

**Agenda for the
Regular Meeting of the
Englewood City Council
Monday, August 2, 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 July 19, 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. Pat Rodriguez, from the U.S. Census Bureau, will be present to recognize the City of Englewood's assistance with the 2010 Census and to provide an update on the Census process.
 - b. Ted Vasilas, President of the South Broadway Englewood Business Improvement District, will discuss the proposed Broadway Improvement District gateway signage.
 - c. Jackie Edwards will discuss Medical Cannabis.
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.)

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

8. Communications, Proclamations, and Appointments.
9. Consent Agenda Items.
 - a. Approval of Ordinances on First Reading.
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 21, accepting a 2010 Emergency Management Performance Grant in the amount of \$32,000 from the State of Colorado.
 - ii. Council Bill No. 25, extending the existing moratorium on the establishment of new medical marijuana dispensing and growing uses until July 1, 2011.
 - c. Resolutions and Motions.
10. Public Hearing Items (No Public Hearing Scheduled).
11. Ordinances, Resolutions and Motions
 - a. Approval of Ordinances on First Reading.
 - b. Approval of Ordinances on Second Reading.
 - c. Resolutions and Motions.
 - i. Recommendation from the South Broadway Business Improvement District to adopt a resolution approving an updated slate of Board of Directors for the South Broadway Englewood Business Improvement District. **STAFF SOURCE: Darren Hollingsworth, Economic Development Coordinator.**
12. General Discussion.
 - a. Mayor's Choice.
 - b. Council Members' Choice.
 - i. A resolution supporting the Denver Regional Council of Governments' Comprehensive Joint Application to the US Department of Housing and Urban Development's Sustainable Communities Regional Planning Grant program.

13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment

The following minutes were transmitted to City Council in July, 2010.

- Alliance for Commerce in Englewood Commission meeting of June 10, 2010.
- Board of Adjustment and Appeals meeting of June 9, 2010.
- Code Enforcement Advisory Committee meeting of May 19, 2010.
- Cultural Arts Commission meetings of April 7, May 5, and June 2, 2010.
- Englewood Housing Authority meeting of May 5, 2010.
- Keep Englewood Beautiful Commission meeting of May 11, 2010.
- Liquor Licensing Authority Telephone Polls of June 16 and July 7, 2010.
- Malley Center Trust Fund meeting of February 17, 2010
- Parks and Recreation Commission meeting of June 10, 2010.
- Planning and Zoning Commission meeting of June 8, 2010.
- Transportation Advisory Committee meeting of June 17, 2010.

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2010

COUNCIL BILL NO. 21
 INTRODUCED BY COUNCIL
 MEMBER OLSON

AN ORDINANCE APPROVING ACCEPTANCE OF THE 2010 EMERGENCY
 MANAGEMENT PERFORMANCE GRANT AGREEMENT BETWEEN THE STATE OF
 COLORADO AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Emergency Management Performance Grants (EMPG) program is designed to provide supplemental funds for the strengthening of local government emergency management offices in preparing their communities for disaster planning, mitigation, response and recovery, while conserving local resources; and

WHEREAS, the City of Englewood received grants from the Emergency Management Grant Program (EMPG) in 2007, 2008 and 2009, to supplement the development of the emergency management office; and

WHEREAS, the City of Englewood applied for the 2010 Emergency Management Grant and has been awarded \$32,000; and

WHEREAS, the Emergency Management Performance Grant is a soft-match grant, so there are no direct costs to the City in accepting and the required matching funds are accounted for through the existing salaries of the emergency management personnel; and

WHEREAS, the passage of this Ordinance authorizes the acceptance of the State of Colorado Department of Local Affairs Emergency Management Performance Grant for 2010;

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 State of Colorado Department of Local Affairs Emergency Management Performance Grant (EMPG) to the City of Englewood, attached hereto as Exhibit A.

Section 2. The Mayor is authorized to execute said agreement for and acceptance of the Grant for and on behalf of the City of Englewood.

Section 3. 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. A copy is available in the Office of the Englewood City Clerk.

Introduced, read in full, and passed on first reading on the 19th day of July, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 23rd day of July, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 21st day of July, 2010 for thirty (30) days.

Read by title and passed on final reading on the 2nd day of August, 2010.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2010, on the 6th day of August, 2010.

Published by title on the City's official website beginning on the 4th day of August, 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

EMPG/LEMS: 10EM0L98

AGREEMENT

between the

**STATE OF COLORADO
DEPARTMENT OF LOCAL AFFAIRS**

and the

CITY OF ENGLEWOOD

Summary

Form of Financial Assistance: Grant Loan Award Amount: **\$32,000**

Agreement Identification:

Contract Encumbrance #: **10EM0L98** (*DOLA's primary identification # for this agreement*)

Contract Management System #: _____ (*State of Colorado's primary identification # for this agreement*)

Project Information:

Project/Award Number: **10EM0L98**

Project Name: **2010 Emergency Management Performance Grant/Local Emergency Management Support (LEMS)**

Performance Period: Start Date: **10/1/2009** End Date: **06/30/2011**

Brief Description of Project / Assistance: The annual EMPG/LEMS grants enhance all-hazards emergency management planning/preparedness, mitigation, response and recovery capabilities in the State of Colorado by providing financial support to local jurisdictions to staff and operate their emergency management program.

Program & Funding Information:

Program Name **Emergency Management Performance Grant (EMPG)**

Catalog of Federal Domestic Assistance (CFDA) Number (if federal funds): **97.042**

Funding Account Codes: **100-SB00-710-5110-F0L0-3710**

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1. PARTIES

This Agreement (hereinafter called “Grant”) is entered into by and between the **CITY OF ENGLEWOOD** (hereinafter called “Grantee”), and the STATE OF COLORADO acting by and through the Department of Local Affairs for the benefit of the Division of Emergency Management (hereinafter called the “State” or “DOLA”).

