

**Agenda for the  
Regular Meeting of the  
Englewood City Council  
Monday, March 7, 2011  
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 February 22, 2011.
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.)
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.)
  - Council Response to Public Comment.
8. Communications, Proclamations, and Appointments.
9. Consent Agenda Items.
  - a. Approval of Ordinances on First Reading

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| 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. |
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- b. Approval of Ordinances on Second Reading.
    - i. Council Bill No. 5, approving the Grant of Easement located at South Windermere Street and West Quincy Avenue.
    - ii. Council Bill No. 6, approving the U.S. Department of Agriculture Forest Service Special Use Permit for Boreas Ditch #2.
    - iii. Council Bill No. 9, approving the South Arapahoe Sanitation District Wastewater Connector's Agreement.
    - iv. Council Bill No. 10, approving the Greenwood Village Sanitation District Wastewater Connector's Agreement.
    - v. Council Bill No. 11, consenting to the First Amendment to Declaration of Covenants Imposing and Implementing the River Point Public Improvement Fee.
  - c. Resolutions and Motions.
10. Public Hearing Items.
- a. Public Hearing to gather input on Council Bill No. 8, authorizing the Englewood Estates Planned Unit Development Amendment No. 1, located at 1210, 1230, 1250, 1255, 1270, 1275 and 1290 West Quincy Circle in the City of Englewood.
11. Ordinances, Resolutions and Motions
- a. Approval of Ordinances on First Reading.
    - i. Council Bill No. 12 – Recommendation from the Fire Department to adopt a bill for an ordinance accepting a grant from the Colorado Department of Transportation to fund the child passenger safety seat program. **STAFF SOURCE: Michael Pattarozzi, Fire Chief.**
    - ii. Council Bill No. 13 – Recommendation from the Parks and Recreation Department to adopt a bill for an ordinance approving an Addendum to the Golf Course Restaurant Concessionaire Agreement with Dadiotis Golf Enterprises, LLC. **STAFF SOURCE: Bob Spada, Golf Operations Manager.**
    - iii. Council Bill No. 14 – Recommendation from the Fire Department to adopt a bill for an ordinance accepting an Emergency Management Performance Grant Special Project Grant to fund the preparation of installation plans for the upgrade of the emergency backup generator at the Police/Fire complex. **STAFF SOURCE: Michael Pattarozzi, Fire Chief and Kraig Stovall, Fire Training Chief.**

- iv. Council Bill No. 15 — Recommendation to adopt a bill for an ordinance authorizing four farm lease agreements for the farms in the Littleton/Englewood Wastewater Treatment Plant Biosolids Management Program. **STAFF SOURCE: Stewart H. Fonda, Director of Utilities and Jim Tallent, Operations Division Manager.**
      - v. Council Bill No. 16 — Recommendation from the Fire Department to adopt a bill for an ordinance authorizing an Intergovernmental Agreement with the State of Colorado to Permit Clinical Training to students of Red Rocks Community College. **STAFF SOURCE: Michael Pattarozzi, Fire Chief and Kraig Stovall, Fire Training Chief.**
    - b. Approval of Ordinances on Second Reading.
    - c. Resolutions and Motions.
12. General Discussion.
  - a. Mayor's Choice.
  - b. Council Members' Choice.
13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment

The following minutes were transmitted to City Council in February, 2011.

- Alliance for Commerce in Englewood meeting of January 13, 2011.
- Code Enforcement Advisory Committee meeting of November 17, 2010.
- Liquor Licensing Authority meetings of January 5 and 19, 2011.
- Malley Center Trust Fund meeting of October 20, 2010.
- Planning and Zoning Commission meetings of January 19 and February 8, 2011.
- Transportation Advisory Committee meeting of January 13, 2011.
- Water and Sewer Board meetings of January 11 and February 9, 2011.

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2011

COUNCIL BILL NO. 5  
 INTRODUCED BY COUNCIL  
 MEMBER WILSON

AN ORDINANCE ACCEPTING A UTILITY EASEMENT, "GRANT OF EASEMENT" TO THE CITY OF ENGLEWOOD, COLORADO BY TIMOTHY AND NANCY BAKER FOR A PROPOSED CITY WATER MAIN TO SERVICE A FUTURE HOUSING DEVELOPMENT LOCATED AT SOUTH WINDERMERE STREET AND WEST QUINCY AVENUE.

WHEREAS, Timothy and Nancy Baker submitted a Grant of Easement to the City of Englewood for a 10' easement for a proposed City water main to service a future housing development; and

WHEREAS, the existing sewer easement was not large enough to accommodate the additional proposed water main and an additional 10' easement is required; and

WHEREAS, the proposed easement will be for the benefit of Distinctive Properties to construct the infrastructure for a housing development located at South Windermere Street and West Quincy Avenue; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended City Council approval of the Grant of Easement by Timothy and Nancy Baker at their November 10, 2010 meeting; and

WHEREAS, the passage of this Ordinance will accept the 10' easement from Timothy and Nancy Baker to the City;

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

Section 1. The Grant of Easement between Timothy and Nancy Baker to the City of Englewood, Colorado attached hereto as "Exhibit A," is hereby accepted and approved by the Englewood City Council.

Section 2. The Mayor is authorized to execute and the City Clerk to attest acceptance of the Grant of Easement for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 22nd day of February, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25<sup>th</sup> day of February, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 23<sup>rd</sup> day of February, 2011 for thirty (30) days.

Read by title and passed on final reading on the 7<sup>th</sup> day of March, 2011.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2011, on the 11th day of March, 2011.

Published by title on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2011.

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Loucrishia A. Ellis

## GRANT OF EASEMENT

THIS GRANT of Easement (this "Grant") is made this 6<sup>th</sup> day of October, 2010, by Timothy + Nancy Baker ("Grantor") as the Owners of 1294 W. Quincy Ave., Englewood, Colorado 80110, whose address is 1294 W. Quincy Ave., Englewood, CO 80110, in favor of the CITY OF ENGLEWOOD ("Grantee") whose address is 1000 Englewood Parkway, Englewood, Colorado 80110.

The parties covenant and agree as follows:

1. Easement Property. The "Easement Property" shall mean the real property located in the County of Arapahoe, State of Colorado, more particularly described as a ten foot (10') easement, as shown on Exhibit A, attached hereto and incorporated herein by reference.
2. Consideration. As consideration, Distinctive Builders, LLC has given Grantor \$12,500.00 and other good and valuable consideration, the receipt of which is hereby acknowledged by Grantor for this easement for the benefit of the City of Englewood.
3. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, a perpetual easement over, under, across and through the Easement Property for the purpose of constructing, operating, maintaining, repairing, replacing, removing, improving and enlarging a water main.
4. Access. Grantee shall have the perpetual, nonexclusive right of ingress and egress in, to, over, through and across the Easement Property for any purpose necessary or desirable for the full enjoyment of the rights granted to Grantee under this Grant.
5. Restoration. Grantee agrees that after the construction, maintenance, repair, replacement or enlargement, if any, for the water main, Grantee shall restore the surface of the Easement Property as nearly as possible to the grade and conditions existing immediately prior to said construction, maintenance, repair, replacement or enlargement, except as may be necessary to accommodate the water line. Grantee further agrees to replace any topsoil removed from any cultivated or agricultural areas on the Easement Property and to remove any excess earth resulting from said construction, maintenance, repair, replacement or enlargement, at Grantee's sole cost and expense.
6. No Improvements. Grantor covenants and agrees not to construct, erect, place or plan any "Improvements," as hereinafter defined, on the Easement Property without obtaining the prior written consent of Grantee. "Improvements" shall mean any structure, building, planting, or trees other than shrubbery or other small plants and a grass type lawn or asphalt parking surface. Grantee shall have the right to remove, without any liability to Grantee, any improvements constructed, erected, placed or planted on the Easement Property without Grantor's having obtained the prior written consent of Grantee. If such prior written consent is not obtained, Grantee shall not be responsible for repair or replacement of the Improvements if they are damaged during construction, maintaining, repair, replacement or enlargement.

7. Subjacent and Lateral Support. Grantor covenants and agrees that Grantee shall have the right of subjacent and lateral support on the Easement Property to whatever extent is necessary or desirable for the full, complete and undisturbed enjoyment of the rights granted to Grantee under this Grant.
8. Rights of Grantor. Grantor reserves the full right to the undisturbed ownership, use, and occupancy of the Easement Property insofar as said ownership, use, and occupancy is consistent with and does not impair the rights granted to Grantee in this Grant.
9. Abandonment. In the event that Grantee shall abandon the rights granted to it under this Grant, all rights, title and interest hereunder of Grantee shall cease and terminate, and Grantor shall hold Easement Property, as the same may then be, free from the rights of Grantee so abandoned and shall own all materials and structures of Grantee so abandoned, provided that Grantee shall have a reasonable period of time after said abandonment in which to remove any or all Lines and Appurtenances from the Easement Property. In the event that Easement is abandoned by Grantee, Grantor shall have the right, at its sole option, to require Grantee to remove or neutralize any improvements constructed in the Easement by Grantee.
10. Warranty of Title. Grantor warrants and represents that Grantor is the owner of the Easement Property and that Grantor has full right, title and authority, to grant and convey to Grantee the Easement. Grantor further covenants and agrees to indemnify, defend and hold Grantee harmless from and against any adverse claim to the title to the Easement Property by all and every person or persons lawfully claiming or to claim the whole or any part thereof.
11. Binding Effect. This Grant shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the respective parties hereto. The terms, covenants, agreements and conditions in this Grant shall be construed as covenants running with the land

IN WITNESS WHEREOF, the parties hereto have executed this Grant of a Water Line Utility Easement the day and year first above written.

GRANTORS:

TIMOTHY BAKER

Nancy E. Baker

STATE OF COLORADO )  
 ) ss.  
 COUNTY OF Arapahoe )

Acknowledged before me this 6<sup>th</sup> day of October, 2010, by  
Timothy Baker & Nancy Baker as the Owners of  
1294 W. Quincy Ave, Englewood, Colorado 80110.

**BRIDGET K. DUGGAN**  
 NOTARY PUBLIC  
 STATE OF COLORADO

My Commission Expires: 7-3-2014

Notary Public OO

# EXHIBIT

SHEET 1 OF 2

## LEGAL DESCRIPTION

A STRIP OF LAND BEING TEN (10) FEET IN WIDTH LYING IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST QUINCY AVENUE, SAID POINT ALSO BEING THE NORTHWESTERLY CORNER OF ENGLEWOOD ESTATES AS RECORDED UNDER RECEPTION NO. B4205364 OF THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER, FROM WHENCE THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 9 BEARS NORTH 85°06'46" EAST, A DISTANCE OF 332.23 FEET AND CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 9 TO BEAR SOUTH 89°42'23" EAST WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 89°42'23" EAST, ALONG THE NORTHERLY LINE OF SAID ENGLEWOOD ESTATES AND SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 89°42'23" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 10.00 FEET;

THENCE SOUTH 00°28'16" WEST, A DISTANCE OF 76.50 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 6 OF SAID ENGLEWOOD ESTATES;

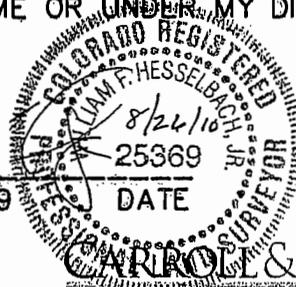
THENCE ALONG THE BOUNDARY OF SAID ENGLEWOOD ESTATES THE FOLLOWING TWO (2) COURSES:

1. NORTH 89°42'23" WEST, A DISTANCE OF 10.00 FEET;
2. NORTH 00°28'16" EAST, A DISTANCE OF 76.50 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 765 SQUARE FEET OR 0.018 ACRE, MORE OR LESS.

I, WILLIAM F. HESSELBACH JR., A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

WILLIAM F. HESSELBACH JR., P.L.S. 25369  
FOR AND ON BEHALF OF  
CARROLL & LANGE-MANHARD



DATE

**CARROLL & LANGE-MANHARD**

A MANHARD CONSULTING COMPANY  
Professional Engineers & Land Surveyors  
7442 South Tucson Way, Suite 190-A Centennial, Colorado 80112 (303) 708-0500

# EXHIBIT

SHEET 2 OF 2

NE COR NW1/4 NE 1/4 SEC 9,  
T5S, R68W FOUND NO. 5 REBAR  
LS 12083 IN RANGE BOX

NW COR NE1/4 SEC 9,  
T5S, R68W CALCULATED POSITION

## WEST QUINCY AVENUE

NORTH LINE NW 1/4 NE 1/4 SECTION 9

BASIS OF BEARING S89°42'23"E 1321.66'

100'

POINT OF COMMENCEMENT  
NW CORNER ENGLEWOOD ESTATES

POINT OF BEGINNING

TIE: N85°06'46"E 332.23'

S89°42'23"E 20.00'

FOUND 100' WITNESS CORNER  
ON SECTION LINE - 2" ALUM  
CAP NO. 6 REBAR LS 28286  
IN RANGE BOX

S89°42'23"E  
10.00'

CONTAINS  
765 S.F. ±  
0.018 AC. ±

OWNER:  
TIMOTHY W & NANCY D  
BAKER

OWNER:  
WGL ENTERPRISES  
LLC

15' SANITARY SEWER  
ESMT BK 1101 PG 554

N00°28'16"E 76.50'

S00°28'16"W 76.50'

10' U.E. & D.E.

N89°42'23"W  
10.00'

6

7

ENGLEWOOD ESTATES  
RECEPTION NO. B4205364

6' U.E. & S.E.

TRACT A  
WEST QUINCY CIRCLE  
(NOT CONSTRUCTED)

10' U.E. & S.E.

PARKING & SNOW  
STORAGE EASEMENT

5

4

3



SCALE: 1"=40'

● - INDICATES A CHANGE IN COURSE ONLY.

THIS EXHIBIT DOES NOT REPRESENT A  
MONUMENTED SURVEY. IT IS INTENDED  
ONLY TO DEPICT THE ATTACHED  
LEGAL DESCRIPTION.

### CARROLL & LANGE-MANHARD

A MANHARD CONSULTING COMPANY

Professional Engineers & Land Surveyors  
7442 South Tucson Way, Suite 190-A Centennial, Colorado 80112 (303) 708-0500

P:\4724\EXHIBITS\WATERLINE ESMT-NEW LOC.DWG, SHEET 2 OF 2, PREPARED 8.26.2010, REV.

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2011

COUNCIL BILL NO. 6  
 INTRODUCED BY COUNCIL  
 MEMBER WILSON

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT ENTITLED U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE, SPECIAL USE PERMIT AUTHORITY: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED OCTOBER 21, 1976 (REF.:FSH 2709.11, SECTION 41.53) BETWEEN THE U.S. DEPARTMENT OF AGRICULTURE AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, municipalities or collective organizations apply for special use permits to use U.S. Forest Service land for ditches, wells, roads and communication sites used for a common good; and

WHEREAS, the U.S. Department of Agriculture – Forest Service submitted a Special Use Permit for the continued operation and maintenance of the Boreas Ditch #2; and

WHEREAS, the existing 30-year permit has expired and this special use permit allows the Boreas Ditch #2 to cross the White River Forest in the Dillon Ranger District for an additional 30 years; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended City Council approval of the U.S. Department of Agriculture Forest Service Special Use Permit for the Boreas Ditch at their November 10, 2010 meeting; and

WHEREAS, the passage of this proposed Ordinance will authorize Englewood to renew the Permit for an additional 30 years;

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

Section 1. The Intergovernmental Agreement entitled U.S. Department of Agriculture, Forest Service, Special Use Permit Authority: Federal Land Policy and Mgmt Act, as amended October 21, 1976 (Ref.: FSH 2709.11, section 41.53) is hereby accepted and approved by the Englewood City Council, attached hereto as “Exhibit A”.

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

Introduced, read in full, and passed on first reading on the 22<sup>nd</sup> day of February, 2011.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 25<sup>th</sup> day of February, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 23<sup>rd</sup> day of February, 2011 for thirty (30) days.

Read by title and passed on final reading on the 7<sup>th</sup> day of March, 2011.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2011, on the 11th day of March, 2011.

Published by title on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2011.

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Loucrishia A. Ellis

Authorization ID: DIL790  
 Contact ID: ENGLEWOOD\_CITY  
 Expiration Date: 12/31/2039  
 Use Code: 911

FS-2700-4 (03/06)  
 OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE  
 Forest Service  
 SPECIAL USE PERMIT**

**Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976  
 (Ref.: FSH 2709.11, section 41.53)**

CITY OF ENGLEWOOD of 1000 ENGLEWOOD PARKWAY, ENGLEWOOD CO 80110-2373 (hereinafter called the Holder) is hereby authorized to use or occupy National Forest System lands, to use subject to the conditions set out below, on the White River National Forest and .

This permit covers 4.48 acres or 1.48 miles and is described as a 25 foot right-of-way located in the NW1/4NE1/4 Sec. 35, E1/2W1/2 Sec. 26, and SW1/4 Sec. 23, T. 7 S., R. 77 W., 6th P.M., ("the permit area"), as shown on the map attached as Appendix A. This permit is issued for the purpose of: operation and maintenance of 7,800 feet of a ditch and buried pipeline (4,700 ft on the north side and 3,100 ft on the south side of Boreas Pass) called the Boreas Ditch #2 and associated facilities.

The above described or defined area shall be referred to herein as the "permit area".

**TERMS AND CONDITIONS**

**I. AUTHORITY AND GENERAL TERMS OF THE PERMIT**

A. Authority. This permit is issued pursuant to the authorities enumerated at Title 36, Code of Federal Regulations, Section 251 Subpart B, as amended. This permit, and the activities or use authorized, shall be subject to the terms and conditions of the Secretary's regulations and any subsequent amendment to them.

B. Authorized Officer. The authorized officer is the Forest Supervisor or a delegated subordinate officer.

C. License. This permit is a license for the use of federally owned land and does not grant any permanent, possessory interest in real property, nor shall this permit constitute a contract for purposes of the Contract Disputes Act of 1978 (41 U.S.C. 611). Loss of the privileges granted by this permit by revocation, termination, or suspension is not compensable to the holder.

D. Amendment. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms, conditions, and stipulations as may be required by law, regulation, land management plans, or other management decisions.

E. Existing Rights. This permit is subject to all valid rights and claims of third parties. The United States is not liable to the holder for the exercise of any such right or claim.

F. Nonexclusive Use and Public Access. Unless expressly provided for in additional terms, use of the permit area is not exclusive. The Forest Service reserves the right to use or allow others to use any part of the permit area, including roads, for any purpose, provided, such use does not materially interfere with the holder's authorized use. A final determination of conflicting uses is reserved to the Forest Service.

G. Forest Service Right of Entry and Inspection. The Forest Service has the right of unrestricted access of the

permitted area or facility to ensure compliance with laws, regulations, and ordinances and the terms and conditions of this permit.

H. Assignability. This permit is not assignable or transferable. If the holder through death, voluntary sale or transfer, enforcement of contract, foreclosure, or other valid legal proceeding ceases to be the owner of the improvements, this permit shall terminate.

I. Permit Limitations. Nothing in this permit allows or implies permission to build or maintain any structure or facility, or to conduct any activity unless specifically provided for in this permit. Any use not specifically identified in this permit must be approved by the authorized officer in the form of a new permit or permit amendment.

## II. TENURE AND ISSUANCE OF A NEW PERMIT

A. Expiration at the End of the Authorized Period. This permit will expire at midnight on **12/31/2041**. Expiration shall occur by operation of law and shall not require notice, any decision document, or any environmental analysis or other documentation.

B. Minimum Use or Occupancy of the Permit Area. Use or occupancy of the permit area shall be exercised at least 50 days each year, unless otherwise authorized in writing under additional terms of this permit.

C. Notification to Authorized Officer. If the holder desires issuance of a new permit after expiration, the holder shall notify the authorized officer in writing not less than six (6) months prior to the expiration date of this permit.

D. Conditions for Issuance of a New Permit. At the expiration or termination of an existing permit, a new permit may be issued to the holder of the previous permit or to a new holder subject to the following conditions:

1. The authorized use is compatible with the land use allocation in the Forest Land and Resource Management Plan.
2. The permit area is being used for the purposes previously authorized.
3. The permit area is being operated and maintained in accordance with the provisions of the permit.
4. The holder has shown previous good faith compliance with the terms and conditions of all prior or other existing permits, and has not engaged in any activity or transaction contrary to Federal contracts, permits laws, or regulations.

E. Discretion of Forest Service. Notwithstanding any provisions of any prior or other permit, the authorized officer may prescribe new terms, conditions, and stipulations when a new permit is issued. The decision whether to issue a new permit to a holder or successor in interest is at the absolute discretion of the Forest Service.

F. Construction. Any construction authorized by this permit may commence by N/A and shall be completed by N/A. If construction is not completed within the prescribed time, this permit may be revoked or suspended.

## III. RESPONSIBILITIES OF THE HOLDER

A. Compliance with Laws, Regulations, and other Legal Requirements. The holder shall comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, and maintenance of any facility, improvement, or equipment on the property.

B. Plans. Plans for development, layout, construction, reconstruction, or alteration of improvements on the permit area, as well as revisions of such plans, must be prepared by a qualified individual acceptable to the authorized officer and

shall be approved in writing prior to commencement of work. The holder may be required to furnish as-built plans, maps, or surveys, or other similar information, upon completion of construction.

