against any and all costs, claims, and expenses incurred by Customer (including reasonable attorneys fees) in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any Person, but only to the extent caused by (a) the gross negligence or willful misconduct of Provider or its agents or employees or others under Provider's control or (b) a Provider Default; provided, however, that nothing in this Section 13.1 is intended to modify the limitation of Provider's liability set forth in Sections 12.1.2 and 12.3 above. Provider shall not be required to indemnify Customer in excess of the proceeds of insurance maintained by Provicer pursuant to the requirements of this Agreement.

13.3 Notice of Claims. Any Party seeking indemnification hereunder (the "Indemnified Party") shall deliver to the other Party (the "Indemnifying Party") a notice

describing the facts underlying its indemnification claim and the amount of such claim (each such notice a "Claim Notice"). Such Claim Notice shall be delivered promptly to the Indemnifying Party after the Indemnified Party receives notice that an action at law or a suit in equity has commenced; provided, however, that failure to deliver the Claim Notice as aforesaid shall not relieve the Indemnifying Party of its obligations under this Section 13, except to the extent that such Indemnifying Party has been prejudiced by such failure.

13.4 Defense of Action. If requested in writing by an Indemnified Party, the Indemnifying Party shall, within thirty (30) days of receipt of the written request, assume on behalf of the Indemnified Party, and conduct with due diligence and in good faith, the defense of such Indemnified Party with counsel reasonably satisfactory to the Indemnified Party; provided, however, that if the Indemnifying Party is a defendant in any such action and the Indemnified Party believes that there may be legal defenses available to it that are inconsistent with those available to the Indemnifying Party, the Indemnified Party shall provide the Indemnifying Party with written notification of this potential conflict of interest, and shall have the right to select separate counsel to participate in its defense of such action at the Indemnifying Party's expense. If any claim, action, proceeding or investigation arises as to which the indemnity provided for in this Section 13 applies, and the Indemnifying Party fails to assume the defense of such claim, action, proceeding or investigation after having been requested to do so by the Indemnified Party, then the Indemnified Party may, at the Indemnifying Party's expense, contest or, with the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle such claim, action, proceeding or investigation. All costs and expenses incurred by the Indemnified Party in connection with any such contest or settlement shall be paid upon demand by the Indemnifying Party.

13.5 Survival of Provisions. The provisions of this Section 13 shall survive the expiration or termination of this Agreement.

14. Miscellaneous Provisions.

14.1 Notices. All notices, communications and waivers under this Agreement shall be in writing and shall be (a) delivered in person or (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested or (c) sent by reputable overnight express courier, addressed in each case to the addresses set forth below, or to any other address either of the parties to this Agreement shall designate in a written notice to the other Party:

If to Provider:

Ameresco Solar Englewood LLC
111 Speen Street, Suite 410
Framingham, MA 01701
Attention: General Counsel

And to:

Ameresco Solar Englewood LLC
111 Speen Street, Suite 410
Framingham, MA 01701
Attention: Vice President - Solar

If to Customer:

City of Englewood
1000 Englewood Parkway
Englewood, CO 80110

Attention: City Manager

All notices, communications and waivers to Provider's lenders or other financiers under this Agreement shall be to the name and address specified in a notice from Provider to Customer. All notices sent pursuant to the terms of this Section 14.1 shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by reputable overnight, express courier, then on the next business day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third (3rd) Business Day following the day sent or when actually received.

14.2 **Authority**.

14.2.1 Provider Representations. Provider hereby represents and warrants that:

(a) It is a Delaware limited liability company duly formed, validly existing and in good standing under the laws of the state of its formation and has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(b) The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate action;

(c) This Agreement is a legal, valid and binding obligation of Provider enforceable against Provider in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to (i) bankruptcy and other similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law);

(d) Neither the execution and delivery of this Agreement by Provider nor compliance by Provider with any of the terms and provisions hereof (i) conflicts with, breaches or contravenes the provisions of the formation documents of Provider, or (ii) results in a condition or event that constitutes (or that, upon notice or lapse of time or both, would constitute) an event of default under any material contractual obligation of Provider; and

(e) There are no actions, suits, proceedings, patent or license infringements or investigations pending or, to Provider's knowledge, threatened against it before any court or arbitrator that individually or in the aggregate could result in any materially adverse effect on the business, properties or assets or the condition, financial or otherwise, of Provider or in any impairment of its ability to perform its obligations under this Agreement.