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the “Effective Date”). The State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to (*see checked option(s) below*):

- A. The Effective Date.
- B. The later to occur of the Effective Date or the date of a separate letter issued by the Department (“Release of Funds Letter”) notifying Grantee of the completion of a satisfactory environmental review and authorizing Grantee to obligate or use Grant Funds.
- C. The Effective Date; provided, however, that all Project costs, if specifically authorized by the funding authority, incurred on or after _____, may be submitted for reimbursement as if incurred after the Effective Date.
- D. insert date for authorized pre-agreement costs, as defined in §4 below and/or in **Exhibit B**, Statement of Project. Such costs may be submitted for reimbursement as if incurred after the Effective Date.
- E. The Effective Date; provided, however, that the costs identified in the checked subsections below may be submitted for reimbursement as if incurred after the Effective Date (*see checked suboption(s) below*):
 - i. All Project costs incurred on or after **October 1, 2009**; and

- ii. Pre-award costs for insert purpose, if any, incurred on or after insert starting date allowed under the federal award for pre-award costs.
- F. All or some of the costs or expenses incurred by Grantee prior to the Effective Date which have been or will be paid with non-federal funds may be included as a part of Grantee's non-federal match requirement, set forth herein and in **Exhibit B**, Statement of Project, if such costs or expenses are properly documented as eligible expenses in accordance with Exhibit B, §6.6.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority to enter into this Grant exists in CRS §24-32-2105 and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

C. Purpose

The purpose of this grant agreement is described in **Exhibit B**.

D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Evaluation

"Evaluation" means the process of examining Grantee's Work and rating it based on criteria established in §6 and **Exhibit B**.

B. Exhibits and Other Attachments

The following are attached hereto and incorporated by reference herein:

- i. Exhibit A (Applicable Laws)
- ii. Exhibit B (Statement of Project)
- iii. Exhibit C (Grant Application Package)
- iv. Form 1 (Grant Funding Change Letter)

C. Goods

"Goods" means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

D. Grant

"Grant" means this agreement, its terms and conditions, attached exhibits, documents incorporated by reference, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

E. Grant Funds

"Grant Funds" means available funds payable by the State to Grantee pursuant to this Grant.

F. Party or Parties

"Party" means the State or Grantee and "Parties" means both the State and Grantee.

G. Pre-contract costs

"Pre-agreement costs", when applicable, means the costs incurred on or after the date as specified in §2 above, and the Effective Date of this Grant. Such costs shall have been detailed in Grantee's grant application and specifically authorized by the State and incorporated hereinto **Exhibit B**.

H. Project Budget

"Project Budget" means the budget for the Work described in **Exhibit B**.

I. Program

"Program" means the grant program, as specified on the first page, that provides the funding for this Grant.

J. Review

"Review" means examining Grantee's Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6 and **Exhibit B**

K. Services

"Services" means the required services to be performed by Grantee pursuant to this Grant.

L. Sub-grantee

"Sub-grantee" means third-parties, if any, engaged by Grantee to aid in performance of its obligations.

M. Work

"Work" means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibit B**, including the performance of the Services and delivery of the Goods.

N. Work Product

"Work Product" means the tangible or intangible results of Grantee's Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM and EARLY TERMINATION.

A. Initial Term

Unless otherwise permitted in §2 above, the Parties respective performances under this Grant shall commence on the Effective Date. This Grant shall terminate on **June 30, 2011**, unless sooner terminated or further extended as specified elsewhere herein.

B. Two Month Extension

The State, at its sole discretion upon written notice to Grantee as provided in §16, may unilaterally extend the term of this Grant for a period not to exceed two months if the Parties are negotiating a replacement Grant (and not merely seeking a term extension) at or near the end of any initial term or any extension thereof. The provisions of this Grant in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two month extension. The two-month extension shall immediately terminate when and if a replacement Grant is approved and signed by the Colorado State Controller.

6. STATEMENT OF PROJECT

A. Completion

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit B**. The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

B. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Grantee or Sub-grantees shall be considered Grantee's or Sub-grantees' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is **\$32,000**, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in **Exhibit B**.

B. Payment

i. Advance, Interim and Final Payments

Any advance payment allowed under this Grant or in **Exhibit B** shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

ii. Interest

The State shall not pay interest on Grantee invoices.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not fully appropriated, or otherwise become unavailable for this Grant, the State may terminate it in whole or to the extent of funding reduction, without further liability, after providing notice to Grantee in accordance with §16.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any party other than the State.

C. Use of Funds

Grant Funds shall be used only for eligible costs identified herein and/or in **Exhibit B**.

D. Matching Funds

Grantee shall provide matching funds as provided in **Exhibit B**.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with §19, if applicable.

A. Performance, Progress, Personnel, and Funds

Grantee shall submit a report to the State upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in **Exhibit B**.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of the Department of Local Affairs.

C. Noncompliance

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

D. Subgrants

Copies of any and all subgrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subgrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subgrants be governed by the laws of the State of Colorado.

9. GRANTEE RECORDS

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records (the Record Retention Period) until the last to occur of the following: (i) a period of three years after the date this Grant is completed, terminated or final payment is made hereunder, whichever is later, or (ii) for such further period as may be necessary to resolve any pending matters, or (iii) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or inequity in lieu of or in conjunction with such corrective measures.

C. Monitoring

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

D. Final Audit Report

Grantee shall provide a copy of its audit report to DOLA as specified in **Exhibit B**.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions on this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, state records, personnel records, and information concerning individuals.

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

B. Notification

Grantee shall notify its agent, employees, Sub-grantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee

shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. Grantee shall, to the extent permitted by law, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Sub-grantees, or assignees pursuant to this §10.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

13. INSURANCE

Grantee and its Sub-grantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee

i. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each grant with sub-grantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Sub-grantee's liabilities under the GIA.

ii. Non-Public Entities

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to sub-grantees that are not "public entities".