C. Maintenance. The holder shall maintain the improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this authorization. If requested, the holder shall comply with inspection requirements deemed appropriate by the authorized officer.

D. Hazard Analysis. The holder has a continuing responsibility to identify all hazardous conditions on the permit area which would affect the improvements, resources, or pose a risk of injury to individuals. Any non-emergency actions to abate such hazards shall be performed after consultation with the authorized officer. In emergency situations, the holder shall notify the authorized officer of its actions as soon as possible, but not more than 48 hours, after such actions have been taken.

E. Change of Address. The holder shall immediately notify the authorized officer of a change in address.

F. Change in Ownership. This permit is not assignable and terminates upon change of ownership of the improvements or control of the business entity. The holder shall immediately notify the authorized officer when a change in ownership or control of business entity is pending. Notification by the present holder and potential owner shall be executed using Form SF-299 Application for Transportation and Utility Systems and Facilities of Federal Lands, or Form FS-2700-3a, Holder Initiated Revocation of Existing Authorization, Request for a Special Use Permit. Upon receipt of the proper documentation, the authorized officer may issue a permit to the party who acquires ownership of, or a controlling interest in, the improvements or business entity.

#### IV. LIABILITY

For purposes of this section, "holder" includes the holder's heirs, assigns, agents, employees, and contractors.

A. The holder assumes all risk of loss to the authorized improvements.

B. Subject only to the limits on the holder's liability under Title 24, Article 10, of the Colorado Governmental Immunity Act (CGIA), Colorado Revised Statutes (C.R.S.) §§ 24-10-101 through 24-10-119, the holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's heirs, agents, employees, or contractors in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to those environmental laws listed in clause III.A of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous substance, pollutant, contaminant, oil in any form, or petroleum product into the environment. This clause shall survive termination or revocation of this permit, regardless of cause.

C. The Forest Service has no duty, either before or during the term of this permit, to inspect the property or to warn of hazards. If the Forest Service inspects the property, the Forest Service shall not incur any additional duty or liability for hazards not identified or discovered through the inspections.

D. The holder has an affirmative duty to protect from injury and damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, agents, employees or contractors on, or related to, the lands, property, and other interests covered by this permit. For purposes of this clause, "hazardous material" shall mean any hazardous

substance, pollutant, contaminant, hazardous waste, oil, and/or petroleum product, as those terms are defined under any Federal, State, or local law or regulation.

1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use or occupancy of the site. If the environment or any government property covered by this permit becomes damaged during the holder's use or occupancy of the site, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

2. Subject only to the limits on the holder's liability under Title 24, Article 10 of the CGIA, C.R.S. §§ 24-10-101 through 24-10-119, the holder shall indemnify, defend, and hold harmless the United States for any damages arising out of the holder's use or occupancy authorized by this permit. The holder shall be liable for all injury, loss, or damage, including fire suppression or other costs associated with rehabilitation or restoration of natural resources, associated with the holder's use and/or occupancy. Compensation shall include but is not limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other associated costs.

3. With respect to roads, the holder shall be liable for damages to all roads and trails of the United States caused by use of the holder or the holder's heirs, agents, employees, and contractors to the same extent as provided under clause IV.D.1, except that liability shall not include reasonable and ordinary wear and tear.

E. Clauses IV.B and IV.D.2 shall not be interpreted to limit any of the holder's liability for, or prevent the United States from taking any action to address, injury, loss, damages, or costs associated with environmental contamination, injury to natural resources, or other cause of action that arises under other law, including the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 *et seq.*, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601 *et seq.*, and the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*, in connection with the holder's use or occupancy of Federal lands, or to diminish any independent obligation of the holder to indemnify the United States with respect to the same.

F. The holder has a continuing responsibility to identify and abate hazardous conditions in the permit area which could affect the improvements or pose a risk of injury to individuals. The holder shall consult with the authorized officer before taking any action to abate these hazards.

G. The authorized officer has determined through a risk assessment that the potential liability of the United States for property damage and personal injury or death arising from the holder's use or occupancy authorized by this permit is \$ 25 K per incident.

1. The holder shall maintain commercial general liability (CGL) coverage with a combined single limit self-insurance and/or insurance procured from a third party covering property damage and personal injury or death for \$ 5 million per incident and \$ N/A in the aggregate. The holder shall pay the premiums for any insurance procured under this clause. The self-insurance documentation shall name the United States as a certificate holder, and the procured insurance policy shall name the United States as an additional insured. The coverage under both types of insurance shall extend to property damage and personal injury or death arising from the holder's activities under the permit, including use or occupancy of National Forest System lands and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by the permit. If the aggregate coverage limit is reached or exceeded and the holder fails to obtain an increase in the aggregate coverage limit or to procure additional insurance, this permit shall terminate. The holder shall provide notice within 48 hours to the Director of Physical Resources, Rocky Mountain Region (303) 275-5350, if the aggregate coverage limit in the procured insurance policy is reached or exceeded during the policy period.

2. Notwithstanding clauses IV.B and IV.D.2 of this permit, any limitation on the holder's liability under State law, including but not limited to the holder's sovereign immunity and the liability under Title 24, Article 10, of the CGIA, C.S.A.

§§ 24-10-101 through 24-10-119, that may apply to this permit shall not be construed in any way to impinge upon the ability of the United States to recover under the self-insurance or any procured insurance policy. CGL insurance shall be written on ISO occurrence form CG 00 01 12 07 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). The United States shall be included as an additional insured under the CGL insurance policy, using USDA Forest Service additional insured form FS-2700-33. Nothing in this clause precludes the holder or the insurer from asserting any defense that may be available to the holder, including sovereign immunity, in an action brought against the holder.

3. The Forest Service reserves the right to review and approve the self-insurance documentation and any procured insurance policy. The holder shall provide the authorized officer with a copy of the approved self-insurance documentation and an authenticated copy of any procured insurance policy to the Forest Service immediately upon approval or issuance. The self-insurance documentation and any procured insurance policy shall specify that the Forest Service shall be given 30 days prior written notice of cancellation or any modification of the self-insurance documentation or procured insurance policy.

4. If there is a conflict between this permit, the certificate of insurance or insurance policy provided by the Colorado Risk Management Division ("the certificate" or "the insurance policy"), and/or the Colorado Risk Management Division's insurance policy manuals ("insurance policy manuals"), the order of precedence among those documents shall be (1) this permit; (2) the certificate or insurance policy; and (3) the insurance policy manuals.

5. If a claim is submitted to the United States for property damage and personal injury or death arising from the holder's use or occupancy authorized by this permit, the Forest Service shall tender the defense of the claim to the respective representatives of the self-insurance and procured insurance providers. The holder understands that tort claims against the United States are governed by the Federal Tort Claims Act, which may result in the administrative denial of a claim. The holder further understands that in litigation the United States is represented by the United States Department of Justice (USDOJ) and agrees that representatives of the self-insurance and procured insurance providers will coordinate the defense with USDOJ, if a claim is litigated.

H. In the event of any breach of the conditions of this authorization by the holder, the authorized officer may, on reasonable notice, cure the breach for the account at the expense of the holder. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States' rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional fees hereunder and shall be due from the holder to the Forest Service on the first day of the month following such election.

## **V. TERMINATION, REVOCATION, AND SUSPENSION**

A. General. For purposes of this permit, "termination", "revocation", and "suspension" refer to the cessation of uses and privileges under the permit.

"Termination" refers to the cessation of the permit under its own terms without the necessity for any decision or action by the authorized officer. Termination occurs automatically when, by the terms of the permit, a fixed or agreed upon condition, event, or time occurs. For example, the permit terminates at expiration. Terminations are not appealable.

"Revocation" refers to an action by the authorized officer to end the permit because of noncompliance with any of the prescribed terms, or for reasons in the public interest. Revocations are appealable.

"Suspension" refers to a revocation which is temporary and the privileges may be restored upon the occurrence of prescribed actions or conditions. Suspensions are appealable.

B. Revocation or Suspension. The Forest Service may suspend or revoke this permit in whole or part for:

1. Noncompliance with Federal, State, or local laws and regulations.
2. Noncompliance with the terms and conditions of this permit.
3. Reasons in the public interest.

4. Abandonment or other failure of the holder to otherwise exercise the privileges granted.

C. Opportunity to Take Corrective Action. Prior to revocation or suspension for cause pursuant to Section V (B), the authorized officer shall give the holder written notice of the grounds for each action and a reasonable time, not to exceed 90 days, to complete the corrective action prescribed by the authorized officer.

D. Removal of Improvements. Prior to abandonment of the improvements or within a reasonable time following revocation or termination of this authorization, the holder shall prepare, for approval by the authorized officer, an abandonment plan for the permit area. The abandonment plan shall address removal of improvements and restoration of the permit area and prescribed time frames for these actions. If the holder fails to remove the improvements or restore the site within the prescribed time period, they become the property of the United States and may be sold, destroyed or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all cost associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

## VI. FEES

A. Termination for Nonpayment. This permit shall automatically terminate without the necessity of prior notice when land use rental fees are 90 calendar days from the due date in arrears.

B. The holder shall pay annually in advance a sum determined by the Forest Service to be the fair market value of the use granted by this authorization. The initial payment is set at **\$214.95** for the remainder of the calendar year. Subsequent payments shall be determined by the use of an annual fee schedule. The Forest Service may adjust the amount of payment annually by an appropriate indexing factor to reflect more nearly the fair market value of the use. At certain intervals the Forest Service shall review the fee and adjust the fee as necessary to assure that it is commensurate with the fair market value of the authorized rights and privileges, as determined by appraisal or other sound business management principles.

C. Payment Due Date. The payment due date shall be the close of business on January 1 of each calendar year payment is due. Payments in the form of a check, draft, or money order are payable to USDA, Forest Service. Payments shall be credited on the date received by the designated Forest Service collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

D. Late Payment Interest, Administrative Costs and Penalties Pursuant to 31 U.S.C. 3717, et seq., interest shall be charged on any fee amount not paid within 30 days from the date the fee or fee calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the fee or fee calculation financial statement is due.

In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquency will be assessed.

A penalty of 6 percent per annum shall be assessed on the total amount delinquent in excess of 90 days and shall accrue from the same date on which interest charges begin to accrue.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

Disputed fees are due and payable by the due date. No appeal of fees will be considered by the Forest Service without full payment of the disputed amount. Adjustments, if necessary, will be made in accordance with settlement terms or the appeal decision.

If the fees become delinquent, the Forest Service will:

Liquidate any security or collateral provided by the authorization.

If no security or collateral is provided, the authorization will terminate and the holder will be responsible for delinquent fees as well as any other costs of restoring the site to its original condition including hazardous waste cleanup.

Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* Delinquencies may be subject to any or all of the following conditions:

Administrative offset of payments due the holder from the Forest Service.

Delinquencies in excess of 60 days shall be referred to United States Department of Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), (1).

The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, *et seq.*)

## VII. OTHER PROVISIONS

A. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this permit either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

B. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

C. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses shall control.

D. Superseded Permit. This permit supersedes a special use permit designated:

CITY OF ENGLEWOOD, DIL 100701, dated 09/28/1998.

E. Augmentation Plans for Existing Water Rights (R2-D-108). In the event that the authorized facilities/activities result in an out-of-priority diversion that requires augmentation, the Forest Service authorized officer must approve the augmentation plan in writing prior to the applicant submitting the plan for final decree by the court.

F. Water Rights, Boulder Canyon Act (R2-X-102). This authorization is issued subject to the Boulder Canyon Project Act of December 21, 1928 (45 Stat., 1064).

G. Water Rights (R2-X-103). This authorization confers no right to the use of water by the Holder; such rights must be obtained under State law.

H. Disputes (X96). Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto.

This permit is accepted subject to the conditions set out above.

HOLDER: CITY OF ENGLEWOOD

U.S. DEPARTMENT OF AGRICULTURE  
Forest Service

By: \_\_\_\_\_  
(Holder Signature)

By: \_\_\_\_\_  
(Authorized Officer Signature)

Title: James K. Woodward, Mayor  
(Name and Title)

Title: SCOTT G. FITZWILLIAMS, Forest Supervisor  
(Name and Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 975-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

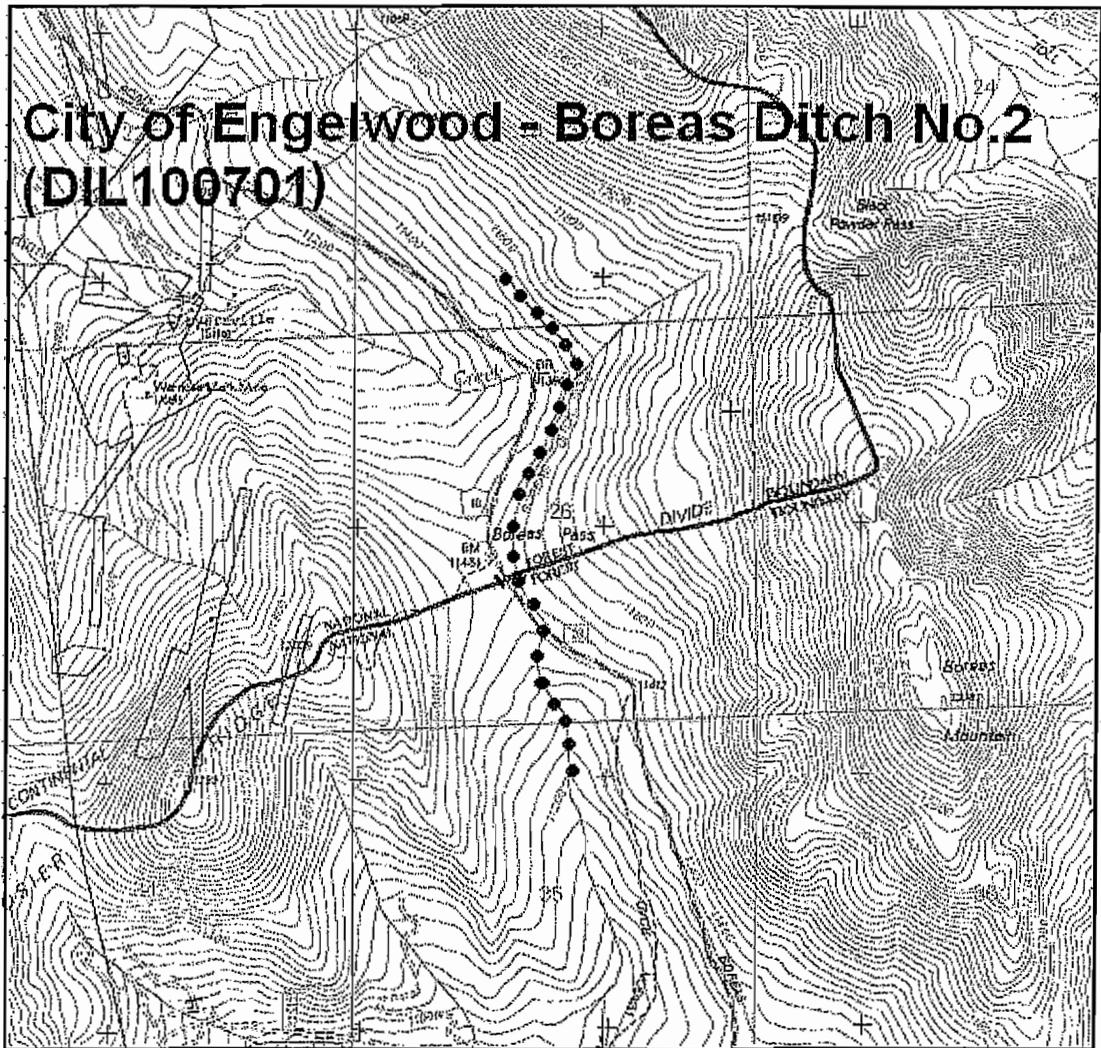
APPENDIX A

City of Englewood

Boreas Ditch No. 2 -DIL790 (Formerly DIL100701)

This permit covers 4.48 acres or 1.48 miles and is described as a 25 foot right-of-way located in the NW1/4NE1/4 Sec. 35, E1/2W1/2 Sec. 26, SW1/4 Sec. 23, T. 7 S., R. 77 W., 6th P.M

[Boreas Pass Quadrangle Map, Scale = 1: 24,000]



Risk Assessment for Boreas Ditch #2 and Facility  
On United States Forest Service Site

**1. Name of Site: Boreas Ditch #2**

**A. What is the Specific Activity:**

The activity is the operation and maintenance of 7,800 feet of a ditch and buried pipeline (4,700 ft on the north side and 3,100 ft on the south side of Boreas Pass called the Boreas Ditch #2 and facility (a secured concrete vault.) The location is NW ¼ NE ¼ Sec. 35, E1/2W1/2 Sec. 26, and SW1/4 Sec 23, T. 7 S., R. 77W. 6<sup>th</sup> P.M. "the permit area". The permit is described as a 25 foot right-of-way. The term of the lease is 30 years.

**B. Identify the risks associated with the activity and potential loss exposures:**

a. Risk Identification:

Loss to property and others

Hazards:

- Equipment Failure
- Fire
- Lightning
- Flooding
- Open ditch
- Employee injury
- Accidents to Public

Frequency and severity of Accidents:

| <u>Frequency</u> | <u>Severity</u> | <u>Risk Rating</u> |
|------------------|-----------------|--------------------|
| Certain          | Catastrophic    | Extreme            |
| Likely           | Severe          | High               |
| Possible         | Excessive       | Moderate           |
| Not Likely       | Moderate        | Low                |
|                  | Minor           |                    |

**Risk Ratings:** Extreme (consider not doing the activity), High (higher involvement of risk control, risk transfer and change in insurance limits), Moderate (monitor exposures with risk control), Low (Manage the risk with procedures, regular inspections and insurance limits).

**History of Claims at this site:** None

| Potential Loss Exposure | Frequency  | Severity | Risk Rating |
|-------------------------|------------|----------|-------------|
| Employee Injury         | Possible   | Moderate | Low         |
| Injury to Public        | Not likely | Moderate | Low         |
| Fire                    | Not likely | Severe   | Low         |
| Flooding                | Possible   | Minor    | Low         |
| Lightning               | Likely     | Moderate | Low         |
| Equipment Failure       | Not Likely | Minor    | Low         |

**C. Based on risk assessment and risk rating for each exposure, the following are the tools used to mitigate or manage the risks listed.**

- Satellite Antenna with ground wire is located outside vault on 12' pole which runs on batteries in the vault. Other than antenna there would be no further lightning exposure.
- Fire exposure: All items on site are non-combustible. Vault is concrete in ground approximately 8 to 10' deep with a locked metal cover. Inside the vault is a recorder/flume. Outside the vault is a metal turnout gate.
- Equipment failure within the vault would result in no record of water flow. No damage would result as the amount of water would be the same amount that would naturally flow from a snowfield through natural drainage into the Blue River Drainage.
- Flooding should there be a leak in the pipe or open ditch would result in little to no damage. The maximum amount of leakage would be 3 cfs. There is a distance to the road of approximately 30'. The open ditch is approximately 4' deep and the ditch is about 8' wide which would reduce any potential flooding to minimal water loss with no damage to property.
- Employees and/or independent contractors receive training for inspection and maintenance of equipment in vault.

- During the months of May-Oct the site is inspected on a weekly basis. Water runs during the months of May – August only.
- Injuries to Public are unlikely because of the of the location and the security of the vault.

**D. Insurance Coverage Assessment:**

The City of Englewood maintains General Liability coverage for bodily injury, and/or property damage to others in the amount of \$5 million per occurrence. The City also provides workers' compensation insurance as required by State of Colorado Workers' Compensation.