14.2.2 Customer Representations. Customer hereby represents and warrants that:

(a) It is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Colorado and has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(b) The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary action;

(c) This Agreement is a legal, valid and binding obligation of Customer enforceable against Customer in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to (i) bankruptcy and other similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law);

(d) No Governmental Approval (other than any Governmental Approvals which have been previously obtained or disclosed in writing to Provider) is required in connection with the due authorization, execution and delivery of this Agreement by Customer or the performance by Customer of its obligations hereunder which Customer has reason to believe that it will be unable to obtain in due course;

(e) Neither the execution and delivery of this Agreement by Customer nor compliance by Customer with any of the terms and provisions of this Agreement (i) conflicts with, breaches or contravenes the provisions of the Charter or Ordinances of Customer, or any contractual obligation of Customer, (ii) results in a condition or event that constitutes (or that, upon notice or lapse of time or both, would constitute) an event of default under

any contractual obligation of Customer or (iii) will result in the imposition of any lien against Customer or any of its property;

(f) Customer has not entered into any contracts or agreements with any other person regarding the provision of the services contemplated to be provided by Provider under this Agreement; and

(g) There are no actions, suits, proceedings, patent or license infringements or investigations pending or, to Customer's knowledge, threatened against it before any court or arbitrator that individually or in the aggregate could result in any materially adverse effect on the business, properties or assets or the condition, financial or otherwise, of Customer or in any impairment of its ability to perform its obligations under this Agreement.

14.3 Assignment. Except as otherwise permitted in Section 14.17.2, or assignments to affiliates, neither Customer nor Provider shall assign this Agreement without the prior written consent of the other and any such attempted assignment shall be void *ab initio*. **14.4 Successors and Assigns**. The rights, powers and remedies of each Party shall inure to the benefit of such party and its successors and permitted assigns.

14.5 Entire Agreement. This Agreement (including all exhibits attached hereto) and the License Agreement (to the extent Customer is a party to the License Agreement) represent the entire agreement between the parties to this Agreement with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous oral and prior written agreements. In the event of any conflict between the provisions of this Agreement and the provisions of the License Agreement (to the extent Customer is a party to or beneficiary under the License), the provisions of this Agreement shall govern and control.

14.6 Amendments to Agreement. This Agreement shall not be amended, modified or supplemented without the written agreement of Provider and Customer at the time of such amendment, modification or supplement.

14.7 Waivers; Approvals. No waiver of any provision of this Agreement shall be effective unless set forth in writing signed by the party making such waiver, and any such waiver shall be effective only to the extent it is set forth in such writing. Failure by a Party to insist upon full and prompt performance of any provision of this Agreement, or to take action in the event of any breach of any such provisions or upon the occurrence of any Provider Default or Customer Default, as applicable, shall not constitute a waiver of any rights of such Party, and, subject to the notice requirements of this Agreement, such Party may at any time after such failure exercise all rights and remedies available under this Agreement with respect to such Provider Default or Customer Default. Receipt by a Party of any instrument or document shall not constitute or be deemed to be an approval of such instrument or document. Any approvals required under this Agreement must be in writing, signed by the Party whose approval is being sought.

14.8 Partial Invalidity. In the event that any provision of this Agreement is deemed to be invalid by reason of the operation of Applicable Law, Provider and Customer shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Agreement (and in the event that Provider and Customer cannot agree then such provisions shall be severed from this Agreement) and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected by such adjustment and shall remain in full force and effect.

14.9 Execution in Counterparts. This Agreement may be executed in counterparts, and all said counterparts when taken together shall constitute one and the same Agreement.

14.10 Governing Law; Jurisdiction; Forum. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without reard to principles of conflicts of law. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT. **14.11 Attorneys' Fees**. If any action shall be instituted between Customer and Provider in connection with this Agreement, the Party prevailing in such action shall be entitled to recover from the other Party all of its reasonable costs and expenses incurred in connection with such action by arbitration or other legal proceeding, including reasonable attorneys' fees.

14.12 No Third Party Rights. This Agreement is only for the benefit of the parties to this Agreement, their successors and permitted assigns and Persons expressly benefited by the indemnity provisions of this Agreement. No other Person (including, without limitation, tenants of the Site) shall be entitled to rely on any matter set forth in, or shall have any rights on account of the performance or non-performance by any Party of its obligations under, this Agreement.

14.13 Treatment of Additional Amounts. The Parties hereto acknowledge and agree that any amounts payable by one Party to the other as a result of a default shall constitute liquidated damages and not penalties. The Parties further acknowledge that in each case (a) the amount of loss or damages likely to be incurred is incapable or is difficult to precisely estimate, (b) the amounts specified hereunder bear a reasonable proportion and are not plainly or grossly disproportionate to the probable loss likely to be incurred by Customer or Provider as the case may be and (c) the parties are sophisticated business parties and have been represented by sophisticated and able legal and financial counsel and negotiated this Agreement at arm's length.

14.14 No Agency. This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

14.15 No Public Utility. Nothing contained in this Agreement shall be construed as an intent by Provider to dedicate its property to public use or subject itself to regulation as a "public utility" (as defined under Applicable Law).

14.16 No Recourse to Affiliates. This Agreement is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any parent, subsidiary, partner, member, Affiliate, lender, director, officer or employee of the other Party for performance or non-performance of any obligation hereunder, unless such obligations were assumed in writing by the Person against whom recourse is sought.