B. Grantees and Sub-Grantees

Grantee shall require each Grant with Sub-grantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Sub-grantee employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket Grantual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire. If any aggregate limit is reduced below \$1,000,000 because of claims made or paid, Sub-grantee shall immediately obtain additional insurance to restore the full aggregate limit and furnish to Grantee a certificate or other document satisfactory to Grantee showing compliance with this provision.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

Grantee and the State shall be named as additional insured on the Commercial General Liability and Automobile Liability Insurance policies (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

Coverage required of Grantee and Sub-grantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and the State by certified mail.

vii. Subrogation Waiver

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Sub-grantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Grantee and all Sub-grantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Sub-grantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other

time during the term of this Grant or any sub-grant, Grantee and each Sub-grantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Grantee is in breach under any provision of this Grant, provided that a breach is not necessary under §15(B), the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B). The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively. If the form of financial assistance is a loan, as specified in the table on page 1 of this Grant, and in the event of a termination of this Grant, such termination shall not extinguish Grantee's obligations under the Promissory Note and the Deed of Trust.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and sub-grants/contracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or sub-grants/contracts. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee'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 Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

iii. Payments

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Remedies Not Involving Termination

The State, at its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of Grantee's employees, agents, or Sub-grantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee 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 the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

Mr. Hans Kallam, Director
Colorado Department of Local Affairs
Division of Emergency Management
9195 E. Mineral Ave., Ste. 200
Centennial, CO 80112
Email: hans.kallam@state.co.us

B. Grantee:

Mr. Stephen Green, Coordinator
City of Englewood
City of Englewood Emergency Management
3615 S. Elati
Englewood, CO 80110
Email:

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

This section shall shall not apply to this Grant.

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Grantee in the performance of its obligations under this Grant shall be the exclusive property of the State and, all Work Product shall be delivered to the State by Grantee upon completion or termination hereof. The State's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Grantee shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of Grantee's obligations hereunder without the prior written consent of the State.

18. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute 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., as amended. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act and the risk management statutes, CRS §24-30-1501, et seq., as amended.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System. Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress. Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Local Affairs, and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

20. RESTRICTION ON PUBLIC BENEFITS

This section shall shall not apply to this Grant.

Grantee must confirm that any individual natural person eighteen years of age or older is lawfully present in the United States pursuant to CRS §24-76.5-101 et seq. when such individual applies for public benefits provided under this Grant by requiring the following:

A. Identification:

The applicant shall produce one of the following personal identifications:

- i. A valid Colorado driver's license or a Colorado identification card, issued pursuant to article 2 of title 42, C.R.S.; or
- ii. A United States military card or a military dependent's identification card; or
- iii. A United States Coast Guard Merchant Mariner card; or
- iv. A Native American tribal document.

B. Affidavit

The applicant shall execute an affidavit herein attached as **Form 2**, Affidavit of Legal Residency, stating:

- i. That they are United States citizen or legal permanent resident; or
- ii. That they are otherwise lawfully present in the United States pursuant to federal law.

21. GENERAL PROVISIONS

A. Assignment and Subgrants

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or sub-grantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §21(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

F. Indemnification-General

Grantee shall, to the extent permitted by law, indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Sub-grantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not 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., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. List of Selected Applicable Laws

Grantee at all times during the performance of this Grant shall comply with all applicable Federal and State laws and their implementing regulations, currently in existence and as hereafter amended, including without limitation those set forth on **Exhibit A**, Applicable Laws, attached hereto, which laws and regulations are incorporated herein and made part hereof. Grantee also shall require compliance with such laws and regulations by subgrantees under subgrants permitted by this Grant.

I. Loan Forms

If the form of financial assistance provided by the State is a loan, as specified in the table on page 1 above, Grantee shall execute a promissory note substantially equivalent to **Form** __ and record a deed of trust substantially equivalent to **Form** _ with the county in which the property resides.

J. Modification

i. By the Parties

Except as specifically provided in this Grant, modifications hereof shall not be effective unless agreed to in writing by the Parties in an amendment hereto, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATION OF CONTRACTS - TOOLS AND FORMS.

ii. By Operation of Law

This Grant is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

iii. Grant Funding Change Letter

The State may increase or decrease funds available under this Grant and modify selected other provisions of this agreement using a Grant Funding Change Letter substantially equivalent to **Form 1**. The provisions of the Grant Funding Change Letter shall become part of and be incorporated into the

original agreement. The Grant Funding Change Letter is not valid until it has been approved by the State Controller or designee.

K. Order of Precedence

i. This Grant

The provisions of this Grant shall govern the relationship of the State and Grantee. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- a) Colorado Special Provisions
- b) The provisions of the main body of this Grant
- c) Exhibit A
- d) Exhibit B

ii. Loan Document

This section shall apply if the form of financial assistance, as specified in the table on page 1 above, is a loan. In the event of conflicts or inconsistencies between this Grant and the Deed of Trust or the Promissory Note, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- a) The Promissory Note
- b) This Grant
- c) The Deed of Trust

L. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

M. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

N. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

O. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

P. Waiver

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

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COLORADO SPECIAL PROVISIONS

The Special Provisions apply to all Grants except where noted in *italics*.

A. 1. CONTROLLER'S APPROVAL. CRS §24-30-202 (1).

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

B. 2. FUND AVAILABILITY. CRS §24-30-202(5.5).

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. 3. GOVERNMENTAL IMMUNITY.

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

D. 4. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent Grantee and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits shall be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any Grant, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

E. 5. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. 6. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

G. 7. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.

H. 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. 9. EMPLOYEE FINANCIAL INTEREST. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. 10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4.

[Not Applicable to intergovernmental agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. 11. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101.