Attached: 2 maps

*J. Benefits/Risk Manager  
City of Englewood*



Decimal Grid

DMS Grid

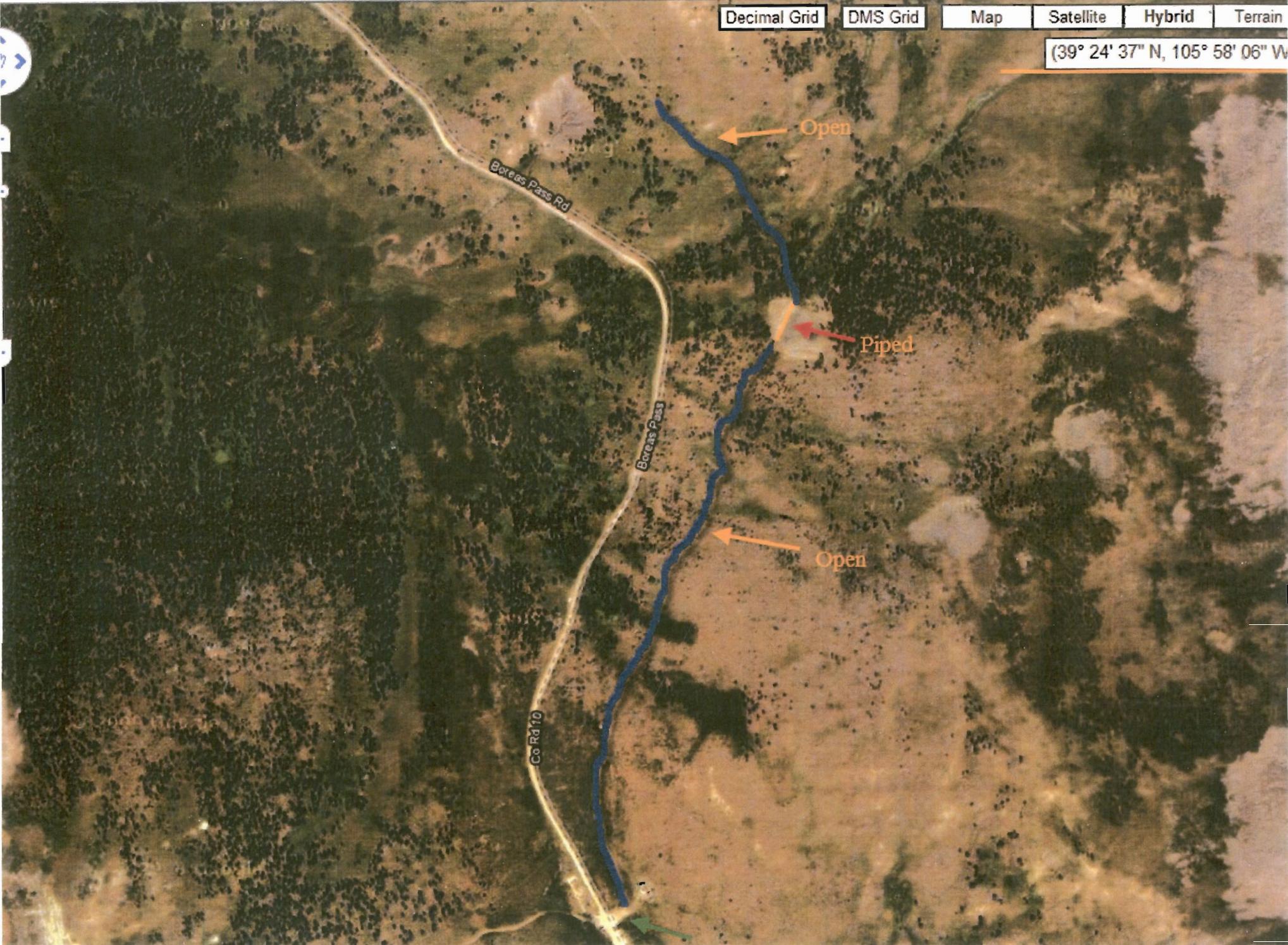
Map

Satellite

Hybrid

Terrain

(39° 24' 37" N, 105° 58' 06" W)



BOREAS DITCH #2 RECORDER VAULT

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2011

COUNCIL BILL NO. 9  
 INTRODUCED BY COUNCIL  
 MEMBER WILSON

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL WASTEWATER CONNECTOR'S AGREEMENT BETWEEN SOUTH ARAPAHOE SANITATION DISTRICT AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the City of Englewood owns and operates a sewage system, including a sewage treatment plant which is jointly owned and operated with the City of Littleton known as the L/E Wastewater Treatment Plant (WWTP); and

WHEREAS, the L/E WWTP provides sanitary sewer service to districts outside of the Englewood corporate boundaries through a standard connector's agreement; and

WHEREAS, the South Arapahoe Sanitation District Wastewater desires to utilize the L/E WWTP for treatment of the District's sewage; and

WHEREAS, the South Arapahoe Sanitation District has 9,750 taps; and

WHEREAS, the L/E WWTP is situated physically as to be able to receive and treat the sewage from a designated area served by the South Arapahoe Sanitation District and gathered by the District's sanitary sewage system; and

WHEREAS, South Arapahoe Sanitation District will continue to own the lines and will be responsible for capital improvements and maintenance in its system; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended approval of the South Arapahoe Sanitation Wastewater Connector's Agreement at the January 11, 2011 meeting;

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

Section 1. The Intergovernmental Agreement between the City of Englewood and South Arapahoe Sanitation District entitled "Wastewater Connector's Agreement" is hereby approved; a copy is attached hereto as Exhibit 1.

Section 2. The Mayor is authorized to execute and City Clerk to attest and seal the Intergovernmental "Wastewater Connector's Agreement", for and on behalf of the Englewood City Council.

Introduced, read in full, and passed on first reading on the 22 day of February, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25th day of February, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of February, 2011 for thirty (30) days.

Read by title and passed on final reading on the 7<sup>th</sup> day of March, 2011.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2011, on the 11th day of March, 2011.

Published by title on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2011.

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Loucrishia A. Ellis

WASTEWATER  
CONNECTOR'S AGREEMENT  
For Districts

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

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

WITNESSETH

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

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

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

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

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

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

the City does not guarantee the accuracy or completeness of government regulations other than the City's own regulations.

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

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

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

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

7. Subject to the terms of the Taxpayer's Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time the District agrees that all effluent produced from taps within the District shall not be in violation of any federal, state or City laws, rules or regulations, or any other applicable governmental regulations or the permits under which the City operates its sewage treatment system. The City

agrees, during the term hereof, to treat said effluent and to maintain adequate facilities for treating the same.

8. The District agrees that it will maintain, at its own expense, all lines now owned and operated by the District, it being specifically agreed that the City assumes no responsibility should any of the District's lines become clogged, damaged, or require maintenance. The District shall, if it deems necessary, notify its users of the District's procedure to remedy service disruption.
9. The City is providing only sewage treatment service and, pursuant thereto; permits incidental to the use of the City's sewage lines shall be governed only by this individual Contract with the District and the City does not, by this Contract, offer treatment service except in strict accordance with the terms hereof. This Contract does not offer, and shall not be construed as offering, sewage treatment service to the public generally or to any area outside the limits of the District's service area described in Exhibit A.
10. This Contract may not be assigned, sold or transferred by the District without the City's written consent.
11. Should any federal law, rule, permit or regulation or should a decree or order of a court render void or unenforceable any provision of this Contract, in whole or in part, the remainder shall remain in full force and effect.
12. The District shall enforce this Agreement and each of its terms and conditions within the area described in "Exhibit A." The District shall refuse to serve a user or potential user; disconnect the service of any user pursuant to appropriate law; or take other appropriate action in the event of:
  - a. Nonpayment of such user of any charge made by the City for services;
  - b. Any violation or noncompliance by such user with the terms of this Agreement;
  - c. Violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, including the Department of Health, or other law, rule, permit or applicable regulation.
13. Continued breach of this Agreement by the District and/or its users shall be considered cause for the City to terminate this Agreement. Should the District fail to promptly rectify a breach of any provisions identified herein, after notice thereof, the City may take such steps and do such work as it deems necessary to enforce this Agreement, including litigation and specifically a right to injunction or specific performance against the District or any of its users as is necessary to protect the City's system and operations. The prevailing party shall be entitled to expenses and costs of suit, including attorney fees.
14. Should more than one district be connected to a sewer line, all districts on the sewer line who are in breach of this Agreement shall be jointly and severally liable for any such breach of this Agreement and each such district shall immediately, after notice, rectify any problem or condition detrimental to the treatment process arising within its legal boundaries. When more than one district is connected to a sewer line, and the City

discovers any violation of the terms of this connector's agreement; the City shall not be required to prove which district is at fault but shall make available to all such affected districts all information developed or accumulated by the City pertaining to such breach. Nothing contained herein shall preclude a claim for indemnity or contribution by any District against another District connected to a common sewer line. CRS-13-21-111.5 shall govern the percentage of liability of any district on a common sewer line in the event the City seeks to impose liability based upon negligence or fault.

- 15. This Contract shall not be used as a legal defense or prohibition to the mandatory consolidation of facilities by either party as may be required by the laws of the State of Colorado of all existing sewer collection systems and facilities to a governmental entity created to assume responsibility for sewer service in the area in which both the City and State are a part under statutory or constitutional authority.

CITY OF ENGLEWOOD, COLORADO

\_\_\_\_\_  
James K. Woodward , Mayor

ATTEST:

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

SOUTH ARAPAHOE SANITATION DISTRICT

\_\_\_\_\_  
, Chairman

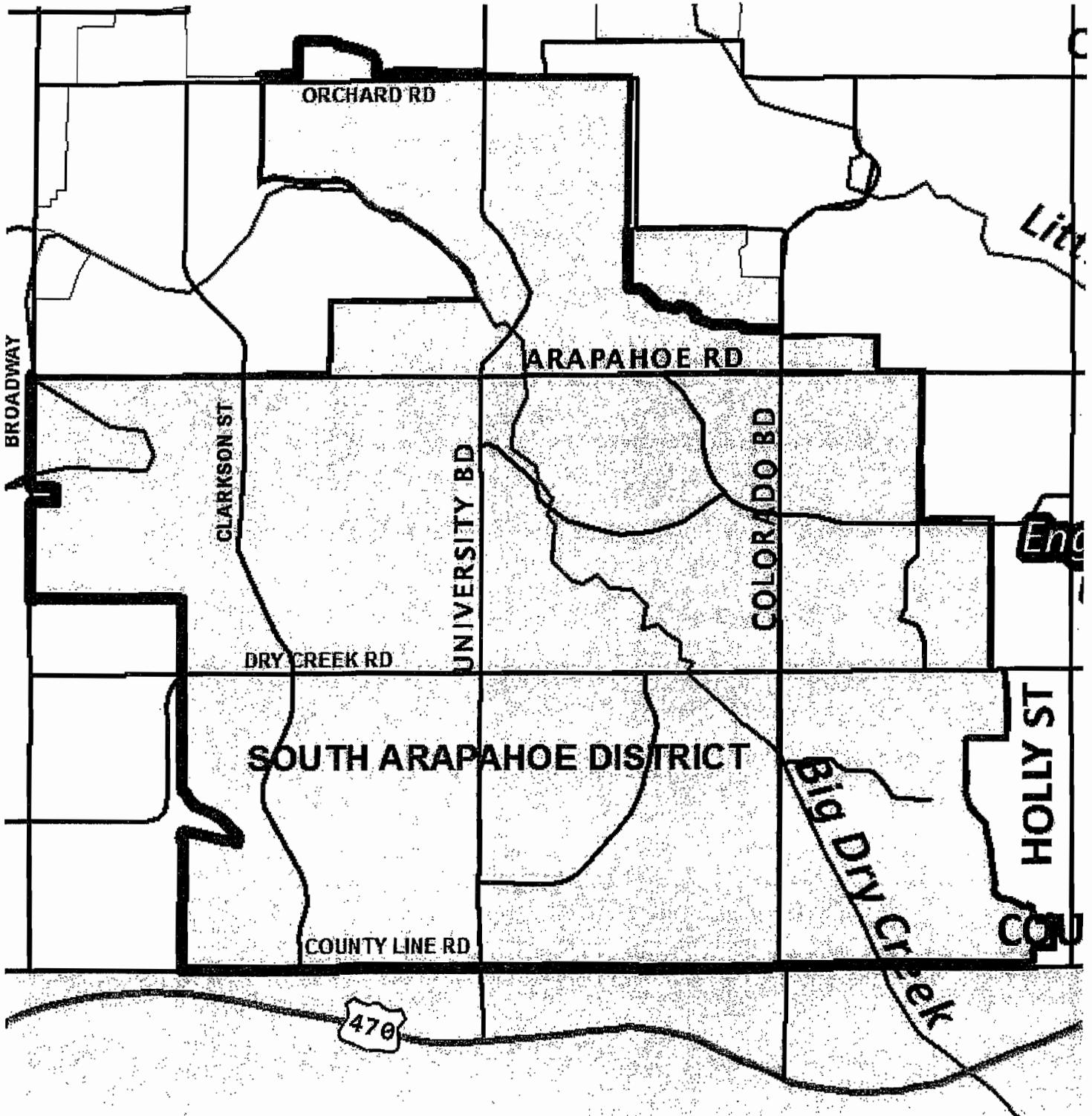
STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_.

Witness my hand and official seal.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC



BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

COUNCIL BILL NO. 10  
INTRODUCED BY COUNCIL  
MEMBER WILSON

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL WASTEWATER CONNECTOR’S AGREEMENT BETWEEN GREENWOOD VILLAGE SANITATION DISTRICT AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the City of Englewood owns and operates a sewage system, including a sewage treatment plant which is jointly owned and operated with the City of Littleton known as the L/E Wastewater Treatment Plant (WWTP); and

WHEREAS, the L/E WWTP provides sanitary sewer service to districts outside of the Englewood corporate boundaries through a standard connector’s agreement; and

WHEREAS, the Greenwood Village Sanitation District desires to utilize the L/E WWTP for treatment of the District’s sewage; and

WHEREAS, the Greenwood Village Sanitation District has 424 taps; and

WHEREAS, the L/E WWTP is situated physically as to be able to receive and treat the sewage from a designated area served by the Greenwood Village Sanitation District and gathered by the District’s sanitary sewage system; and

WHEREAS, Greenwood Village Sanitation District will continue to own the lines and will be responsible for capital improvements and maintenance in its system; and

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended approval of the Greenwood Village Sanitation District Wastewater Connector’s Agreement at the January 11, 2011 meeting;

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

Section 1. The Intergovernmental Agreement between the City of Englewood and Greenwood Village Sanitation District entitled “Wastewater Connector’s Agreement” is hereby approved; a copy is attached hereto as Exhibit 1.

Section 2. The Mayor is authorized to execute and City Clerk to attest and seal the Intergovernmental “Wastewater Connector’s Agreement”, for and on behalf of the Englewood City Council.

Introduced, read in full, and passed on first reading on the 22 day of February, 2011.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 25th day of February, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of February, 2011 for thirty (30) days.

Read by title and passed on final reading on the 7<sup>th</sup> day of March, 2011.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2011, on the 11th day of March, 2011.

Published by title on the City's official website beginning on the 9th day of March, 2011 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 2011.

---

Loucrishia A. Ellis

WASTEWATER  
CONNECTOR'S AGREEMENT  
For Districts

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

THIS AGREEMENT, made and entered into this 6<sup>th</sup> day of December, 2010 to be effective as of December 6, 2010; by and between the CITY OF ENGLEWOOD, COLORADO, a municipal corporation, hereinafter referred to as "City," acting by and through its duly elected, qualified and authorized Mayor and City Clerk, and GREENWOOD VILLAGE GENERAL IMPROVEMENT DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (District), hereinafter called "District," acting by and through its authorized Representative.

WITNESSETH

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

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

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

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

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

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

the City does not guarantee the accuracy or completeness of government regulations other than the City's own regulations.

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

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

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

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

7. Subject to the terms of the Taxpayer's Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time the District agrees that all effluent produced from taps within the District shall not be in violation of any federal, state or City laws, rules or regulations, or any other applicable governmental regulations or the permits under which the City operates its sewage treatment system. The City

agrees, during the term hereof, to treat said effluent and to maintain adequate facilities for treating the same.

8. The District agrees that it will maintain, at its own expense, all lines now owned and operated by the District, it being specifically agreed that the City assumes no responsibility should any of the District's lines become clogged, damaged, or require maintenance. The District shall, if it deems necessary, notify its users of the District's procedure to remedy service disruption.
9. The City is providing only sewage treatment service and, pursuant thereto; permits incidental to the use of the City's sewage lines shall be governed only by this individual Contract with the District and the City does not, by this Contract, offer treatment service except in strict accordance with the terms hereof. This Contract does not offer, and shall not be construed as offering, sewage treatment service to the public generally or to any area outside the limits of the District's service area described in Exhibit A.
10. This Contract may not be assigned, sold or transferred by the District without the City's written consent.
11. Should any federal law, rule, permit or regulation or should a decree or order of a court render void or unenforceable any provision of this Contract, in whole or in part, the remainder shall remain in full force and effect.
12. The District shall enforce this Agreement and each of its terms and conditions within the area described in "Exhibit A." The District shall refuse to serve a user or potential user; disconnect the service of any user pursuant to appropriate law; or take other appropriate action in the event of:
  - a. Nonpayment of such user of any charge made by the City for services;
  - b. Any violation or noncompliance by such user with the terms of this Agreement;
  - c. Violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, including the Department of Health, or other law, rule, permit or applicable regulation.
13. Continued breach of this Agreement by the District and/or its users shall be considered cause for the City to terminate this Agreement. Should the District fail to promptly rectify a breach of any provisions identified herein, after notice thereof, the City may take such steps and do such work as it deems necessary to enforce this Agreement, including litigation and specifically a right to injunction or specific performance against the District or any of its users as is necessary to protect the City's system and operations. The prevailing party shall be entitled to expenses and costs of suit, including attorney fees.
14. Should more than one district be connected to a sewer line, all districts on the sewer line who are in breach of this Agreement shall be jointly and severally liable for any such breach of this Agreement and each such district shall immediately, after notice, rectify

any problem or condition detrimental to the treatment process arising within its legal boundaries. When more than one district is connected to a sewer line, and the City discovers any violation of the terms of this connector's agreement; the City shall not be required to prove which district is at fault but shall make available to all such affected districts all information developed or accumulated by the City pertaining to such breach. Nothing contained herein shall preclude a claim for indemnity or contribution by any District against another District connected to a common sewer line. CRS-13-21-111.5 shall govern the percentage of liability of any district on a common sewer line in the event the City seeks to impose liability based upon negligence or fault.

15. This Contract shall not be used as a legal defense or prohibition to the mandatory consolidation of facilities by either party as may be required by the laws of the State of Colorado of all existing sewer collection systems and facilities to a governmental entity created to assume responsibility for sewer service in the area in which both the City and State are a part under statutory or constitutional authority.

CITY OF ENGLEWOOD, COLORADO

\_\_\_\_\_  
James K. Woodward, Mayor

ATTEST:

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

GREENWOOD VILLAGE GENERAL IMPROVEMENT DISTRICT NO. 1,  
a quasi-municipal corporation and political subdivision of the State of Colorado (District)

\_\_\_\_\_  
Nancy N. Sharpe, President

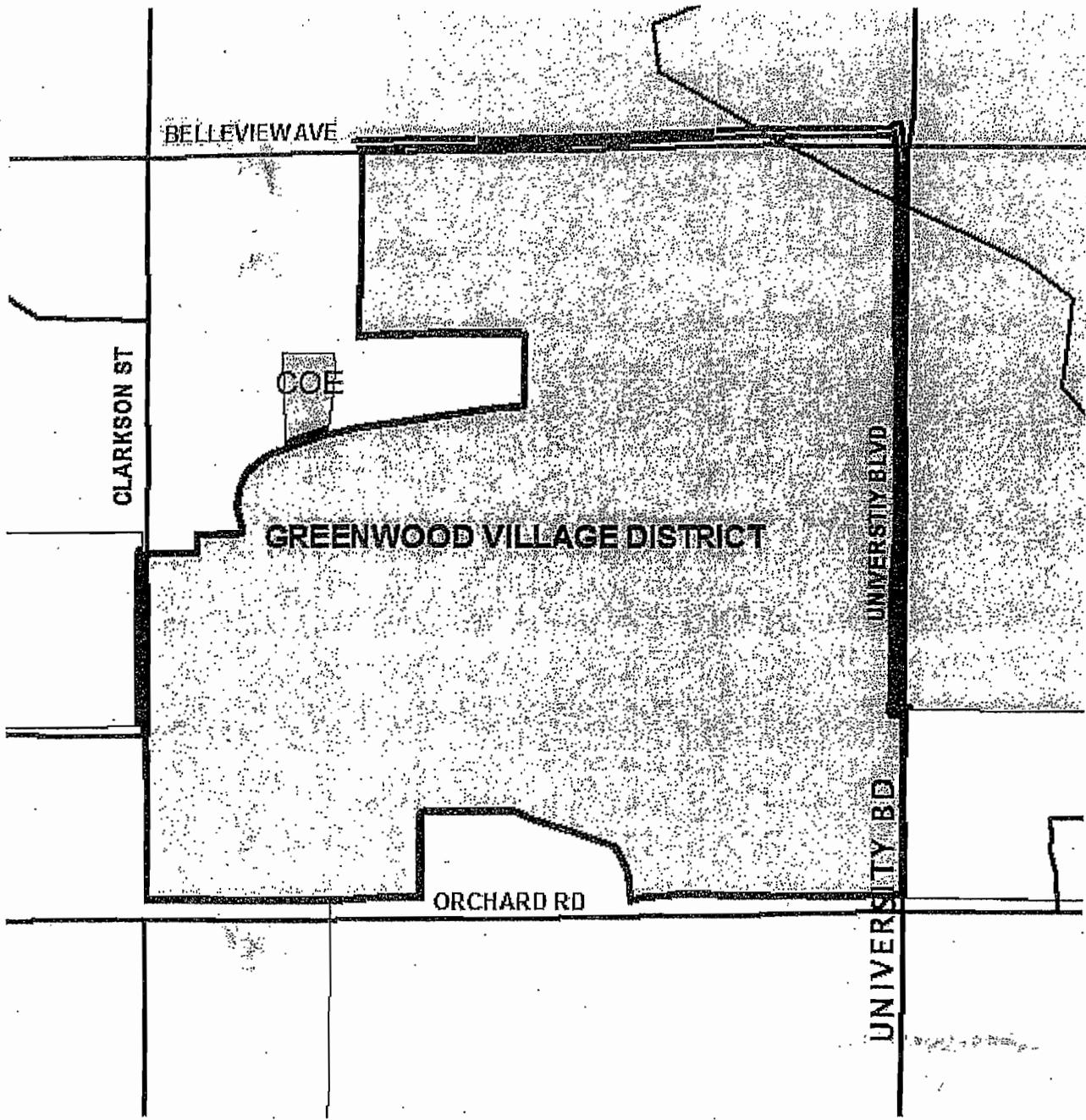
ATTEST:

✓ \_\_\_\_\_  
Susan M. Phillips, Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Tonya Haas Davidson, City Attorney





## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2011

COUNCIL BILL NO. 11  
 INTRODUCED BY COUNCIL  
 MEMBER WILSON

AN ORDINANCE CONSENTING TO THE FIRST AMENDMENT TO DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE RIVER POINT PUBLIC IMPROVEMENT FEE ("PIF Covenant Amendment").