14.17 Cooperation with Financing.

14.17.1 Acknowledgement of Financing; Agreement to Cooperate. Customer acknowledges that Provider may be financing the Solar Services and the Systems with one or more banks or other financial institutions (each, a "Lender" and collectively, the "Lenders"), and Customer agrees that it shall reasonably cooperate with Provider and its Lenders in connection with such financing, including (a) the furnishing of such information, and (b) the giving of such certificates as Provider and its Lenders may reasonably request; provided, that the foregoing undertaking shall not obligate Customer to materially change any rights or benefits, or materially increase any burdens, liabilities or obligations of Customer, under this Agreement (except for providing notices and additional cure periods to the financing parties with respect to Events of Defaults with respect to Provider as a financing party may reasonably request). To the extent that Customer's attorney is requested to provide any opinions or certifications in order to assist Provider with the cooperation provided under this Section, Provider shall pay the attorney's fees for Customer counsel's services.

14.17.2 Consent to Collateral Assignment. Customer acknowledges that Provider's obligations to a Lender may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interst and lien on the Systems. Provider shall have the right to assign this Agreement as collateral for financing or refinancing of the Systems and Customer consents to the collateral assignment by Provider to a Lender of Provider's right, title and interest in and to this Agreement. In addition, Customer shall work in good faith with Provider and each Lender to agree upon a consent by Customer to such collateral assignment.

14.17.3 Lender's Rights Following an Event of Default. Lender, as collateral assignee, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. Lender shall also be entitled to exercised all rights and remedies of secured parties generally with respect to this Agreement and the Systems.

Customer agrees to notify Lender in writing, at the address to be designated by such Lender, of any act or event of default of Provider under the Agreement. Lender shall

have the right, but not the obligation, to cure or cause to be cured any Provider Default in the time and manner provided by the terms of this Agreement.

14.17.4 Subordination. Subject to the terms and conditions hereof, Customer hereby subordinates any lien it may have in and to the System(s) and other property that is or may from time to time hereafter be located at a Site, and to which Provider has granted or will grant a security interest to Lender (all such property and the records relating thereto shall be hereafter called the "Collateral") to the lien of Lender; provided, however, that this subordination shall not prevent Customer from exercising any right or remedy against Provider to which Customer may be entitled under the terms of the Agreement or as may be provided by applicable law. Customer recognizes and acknowledges that any claim or claims ("Claims") that Lender has or may have against such Collateral by virtue of any lien or security interest, are superior to any lien, security interest, or claim of any nature that Customer now has or may hereafter have to such Collateral by statute, agreement or otherwise. The subordination provided for herein shall be effective until the discharge of the Claims. Customer further agrees to notify any purchaser of the Premises, and any subsequent mortgagee or other encumbrance holder, of the existence of the foregoing waiver of Customer's lien, which shall be binding upon the executors, administrators, successors and transferees of Customer, and shall inure to the benefit of the successors and assigns of Lender.

Customer consents to Lender's security interest in the Collateral and waives all right of levy for rent and all claims and demands of every kind against the Collateral, such waiver to continue so long as any sum remains owing from Provider to the Lender. Customer agrees that the Collateral shall not be subject to distraint or execution by, or to any claim of, Customer.

14.17.5 Upon the exercise of remedies under its security interest in the Systems, including any sale thereof by the Lender, whether by judicial proceeding or under any power of sale, or any conveyance by Provider to a Lender, the Lender will give notice to Customer of the transferee or assignee of this Agreement; provided, however, that any sale, transfer or other disposition of the Systems by Lender, whether by judicial proceeding or otherwise, shall be made solely to a qualified assignee. Any such exercise of remedies shall not constitute and Event of Default.

14.18 Setoff. Except as set forth in Section 6.3.4 or elsewhere in this Agreement, each Party reserves to itself all rights, setoffs, counterclaims and other remedies and/or defenses to which it is or may be entitled, arising from or out of this Agreement or arising out of any other contractual arrangements between the Parties. All outstanding obligations to make, and rights to receive, payment under this Agreement may be offset against each other.

15. **Trade Secrets.** Provider's systems, means, cost, and methodologies of evaluating, implementing, accomplishing and determining energy savings and the information set forth in Exhibits C and D of this Agreement shall be considered trade secrets, confidential, competitively sensitive and proprietary information. Customer shall not disclose such information without the express written consent of an officer of Provider unless required to do so by statute or regulation. When any public records request for such information is made, Customer shall provide prompt written notice to Provider and Provider will have the opportunity to timely object in whole or in part. In the event that Customer is required to make a filing with any agency or other governmental body, which includes such information, Customer shall notify Provider and cooperate with Provider in order to seek confidential treatment of such information included within any such filing or, if all such information cannot be protected from disclosure, to request that Customer be permitted to redact portions of such information, as Provider may designate, from that portion of said filing which is to be made available to the public.

16. Estoppel. Either Party hereto, without charge, at any time and from time to time, within fifteen (15) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person, firm or corporation specified by such requesting party: (a) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (b) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (c) such other information as may be reasonably requested by a Party hereto. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

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CONFIDENTIAL

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the date set forth above.

PROVIDER:

Ameresco Solar Englewood LLC

By: Ameresco, Inc., its sole member

By: _____
Name: Michael Castonguay
Title: Vice President

CUSTOMER:

City of Englewood

By: _____
Name: James K. Woodward, Mayor
Title:

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