[Not Applicable to Agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental Agreements, or information technology services or products and services] Grantee certifies, warrants, and agrees that it does not knowingly employ or Grant with an illegal alien who shall perform work under this Grant and shall confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or Grant with an illegal alien to perform work under this Grant or enter into a Grant with a Sub-grantee that fails to certify to Grantee that the Sub-grantee shall not knowingly employ or Grant with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Sub-grantee and the Granting State agency within three days if Grantee has actual knowledge that a Sub-grantee is employing or Granting with an illegal alien for work under this Grant, (c) shall terminate the Subgrant if a Sub-grantee does not stop employing or Granting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the Granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the Granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

L. 12. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101.

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

SPs Effective 1/1/09

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SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

*** Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">GRANTEE CITY OF ENGLEWOOD</p> <p>By: <u>James K. Woodward</u> Printed Name of Authorized Individual</p> <p>Title: <u>Mayor</u> Official Title of Authorized Individual</p> <p>_____</p> <p>*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Bill Ritter, Jr., GOVERNOR DEPARTMENT OF LOCAL AFFAIRS</p> <p>By: _____</p> <p style="text-align: center;">Susan E. Kirkpatrick, Executive Director</p> <p>Date: _____</p> <hr/> <p style="text-align: center;">PRE-APPROVED FORM CONTRACT REVIEWER</p> <p>By: _____</p> <p style="text-align: center;">William F. Archambault, Jr., Finance and Administration Chief</p> <p>Date: _____</p>
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ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.

<p>STATE CONTROLLER David J. McDermott, CPA</p> <p>By: _____</p> <p style="text-align: center;">Barbara M. Casey, Controller Delegate</p> <p>Date: _____</p>

EXHIBIT A – APPLICABLE LAWS

Laws, regulations, and authoritative guidance incorporated into this Grant include, without limitation:

1. Age Discrimination Act of 1975, 42 U.S.C. Sections 6101, et seq.
2. Age Discrimination in Employment Act of 1967, 29 U.S.C. 621-634
3. Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, et seq.
4. Equal Pay Act of 1963, 29 U.S.C. 206(d)
5. Immigration Reform and Control Act of 1986, 8 U.S.C. 1324b
6. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794
7. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d
8. Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e
9. Title IX of the Education Amendment of 1972, 20 U.S.C. 1681, et seq.
10. Section 24-34-301, et seq., Colorado Revised Statutes 1997, as amended
11. The applicable of the following:
 - 11.1. Cost Principals for State, Local and Indian Tribal Governments, 2 C.F.R. 225, (OMB Circular A-87);
 - 11.2. Cost Principals for Education Institutions, 2 C.F.R. 220, (OMB Circular A-21);
 - 11.3. Cost Principals for Non-Profit Organizations, 2 C.F.R. 230, (OMB Circular A-122), and
 - 11.4. Audits of States, Local Governments, and Non-Profit Organizations (OMB Circular A-133); and/or the Colorado Local Government Audit Law, 29-1-601, et seq., C.R.S., and State implementing rules and regulations.
 - 11.5. Immigration Status -Cooperation with Federal Officials, CRS 29-29-101, et seq.
 - 11.6. Davis-Bacon Act, 40 U.S.C. SS 276a to 276a-7.
 - 11.7. Copeland Act, 40 U.S.C. S 276c and 18 U.S.C. SS 874.
 - 11.8. Contract Work Hours and Safety Standards Act, 40 U.S.C. SS 327-333, regarding labor standards for federally assisted construction sub-awards.
 - 11.9. Wild and Scenic Rivers Act of 1968, 16 U.S.C. SS 1271 et. seq., related to protecting components or potential components of the national wild and scenic rivers system.
 - 11.10. National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, Executive Order No. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469a-1 et. seq.
 - 11.11. Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5121 et seq., as amended.
 - 11.12. National Flood Insurance Act of 1968, 42 U.S.C. 4001 et. seq.
 - 11.13. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 104.
 - 11.14. Department of Defense Authorization Act of 1986, Title 14, Part B, Section 1412, Public Law 99-145, 50 U.S.C. 1521.
 - 11.15. USA PATRIOT Act of 2001, (Pub. L. 107-56).
 - 11.16. Digital Television Transition and Public Safety Act of 2005, (Pub L. 109-171)
12. Federal Emergency Management Agency, Department of Homeland Security Regulations: All Applicable Portions of 44 CFR Chapter 1, with the following Parts specially noted and applicable to all grants of FEMA/DHS funds:
 - 12.1. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 44 C.F.R. 13.
 - 12.2. Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace, 44 C.F.R. 17.
 - 12.3. New Restrictions on Lobbying, 44 C.F.R. 18.
13. Privacy Act of 1974, 5 U.S.C. S 5529 and Regulations adopted thereunder (44 C.F.R. 6).
14. Prohibition against use of Federal Funds for Lobbying, 31 U.S.C. 1352
15. None of the funds made available through this agreement shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act, 42 U.S.C. 8251 et. Seq., or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).
16. None of the funds made available shall be used in contravention of section 303 of the Energy Policy Act of 1992, 42 U.S.C. 13212.
17. Buy American Act, 41 U.S.C. 10a et seq.
18. 2010 EMPG Grant Guidance

EXHIBIT B – STATEMENT OF PROJECT (SOP)

1. GENERAL DESCRIPTION OF THE PROJECT(S).

1.1. Project Description. Grantee will carry-out the annual work plans in the Annual Program Paper and Staffing Plan (Exhibit C) for each of the Emergency Management Functions (EMF).

1.2. Project expenses. Project expenses include the costs for salaries and benefits for Grantee's emergency manager and emergency management staff, travel, emergency management office operational costs, and the costs associated with, emergency management exercises, training and planning. No more than 3% of this Grant may be used for Management and Administration (M&A) costs. It should be noted that salaries of local emergency managers are not typically categorized as M&A, unless the local Emergency Management Agency (EMA) chooses to assign personnel to specific M&A activities. Additional specific eligible and ineligible cost information is listed in the 2010 EMPG program guidance at http://www.fema.gov/pdf/government/grant/2010/fy10_empg_kit.pdf.

2. DELIVERABLES:

2.1. Grantee shall submit narrative and financial reports describing project progress and accomplishments, any delays in meeting the objectives and expenditures to date as described in §5 of this Exhibit B.