WHEREAS, the City of Englewood owns approximately 54.5 acres that are leased to the Sheridan Redevelopment Agency (the "Agency") pursuant to a Ground Lease dated November 27, 2006; and

WHEREAS, the land that is the subject of the Ground Lease is part of the River Point at Sheridan commercial area that is being developed by Weingarten Miller Sheridan LLC, a Colorado limited liability company ("WMS"), the Ground Lease is for an initial 20-year term, with three 20-year renewal options; and

WHEREAS, as consideration for the Ground Lease, the Agency paid rent of \$4,190,000 for the initial 20-year term, with lesser amounts of rent to be paid for the ensuing three 20-year terms, and, since the land covered by the Ground Lease was part of the original Englewood Golf Course, the Agency agreed to redesign and rebuild, at its expense, a portion of the Englewood Golf Course Complex; and

WHEREAS, in 2007, the Agency issued bonds to finance a portion of the River Point at Sheridan development as an urban renewal project under the Colorado Urban Renewal Law; and

WHEREAS, in order to help pay the Agency's bonds and to pay the city of Sheridan for its added costs in providing municipal services to River Point at Sheridan, WMS, with the approval of the Agency, recorded the Declaration of Covenants Imposing and Implementing the River Point Public Improvement Fee on February 20, 2007 (the "Declaration"), which imposed a one-percent Public Improvement Fee (the "PIF") on sales of goods and services in River Point at Sheridan; and

WHEREAS, the Declaration covers the property that is the subject of the Ground Lease and also the property that is owned by WMS and by the larger retailers in River Point at Sheridan; and

WHEREAS, by the terms of the Declaration, the PIF will end, as to the property that is the subject of the Ground Lease, when the Ground Lease ends, so as not to burden the property of the City of Englewood when control of that property is returned to the City at the end of the Ground Lease;

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 consents to the PIF “First Amendment to Declaration of Covenants Imposing and Implementing the River Point Public Improvement Fee”, attached hereto as Attachment 1, for and on behalf of the City of Englewood, Colorado.

Section 2. The Mayor is authorized to sign the second amendment of the “First Amendment to Declaration of Covenants Imposing and Implementing the River Point Public Improvement Fee” for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 22nd day of February, 2011.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 25th day of February, 2011.

Published as a Bill for an Ordinance on the City’s official website beginning on the 23rd day of February, 2011 for thirty (30) days.

Read by title and passed on final reading on the 7<sup>th</sup> day of March, 2011.

Published by title in the City’s official newspaper as Ordinance No. \_\_\_\_, Series of 2011, on the 11th day of March, 2011.

Published by title on the City’s official website beginning on the 9th day of March, 2011 for thirty (30) days.

---

James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2011.

---

Loucrishia A. Ellis

**FIRST AMENDMENT TO DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE RIVER POINT PUBLIC IMPROVEMENT FEE**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE RIVER POINT PUBLIC IMPROVEMENT FEE (this "PIF Covenant Amendment") is made as of March \_\_\_\_, 2011, by Weingarten Miller Sheridan, LLC, a Colorado limited liability company ("Declarant").

**Recitals**

This PIF Covenant Amendment is made with respect to the following facts:

A. Declarant executed that certain Declaration of Covenants Imposing and Implementing the River Point Public Improvement Fee which was recorded on February 20, 2007, at Reception No. B7021613 of the records of the Clerk and Recorder of Arapahoe County, Colorado (the "Original PIF Covenant").

B. As more fully set forth in the Original PIF Covenant, the PIF Covenant imposed a Public Improvement Fee on certain PIF Sales made within the PIF Property to be used as set forth in the PIF Covenant including, without limitation, for the payment of Public Financing to pay for certain public improvements of the commercial project in the City of Sheridan, Colorado, known as River Point at Sheridan.

C. Sheridan Redevelopment Agency ("Agency") in cooperation with Declarant and others has entered into a refunding of the initial Public Financing and, in connection with the refunding of the initial Public Financing, Agency and Declarant have agreed to amend and restate the PIF Agreement.

D. In connection with the refunding of the initial Public Financing, Declarant desires to amend the PIF Covenant as more particularly set forth herein below.

E. The Agency and the City of Englewood, Colorado desire to evidence that they have taken all appropriate action and do hereby consent to this PIF Covenant Amendment.

NOW, THEREFORE, Declarant amends the PIF Covenant as more particularly set forth herein below:

Section 1. Capitalized terms that are not defined in this PIF Covenant Amendment have the meaning defined in the Original PIF Covenant.

Section 2. The following definitions from Section 1 of the PIF Covenant are amended to read as follows:

"Indenture" means an Indenture of Trust by and between the Agency and the Trustee, as the same may from time to time be in effect, including any supplement or amendment thereto, executed and delivered in connection with any Public Financing.

"PIF Agreement" means a Public Finance and Public Improvement Fee Agreement between the Declarant and the Agency, as the same may from time to time be in effect, including any supplement or amendment thereto, executed and delivered in connection with any Public Financing.

"PIF Covenant" means the Original PIF Covenant, as amended by this PIF Covenant Amendment.

"PIF Property" means the real property described on Exhibit A attached hereto. For the purpose of clarification, the PIF Property has not changed since the date of the Original PIF Covenant. Rather, the names and boundaries of certain lots and blocks and other property located within River Point at Sheridan Subdivision Filing No. 1 have changed as a result of replatting portions of the PIF Property as River Point at Sheridan Filing Nos. 2, 3 and 4.

"Trustee" means the bank or trust company duly incorporated and existing under and by virtue of the laws of any State or of the United States of America that is duly appointed and serving as Trustee under the Indenture.

Section 3. The first sentence of Section 8 of the Original PIF Covenant is deleted in its entirety and replaced with the following:

"The Public Improvement Fee revenues generated pursuant to this PIF Covenant, after deduction of any collection fee under the Collecting Agent Agreement, shall be used to pay Public Financing Requirements in accordance with the terms of the Indenture and the PIF Agreement, Agency administrative costs, and to reimburse the City for the cost of providing municipal services to River Point."

Section 4. Section 16 Amendment by Declarant is deleted in its entirety and replaced with the following:

Section 16. Amendment by Declarant. Subject to the provisions hereof regarding obtaining the prior written approval of the Agency and, if required by the Indenture, the Trustee, Declarant may amend the provisions of this PIF Covenant with the consent of the Owners who hold fee title to not less than seventy-five percent (75%) of the total acreage of the PIF Property; provided, however, that so long as the Englewood Lease remains in effect, the Tenant under the Englewood Lease shall have the sole right of consent as to the land subject to the Englewood Lease; and provided further, that this PIF Covenant shall never impose the Public Improvement Fee on the fee interest of the City of Englewood in the land subject to the Englewood Lease either before or after the Englewood Lease terminates and control of the leased land reverts to the City of Englewood.

Section 5. Except as amended hereby, the terms and provisions of the Original PIF Covenant remain in full force and effect and are hereby ratified and confirmed.

IN WITNESS WHEREOF, Declarant has executed this PIF Covenant Amendment as of the date first set forth above.

WEINGARTEN MILLER SHERIDAN LLC,  
a Colorado limited liability company

By: WEINGARTEN REALTY INVESTORS,  
a Texas Real Estate Investment Trust,  
Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF TEXAS            )  
  )ss.  
COUNTY OF HARRIS        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2011, by \_\_\_\_\_, as \_\_\_\_\_ of Weingarten Realty Investors, a Texas Real Estate Investment Trust, Manager of Weingarten Miller Sheridan LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

CONSENT OF SHERIDAN REDEVELOPMENT AGENCY

SHERIDAN REDEVELOPMENT AGENCY,  
a Colorado urban renewal authority

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

STATE OF COLORADO    )  
                                  )ss.  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2011, by \_\_\_\_\_, as \_\_\_\_\_ of Sheridan Redevelopment Agency, a Colorado urban renewal authority.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

CONSENT OF CITY OF ENGLEWOOD, COLORADO

CITY OF ENGLEWOOD, COLORADO, a  
Colorado home rule municipal corporation

By: \_\_\_\_\_  
Name: James K. Woodward  
Title: Mayor

STATE OF COLORADO    )  
  )ss.  
COUNTY OF ARAPAHOE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2011, by \_\_\_\_\_, as \_\_\_\_\_ of City of Englewood, Colorado, a Colorado home rule municipal corporation.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

Legal Description

RIVER POINT AT SHERIDAN SUBDIVISION FILING NO. 2, COUNTY OF ARAPAHOE, STATE OF COLORADO, ACCORDING TO THE REPLAT RECORDED DECEMBER 19, 2007, UNDER RECEPTION NO. B7158299, EXCEPTING THEREFROM LOT 2, BLOCK 6

RIVER POINT AT SHERIDAN SUBDIVISION FILING NO. 3, COUNTY OF ARAPAHOE, STATE OF COLORADO, ACCORDING TO THE REPLAT RECORDED MARCH 13, 2009 UNDER RECEPTION NO. B9025368

RIVER POINT AT SHERIDAN SUBDIVISION FILING NO. 4, COUNTY OF ARAPAHOE, STATE OF COLORADO, ACCORDING TO THE REPLAT RECORDED NOVEMBER 20, 2008, UNDER RECEPTION NO. B8128635

## PROCEDURE FOR PUBLIC HEARING

**1. Announce Agenda Item.**

“ This is an issue regarding land use in the District and not a specific owner. We want to make sure everyone who wants to be heard gets the opportunity. I will ask if anyone that didn't have the opportunity to sign-up wishes to speak after the last signed-up speaker. We do welcome your input about issues of concern in Englewood.”

**2. Open Public Hearing.**

A. Call for a motion and a second.

B. Clerk records the vote.

C. Mayor States:

“ There are seven members present; therefore four affirmative votes are required to approve this PUD.”

“ City Council is empowered to grant or deny a zoning change by virtue of the Englewood Charter and 16-2-1 of the Englewood Municipal Code.”

“ Is there anyone on Council who has a conflict or feels that he or she cannot make a fair and impartial decision based on the evidence presented at this Public Hearing?”

“ The parameters for this hearing are: The application will be introduced by City Staff and they will present their report and give a preliminary overview of the application before further testimony is taken. Applicants will present their request and reasons the PUD should be allowed; those who have signed up will be given an opportunity to speak; and then staff and applicant may address a closing statement to Council. All parties addressing Council will be sworn or affirmed and shall state their name and address for the record.”

“ We respect that you came to share your input this evening, and we ask that you display that same respect for each other. We'd ask that you do not applaud individual speakers. We want to hear your input. While we understand that the issues and even the fact that you are presenting in a public forum can be an emotional experience, we need to address the facts and want to come to a fair and just conclusion. A respectful and reasoned presentation will help us do that. Please limit your presentation to 5 minutes and times will not be permitted to be transferred to another speaker. The timer at the podium will help you determine your remaining time. We have also received input from citizens, businesses and other interested parties through a variety of correspondence. That correspondence which is in the packet is made a part of the record of tonight's hearing.”

“ At the conclusion of the Public Hearing, Council may have some comments; however, no decisions will be made tonight. A discussion and vote will come forward at our next scheduled Council meeting on Monday, \_\_\_\_\_.”

“ If any correspondence is received or statements are made after the closing of this Public Hearing they will be considered as argument – but can not be used as evidence upon which we will base our decision.”

3. **“We will now have Staff presentation:”**

(Staff introduces self and the case, enters applicable exhibits into the record, and makes a recommendation for Council action.)

4. **“Applicant Presentation:”**

(Applicant presents the case, including presentation of exhibits and formal request for Council.)

5. **Public Testimony:**

Mayor states:

“1) This is the opportunity for public to provide testimony regarding the case.”

“2) All comments should be directed to the Council.”

“3) The Council has established a five (5) minute time limit on speakers other than staff and applicant.”

A. Call public forward who have signed up (in order from sign-up sheet).

B. Speakers are sworn in with name and address for the record.

C. Ask if anyone not signed up would like to testify.

**NOTE:** If subsequent members of the public are repeating what others have already said, Mayor may ask that only those with new testimony come forward.

6. **Final Statement or Rebuttal** (is appropriate by applicant or staff):

A. “This is an opportunity for applicant or staff to state anything further for the record or respond to public comments.”

7. **Close Public Hearing:**

A. Call for a motion and a second to close the public hearing.

B. Clerk records the vote.

***Kells Rule*** – Second reading of an ordinance shall not be heard on the same evening as a public hearing. This rule was developed to allow Council time to consider the testimony presented at the public hearing, to contemplate that information and also to avoid flip-flopping with regard to the last person making a presentation at the podium.

C. “If any correspondence is received or statements are made after the closing of this Public Hearing they will be considered as argument – but can“ If any correspondence is received or statements are made after the closing of this Public Hearing they will be considered as argument – but may not be used as evidence upon which we will base our decision.”

**Next Meeting:**

**1. Motion:**

- A. Call for a motion and a second on the case recommendation. The motion may include conditions, which in the opinion of the moving Council Member should be placed on the request.

**2. Council discussion/Action:**

- A. Council discussion (Staff may be questioned for clarification)

- B. Findings of Fact.

**3. Vote:**

- A. Clerk records the vote.
- B. Clerk announces outcome of vote.

**4. Mayor states the outcome of the vote on the motion.**

## COUNCIL COMMUNICATION

|   |                             |   |
|---|-----------------------------|---|
| <b>Date:</b><br>March 7, 2011   | <b>Agenda Item:</b><br>10 a | <b>Subject:</b><br>Englewood Estates Planned Unit Development (PUD) Amendment No. 1 |
| <b>Initiated By:</b><br>Habitat for Humanity of Metro Denver, Inc.<br>3245 Eliot Street, Denver, Colorado 80211 |                             | <b>Staff Source:</b><br>Brook Bell, Planner II                                      |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approved Englewood Estates Planned Unit Development (PUD) Amendment No. 1 on first reading on February 7, 2011 and scheduled a Public Hearing for March 7, 2011 to gather public input on this matter.

### RECOMMENDED ACTION

Staff recommends that Council consider testimony during Public Hearing on Englewood Estates PUD Amendment No. 1.

### BACKGROUND

Council approved the original Englewood Estates PUD on August 6, 2004 as Ordinance Number 47, Series of 2004.

### PROCEDURE

The Englewood Estates PUD requires that major modifications to the PUD must be reviewed and approved by the same procedure as the original application. Per that requirement, the applicant conducted a neighborhood meeting on February 4, 2010, prior to submitting the application for Amendment No. 1. Notice of the pre-application meeting was mailed to owners of property within 500 feet of the site. Neighborhood meeting notes are included in Exhibit B.

The application for Amendment No. 1 was submitted to the Community Development Department on October 21, 2010. The plans were reviewed by the City's Development Review Team (DRT). Identified issues were adequately addressed by the applicant and the final Englewood Estates PUD Amendment No. 1 packet was submitted on December 14, 2010 for the Planning and Zoning Commission public hearing.

The Planning and Zoning Commission considered Englewood Estates PUD Amendment No. 1 at a Public Hearing on January 5, 2011. The Commission considered testimony and voted 6 - 1 to forward the proposed Amendment No. 1 to Council with the following condition:

1. Amend the rear setback for lots 10 and 11 to 15 feet which is consistent with the rest of the project.

The attached PUD plans have been revised to include the amended setbacks.

## **HISTORY**

**2004** — In 2004 the subject property was rezoned by Council upon a request by Distinctive Builders, LLC from R-1-C residential zoning to Planned Unit Development (PUD). The rezoning allowed for seven single-unit detached dwellings and a one-way private drive that would provide access to the residential lots. Since the PUD rezoning and accompanying subdivision was approved in 2004, no building permits have been applied for and no development has occurred on the property.

**2007** — In 2007 a PUD amendment application was submitted by WSM Properties, LLC to permit a greater amount of dwelling units on the site. The applicant conducted the required neighborhood meeting and a public hearing was held by the Planning and Zoning Commission on August 7, 2007. The Commission recommended that Council approve the PUD amendment; however prior to moving forward to Council, WSM Properties, LLC formally withdrew the application to amend the PUD, citing economic uncertainties. Since the amendment request was withdrawn, it did not move forward to Council; and therefore, the original PUD from 2004 remains in effect.

**2009** — In the fall of 2009, Habitat for Humanity of Metro Denver, Inc. discussed purchasing the property from Distinctive Builders, LLC contingent upon amending the existing PUD to permit a greater amount of dwelling units on the site. On February 4, 2010 Habitat for Humanity held a neighborhood meeting on proposed PUD amendments and subsequently submitted an Amendment application on October 21, 2010. The Planning and Zoning Commission conducted a public hearing on January 5, 2011 and voted 6 - 1 to forward the Amendment to Council with a favorable recommendation for adoption.

## **LOCATION AND ZONING**

The subject property of this PUD amendment is located on the south side of West Quincy Avenue, between South Lipan Street and South Navajo Street. The property is currently a vacant parcel of approximately 1.19 acres. Adjacent properties to the north, east, and south are zoned R-1-C Single-Unit Residential District, and contain single-unit detached dwellings. Adjacent property to the west is zoned I-1 and is used as automotive sales and repair.

## **AMENDMENT NO. 1 OVERVIEW**

The applicant, Habitat for Humanity of Metro Denver, Inc. is proposing the PUD District Plan and Site Plan amendments to address issues related to housing types and infrastructure costs of the original PUD design. The site is being redesigned to provide affordable housing alternatives to Habitat for Humanity homeowners while increasing the number of units and consequently mitigating costs of the private road and other improvements. To date, Habitat for Humanity has constructed 17 homes within the City of Englewood.

**Permitted Uses:** Englewood Estates PUD Amendment No. 1 proposes a change in the type of residential use from one-unit detached dwellings to one-unit detached dwellings and two-unit attached dwellings. In two-unit attached dwellings, homes are attached and share common party walls that are consistent with property lines between the lots. However, each home is on its own lot and has its own utilities, front and rear yard, etc.

**Residential Units:** The proposed amendments include an increase in the number of residential units from seven (7) one-unit detached dwellings, to three (3) one-unit detached dwellings and four (4) two-unit attached dwellings, for a total of eleven (11) dwelling units. This is an increase from 5.88 units per acre to 9.24 units per acre. The individual units are projected to be between 1,280 and 1,496 square feet in size.

**Residential Lots:** Lot sizes vary in both the original PUD and Amendment No. 1. The average lot size in the original PUD is 5,784 square feet or 0.13 of an acre. The average lot size proposed in Amendment No. 1 is 3,454 square feet or 0.08 of an acre. The decrease in lot size is due primarily to the fact that each unit in the two-unit attached dwellings is on its own lot. The minimum required lot size in other R-2 and R-3 zone districts permitting multi-unit dwellings is 3,000 square feet per unit. The minimum required lot size in the adjacent R-1-C zone district is 6,000 square feet.

**Phasing:** The anticipated construction schedule for Englewood Estates PUD Amendment No. 1 is beginning infrastructure in the spring of 2012, commencing homebuilding in the beginning of 2013, and completion in the fall of 2013.

**Setbacks:** A setback is the minimum distance a structure must be located from a property line. The setbacks proposed in the original PUD and Amendment No. 1 are as follows:

| Original PUD   | Amendment No. 1  |
|--|--|
| Front: 10' except garage door face must be 24' minimum from the edge of the private street or Tract A. | Front: 10' except garage door face must be 22' minimum from the edge of the private street or Tract A. |
| Side: 5'-15'   | Side: 4' to 15', except in interior lots where dwelling units are attached the setback is 0'.          |
| Rear: 15'  | Rear: 15'  |

**Building Envelope and Lot Coverage:** A building envelope establishes the limits to the area in which structural development may occur. The building envelope is regulated by the front, side, and rear setbacks. Establishment of the envelope does not mean that all buildings will fill the envelope, only that any structure must be contained within the envelope area.

Amendment No. 1 redesigns the Site plan to permit seven (7) structures containing a total of eleven (11) dwelling units. The total building envelope area for all dwelling units combined in the original PUD is approximately 22,528 square feet. The total building envelope area for all dwelling units combined in the Amendment No. 1 is approximately 20,590 square feet. So while there is an increase in the number of units in Amendment No. 1, the total permitted building envelope area is less than the original PUD.

Amendment No. 1 as proposed specifies a 75% maximum lot coverage including covered patio areas, portions of driveways over 12 feet in width, and walks wider than 5 feet.

**Building Height:** Amendment No. 1 does not propose any changes to the original PUD maximum building height of 32 feet.

**Bulk Plane:** Amendment No. 1 proposes an increase in the height from which the bulk plane begins; from a 12 foot height in the original PUD, to an 18 foot height in the proposed amendment. This is due partially to the proposed grade elevations at the mid-point of the side lot lines, and the relatively narrow lots width for the two-unit dwellings.

**Landscaping:** Amendment No. 1 proposes a decrease in the minimum landscaped area from 40% in the original PUD, to 30% in the proposed amendment. The minimum required landscaped area in other R-2 and R-3 zone districts permitting multi-unit dwellings of more than 4 units is 25%.