2.2. List additional grant deliverables. Grantee will complete the annual work-plan described by the Grantee in Exhibit C. Grantee must participate in NIMSCAST by entering or updating the Grantee's data as part of meeting the NIMS compliance requirements.

3. PERSONNEL.

3.1. Replacement. Grantee shall immediately notify the Department if any key personnel specified in §3 of this Exhibit B cease to serve. Provided there is a good-faith reason for the change, if Grantee wishes to replace its key personnel, it shall notify the Department and seek its approval, which shall be at the Department's sole discretion, as the Department issued this Grant in part reliance on Grantee's representations regarding Key Personnel. Such notice shall specify why the change is necessary, who the proposed replacement is, what his/her qualifications are, and when the change will take effect. Anytime key personnel cease to serve, the Department, in its sole discretion, may direct Grantee to suspend work on the Project until such time as replacements are approved. All notices sent under this subsection shall be sent in accordance with §16 of the Grant.

3.2. Responsible Administrator. Grantee's performance hereunder shall be under the direct supervision of Stephen Green, Coordinator, an employee or agent of Grantee, who is hereby designated as the responsible administrator of this project.

3.3. Other Key Personnel. None.

4. FUNDING.

The State or Federal provided funds shall be limited to the amount(s) specified in §7 of the Grant and in the Federal and/or State funds and percentage(s) section of §4.2 of this Exhibit B, Project Budget.

4.1. Matching Funds.

4.1.1. Requirement. The following checked option shall apply

4.1.1.1. Matching Funds are not required under this Grant.

4.1.1.2. Grantee's required non-federal or state match contribution is detailed in §4.2 below. The match may:

4.1.1.2.1. include in-kind match;

4.1.1.2.2. not include in-kind match; or

4.1.1.2.3. include no more than _____% in-kind match.

4.1.2. General. Grantee's required matching contribution, if any, need not be provided on a line-item by line-item basis, but must be at least the percentage of the total project expenditures specified in the Project Budget table.

4.1.3. Documentation. Documentation of expenditures for the non-federal match contribution is required in the same manner as the documentation for the grant funded expenditures.

4.2. Project Budget

Category	Requested Total Project
Personnel	\$82,912
Travel	6,500
Office Support/Other	6,500
Total Estimated Budget (Total Rounded to Nearest \$100)	\$95,900
Total Requested Federal Share - 50% of Total Budget (Rounded to Nearest \$100)	\$48,000

Actual 2010 Award Amount	
2010 Federal Share (up to 50% of Total)	\$32,000
Required Non-Federal Match (at least 50% of Total)	\$32,000
Total Project	\$64,000

Remaining 2009 Award Funds*	
2009 Federal Share Remaining Available for Reimbursement During the FFY 10 Grant Period.*	\$0
Total Federal Funds Available During FFY 2010 Grant Period	\$32,000

*For information purposes only. Not part of this 2010 award. Any remaining balance is from the 2009 award and remains part of that grant and is reimbursable during the 2010 award period because of the overlapping performance terms. If all four quarters' reimbursements for the 2009 award have been submitted and paid, the 2009 Federal Share Remaining shown above is available for reimbursement during the first three quarters of the 2010 Federal Fiscal Year (FFY). Remaining 2009 funds will be paid for the 2010 first, second and third quarter reimbursement requests as necessary to utilize the full 2009 award. Payments will be identified as fifth, sixth and seventh quarter 2009 payments as appropriate on the reimbursements, and the required 50% non-federal match will be counted toward the 2009 grant to properly match the reimbursed amounts. If any 2009 first-fourth quarter reimbursements have not yet been submitted or paid, the 2009 amount remaining available will be reduced by any payments made when submitted and approved. If the 2009 Federal Share Remaining Available amount shown is \$0, the full 2009 award amount has been reimbursed, and has no effect on the funds available during FFY 2010.

4.3. Project Budget Line Item Adjustments. Grantee may (see checked option below):

- 4.3.1. not adjust individual budget line amounts without approval of the State. Such approval shall be in the form of:
- 4.3.1.1. a notice issued by the State in accordance with §16 of the Grant; or
 - 4.3.1.2. an amendment in accordance with the **Modification** subsection of the **General Provisions** of the Grant.
- 4.3.2. adjust individual budget line amounts without the State's approval if:
- 4.3.2.1. there are no transfers to or between administration budget lines; and
 - 4.3.2.2. cumulative budgetary line item changes do not exceed the lesser of ten percent of the total budgeted amount or \$20,000.

4.4. Non-Supplanting of Grantee Funds.

Grantee will ensure that the funds provided by this Grant are used to supplement and not supplant their funds budgeted for the purposes herein.

5. PAYMENT:

Payments shall be made in accordance with this section, the provisions of this Exhibit, and the provisions set forth in §7 of the Grant.

5.1. Payment Schedule. Grantee shall submit requests for reimbursement at least quarterly using the Department provided form or by letter with documentation attached if no form is required. One original signed reimbursement request is due on the same dates as the required financial reports. All requests shall be for eligible actual expenses incurred by Grantee, as described in §1 above. Requests will be accompanied by supporting documentation totaling at least the amount requested for reimbursement and any required non-federal match contribution. Documentation requirements are described in §6.6 below. If any financial or progress reports are delinquent at the time of a payment request, the Department may withhold such reimbursement until the required reports have been submitted. Up to one quarter of the total grant will be reimbursed with each quarterly payment. No more than 50% of the reported expenses will be reimbursed at any time. If one quarter's reported expenses do not warrant reimbursement of a full quarter's payment, any remaining funds from that quarter will be available for subsequent quarters so that additional expenses incurred in the later quarters may be reimbursed. Likewise, if excess expenses for one quarter are reported, those unreimbursed expenses will be added to the following quarters' expenses as necessary to maximize each quarter's reimbursement. If the total reimbursable expenses reported for the year's grant exceed the amount of the award, the excess expenses may be eligible for consideration for any reallocation additions made at the end of the federal grant period. If any grant end reallocation funding is available, eligibility for these funds will require timely report submittal, and strong performance demonstrated through the quarterly progress reports and through ongoing contact/monitoring.