**Fencing:** Amendment No. 1 does not propose any changes to fence materials, heights, or general locations.

**Parking:** The original PUD required four off-street parking spaces per unit including two in the garage and two in the driveway. The original PUD also provided four additional off-street guest parking/snow storage spaces for a total of 32 spaces in the PUD. Amendment No. 1 proposes two off-street parking spaces including one in the garage and one in the driveway. Amendment No. 1 also provides eleven (11) additional guest parking/snow storage spaces for a total of 33 spaces in the proposed Amendment No. 1.

**Traffic and Fire Access:** As part of the Amendment No. 1 Site Plan, the private, one-way road has been reconfigured slightly to accommodate the guest parking/snow storage spaces. The proposed one-way road is 20 feet wide at its intersection with West Quincy Avenue and 25 feet wide in front of Lots 4-9.

The Fire Department requires a 26 feet wide access for its larger trucks to set outriggers in the event of a large structure fire. If the 26 feet wide access cannot be met, then the Fire Department requires that buildings be sprinklered. The Amendment No. 1 District plan states that "all buildings in this development shall be fire sprinklered". The proposed one-way road complies with all other emergency services requirements.

**Accessory Structures:** The original PUD prohibited detached garages. The original PUD allowed storage sheds provided they were less than 9 feet in height. Amendment No. 1 prohibits all detached garages and storage sheds.

**Front Loading Garages:** Where alleys are present in the City, it is preferable that garages be rear loaded from the alley. This reduces the presence of driveways and garage doors from the street. Both the original PUD and Amendment No. 1 contain front loading garages as an alley is not viable. The adjacent residential neighborhoods to the north, south, and east are also without alleys and garages are predominantly front loaded.

The original PUD required a two-car garage and accompanying driveway; whereas, Amendment No. 1 requires a one-car garage resulting in a narrower driveway. The conceptual site sketch (Exhibit E) shows the proposed one-car garages set behind the front line of the dwelling on 5 of the 11 units to minimize the garage presence from the street.

**Drainage:** A preliminary drainage report prepared by Carroll & Lange, Inc. was submitted and reviewed by the Public Works Department. A final drainage plan and report will be required by the Public Works Department when the property is re-platted.

**Subdivision Plat:** If the PUD amendment is approved, the property will have to be re-platted to accommodate the site plan modifications.

**Conceptual Site Sketch and Elevations:** The applicant has provided a Conceptual Site Sketch and Elevations (Exhibit E). This Exhibit is not part of PUD Amendment No. 1 or the accompanying Bill for an Ordinance. The Conceptual Site Sketch and Elevations are for information purposes only. The Site Sketch indicates which plan type and elevation is anticipated for each lot. It is projected that the one story unit on Lot 3 will be handicap accessible.

## **AMENDMENT NO. 1 SUMMARY**

Amendment No. 1 to the Englewood Estates PUD proposes the following changes to the original PUD:

- An increase in the number of residential units from seven (7) to eleven (11) dwelling units.
- A change in the type of residential units from seven (7) one-unit detached dwellings, to three (3) one-unit detached dwellings and four (4) two-unit attached dwellings.
- A decrease in the average lot size from 5,784 square feet to 3,454 square feet.
- Minor changes to building setbacks including 0' setbacks for the attached dwelling units.
- An increase in the height from which the bulk plane begins; from a 12 foot height in the original PUD, to an 18 foot height in the proposed amendment.
- A decrease in the amount of parking from 4.5 parking spaces per unit including guest parking to 3.0 parking spaces per unit including guest parking.
- A decrease in the minimum landscaped area from 40% to 30%.
- Minor changes in the private road (Tract A) configuration to accommodate additional parking and snow storage.
- The original PUD allowed storage sheds provided they were less than 9 feet in height. Amendment No. 1 prohibits all storage sheds.

## **PLANNED UNIT DEVELOPMENT REVIEW**

Amendments to Planned Unit Developments are reviewed under the same procedure and criteria as original PUD applications per Englewood Municipal Code (EMC) section 16-2-7.F.2.c. as follows.

1. *The application is, or is not in conformance with the Comprehensive Plan and this Title; and*

Englewood Estates PUD Amendment No. 1 is in conformance with the applicable requirements set forth for the general location, arrangement, extent and character of the development. The proposed amendments comply with the following Comprehensive Plan Housing Goals and Objectives:

Goal 1: "Promote a balanced mix of housing opportunities serving the needs of all current and future Englewood citizens."

Objective 1-1: Provide for affordable housing for low- and moderate-income groups including workforce housing, accessory living units, and efficiency units.

Objective 1-2: Encourage housing that serves different life-cycle stages including housing for singles, couples, small and large families, empty nesters, and the elderly.

Objective 1-3: Encourage housing investments that improve the housing mix, including both smaller and larger unit sizes, and a wider range of housing types, including single-family, duplex, town home, and condominium units.

Objective 1-4: Encourage housing investments that accommodate groups with special needs, including independent and assisted living, as well as full time nursing care.

Goal 2: "Improve the quality of the city's existing housing stock."

Objective 2-1: Encourage home ownership, property improvement, and house additions.

Additionally, the proposed amendments comply with the following Comprehensive Plan Transportation Goals and Objectives:

Goal 3: "Recognize and enhance the relationships between land use and the transportation system."

Objective 3-2: Encourage higher-density, pedestrian-oriented, mixed-use development along primary mass transit routes.

The proposed development is approximately one-third of a mile from the RTD Oxford Light Rail Station.

2. *The application is, or is not consistent with adopted and generally accepted standards of development in the City; and*

Englewood Estates PUD Amendment No. 1 remains consistent with accepted development standards established by the City of Englewood.

3. *The application is, or is not substantially consistent with the goals, objectives, design guidelines, policies and any other ordinance, law or requirement of the City.*

Englewood Estates PUD Amendment No. 1 is in conformance with all other ordinances, laws and requirements of the City.

Amendments to Planned Unit Developments must also meet one of the following criteria outlined in the EMC 16-2-7.H.2.

- a. *That the proposed development will exceed the development quality standards, levels of public amenities, or levels of design innovation otherwise applicable under this Title, and would not be possible or practicable under a standard zone district with conditional uses or with a reasonable number of Zoning Variances or Administrative Adjustments; or*
- b. *That the property cannot be developed, or that no reasonable economic use of the property can be achieved, under the existing zoning, even through the use of conditional uses or a reasonable number of Zoning Variances or Administrative Adjustments.*

The original PUD states "The development of Englewood Estates will ensure consistency with the Englewood Comprehensive Plan by creating an infill residential development on vacant land presently zoned for residential use." While Amendment No. 1 increases the number of units on the vacant property, the proposal is consistent with Comprehensive Plan

goals. Given the unique configuration of the site, the infrastructure required for development, and current market conditions; the proposed amendment provides a basis for realistic development of the site that cannot be achieved under the original PUD.

Finally, Amendments to Planned Unit Developments must also meet the following criterion per EMC 16-2-7.H.3.

- a. *The resulting rezoned property will not have a significant negative impact on those properties surrounding the rezoned area and that the general public health, safety and welfare of the community are protected.*

Amendment No. 1 proposes seven structures containing eleven units; in terms of actual structures, this is the same number of structures allowed in the original PUD. In terms of total building envelope area, Amendment No. 1 represents a 9% decrease from the original PUD for all dwelling units combined (22,528 square feet to 20,590 square feet). There is no proposed increase in building height, though the bulk plane as proposed would be raised 6 feet. The parking proposed in Amendment No. 1 is 3 parking spaces per unit including guest parking which is greater than the requirement for single unit and multi-unit dwellings in other residential zone districts.

Amendment No. 1 proposes attached dwellings between the adjacent R-1-C zone district and an industrial zone district. While the proposed attached dwellings represent a different building type, it is a common planning and zoning practice to employ higher density residential uses as a buffer between more intensive commercial zones and lower density residential neighborhoods. Examples of this zoning practice include the R-2 zone district adjacent to the industrial zone in northwest Englewood and R-2 or R-3 zone districts adjacent to the business zones on Broadway.

## **FINANCIAL IMPACT**

It is anticipated that the proposed PUD Amendment No. 1 would generate approximately \$45,000 in use tax and building permit fees in its construction phase. As the property transitions from vacant to developed, additional property tax revenues would also be generated.

## **LIST OF ATTACHMENTS**

Planning and Zoning Commission Staff Report - January 5, 2011  
Planning and Zoning Commission Minutes - January 5, 2011  
Planning and Zoning Commission Findings of Fact  
Exhibit B: Neighborhood Meeting Summary - February 4, 2010  
Exhibit C: Original PUD District Plan Development Standards  
Exhibit D: Original PUD Site Plan  
Exhibit E: Conceptual Site Sketch and Elevations (not part of PUD Amendment No. 1)  
Bill for an Ordinance



C I T Y O F E N G L E W O O D  
C O M M U N I T Y D E V E L O P M E N T

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**TO:** Planning and Zoning Commission  
**THRU:** Alan White, Community Development Director  
**FROM:** Brook Bell, Planner II  
**DATE:** January 5, 2011

**SUBJECT:** **Case ZON2010-003** - Public Hearing  
Englewood Estates Planned Unit Development Amendment No.1

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**APPLICANT:**

Habitat for Humanity of Metro Denver, Inc.  
Andy Blackmun  
3245 Eliot Street  
Denver, Colorado 80211

**PROPERTY OWNER:**

The Estate of Patrick P. Duggan  
Mike Duggan  
4320 South Downing Street  
Englewood, Colorado 80113

**PROPERTY ADDRESS:**

1210, 1230, 1250, 1255, 1270, 1275 and 1290 West Quincy Circle

**REQUEST:**

The applicant has submitted an application to amend the Englewood Estates Planned Unit Development (PUD) which was approved by City Council on August 6, 2004 as Ordinance Number 47, Series of 2004.

**RECOMMENDATION:**

The Department of Community Development recommends that the Planning and Zoning Commission approve the Englewood Estates PUD Amendment No.1 as proposed and forward a recommendation of approval to City Council.

**LEGAL DESCRIPTION:**

Lots 1-7 and Tract A, Englewood Estates

**ZONE DISTRICT:**

Englewood Estates Planned Unit Development.

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**PROPERTY LOCATION AND SURROUNDING LAND USE:**

The subject property of this PUD amendment is located on the south side of West Quincy Avenue, between South Lipan Street and South Navajo Street. The property is currently a vacant parcel of approximately 1.19 acres. Adjacent properties to the north, east, and south are zoned R-1-C Single-Unit Residential District, and contain single-unit detached dwellings. Adjacent properties to the west are zoned I-1 and are used as automotive sales and repair.

**PUD AMENDMENT PROCEDURE:**

Major modifications to an existing PUD District Plan or Site Plan amendments may only be made pursuant to the same procedures as the original plans were approved. Therefore a pre-application neighborhood meeting, City review and public hearings before the Planning and Zoning Commission and City Council are required.

**BACKGROUND:**

A Planned Unit Development is a rezoning process that establishes specific zoning and site planning criteria to meet the needs of a specific development proposal that may not be accommodated within existing zoning development regulations. A PUD rezoning provides the opportunity for unified development control for multiple properties or multiple uses.

The existing Englewood Estates PUD is a 1.19 acre site that is vacant. The site was the subject of a PUD rezoning application by Distinctive Builders, LLC that proposed seven single-unit detached dwellings and a one-way private drive that would provide access to the residential lots. The PUD rezoning was approved by Council on August 2, 2004 as Ordinance Number 47, Series of 2004, with the following conditions:

1. Applicant shall obtain and provide documentation for the utility easement for the water line on the adjoining property along the west property line.
2. Fence along West Quincy Avenue cannot be constructed within 20 feet of the West Quincy Circle property line.
3. PUD District Plan – Development Standard A. shall apply: “The Provisions found in this Zone District shall be subject to the requirements and standards for Zone District R-1-C of the Englewood Municipal Code as amended, unless otherwise provided for in this PUD or an amendment hereto.”

Since the PUD rezoning and accompanying subdivision was approved in 2004, no building permits have been applied for and no development has occurred on the property. In the fall of 2006, WSM Properties, LLC showed interested in purchasing the property from Distinctive Builders, LLC contingent upon amending the existing PUD to permit a greater amount of dwelling units on the site. On February 13, 2007 WSM Properties, LLC held a neighborhood meeting on proposed PUD amendments and subsequently submitted an Amendment application on April 9, 2007. The appropriate City departments and divisions reviewed the amendment application and scheduled a public hearing with the Planning and Zoning Commission for August 7, 2007.

At the August 7, 2007 public hearing the Commission recommended that Council approve the PUD amendment request with the condition that the height for all units be limited to a maximum height of 28 feet. On August 17, 2007 the PUD Amendment applicant (WSM Properties, LLC) requested that the application be put on hold temporarily so some issues with the property owner could be worked out. On September 28, 2007, WSM Properties, LLC formally withdrew the application to amend the PUD, citing economic uncertainties. Since the amendment request was withdrawn, it did not move forward to Council; therefore, the original PUD remained in effect.

**RECENT ACTIVITY**

In the fall of 2009, Habitat for Humanity of Metro Denver, Inc. discussed purchasing the property from Distinctive Builders, LLC contingent upon amending the existing PUD to permit a greater amount of dwelling units on the site. On February 4, 2010 Habitat for Humanity held a neighborhood meeting on proposed PUD amendments and subsequently submitted an Amendment application on October 21, 2010. The appropriate City departments and divisions reviewed the amendment application and a public hearing was scheduled for the Planning and Zoning Commission for January 5, 2011.

**NEIGHBORHOOD MEETING SUMMARY:**

Pursuant to the required PUD amendment procedure, the applicant conducted a neighborhood meeting on Tuesday, February 4, 2010, prior to submitting the Amendment application. Notice of the pre-application meeting was mailed to owners of property within 500 feet of the site. The notification area included properties in the R-1-C and I-1 zone districts. A neighborhood meeting summary is attached to this report (See Exhibit B).

**CITY DEPARTMENT AND DIVISION REVIEW:**

The Amended PUD District Plan, Site plan, and application were submitted to the Community Development Department on October 21, 2010. The plans were reviewed by the City's Development Review Team (DRT) and returned to the applicant on November 10, 2010 with comments from each Department. Identified issues were addressed by the applicant and the Englewood Estates PUD Amendment No.1 packet was re-submitted on November 29, 2010 to be reviewed again by City agencies. The final Englewood Estates PUD Amendment No.1 packet was submitted on December 14, 2010 for the Planning and Zoning Commission public hearing. Technical issues identified by City staff have been adequately addressed in the final submittal.

**OUTSIDE AGENCY COMMENTS:**

Not applicable.

**AMENDMENT NO.1 OVERVIEW:**

Unless modified through this Amendment No.1 application, all conditions and requirements of the original Englewood Estates PUD remain in effect.

**District Plan and Site Plan:** The applicant is proposing the PUD District Plan and Site plan amendments to address issues related to housing conditions and infrastructure costs of the original PUD design. The site is being redesigned to provide affordable housing alternatives

to Habitat for Humanity homeowners while increasing the number of units and consequently mitigating costs of the private road and other improvements.

**Permitted Uses:** Englewood Estates PUD Amendment No.1 proposes a change in the type of residential use from one-unit detached dwellings to one-unit detached dwellings and two-unit attached dwellings. In two-unit attached dwellings, homes are attached and share common party walls that are consistent with property lines between the lots. However, each home is on its own lot and has its own utilities, front and rear yard, etc.

**Residential Density:** The proposed amendments include an increase in the number of residential units from seven (7) one-unit detached dwellings, to three (3) one-unit detached dwellings and four (4) two-unit attached dwellings, for a total of eleven (11) dwelling units. This is an increase from 5.8 units per acre to 9.3 units per acre. Lot sizes vary in both the original PUD and Amendment No.1. The average lot size in the original PUD is 5,784 square feet. The average lot size proposed in Amendment No.1 is 3,454 square feet. The minimum lot size in the original PUD is 5,116 square feet. The minimum lot size proposed in Amendment No.1 is 2,557 square feet.

**Phasing:** The anticipated construction schedule for Englewood Estates PUD Amendment No.1 is beginning infrastructure in the spring of 2012, commencing homebuilding in the beginning of 2013, and completion in the fall of 2013.

**Setbacks:** A setback is the minimum distance a structure must be located from a property line. The setbacks proposed in the original PUD and Amendment No.1 are as follows:

| <u>Original PUD</u>  | <u>Amendment No.1</u>  |
|--|--|
| Front: 10' except garage door face must be 24' minimum from the edge of the private street or Tract A. | Front: 10' except garage door face must be 22' minimum from the edge of the private street or Tract A. |
| Side: 5'-15'   | Side: 4' to 15', except in interior lots where dwelling units are attached the setback is 0'.          |
| Rear: 15'  | Rear: 10'-15'  |

**Building Envelope and Lot Coverage:** A building envelope establishes the limits to the area in which structural development may occur. The building envelope is regulated by the front, side, and rear setbacks. Establishment of the envelope does not mean that all buildings will fill the envelope, only that any structure must be contained within the envelope area.

Amendment No.1 redesigns the District and Site plan to permit seven (7) structures containing a total of eleven (11) dwelling units. The total building envelope area for all dwelling units combined in the original PUD is approximately 22,528 square feet. The total building envelope area for all dwelling units combined in the Amendment No.1 is approximately 20,590 square feet.

Amendment No.1 as proposed specifies a 75% maximum lot coverage including covered patio areas, portions of driveways over 12 feet in width, and walks wider than 5 feet.

**Building Height:** Amendment No.1 does not propose any changes to the original PUD maximum building height of 32 feet. Note that the 28 feet maximum height condition approved by the Commission in 2007 is no longer in effect as that PUD amendment request was withdrawn.

**Bulk Plane:** Amendment No.1 proposes an increase in the height from which the bulk plane begins; from a 12 foot height in the original PUD, to an 18 foot height in the proposed amendment. This is due partially to the proposed grade elevations at the mid-point of the side lot lines, and the relatively narrow lots width for the two-unit dwellings.

**Landscaping:** Amendment No.1 proposes a decrease in the minimum landscaped area from 40% in the original PUD, to 30% in the proposed amendment.

**Fencing:** Amendment No.1 does not propose any changes to fence materials, heights, or general locations.

**Parking:** The original PUD required four off-street parking spaces per unit including two in the garage and two in the driveway. The original PUD also provided four additional off-street guest parking/snow storage spaces. Amendment No.1 proposes two off-street parking spaces including one in the garage and one in the driveway. Amendment No.1 also provides eleven (11) additional guest parking/snow storage spaces.

**Traffic:** As part of the Amendment No.1 Site Plan, the private, one-way road has been reconfigured slightly to accommodate the guest parking/snow storage spaces.

**Accessory Structures:** The original PUD prohibited detached garages. The original PUD allowed storage sheds provided they were less than 9 feet in height. Amendment No.1 prohibits all detached garages and storage sheds.

**Drainage:** A preliminary drainage report prepared by Carroll & Lange, Inc. was submitted and reviewed by the Public Works Department. A final drainage plan and report will be required by the Public Works Department when the property is re-platted.

**Subdivision Plat:** If the PUD amendment is approved, the property will have to be re-platted to accommodate the site plan modifications.

**SUMMARY:**

Amendment No.1 to the Englewood Estates PUD proposes the following key changes to the original PUD:

- An increase in the number of residential units from seven (7) to eleven (11) dwelling units.
- A change in the type of residential units from seven (7) one-unit detached dwellings, to three (3) one-unit detached dwellings and four (4) two-unit attached dwellings.
- A decrease in the minimum lot size from 5,116 square feet to 2,557 square feet.

- Minor changes in the private road (Tract A) configuration to accommodate additional parking and snow storage.

Community Development believes that the proposed increase in residential units from seven detached to eleven attached is significant in terms of density. However, the four additional units are to be spread among four separate structures on the site. Amendment No.1 proposes seven structures containing eleven units; in terms of actual structures, this is the same number of structures allowed in the original PUD. In terms of total building envelope area, Amendment No.1 represents a 9% decrease from the original PUD for all dwelling units combined (22,528 square feet to 20,590 square feet). There is no proposed increase in building height, though the bulk plane as proposed would be raised 6 feet. The parking proposed in Amendment No.1 is 3 parking spaces per unit including guest parking; whereas the original PUD provided 4.5 parking spaces per unit including guest parking.

Amendment No.1 proposes attached dwellings between a zone district with detached dwellings and an industrial zone district. While the proposed attached dwellings represent a different building type, it is a common planning and zoning practice to employ higher density residential uses as a buffer between more intensive commercial zones and lower density residential neighborhoods.

The original PUD states "The development of Englewood Estates will ensure consistency with the Englewood Comprehensive Plan by creating an infill residential development on vacant land presently zoned for residential use." While Amendment No.1 increases the number of units on the vacant property, the proposal is consistent with Comprehensive Plan goals. Given the unique configuration of the site, the infrastructure required for development, and current market conditions; the proposed amendment provides a basis for realistic development of the site.

#### **PLANNED UNIT DEVELOPMENT CONSIDERATIONS:**

Amendments to the Englewood Estates Planned Unit Development are addressed under the same procedure as the original PUD application. Therefore the Commission must determine if the modifications proposed in Amendment No.1 meet District Plan and Site Plan criteria as established in the PUD Ordinance. Consideration at this time is made only to the modifications addressed in Amendment No.1.