5.2. Payment Amount. When non-federal match is required, such match must be documented with every payment request. Periodic payments will be made as requested at the same percentage of the documentation submitted as the Grant funded share of the budget up to any applicable quarterly or other pre-closeout maximums. Payment will not exceed the amount of cash expenditures documented. Excess match documented and submitted with one reimbursement request will be applied to subsequent requests as necessary to maximize the allowable reimbursement.

5.3. Remittance Address. If mailed, payments shall be remitted to the following address unless changed in accordance with §16 of the Grant:

City of Englewood
3615 S. Elati
Englewood, CO 80110

6. ADMINISTRATIVE REQUIREMENTS:

6.1. Accounting. Grantee shall maintain properly segregated accounts of Grant funds, matching funds, and other funds associated with the Project and make those records available to the State upon request.

6.2. Audit Report. If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant or any other grants/contracts with DOLA, Grantee shall submit an electronic copy of the final audit report, including a report in accordance with the Single Audit Act, to dola.audit@state.co.us, or send the report to:

Department of Local Affairs
Accounting & Financial Services
1313 Sherman Street, Room 323
Denver, CO 80203

6.3. Monitoring. The State shall monitor this Grant in accordance with §§9(B) and 9(C) of the Grant.

6.4. Records. Grantee shall maintain records in accordance with §9 of the Grant.

6.5. Reporting.

6.5.1. Quarterly Financial Status and Progress Reports. The project(s) approved in this Grant are to be completed on or before the termination date stated in §5(A) of the Grant Agreement. Grantee shall submit quarterly financial status and programmatic progress reports for each project identified in this agreement using the Standard Federal Financial Status Report (SF 425) and the Standard Federal Progress and Performance Narrative Report (SF-PPR), or other forms provided by the Department. One of each with original signatures shall be submitted in accordance with the schedule below:

Report Period	Due Date
January – March	April 20
April – June	July 20
July – September	October 20
October – December	January 20

6.5.2. Final Reports. Grantee shall submit a final financial status and progress report that provides final financial reconciliation and a final cumulative grant/project accomplishments report within 45 days of the end of the project/grant period. No obligations of funds can remain on the final report. The final reports may substitute for the quarterly reports for the final quarter of the grant period. If all projects are completed before the end of the grant period, the final report may be submitted at any time before its final due date. No further reports will be due after the Department has received, and sent notice of acceptance of the final grant report.

6.6. Required Documentation. Sufficient detail shall be provided with reimbursement requests to demonstrate that expenses are allowable and appropriate as detailed in the subsections below herein. Grantees must retain all procurement and payment documentation on site for inspection. This shall include, but not be limited to, purchase orders, receiving documents, invoices, vouchers, equipment/services identification, and time and effort reports.

6.6.1. Equipment or tangible goods. Requests for reimbursement for tangible personal property with a purchase price of less than \$5,000 per item should include the invoice number, description of item purchased (e.g. NOAA weather radios), and the location and number of items, or copies of the paid invoices may be submitted. For equipment items with a purchase price of or exceeding \$5,000, and a useful life of more than one year, the Grantee must provide a copy of the paid invoice and include a unique identifying number. This number can be the manufacturer's serial number or, if the Grantee has its own existing inventory numbering system, that number may be used. The location of the equipment must also be provided. In addition to ongoing tracking requirements, Grantee shall ensure that tangible goods with per item cost of \$500 or more and equipment with per unit cost of \$5,000 or more are prominently marked as follows: "*Purchased with funds provided by the FEMA*"

6.6.2. Services. Grantees shall include contract/purchase order number(s) or employee names, the date(s) the services were provided, the nature of the services, and the hourly contract or salary rates, or monthly salary and any fringe benefits rates.

6.7. Procurement. Grantee shall ensure its procurement policies meet or exceed local, state, and federal requirements. Grantee should refer to local, state, and federal guidance prior to making decisions regarding competitive bids, sole source or other procurement issues. In addition:

6.7.1. Sole Source. Any sole source transaction in excess of \$100,000 must be approved in advance by the Department.

6.7.2. Conduct. Grantees shall ensure that: (a) All procurement transactions, whether negotiated or competitively bid, and without regard to dollar value, are conducted in a manner that provides maximum open and free competition; (b) Grantee must be alert to organizational conflicts of

interest and/or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade; (c) Contractors who develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFPs) for a proposed procurement must be excluded from bidding or submitting a proposal to compete for the award of such procurement; and (d) Any request for exemption of item a-c within this subsection must be submitted in writing to, and be approved by the authorized Grantee official.

- 6.7.3. Debarment.** Grantee shall verify that the Contractor is not debarred from participation in state and federal programs. Sub-grantees should review contractor debarment information on <http://www.epls.gov>.
- 6.7.4. Funding Disclosure.** When issuing requests for proposals, bid solicitations, and other published documents describing projects or programs funded in whole or in part with these grant funds, Grantee and Subgrantees shall: (a) state the percentage of the total cost of the program or project which will be financed with grant money; (b) state the grant program name and dollar amount of state or federal funds for the project or program; and (c) use the phrase *"This project was supported by the Colorado Department of Local Affairs, Division of Emergency Management."*
- 6.7.5. Approved Purchases.** Grantee shall verify that all purchases are listed in §1.1 above. Equipment purchases, if any, shall be for items listed in the Approved Equipment List (A.E.L) for the grant period on the Responder Knowledge Base (RKB), at <https://www.rkb.us>
- 6.7.6. Assignment of Rights/Duties/Equipment.** Grantee shall ensure that no rights or duties exercised under this Grant, or equipment purchased with Grant Funds having a purchase value of \$5,000 or more are assigned without the prior written consent of the Department.

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2010

COUNCIL BILL NO. 25
INTRODUCED BY COUNCIL
MEMBER JEFFERSON

AN ORDINANCE EXTENDING AN EXISTING TEMPORARY SUSPENSION OR MORATORIUM ON THE ESTABLISHMENT OF NEW MEDICAL MARIJUANA DISPENSING AND GROWING USES UNTIL JULY 1, 2011.

WHEREAS, it has been brought to Council's attention that the current Unified Development Code does not adequately define or limit medical marijuana dispensing and growing uses; and

WHEREAS, City Council has directed staff to review, create and revise, if necessary, provisions concerning medical marijuana dispensing and growing uses; and

WHEREAS, staff will need sufficient time to review and coordinate the provisions relating to medical marijuana dispensing and growing uses in the Code; and

WHEREAS, City Council deems it necessary to coordinate the review of the Unified Development code and finds it appropriate to prohibit the establishment of new medical marijuana dispensing and growing uses in the City until the review by the staff and City Council; and

WHEREAS, the moratorium passed August 17, 2009 and extended until October 19, 2010 stops the establishment of new businesses; and

WHEREAS, those uses already in business would not be affected; and

WHEREAS, in order for the City to comply with equal protection issues, the moratorium or temporary suspension must apply to all zone districts unless specific exemptions can be legitimately set forth due to a finding that a particular zone district should be excluded; and

WHEREAS, the revisions to the Unified Development Code and the updating of the uses allowed in all zone districts will help protect the public health, safety and welfare by preserving a safe, healthy, and sound environment within the City; and

WHEREAS, the citizens of Englewood and the City Council have determined that further revisions to the Unified Development Code are necessary to promote, coordinate, and implement a high quality plan to produce well balanced zoning in the City; and

WHEREAS, the current listing of uses is not meeting the above criteria; and

WHEREAS, the Colorado State Legislature has decided to also address this issue by the passage of House Bill 1284 of the 2010 Session and the City Council finds that the revisions to the City's Unified Development Code must be coordinated with the requirements of the Colorado Statutes as well as the Constitution; and

WHEREAS, the City Council finds that this extension of the existing moratorium or temporary suspension of the establishment of all new medical marijuana dispensing and growing uses is necessary to implement the revisions to the Unified Development Code consistent with the State Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, THAT AN EXISTING TEMPORARY SUSPENSION OR MORATORIUM ON THE ESTABLISHMENT OF NEW MARIJUANA DISPENSING AND GROWING USES UNTIL JULY 1, 2011.

Section 1. By reason of the fact that the Englewood Unified Development Code does not adequately define or limit medical marijuana dispensing and growing uses and for the immediate preservation of the public property, health, peace and safety.

Section 2. Said moratorium or temporary suspension shall be for any medical marijuana dispensing and growing uses within the City of Englewood not in operation by August 17, 2009.

Section 3. The City Council directs City staff to develop appropriate recommendations to Council, within the moratorium period, to be consistent with this Ordinance and to provide for an updating of the Unified Development Code relating to medical marijuana dispensing and growing uses.

Section 4. The City Council finds the provisions of this Ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactment so that the moratorium or temporary suspension as specified in this ordinance shall terminate on July 1, 2011.

Introduced, read in full, and passed on first reading on the 19th day of July, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 23rd day of July, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 21st day of July, 2010 for thirty (30) days.

Read by title and passed on final reading on the 2nd day of August, 2010.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2010, on the 6th day of August, 2010.

Published by title on the City's official website beginning on the 4th day of August, 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

COUNCIL COMMUNICATION

Date: August 2, 2010	Agenda Item: 11 c i	Subject: South Broadway Englewood Business Improvement District Board of Directors
Initiated By: South Broadway Englewood Business Improvement District		Staff Source: Darren Hollingsworth, Economic Development Coordinator

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

On August 7, 2006, Council made the initial appointment of the Board of Directors for the South Broadway Englewood Business Improvement District.

RECOMMENDED ACTION

In order to have a full slate of Directors, Englewood City Council needs to approve a resolution adopting an updated slate of Board of Directors for the South Broadway Englewood Business Improvement District.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The South Broadway Englewood Business Improvement District (SBEBID) is a special assessment district designed to improve the economic vitality and overall commercial appeal of the South Broadway corridor in the City of Englewood. The SBEBID provides programs to businesses and commercial properties which include: district marketing, promotions, enhanced safety, and maintenance.

The SBEBID is managed by a Board of Directors, all of whom are voting members and rate payers. One additional seat is reserved for an ex-officio member who is a representative of the City of Englewood. The board of the SBEBID determines annual priorities and oversees the ongoing management of the SBEBID programs. The board consists of a majority of real property owners who represent the various geographic areas of the SBEBID. The directors shall serve a three (3) year term.

With the recent resignation of Mr. Richard Weigang, the SBEBID Directors would like to submit for Council approval a revised slate of Directors. State Statutes require that City Council appoint the Board of Directors for a Business Improvement District.

The following slate for the Board of Directors was nominated by their nominating committee:

Gary Oxman — Wagner's Furniture (New Appointee)
Vicki Skigen — Skigen Enterprises, llc. d.b.a. Pawn Bank
Ted Vasilas — Ted's Clothiers
Rick Reese — Dress for Less Clothiers
Bob Laughlin — Acoustic Music Revival
Bryan Reid — Edward's Tobacco Shop, Inc.
Brian Hart — Frame de Art II

FINANCIAL IMPACT

There are no increased financial impacts associated with this Resolution.