#### **PUD District Plan**

The District Plan sets forth the zoning regulations under which the proposed amendments will occur.

1. *The PUD District Plan is, or is not, in conformance with the District Plan requirements and the Comprehensive Plan.*

Englewood Estates PUD Amendment No.1 District Plan is in conformance with the applicable requirements set forth for the general location, arrangement, extent and character of the development. The proposed amendments comply with the Comprehensive Plan goals of promoting a balanced mix of housing opportunities

and improving the quality of the City's housing stock. Additionally, the Comprehensive Plan encourages higher density development in proximity to transit routes. The proposed development is approximately one-third of a mile from the RTD Oxford Light Rail Station.

2. *All required documents, drawings, referrals, recommendations, and approvals have been received.*

All appropriate documents concerning Englewood Estates PUD Amendment No.1 District Plan have been received and approved.

3. *The PUD District Plan is consistent with adopted and generally accepted standards of development in the City of Englewood.*

The Englewood Estates PUD Amendment No.1 District Plan remains consistent with accepted development standards established by the City of Englewood.

4. *The PUD District Plan is substantially consistent with the goals, objectives, design guidelines, policies and any other ordinance, law or requirement of the City.*

Englewood Estates PUD Amendment No.1 District Plan is in conformance with all other ordinances, laws and requirements of the City.

5. *When the PUD District Plan is within the Englewood Downtown Development Authority (EDDA) area, the Plan is consistent with the EDDA approved designs, policies and plans.*

Not applicable.

#### PUD Site Plan

The Site Plan sets forth the site planning and design parameters under which the proposed amendments will occur.

1. *The PUD Site Plan is, or is not, in conformance with the District Plan requirements.*

The Englewood Estates PUD Amendment No.1 Site Plan is in conformance with the District Plan which establishes the arrangement, orientation, location, and the building envelopes on the site.

2. *All required documents, drawings, referrals, recommendations, and approvals have been received.*

The utility easement for the water line on the adjoining property at 1294 West Quincy Avenue has been executed by both property owners, reviewed by the City of Englewood Water and Sewer Board and is scheduled for review by City Council in January of 2011. All other required Englewood Estates PUD Amendment No.1 Site Plan materials have been received and approved.

3. *The PUD Site Plan is consistent with adopted and generally accepted standards of development of the City of Englewood.*

The Englewood Estates PUD Amendment No.1 Site Plan is consistent with development standards set forth in the District Plan. The Development Review Team reviewed the site plan and determined that the proposal meets established City development standards.

4. *The PUD Site Plan is substantially consistent with the goals, objectives and policies and/or any other ordinance, law or requirement of the City.*

The proposed Englewood Estates PUD Site Plan presented in Amendment No.1 is in conformance with all other ordinances, laws and requirements of the City.

**ATTACHMENTS:**

- Exhibit A: Englewood Estates PUD Amendment No.1
- Exhibit B: Neighborhood Meeting Summary –February 4, 2010
- Exhibit C: Original PUD District Plan Development Standards
- Exhibit D: Original PUD Site Plan

**CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION  
REGULAR MEETING  
January 5, 2011**

**I. CALL TO ORDER**



The regular meeting of the City Planning and Zoning Commission was called to order at 7:03 p.m. in the Council Chambers of the Englewood Civic Center, Chair Knoth presiding.

Present: Bleile, Roth, King, Knoth, Fish, Brick, Calonder  
Kinton (alternate)

Absent: Welker, Krieger

Staff: Brook Bell, Planner II  
Tricia Langon, Senior Planner  
Dan Brotzman, City Attorney

Applicant: Andy Blackmun, Habitat for Humanity Land Development Manager  
Jennifer Schaefer, Habitat for Humanity Architectural Designer

**II. APPROVAL OF MINUTES**

December 7, 2010



Mr. Fish moved:

Mr. Calonder seconded: TO APPROVE THE DECEMBER 7, 2010 MINUTES

Chair Knoth asked if there were any modifications or corrections.

There were none.

AYES: Bleile, Roth, Knoth, Fish, Brick, Calonder

NAYS: None

ABSTAIN: King

ABSENT: Welker, Krieger

Motion carried.

**III. PUBLIC HEARING**

Case #ZON2010-003 Englewood Estates PUD Amendment No. 1



Mr. Roth moved:

Mr. Bleile seconded: TO OPEN THE PUBLIC HEARING FOR CASE #ZON2010-003

AYES: Bleile, Roth, Knoth, Fish, Brick, Calonder, King  
NAYS: None  
ABSTAIN: None  
ABSENT: Welker, Krieger

Motion carried.

Mr. Bell was sworn in. He stated the case before the Commission is CASE #ZON2010-003, which is a request for Amendment No. 1 to the Englewood Estates Planned Unit Development that was originally approved as Ordinance No. 47 in 2004. The applicant is Habitat for Humanity of Metro Denver, Inc. The property owner is the Estate of Patrick Duggan with Mike Duggan as its representative. The property address is 1210, 1230, 1250, 1255, 1270, 1275 and 1290 W. Quincy Circle. Included for the public record is the Staff Report and associated exhibits, proof of publication, and proof of posting. He stated the Department of Community Development recommends that the Planning and Zoning Commission approve the Englewood Estates PUD Amendment No. 1 as proposed and forward a recommendation of approval to City Council.

Mr. Bell stated the purpose of the public hearing is to:

1. Consider the Planned Unit Development modifications proposed in Amendment No. 1;
2. Take public testimony;
3. Make Findings of Fact based on established criteria; and
4. Make a recommendation to City Council.

He provided background information on the property and an overview of what Amendment No. 1 proposes.

The Commission had questions regarding drainage, areas of concern on survey sheet, parking, landscaping, bulk plane, height limit and adjoining properties.

Mr. Bell introduced Mr. Andy Blackmun.

 Mr. Andy Blackmun, Land Development Manager for Habitat for Humanity of Metro Denver, was sworn in. Mr. Blackmun provided an overview of Habitat's mission, presented a PowerPoint slide show of the project and answered questions from the Commission. He thanked the Commission for their time.

Chair Knoth thanked Mr. Blackmun for his presentation.

## PUBLIC TESTIMONY

 Mr. David Miller was sworn in. He stated he feels the project has too many units and is not in character with the single family neighborhood. He also voiced concerns regarding traffic.

  
Mr. Brick moved:  
Mr. Fish seconded: TO CLOSE THE PUBLIC HEARING FOR CASE #ZON2010-003

AYES: Bleile, Roth, Knoth, Fish, Brick, Calonder, King  
NAYS: None  
ABSTAIN: None  
ABSENT: Welker, Krieger

Motion carried.

  
Mr. Fish moved:  
Mr. Calonder seconded: CASE #ZON2010-003, ENGLEWOOD ESTATES PLANNED UNIT DEVELOPMENT AMENDMENT NO. 1 BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION.

Mr. Bleile voiced concerns regarding density and front facing garages. He said he felt Habitat for Humanity put forth a good solution for the limited amount of property space available.

Mr. King said the property is a transitional site between industrial and residential which tends to typically have more density. He said he feels the site is not suited for a single-family home; the economics would not work. It's a tough site to develop.

Mr. Calonder said he believes, when you consider the alternative, the highest and best use may very well be what Habitat is proposing, otherwise the City is left with a vacant lot. In the future there could be similar projects in the area in close proximity to the light rail. He said he felt it is a great idea.

Mr. Fish said he did not believe traffic was an issue connected to the development.

Mr. Roth said he too had issues with the front loading garages. The only mitigating factor is that they are facing into the project and most of the bulk plain issues are internal. The setbacks for lots 10 and 11 may need to be looked at.

Chair Knoth stated he likes the project. Density is always a concern, but a single-family home against an industrial property is a tough sell. He said he likes the change in density as you go down from industrial to single-family and likes the idea of having different density projects in Englewood.

Mr. Bleile asked Mr. Bell if the 2004 PUD included the single-family residence at 1294 W Quincy Avenue. Mr. Bell said the 2004 PUD has the exact same boundaries as the proposed amendment. 1294 W Quincy Avenue was never a part of the PUD in 2004 or a part of this PUD. The property is currently made up of 7 properties and Tract A. The PUD Amendment would amend the requirements for all 7 of the properties. The properties will have to be replatted into 11 properties so the internal property lines will shift around; the external property lines will not change at all.

Mr. Fish said this project could end up being very beneficial to the City. It could potentially form a seed that might actually spread higher density housing into the Industrial Zone.

Mr. King offered a friendly amendment to the motion amending the rear setback on lots 10 and 11 to the original and consistent rear setback with the rest of the project of 15 feet.

Mr. Fish and Mr. Calonder accepted Mr. King's friendly amendment.



AYES: Bleile, Roth, Knoth, Fish, Calonder, King

NAYS: Brick

ABSTAIN: None

ABSENT: Welker, Krieger

Mr. Fish votes yes because the development is probably the best we can do considering the constraints of the property and it conforms with Roadmap Englewood: 2003 Englewood Comprehensive Plan. It fits with what Englewood wants to do in trying to develop properties in this area that are difficult to develop and offers a potential seed for similar development in the area that will take advantage of the light rail. Those issues overcome the negativity of higher density.

Mr. Brick said the project is consistent with Roadmap Englewood: 2003 Englewood Comprehensive Plan in terms of density; however, this specific project is not in the best interest of the health and welfare of the people who are going to be living there and it is out of character for the neighborhood. He voted no.

Mr. Roth stated he too had many of those concerns, but does think ultimately if the area gets developed this project will serve as a buffer. Development along Windermere will probably be more than two stories. It meets Roadmap Englewood: 2003 Englewood Comprehensive Plan provisions.

Mr. Calonder voted yes because he believes it is the highest and best use for that area and the alternative options are worse.

Mr. Bleile said he firmly believes that the Habitat for Humanity mission is outstanding. It is a wonderful organization that rewards people after putting in a lot of hard effort. He believes there needs to be some type of buffer between future high density potential in the area and even the current industrial area. An empty lot does not benefit Englewood. He voted yes.

Mr. King said he voted yes because the amendment is not changing much from the original PUD. From West Quincy Avenue you don't even see the site. He said he hopes that if the neighborhood is not happy with the decision of the Planning and Zoning Commission they will organize and voice their concerns at the City Council Public Hearing. Without their input here it can only be assumed that the majority of the neighborhood is not opposed to the development.

Motion carried.

**IV. PUBLIC FORUM**



There was no public in attendance.

**V. DIRECTOR'S CHOICE**



Director White was not present.

**VI. STAFF'S CHOICE**



Ms. Langon reviewed topics for upcoming meetings:

January 19: Medical Marijuana Amendments, Study Session

February 8: Medical District Small Area Plan, Study Session

February 23: Election of Officers, Study Session

**VII. ATTORNEY'S CHOICE**



City Attorney Brotzman had nothing further to report.

**VIII. COMMISSIONER'S CHOICE**



Mr. Bleile wished Habitat for Humanity good luck on their project. He said it was a good discussion tonight and was proud to participate in it.

Mr. Brick echoed Mr. Bleile's comments.

Planning and Zoning Commission  
Public Hearing  
Case #ZON2010-003 Englewood Estates PUD Amendment No. 1  
January 5, 2011  
Page 6 of 6

The meeting adjourned at 8:40 p.m.

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Barbara Krecklow, Recording Secretary

# CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

IN THE MATTER OF CASE #ZON2010-003 )  
FINDINGS OF FACT, CONCLUSIONS )  
AND RECOMMENDATIONS FOR AN ) FINDINGS OF FACT AND  
AMENDMENT TO THE ENGLEWOOD ) CONCLUSIONS OF THE  
ESTATES PLANNED UNIT DEVELOPMENT ) CITY PLANNING AND  
 ) ZONING COMMISSION  
 )  
 )  
INITIATED BY: )  
Habitat for Humanity of Metro Denver, Inc. )  
Andy Blackmun )  
3245 Eliot Street )  
Denver, Colorado 80211 )

Commission Members Present: Brick, Fish, Knoth, Roth, Calonder, King, Bleile

Commission Members Absent: Welker, Krieger

This matter was heard before the City Planning and Zoning Commission on January 5, 2011, in the City Council Chambers of the Englewood Civic Center.

Testimony was received from Staff, the applicant and the public. The Commission received notice of Public Hearing, Certification of Posting, Staff Report and supplemental information from Staff, which were incorporated into and made a part of the record of the Public Hearing.

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

## FINDINGS OF FACT

1. **THAT** the Englewood Estates Planned Unit Development was approved as Ordinance No. 47 in 2004.
2. **THAT** the request for Amendment No. 1 to the Englewood Estates Planned Unit Development was filed by Habitat for Humanity of Metro Denver, Inc. on October 21, 2010.

3. **THAT** Public Notice of the Public Hearing was given by publication in the Englewood Herald on December 17, 2010 and was on the City's website from December 9, 2010 through January 5, 2011.
4. **THAT** the property was posted as required, said posting setting forth the date, time, and place of the Public Hearing.
5. **THAT** Planner Bell testified the request is for Amendment No. 1 to the Englewood Estates Planned Unit Development. Mr. Bell testified to the criteria the Commission must consider when reviewing an amendment to a PUD application. Mr. Bell further testified that Staff recommends approval of the amendment.
6. **THAT** the PUD District Plan is consistent with adopted and generally accepted standards of development in the City of Englewood.

### **CONCLUSIONS**

1. **THAT** the application was filed by Habitat for Humanity of Metro Denver, Inc. seeking approval for Englewood Estates Planned Unit Development Amendment No. 1.
2. **THAT** proper notification of the date, time, and place of the Public Hearing was given by publication in the official City newspaper, posting on the City's website and by posting of the property for the required length of time.
3. **THAT** all testimony received from staff members, the applicant and the public has been made part of the record of the Public Hearing.
4. **THAT** the request meets the criteria for an amendment.
5. **THAT** the Englewood Estates Planned Unit Development Amendment No. 1 is in conformance with Roadmap Englewood: 2003 Englewood Comprehensive Plan.

### **DECISION**

**THEREFORE**, it is the decision of the City Planning and Zoning Commission that the application filed by Habitat for Humanity of Metro Denver, Inc. for Englewood Estates Planned Unit Development Amendment No. 1 be recommended to City Council for approval.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on January 5, 2011, by Mr. Fish, seconded by Mr. Calonder, which motion states:

Mr. Fish moved:

Mr. Calonder seconded: *CASE #ZON2010-003, ENGLEWOOD ESTATES PLANNED UNIT DEVELOPMENT AMENDMENT NO. 1 BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION FOR ADOPTION WITH THE FOLLOWING AMENDMENT:*

- *AMEND THE REAR SETBACK FOR LOTS 10 AND 11 TO THE ORIGINAL AND CONSISTENT REAR SETBACK WITH THE REST OF THE PROJECT OF 15 FEET.*

AYES: Calonder, King, Knoth, Roth, Bleile, Fish

NAYS: Brick

ABSTAIN: None

ABSENT: Welker, Krieger

The motion carried.

These Findings and Conclusions are effective as of the meeting on January 5, 2011.

**BY ORDER OF THE CITY PLANNING & ZONING COMMISSION**

---

Chad Knoth, Chair



Mr. Bell noted that the City must publish a notice and the applicant must post the property prior to Public Hearings; however, individual mailings to property owners (similar to the neighborhood meeting) are not required. The proposed PUD amendment being presented tonight is not a "done deal". Ultimately, City Council votes to approve, deny, or conditionally approve PUD amendments. He then provided his contact information and stated that any questions pertaining to the City's PUD process would be handled by City staff.

#### Presentation

Mr. Blackmun of Habitat for Humanity indicated he would make a brief presentation and then open the discussion to questions and comments from the group. Mr. Blackmun provided an overview of Habitat's mission, program, and process. He indicated that there are restrictions prohibiting any rentals placed on the deed of each home. The buyers obtain a zero interest loan from Habitat and must provide 250 hours of sweat equity to the organization.

The units would be under fee simple ownership, and there would party wall agreements between units. A homeowners association would have to be formed to maintain some of the common elements such as the road and walks. The homes would have an energy star rating to keep long term costs down. The exterior would be finished with fiber cement board siding and the roofs would be asphalt shingle. Exterior colors would be chosen to match the neighborhood.

#### Public Questions and General Discussion Items:

The following paraphrased questions and comments where offered. *Answers to questions are in italics.*

1. How do the proposed building setbacks compare with those in the existing PUD? *The proposed setbacks in the PUD amendment are almost identical to the existing PUD. The setbacks adjacent to the angled parking area were decreased to 6 feet to accommodate the guest parking.*
2. There is a concern that the two-story units that back up to the existing residences will be able to peer down into the existing residential backyards and windows. *Habitat will look into the proposed window configurations in those areas to see if that can be minimized.*
3. Will this project help or hurt property values? *It depends on what the market value of the homes ends up being.*
4. What happens if the property owner turns around and sells the property to a less qualified buyer? *Habitat maintains a first right of refusal on each property and can re-acquire the property if they feel it is necessary. Additionally, if the property owner sells it within the first 5 years, they cannot keep any of the equity that may have built up.*
5. How many foreclosures have there been in Habitat homes? *Fewer than 10 foreclosures in approximately 400 homes.*
6. Some of the properties in the area have very low water pressure, how will the proposed project affect that? *There should not be a problem, but Habitat's engineers will look further into this issue.*

7. What is the selection process for Habitat homeowners? *First, Habitat verifies the applicants' legal residency status and income. An interview in the applicants' home is conducted, and a short list of applicants is generated. The applicants are required to attend a workshop on home maintenance and household budgeting. In all, it is about a one and half year process to become a Habitat homeowner.*
8. What is the percentage of habitat projects that don't go forward due to neighborhood opposition? *Only one of Habitat's projects has not gone forward, and that was because of traffic issues.*
9. Will the power lines be undergrounded? *Most likely.*
10. Who owns the property now? *Distinctive Builders owned the property at the time of the original PUD and continues to own the property. Habitat is under contract to purchase the property if the proposed PUD Amendment is approved.*
11. Will crime rise with putting that many people in a smaller space? *There has not been any evidence of increased crime in other Habitat projects.*
12. How wide is the street? *The street is 20 feet wide where it meets Quincy. It is a one-way street, with no parallel parking allowed.*
13. Will there be enough parking? *As proposed, there are two off-street parking spaces per unit and 10 guest parking spaces off of West Quincy Circle for a total of 32 parking spaces. We anticipate some people using the light rail nearby instead of a car.*
14. Would you improve the lighting on Navajo to the light rail station on Windermere. *You would need to speak with the City's Public Works Department for that type of request.*

#### Meeting Adjourned

Mr. Blackmun asked if there were any more questions or comments. Interested attendees were invited to view the presentation boards created by Habitat. Following a few one on one discussions, the meeting was adjourned.

#### Attachments:

Sign-In Sheets (1)

#### Submitted by:

Brook Bell, Planner II  
City of Englewood  
Community Development Department

Please Sign In

Planned Unit Development Amendment  
Neighborhood Meeting

February 4, 2010

City Planner: *Brook Bell*

Applicant: Habitat for Humanity of Metro Denver

Site: 1210 West Quincy Circle, Englewood Estate PUD

Please Print

| Name                              | Address                     | City             | Zip Code     |
|-----------------------------------|-----------------------------|------------------|--------------|
| <i>Nancy &amp; Tim Baker</i>      | <i>1294 W. Quincy Ave</i>   | <i>Englewood</i> | <i>80110</i> |
| <i>DAVID MILLER</i>               | <i>4245 S. LIPAN ST</i>     | <i>Englewood</i> | <i>80110</i> |
| <i>TERALD Hughes</i>              | <i>4240 S LIPAN ST</i>      | <i>Englewood</i> | <i>80110</i> |
| <i>Andy Baebmuh (HFH)</i>         | <i>3245 Eliot</i>           | <i>SUMNER</i>    | <i>80211</i> |
| <i>HUBERT &amp; LOUISE OAKLEY</i> | <i>1210 W. RADCLIFF AV</i>  | <i>Englewood</i> | <i>80110</i> |
| <i>Jim + CHERYL SVIGEL</i>        | <i>1211 W QUINCY</i>        | <i>"</i>         | <i>80110</i> |
| <i>Dean Emery</i>                 | <i>1186 W. Radcliff Ave</i> | <i>Englewood</i> | <i>80110</i> |
| <i>Sara Leckert-Robel</i>         | <i>1221 W Radcliff Ave</i>  | <i>"</i>         | <i>"</i>     |
| <i>Rachel Shields</i>             | <i>4298 S. Lipan St</i>     | <i>"</i>         | <i>80110</i> |
| <i>Karen Rodriguez</i>            | <i>4320 S. Kalamatha St</i> | <i>Englewood</i> | <i>80110</i> |

*Mailing # 9457 S. University Blvd #213  
Highlands Ranch CO 80126*

**PUD DISTRICT PLAN - DEVELOPMENT STANDARDS:**

**PUD: SINGLE-FAMILY RESIDENCE DISTRICT:** THIS DISTRICT IS COMPOSED OF A CERTAIN QUIET, LOW-DENSITY RESIDENTIAL AREA OF THE CITY. THE REGULATIONS FOR THIS DISTRICT ARE DESIGNED TO STABILIZE AND PROTECT THE ESSENTIAL CHARACTERISTICS OF THE DISTRICT, AND TO PROMOTE AND ENCOURAGE A SUITABLE ENVIRONMENT FOR FAMILY LIFE. DEVELOPMENT IS LIMITED TO A RELATIVELY LOW CONCENTRATION, AND PERMITTED USES ARE LIMITED TO SINGLE-FAMILY DWELLINGS, PLUS CERTAIN ACCESSORY USES, WHICH SERVE THE RESIDENTS OF THE DISTRICT.

A. PUD DISTRICT PLAN - DEVELOPMENT STANDARDS A STATE: "GENERAL REGULATIONS: THE PROVISIONS FOUND IN THIS ZONE DISTRICT SHALL BE SUBJECT TO THE REQUIREMENTS AND STANDARDS FOR ZONE DISTRICT R-1-C OF THE CITY OF ENGLEWOOD MUNICIPAL CODE AS AMENDED, UNLESS OTHERWISE PROVIDED FOR IN THIS PUD OR AN AMENDMENT HERETO."

B. PERMITTED PRINCIPAL USE: SINGLE-FAMILY RESIDENCES

C. MINIMUM LOT AREA FOR PERMITTED PRINCIPAL USE: 5,116 SQUARE-FEET

D. MINIMUM TOTAL FLOOR AREA: 1,600 SQUARE-FEET (INCLUDING GARAGE)

E. MINIMUM LOT FRONTAGE: NOT APPLICABLE TO THIS DISTRICT

F. MAXIMUM BUILDING HEIGHT:

1. PRINCIPAL USE BUILDINGS AND GARAGES: 32 FEET
2. SEE SECTION I. BELOW FOR ADDITIONAL REQUIREMENTS

G. BUILDING SETBACKS SHALL ADHERE TO THE DEVELOPMENT ENVELOPES AS SHOWN ON THIS PLAN, EXCEPT THAT THE FACE OF A GARAGE DOOR MUST BE SETBACK A MINIMUM 24 FEET FROM THE EDGE OF "TRACT A" OF PRIVATE STREET.

H. MINIMUM OFF-STREET PARKING:

1. PRINCIPAL USE: 4 SPACES MINIMUM (2 MINIMUM WITHIN GARAGE AND 2 IN DRIVEWAY)
2. OFF STREET PARKING: 4 OFF STREET PARKING SPACES SHALL BE PROVIDED AS SHOWN. THIS PARKING MAY BE UTILIZED AS SNOW STORAGE AREA.

I. ACCESSORY BUILDINGS AND PERMITTED ACCESSORY USES SHALL BE LOCATED ENTIRELY WITHIN THE DESIGNATED "BUILDING ENVELOPE" AS SHOWN ON THE PLAN.

1. ATTACHED GARAGE: MINIMUM OF A 2-CAR GARAGE SHALL BE PROVIDED FOR EACH PRINCIPAL USE AS FOLLOWS:

- A) MAXIMUM TOTAL FLOOR AREA: 1,000 SQUARE-FEET
- B) MAXIMUM HEIGHT: 32 FEET
- C) GARAGE MAY NOT BE CONVERTED TO ANOTHER USE.
- D) DETACHED GARAGES SHALL NOT BE ALLOWED.

2. STORAGE SHEDS SHALL BE LOCATED BEHIND THE SIDE YARD FENCE SUCH THAT THE FENCE OBSTRUCTS THE VIEW OF THE LOWER 6 FEET OF THE STORAGE SHED FROM WEST QUINCY CIRCLE. THE MAXIMUM HEIGHT SHALL BE 9 FEET.

3. HOME OCCUPATION: HOME OFFICES SHALL BE ALLOWED AND SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

- A) HOME OFFICES SHALL BE FOR THE USE OF THE OCCUPANTS OF THE RESIDENCE ONLY AND SHALL BE OPERATED ENTIRELY WITHIN THAT PRINCIPAL USE.
- B) THERE SHALL BE NO ON-SITE SALES.
- C) THERE SHALL BE NO ON-SITE STORAGE FOR ANY OFF-SITE SALES, OR INSTALLATIONS.
- D) NO ASSISTANT SHALL BE EMPLOYED.
- E) THERE SHALL BE NO SEPARATE OUTDOOR ENTRANCE.
- F) THE OFFICE OCCUPATION, INCLUDING STORAGE OF MATERIALS, EQUIPMENT, AND SUPPLIES SHALL NOT UTILIZE MORE THAN 400 SQUARE-FEET OF THE PRINCIPAL USE.
- G) THE HOURS AND MANNER OF USE SHALL NOT INTERFERE WITH THE PEACE, QUIET AND DIGNITY OF ADJOINING PROPERTIES.

J. LANDSCAPE:

1. SINGLE FAMILY DWELLINGS: LOTS 1 THRU 7

- A) 100% OF THE AREA BETWEEN ANY PRINCIPAL BUILDING AND THE PRIVATE DRIVE, NOT INCLUDING DRIVEWAYS AND WALKS, SHALL BE LANDSCAPED.
- B) NO LESS THAN 40% OF THE LOT AREA SHALL BE LANDSCAPED.
- C) THE USE OF NON-LIVING MATERIAL SHALL NOT EXCEED 35% OF THE REQUIRED LANDSCAPED AREA.
- D) AT LEAST ONE TREE AND FIVE SHRUBS SHALL BE PROVIDED PER 750 SQUARE-FEET OF REQUIRED LANDSCAPED AREA.
- E) SPRINKLER SYSTEMS WILL BE INSTALLED BY THE HOME BUILDER TO PROVIDE IRRIGATION TO THE FRONT YARD OF EACH LOT, AT A MINIMUM

K. FENCES:

1. A 6-FOOT TALL WOOD PERIMETER FENCE WILL BE ERECTED ALONG THE EAST, WEST, NORTH, AND SOUTH PROPERTY BOUNDARIES, AND ALONG THE NORTHERLY BOUNDARY OF LOTS 6 AND 7, AS INDICATED ON THE PLAN. THIS FENCE WILL BE INSTALLED BY THE DEVELOPER PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY.
2. 6-FOOT TALL SIDE YARD FENCE MAY BE ERECTED BY EACH RESIDENCE WITH THE FOLLOWING CONDITION:
  - A) NO FENCES SHALL BE CONSTRUCTED IN FRONT OF THE MAIN ENTRANCE SIDE OF THE PRINCIPAL STRUCTURE. FENCE SHALL BE NO CLOSER THAN 6 FEET TO THE BACK OF CURB ON WEST QUINCY CIRCLE. FENCES MAY BE CONSTRUCTED TO A MAXIMUM HEIGHT OF 6 FEET. CHAIN LINK IS PROHIBITED. FENCE ALONG WEST QUINCY AVENUE CANNOT BE CONSTRUCTED WITHIN 20 FEET OF THE WEST QUINCY CIRCLE PROPERTY LINE.

L. SIGNAGE: ALL SIGNAGE SHALL CONFORM TO THE ENGLEWOOD MUNICIPAL CODE.

M. OTHER PROVISIONS AND REQUIREMENTS:

1. NO STRUCTURE OR VEHICLE ON THE SAME LOT WITH THE DWELLING SHALL BE USED FOR RESIDENTIAL PURPOSES.
2. THERE SHALL BE NO PARKING IN TRACT A EXCEPT AS SHOWN HEREON.

# ENGLEWOOD ESTATES

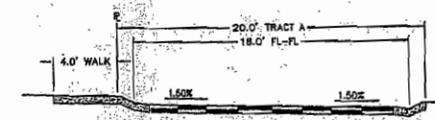
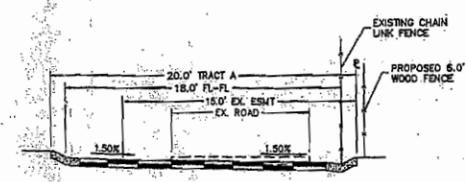
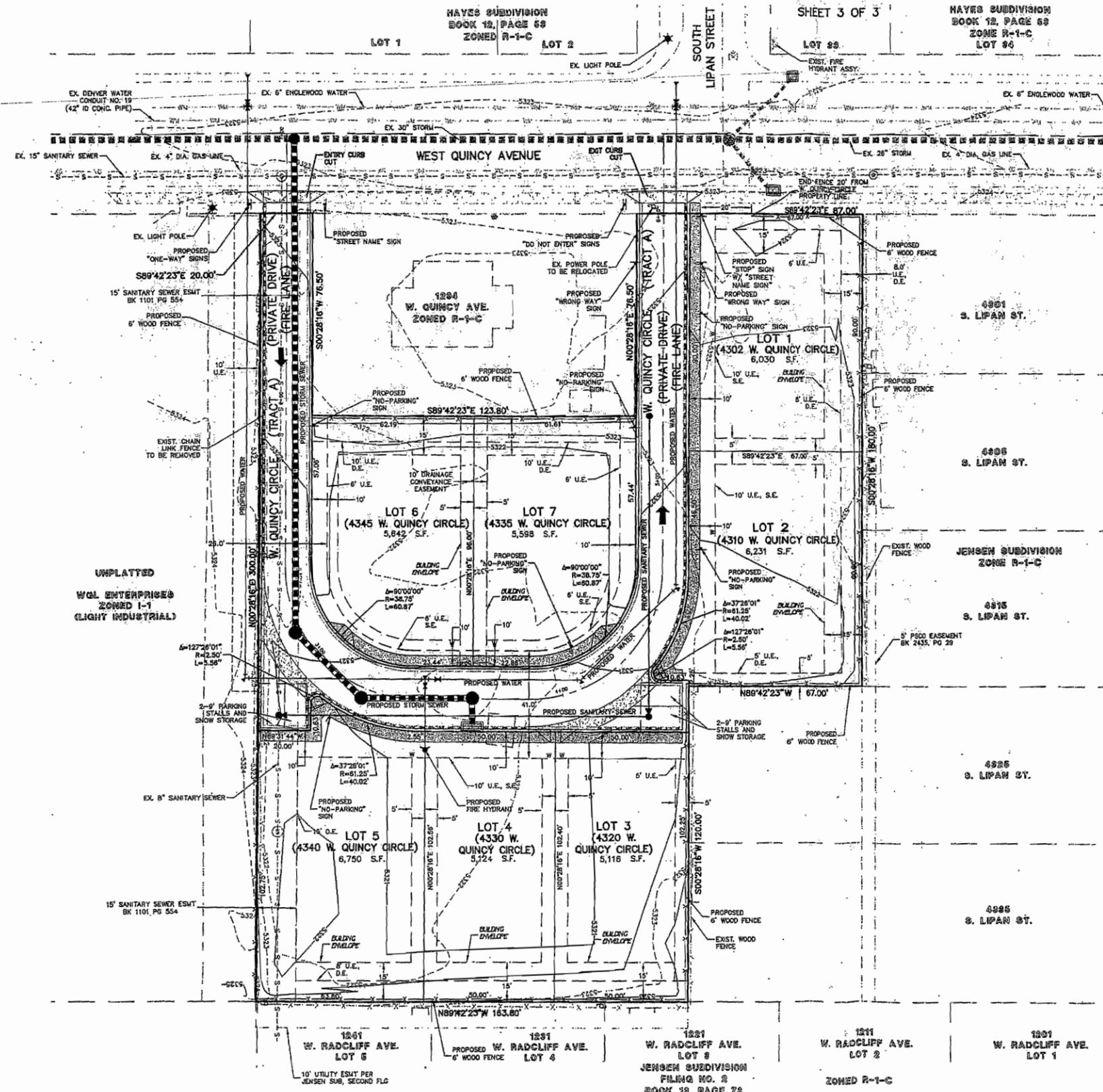
## PLANNED UNIT DEVELOPMENT

### PUD PLAN

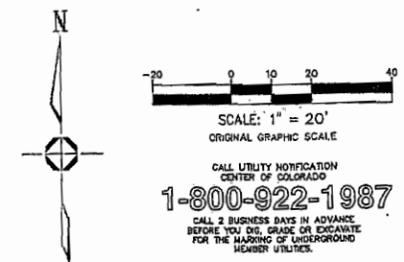
SHEET 3 OF 3

HAYES SUBDIVISION  
BOOK 12, PAGE 68  
ZONED R-1-C

HAYES SUBDIVISION  
BOOK 12, PAGE 68  
ZONE R-1-C  
LOT 84



- LEGEND**
- - - - - EXISTING WATER LINE AND VALVE
  - - - - - EXISTING EDGE OF ASPHALT (E.O.A.)
  - - - - - EXISTING RIGHT-OF-WAY (R.O.W.)
  - (P) EXISTING POWER POLE
  - - - - - EXISTING STORM
  - - - - - EXISTING FENCE
  - - - - - EXISTING SANITARY SEWER
  - - - - - EXISTING GASLINE
  - - - - - PROPOSED TRACT LINE
  - - - - - PROPOSED SANITARY SEWER
  - - - - - PROPOSED WATER
  - - - - - PROPOSED STORM
  - - - - - PROPOSED CATCH GUTTER
  - - - - - PROPOSED SIDEWALK
  - U.E. UTILITY EASEMENT
  - S.E. SIDEWALK EASEMENT
  - D.E. DRAINAGE EASEMENT
  - TRAFFIC DIRECTION



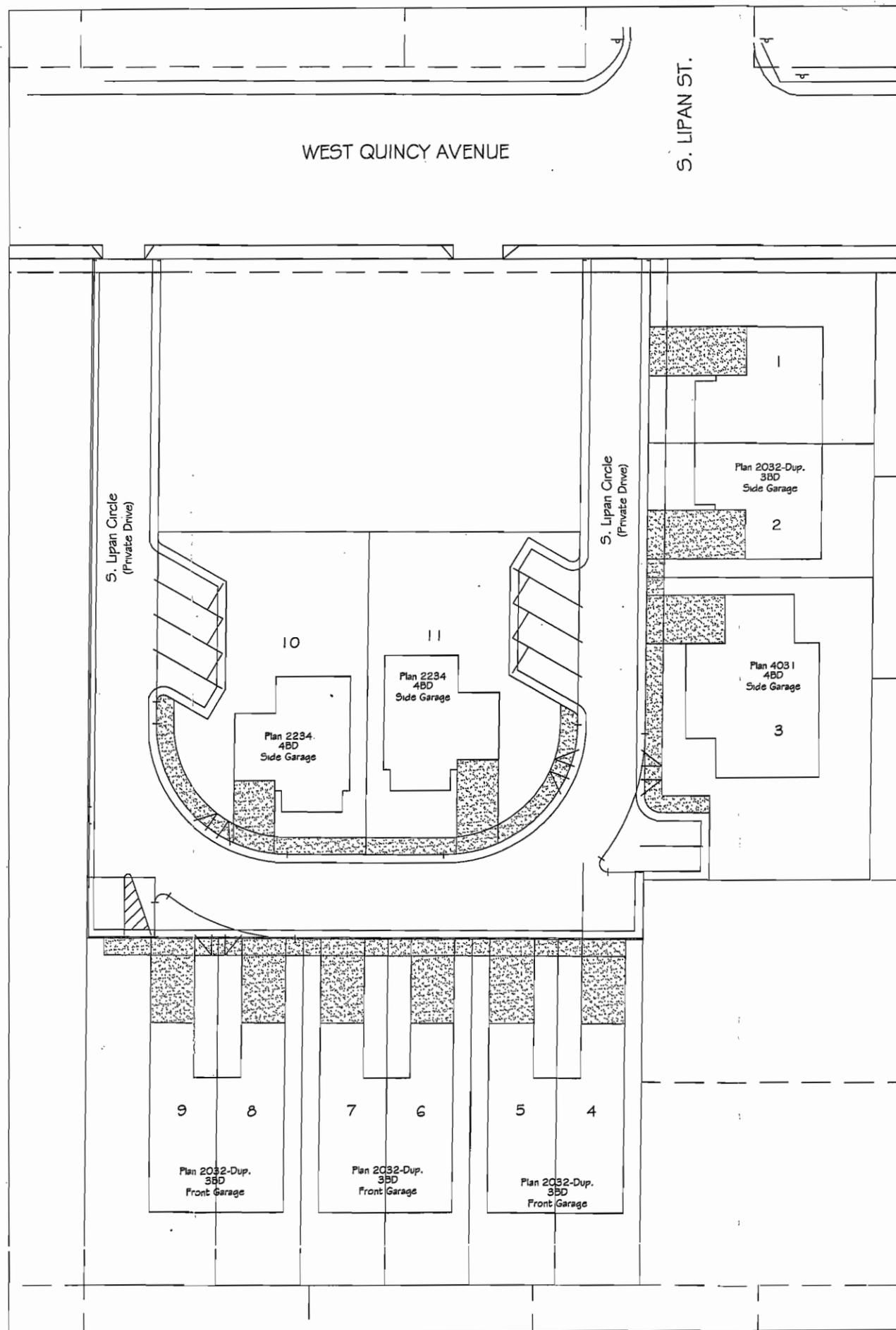
**ENGLEWOOD ESTATES**

A PARCEL OF LAND LOCATED IN  
THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER  
OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE  
SIXTH PRINCIPAL MERIDIAN, CITY OF ENGLEWOOD, COUNTY OF  
ARAPAHOE, STATE OF COLORADO

1296 WEST QUINCY AVENUE

ENGLEWOOD ESTATES  
CONCEPTUAL SITE SKETCH

NOT TO SCALE





PLAN 2032 - DUPLEX W/ FRONT GARAGE  
CONCEPTUAL ELEVATION - NOT TO SCALE



PLAN 2032 - DUPLEX W/ SIDE GARAGE  
CONCEPTUAL ELEVATION - NOT TO SCALE



PLAN 2234 - SINGLE FAMILY W/ SIDE GARAGE  
CONCEPTUAL ELEVATION - NOT TO SCALE



PLAN 4030 - SINGLE-FAMILY W/ SIDE GARAGE  
CONCEPTUAL ELEVATION - NOT TO SCALE

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

COUNCIL BILL NO. 8  
INTRODUCED BY COUNCIL  
MEMBER WOODWARD

AN ORDINANCE AUTHORIZING THE ENGLEWOOD ESTATES PLANNED UNIT DEVELOPMENT (PUD) AMENDMENT NO. 1, LOCATED AT 1210, 1230, 1250, 1255, 1270, 1275 AND 1290 WEST QUINCY CIRCLE IN THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, Distinctive Builders, L.L.C., owner of the property at 1296 West Quincy Avenue, Englewood, Colorado, submitted an application to rezone the property from R-1-C Single-Family Residence District to PUD and to subdivide the property contained within the PUD; and

WHEREAS, the Englewood Estates Subdivision divided the site commonly addressed at 1296 West Quincy Avenue into seven single-family building sites and establishes a private one-way street, known as West Quincy Circle, to provide access to the proposed development; and

WHEREAS, the Englewood City Council approved Englewood Estates Planned Unit Development (PUD) by the passage of Ordinance No. 47, Series of 2004; and

WHEREAS, in 2009 Habitat for Humanity of Metro Denver, Inc. discussed purchasing the property from Distinctive Builders, LLC contingent upon amending the existing PUD to permit a greater amount of dwelling units on the site; and

WHEREAS, Amendment No. 1, proposes the following changes to the original PUD:

- An increase in the number of residential units from 7 to 11 dwelling units.
- A change in the type of residential units from 7 one-unit detached dwellings, to 3 one-unit detached dwellings and 4 two-unit attached dwellings.
- A decrease in the average lot size from 5,784 square feet to 3,454 square feet.
- Minor changes to building setbacks including 0' side setbacks for the attached dwelling units.
- An increase in the height from which the bulk plane begins; from a 12' height in the original PUD, to an 18' height in th proposed amendment.
- A decrease in the amount of parking from 4.5 parking spaces per unit including guest parking to 3.0 parking spaces per unit including guest parking.
- A decrease in the minimum landscaped area from 40% to 30%.
- Minor changes in the private road (Tract A) configuration to accommodate additional parking and snow storage.
- The original PUD allowed storage sheds provided they were less than 9 feet in height. Amendment No. 1 prohibits all storage sheds.

WHEREAS, pursuant to E.M.C. 16-2-7(F)(2)(c), 16-2-7(H)(2) and 16-2-7(H)(3), amendments to Planned Unit Developments are reviewed under the same procedure and criteria as original PUD applications; and

WHEREAS, the Planning and Zoning Commission held a Public Hearing on January 5, 2011 and took testimony on the subject property which is currently zoned Englewood Estates PUD; and

WHEREAS, the Commission recommends approval of this Planned Unit Development Amendment No. 1;

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

Section 1. The Englewood City Council has reviewed the Amendment No. 1 to the Englewood Estates Planned Unit Development and pursuant to 16-2-7(F)(2)(c); 16-2-7(H)(2) and 16-2-7(H)(3) E.M.C., finds that the P.U.D. amendment is in conformance with the approved Planned Unit Development requirements.

Section 2. The Englewood City Council finds that all required documents, drawings, referrals, recommendations and approvals have been received.

Section 3. The Englewood City Council finds that the amended P.U.D. site plan is consistent with adopted and generally accepted standards of development within the City.

Section 4. The amended P.U.D. site plan is substantially consistent with the goals, objectives and policies and/or any other ordinance, law or requirement of the City.

Section 5. The City Council of the City of Englewood, Colorado hereby approves Amendment No. 1 to the Planned Unit Development for Englewood Estates, attached hereto as Exhibit A.

Introduced, read in full, and passed on first reading on the 7th day of February, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 11<sup>th</sup> day of February, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of February, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 7th day of February, 2011.