LIST OF ATTACHMENTS

Excerpt from the minutes of the May 26, 2010 South Broadway Englewood BID meeting
Resolution Appointing Slate of BID Directors

South Broadway Englewood BID

MINUTES

MAY 26, 2010

8:30 AM

Acoustic Music Revival
3445 S. Broadway,
Englewood, Colorado

APPROVED

Resolution #06-23-10A

MEETING CALLED BY

BID President – Ted Vasilas

TYPE OF MEETING

Board of Directors

NOTE TAKER

BID Secretary, Vicki Skigen

ATTENDEES

Ted Vasilas, Bob Laughlin, Rick Reese, Bryan Reid, Vicki Skigen, Brian Hart, Steve Kudron, Jennifer Brown, Colleen Mello, Shawn Winchester, Gary Oxman, Jill Wilson, Darren Hollingsworth

ABSENT

Richard Weigang

GUESTS

Excerpt from these minutes:

NEW BUSINESS
BOARD MEMBER RESIGNATION

TED VASILAS

DISCUSSION

Richard Weigang has tendered his resignation from the Board – due to personal reasons. Ted said that Gary Oxman is willing to serve on the board. All agreed that Gary would be an asset to the board.

CONCLUSIONS

Rick Reese made a motion to that the board position vacated by Richard Weigang be filled by Gary Oxman. Brian Hart seconded the motion. It carried unanimously. **(Resolution #05-26-10C)**

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION APPOINTING AND REAPPOINTING THE SOUTH BROADWAY
ENGLEWOOD BUSINESS IMPROVEMENT DISTRICT BOARD OF DIRECTORS.

WHEREAS, the South Broadway Englewood Business Improvement District is a special assessment district designed to improve the economic vitality and overall commercial appeal of the South Broadway corridor in the City of Englewood, Colorado and to provide programs to businesses and commercial properties that will include district marketing, promotions, enhanced safety and maintenance; and

WHEREAS, the South Broadway Englewood Business Improvement District (SBEBID) is managed by a Board of Directors consisting of seven members, all of whom shall be South Broadway Englewood Business Improvement District voting members and rate payers, who serve for a three (3) year term; and

WHEREAS, one additional seat, in addition to the seven (7) voting members, is reserved for an ex-officio member who is a representative of the City of Englewood; and

WHEREAS, the Board of Directors determines annual SBEBID priorities and oversees ongoing management of SBEBID programs; and

WHEREAS, the Board of Directors shall consist of a majority of real property owners, shall be an equitable representation of geographic areas, size, type of property and businesses; and

WHEREAS, the Englewood City Council established the SBEBID Board of Directors by the passage of Resolution No. 74, Series of 2006; and

WHEREAS, there is a vacancy on the SBEBID Board of Directors; and

WHEREAS, the SBEBID Board has nominated Gary Oxman to the Englewood City Council for approval;

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

Section 1. The Englewood City Council hereby appoints the following to the South Broadway Englewood Business Improvement District Board of Directors.

Gary Oxman – Wagner's Furniture

Section 2. The Englewood City Council hereby reappoints the following to the South Broadway Englewood Business Improvement District Board of Directors:

Ted Vasilas – Ted’s Clothiers
Brian Hart – Frame de Art II
Rick Reese – Dress for Less Clothiers
Bob Laughlin – Acoustic Music Revival
Bryan Reid – Edwards Tobacco Shop, Inc.
Vicki Skigen – Skigen Enterprise, llc. d.b.a. Pawn Bank

Section 3. The South Broadway Englewood Business Improvement District Board of Directors terms will be effective immediately and will expire December 31, 2013.

ADOPTED AND APPROVED this 2nd day of August, 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

RESOLUTION NO. _____
SERIES OF 2010

A RESOLUTION OF THE CITY OF ENGLEWOOD, COLORADO SUPPORTING THE DENVER REGIONAL COUNCIL OF GOVERNMENTS' COMPREHENSIVE JOINT APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM.

WHEREAS, on June 16, 2009, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Transportation (DOT), and the U.S. Environmental Protection Agency (EPA) announced the Partnership for Sustainable Communities (The Partnership) to reshape the Federal government's role in helping achieve economically prosperous, healthy, environmentally sustainable and opportunity-rich communities; and

WHEREAS, the Partnership seeks to foster such communities consistent with the following Livability Principles:

1. **Provide more transportation choices.** Develop safe, reliable and economic transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.
2. **Promote equitable, affordable housing.** Expand location-and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility, and lower the combined cost of housing and transportation.
3. **Enhance economic competitiveness.** Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers as well as expanded business access to markets.
4. **Support existing communities.** Target funding toward existing communities through such strategies as transit-oriented, mixed-use development and land recycling – to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes.
5. **Coordinate policies and leverage investment.** Align policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy.
6. **Value communities and neighborhoods.** Enhance the unique characteristics of all communities by investing in healthy, safe, and walkable neighborhoods – rural, urban or suburban; and

WHEREAS, the Denver Regional Council of Governments' Board of Directors adopted a resolution affirming its support for the Partnership and agreeing to integrate the Livability Principles into ongoing future Metro Vision discussions; and

WHEREAS, this new Partnership recognizes the need to support metropolitan scale, multi-jurisdictional solutions in meeting these Livability Principles; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) recently announced that it will award \$100 million in grants as part of the Sustainable Communities Regional Planning Grant program; and

WHEREAS, the Denver Regional Council of Governments, the Metro Mayors Caucus, the Metro Area County Commissioners and the Colorado Tomorrow Alliance have facilitated a region-wide discussion with a wide range of stakeholders over the past three months to develop a regional proposal under this grant program; and

WHEREAS, as an outcome of these discussions, the Denver Regional Council of Governments is now finalizing a grant application focused on 1) refining Metro Vision to attend to the Livability Principles and 2) providing financial support to advance the successful implementation of the Livability Principles at the local level; and

WHEREAS, the City of Englewood is a strong, committed member of the Denver Regional Council of Governments and is duly proud of the region's long history of collaborative action on matters of regional concern for the collective betterment of the region as a whole.

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

Section 1. Strongly supports submittal of a comprehensive joint application for the Sustainable Communities Regional Planning Grants Program by the Denver Regional Council of Governments and commits to continue working collaboratively with the Denver Regional Council of Governments and stakeholders from across the region to refine and implement Metro Vision to achieve the outcomes envisioned in the Federal Livability Principles.

ADOPTED AND APPROVED this 2nd day of August, 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