---

Loucrishia A. Ellis

# ENGLEWOOD ESTATES AMENDMENT NO. 1 PLANNED UNIT DEVELOPMENT DISTRICT PLAN

### LEGAL DESCRIPTION:

LOT 1,2,3,4,5,6,7 AND TRACT A  
ENGLEWOOD ESTATES  
THE NORTH-EAST 1/4 OF SECTION 9  
TOWNSHIP 3 SOUTH, RANGE 68 WEST  
OF THE SIXTH P. M.  
CITY OF ENGLEWOOD  
COUNTY OF ARAPAHOE  
STATE OF COLORADO

### PUD DEVELOPMENT SUMMARY

| ENGLEWOOD ESTATES |             |
|-------------------|-------------|
| TOTAL SITE AREA:  | 51,730 S.F. |
| LOT 1             | 3,368 S.F.  |
| LOT 2             | 2,662 S.F.  |
| LOT 3             | 5,645 S.F.  |
| LOT 4             | 2,557 S.F.  |
| LOT 5             | 2,559 S.F.  |
| LOT 6             | 2,561 S.F.  |
| LOT 7             | 2,563 S.F.  |
| LOT 8             | 2,565 S.F.  |
| LOT 9             | 3,985 S.F.  |
| LOT 10            | 4,760 S.F.  |
| LOT 11            | 4,772 S.F.  |
| TRACT A           | 13,733 S.F. |

USE: ONE-UNIT AND MULTI-UNIT DWELLINGS (2 UNIT MAXIMUM)  
 NO. OF UNITS: 1 UNIT PER LOT = 11 TOTAL UNITS  
 NO. OF UNITS/ACRE: 9.3 UNITS/ACRE  
 TOTAL BUILDING ENVELOPE AREA: 20,550 SF  
 OFF STREET PARKING PROVIDED: 1 SPACE ON DRIVEWAYS + 1 SPACE  
 IN GARAGES/LOT = 22 SPACES PLUS 11 SEASONAL SPACES AND  
 SNOWSTORAGE = 33 TOTAL

LANDSCAPING:  
 AS DEFINED BELOW IN SECTION J.  
 MAXIMUM LOT COVERAGE: DWELLING FOOTPRINT SQUARE FOOTAGE PLUS  
 PORTIONS OF DRIVEWAY OVER 12" (TWELVE FEET) IN WIDTH AND WALKS WIDER  
 THAN 5" (FIVE FEET) AND COVERED PATIO AREAS SHALL NOT EXCEED 75% OF  
 THE TOTAL AREA EACH INDIVIDUAL LOT

### BACKGROUND:

ENGLEWOOD ESTATES  
 THE AMENDED PUD FOR ENGLEWOOD ESTATES WILL CREATE A SMALL  
 RESIDENTIAL COMMUNITY OF ONE-UNIT AND MULTI-UNIT (2 UNITS MAXIMUM)  
 HOMES THAT WILL BE AFFORDABLE FOR LOW-INCOME WORKING FAMILIES. SITE  
 DENSITY HAS BEEN KEPT BELOW 10-UNITS PER ACRE TO COMPLEMENT THE  
 STYLE OF DEVELOPMENT IN THE SURROUNDING NEIGHBORHOOD.  
 THE AMENDED PUD WILL MAINTAIN COMPATIBILITY WITH THE ENGLEWOOD  
 COMPREHENSIVE PLAN BY CREATING A RESIDENTIAL DEVELOPMENT ON VACANT  
 LAND CURRENTLY ZONED FOR RESIDENTIAL USE.

### GENERAL NOTES:

- TRACT A IS DESIGNATED AS A PRIVATE STREET, EMERGENCY ACCESS, FIRE LANE, AND UTILITY EASEMENT.
- ALL NEW UTILITIES, INCLUDING WATER, SANITARY SEWER, STORM SEWER, ELECTRIC, GAS, TELEPHONE AND CABLE SHALL BE UNDERGROUND.
- ALL PUBLIC IMPROVEMENTS SHALL BE CONSTRUCTED TO CITY OF ENGLEWOOD STANDARDS, SUBJECT TO REVIEW AND APPROVAL BY THE CITY OF ENGLEWOOD DEPARTMENT OF PUBLIC WORKS.
- DEVELOPER SHALL PROVIDE WRITTEN COVENANTS GOVERNING DEVELOPMENT OF THE PROPERTY AND PERTAINING TO ISSUES SUCH AS COMMON AREA MAINTENANCE, SNOW REMOVAL, ACCESS EASEMENTS, INGRESS/EGRESS, MAINTENANCE OF PRIVATE ROAD, AND DRAINAGE FACILITIES RECORDED UNDER SEPARATE AGREEMENT.
- ACCORDING TO A 1998 REPORT TITLED, 'CITY OF ENGLEWOOD APPROXIMATE 100-YEAR FLOODPLAIN LIMITS' PREPARED BY TURNER, COLLIE & BRADEN, THIS PROPERTY IS LOCATED IN AN AREA THAT MAY BE SUBJECT TO FLOODING IN A MAJOR STORM. A STRUCTURE, AS DEFINED IN THE INTERNATIONAL BUILDING CODE, BUILT WITHIN THIS AREA COULD BE DAMAGED BY FLOODING. IF THIS STRUCTURE IMPEDES OR REDIRECTS THE HISTORIC FLOW AND MAJOR STORM FLOODING CAUSES DAMAGE TO ADJACENT PROPERTIES OR STRUCTURES, THE PROPERTY OWNER COULD HAVE POTENTIAL LIABILITY FOR DAMAGES. PROPERTY OWNER MAY WANT TO CONSULT WITH A CIVIL ENGINEER FOR REVIEW OF THIS DRAINAGE ISSUE. PRIOR TO THE APPROVAL OF AN AMENDED PUD A PRELIMINARY DRAINAGE REPORT MUST BE SUBMITTED TO AND APPROVED BY THE CITY OF ENGLEWOOD ENGINEERING DEPARTMENT.
- THE HOMEOWNERS ASSOCIATION WILL MAINTAIN THE PRIVATE DRIVE BEING BUILT WITHIN TRACT "A". THE PRIVATE DRIVE IS TO BE A ONE-WAY ROAD WITH CIRCULATION IN THE COUNTER CLOCKWISE DIRECTION. PARKING IS NOT PERMITTED ALONG THE PRIVATE DRIVE EXCEPT IN DESIGNATED LOCATIONS.
- NEW FIRE HYDRANT TO BE ENGLEWOOD SPECIFICATION THREAD SIZE.
- PRIOR TO DELIVERY OF ANY COMBUSTIBLE MATERIAL, INSTALLATION OF THE FOLLOWING INFRASTRUCTURE SHALL BE COMPLETED:
  - UTILITIES, INCLUDING BUT NOT LIMITED TO WATER, SANITARY SEWER, STORM SEWER, GAS, CABLE ACCESS
  - PRIVATE DRIVE, BOTTOM LIFT OF ASPHALT OR PAVED SURFACE TO WITHSTAND 75,000 POUNDS
  - CURB, GUTTER AND SIDEWALK ALONG PRIVATE DRIVE
  - FIRE HYDRANT
- PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY, INSTALLATION OF THE FOLLOWING INFRASTRUCTURE SHALL BE COMPLETED:
  - PERIMETER FENCES AS INDICATED BELOW IN SECTION K. 1.
  - TOP LIFT OF ASPHALT OR PAVED SURFACE TO WITHSTAND 75,000 POUNDS
- THE DEVELOPER MADE THE DECISION TO BUILD PRIVATE STREETS IN ORDER TO CREATE MORE BUILDABLE LOTS. THE ROADWAY WIDTH DOES NOT MEET CITY STANDARDS AND AS A RESULT THE STREET IN THIS PUD WILL NEVER BE ELIGIBLE TO BE A DEDICATED PUBLIC RIGHT OF WAY. NOR SHALL ALL STORM SEWER FACILITIES BE ELIGIBLE FOR CITY MAINTENANCE.
- NO ACCESS IS ALLOWED TO WEST QUINCY AVE FROM LOT 1.
- ALL CONCRETE MUST BE BROUGHT TO CITY STANDARDS.
- ALL WORK IN THE PUBLIC RIGHT-OF-WAY REQUIRES PERMITS FROM PUBLIC WORKS
- ANY UNUSED DRIVE CUTS MUST BE CLOSED PER CITY STANDARDS.
- FIRE LINES SHALL BE TESTED AS PER CITY OF ENGLEWOOD SPECIFICATIONS.

### PUD DISTRICT PLAN - DEVELOPMENT STANDARDS:

- PUD: ONE-UNIT AND MULTI-UNIT (2 UNITS MAXIMUM) DWELLINGS. THIS DISTRICT IS COURSE OF A RESIDENTIAL AREA OF THE CITY. THE REGULATIONS FOR THIS DISTRICT ARE DESIGNED TO STABILIZE AND PROTECT THE ESSENTIAL CHARACTERISTICS OF THE DISTRICT, AND TO PROMOTE AND ENCOURAGE A SUSTAINABLE ENVIRONMENT FOR FAMILY LIFE. DEVELOPMENT IS LIMITED TO A RELATIVELY LOW CONCENTRATION, AND PERMITTED USES ARE LIMITED TO ONE-UNIT AND MULTI-UNIT (2-UNIT MAXIMUM) DWELLINGS, PLUS CERTAIN ACCESSORY USES, WHICH SERVE THE RESIDENTS OF THE DISTRICT.
- GENERAL REGULATIONS: THE PROVISIONS FOUND IN THIS ZONE DISTRICT SHALL BE SUBJECT TO THE REQUIREMENTS AND STANDARDS OF THE ENGLEWOOD ESTATES PLANNED UNIT DEVELOPMENT RECORDED ON NOVEMBER 25, 2004 IN THE OFFICE OF THE CLERK AND RECORDER OF ARAPAHOE COUNTY, COLORADO, BOOK NUMBER 276, PAGE NUMBER 539-41 AND THE CITY OF ENGLEWOOD MUNICIPAL CODE AS AMENDED, UNLESS OTHERWISE PROVIDED FOR IN THIS PUD OR AN AMENDMENT HERETO.
  - PERMITTED PRINCIPAL USE: ONE-UNIT AND MULTI-UNIT (2-UNIT MAXIMUM) DWELLINGS
  - MINIMUM LOT AREA FOR PERMITTED PRINCIPAL USE: 2,557 SQUARE-FOOT
  - MINIMUM TOTAL FLOOR AREA: 1,070 SQUARE-FOOT (EXCLUDING GARAGE)
  - MINIMUM LOT FRONTAGE: NOT APPLICABLE TO THIS DISTRICT
  - MAXIMUM BUILDING HEIGHT:
    - PRINCIPAL USE BUILDINGS AND GARAGES: 32 FEET
    - SEE SECTION I. BELOW FOR ADDITIONAL REQUIREMENTS
  - BUILDING SETBACKS:
    - FRONT SETBACK - 10' EXCEPT THAT FACE OF GARAGE DOOR MUST BE SET A MIN. 22' FROM EDGE OF TRACT "A" OR PRIVATE STREET.
    - SIDE SETBACK - VARIES PER LOT-SEE PUD SITE PLAN (MULTI-UNIT DWELLINGS SHALL HAVE A SETBACK OF 0-FT AT COMMON LOT LINE.)
    - REAR SETBACK - VARIES PER LOT-SEE PUD SITE PLAN
    - BULK PLANE - AS DEFINED BY THE CITY OF ENGLEWOOD DEVELOPMENT STANDARDS IN THE UNIFIED DEVELOPMENT CODE (UDC), EXCEPT THAT THE POINT OF MEASUREMENT SHALL BEGIN EIGHTEEN FEET (18') ABOVE THE MIDPOINT OF THE SIDE LOT LINE.
    - ENCROACHMENTS - EAVES MAY EXTEND UP TO TWENTY-FOUR INCHES (24") INTO THE BULK PLANE AND TWENTY-FOUR INCHES (24") INTO THE SIDE SETBACK.
  - MINIMUM OFF-STREET PARKING:
    - PRINCIPAL USE: 2 SPACES MINIMUM, 1 MINIMUM WITHIN GARAGE AND 1 IN DRIVEWAY. MINIMUM DRIVEWAY LENGTH: 18-FT FOR LOT 10, 19-FT FOR ALL REMAINING LOTS.
    - OFF STREET PARKING: 10 OFF STREET PARKING SPACES SHALL BE PROVIDED AS SHOWN. THIS PARKING AREA MAY ALSO BE UTILIZED AS SNOW STORAGE AREA. "NO PARKING", FIRE LANE SIGNS SHALL BE PROVIDED ALONG PERIMETER CURBS OTHER THAN THE DESIGNATED PARKING AREAS.
  - ACCESSORY BUILDINGS AND PERMITTED ACCESSORY USES SHALL BE LOCATED ENTIRELY WITHIN THE DESIGNATED "DWELLING SETBACKS" AS SHOWN ON THE PLAN.
    - ATTACHED GARAGE: MINIMUM OF A 1-CAR GARAGE SHALL BE PROVIDED FOR EACH PRINCIPAL USE AS FOLLOWS:
      - MAXIMUM TOTAL FLOOR AREA: 1,000 SQUARE-FOOT
      - MAXIMUM HEIGHT: 32 FEET
      - GARAGE MAY NOT BE CONVERTED TO ANOTHER USE.
      - DETACHED GARAGES SHALL NOT BE ALLOWED.
    - HOME OCCUPATION: HOME OFFICES SHALL BE ALLOWED AND SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:
      - HOME OFFICES SHALL BE FOR THE USE OF THE OCCUPANTS OF THE RESIDENCE ONLY AND SHALL BE OPERATED ENTIRELY WITHIN THAT PRINCIPAL USE.
      - THERE SHALL BE NO ON-SITE SALES.
      - THERE SHALL BE NO ON-SITE STORAGE FOR ANY OFF-SITE SALES, OR INSTALLATIONS.
      - NO ASSISTANT SHALL BE EMPLOYED.
      - THERE SHALL BE NO SEPARATE OUTDOOR ENTRANCE.
      - THE OFFICE OCCUPATION, INCLUDING STORAGE OF MATERIALS, EQUIPMENT, AND SUPPLIES SHALL NOT UTILIZE MORE THAN 400 SQUARE-FOOT OF THE PRINCIPAL USE.
      - THE HOURS AND MANNER OF USE SHALL NOT INTERFERE WITH THE PEACE, QUIET AND DIGNITY OF ADJOINING PROPERTIES.
    - ACCESSORY STRUCTURES - NO STRUCTURE SHALL BE ALLOWED TO ENCRUCH INTO ANY EASEMENT, AND NO STORAGE SHEDS SHALL BE PERMITTED.
  - LANDSCAPE:
    - 100% OF THE FRONT SETBACK AREA AND NO LESS THAN 30% OF THE TOTAL LOT AREA SHALL BE LANDSCAPED.
    - THE USE OF NON-LIVING MATERIALS SHALL NOT EXCEED 33% OF THE TOTAL LANDSCAPED AREA.
    - AT LEAST ONE TREE AND FIVE SHRUBS SHALL BE PROVIDED PER 750 SQUARE FEET OF REQUIRED LANDSCAPE AREA.
    - ALL LANDSCAPING INSTALLED BY THE DEVELOPER SHALL CONFORM TO THE GENERAL LANDSCAPING REQUIREMENTS SET FORTH IN THE CITY'S UNIFIED DEVELOPMENT CODE.
  - FENCES:
    - A 6-FOOT TALL WOOD PERIMETER FENCE WILL BE ERRECTED ALONG THE EAST, WEST, NORTH, AND SOUTH PROPERTY BOUNDARIES, AS INDICATED ON THE PLAN. THIS FENCE WILL BE INSTALLED BY THE DEVELOPER PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY. MAINTENANCE OF THE PERIMETER FENCE WILL BE COVERED BY THE TERMS OF A MAINTENANCE AGREEMENT TO BE RECORDED SEPARATELY.
    - OWNERS MAY ELECT TO INSTALL A WOOD PRIVACY FENCE UP TO 6-FEET TALL BETWEEN LOTS AND SHALL BE RESPONSIBLE FOR ALL RELATED COSTS. NO FENCES SHALL BE ALLOWED ANYWHERE IN THE FRONT YARD. FRONT YARD FENCES SHALL MEAN BETWEEN THE FRONT LINE AND THE NEAREST LINE OR POINT OF THE PRINCIPAL DWELLING, INCLUDING THE GARAGE. IN NO CASE SHALL A FENCE BE INSTALLED PARALLEL TO OR WITHIN OF W. QUINCY AVENUE.
    - IN CASES WHERE A FENCE CROSSES A DRAINAGE EASEMENT AND/OR A DRAINAGE FACILITY SUCH AS A DRAINAGE PAN, THE FENCE SHALL BE CONSTRUCTED TO PROVIDE A MINIMUM OF 3-INCHES ABOVE THE FACILITY. IF A PRIVACY FENCE IS INSTALLED, OWNERS MUST PROVIDE AT LEAST ONE GATE NO LESS THAN 3' WIDE. THESE GATES MUST REMAIN UNLOCKED IN ORDER TO PROVIDE ACCESS TO REAR YARDS FOR MAINTENANCE AND UTILITY EASEMENTS.
  - SIGNAGE: ALL SIGNAGE SHALL CONFORM TO THE ENGLEWOOD MUNICIPAL CODE.
  - OTHER PROVISIONS AND REQUIREMENTS:
    - NO STRUCTURE OR VEHICLE ON THE SAME LOT WITH THE DWELLING SHALL BE USED FOR RESIDENTIAL PURPOSES.
    - THERE SHALL BE NO PARKING IN TRACT A EXCEPT AS SHOWN HEREON.
    - ALL BUILDINGS IN THIS DEVELOPMENT SHALL BE FIRE SPRINKLERED.
  - DRIVEWAYS: THE MAXIMUM WIDTH IN THE FRONT YARD OR SETBACK SHALL BE 20-FT. MINIMUM DRIVEWAY LENGTH SHALL BE 18-FT FOR LOT 10 AND 19-FT FOR ALL REMAINING LOTS.
  - DRAINAGE EASEMENT: NO BUILDING OR STRUCTURE SHALL BE CONSTRUCTED IN ANY ORAINAGE EASEMENT. NO CHANGES OR ALTERATIONS AFFECTING THE HYDRAULIC CHARACTERISTICS OF ANY DRAINAGE EASEMENT SHALL BE MADE WITHOUT WRITTEN APPROVAL OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF ENGLEWOOD.

### CODE DATA

|                  |  |            |                       |
|------------------|--|------------|-----------------------|
| JURISDICTION:    | CITY OF ENGLEWOOD                                | SITE AREA: | 1.19 AC., 51,994 S.F. |
| ZONING CODE:     | CITY OF ENGLEWOOD UNIFIED DEVELOPMENT CODE (UDC) | LOT 1:     | 3,368 S.F.            |
| EXISTING ZONING: | PUD - PLANNED UNIT DEVELOPMENT                   | LOT 2:     | 2,662 S.F.            |
| PROPOSED ZONING: | PUD - PLANNED UNIT DEVELOPMENT AMENDMENT NO. 1   | LOT 3:     | 5,645 S.F.            |
|                  |  | LOT 4:     | 2,557 S.F.            |
|                  |  | LOT 5:     | 2,559 S.F.            |
|                  |  | LOT 6:     | 2,561 S.F.            |
|                  |  | LOT 7:     | 2,563 S.F.            |
|                  |  | LOT 8:     | 2,565 S.F.            |
|                  |  | LOT 9:     | 3,985 S.F.            |
|                  |  | LOT 10:    | 4,760 S.F.            |
|                  |  | LOT 11:    | 4,772 S.F.            |
|                  |  | TRACT A:   | 13,733 S.F.           |
|                  |  | TOTAL:     | 51,730 S.F.           |

### DRAWING INDEX:

|            |                |
|------------|----------------|
| SHEET-1    | DISTRICT PLAN  |
| SHEET-2    | SITE AREA PLAN |
| SHEET-3    | PUD SITE PLAN  |
| (3 SHEETS) | ALTA SURVEY    |

### CURRENT OWNER:

DISTINCTIVE BUILDERS, LLC  
 4495 S. SANTE FE DRIVE  
 ENGLEWOOD, COLORADO 80110  
 (303) 796-7000

### PROPERTY UNDER CONTRACT BY:

HABITAT FOR HUMANITY OF METRO DENVER  
 3245 ELIOT STREET  
 DENVER, CO. 80211  
 (303) 534-2929, EXT. 320

CONTACT: ANDY BLACKMUN

### ARCHITECT:

HABITAT FOR HUMANITY OF METRO DENVER  
 3245 ELIOT STREET  
 DENVER, CO. 80211  
 (303) 534-2929, EXT. 329

CONTACT: JENNIFER SCHAEFER

### CIVIL ENGINEER:

CARROLL & LANGE - MANHARD  
 7442 SOUTH TUCSON WAY, SUITE 190-A  
 CENTENNIAL, CO. 80112  
 (303) 531-3209

CONTACT: BRIAN C. HART, P.E.

### SIGNATURE BLOCK:

PROPERTY OWNER: \_\_\_\_\_ DATE \_\_\_\_\_

STATE OF COLORADO  
 COUNTY OF \_\_\_\_\_  
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY  
 OF \_\_\_\_\_ A.D., 20\_\_\_\_ BY \_\_\_\_\_

AS \_\_\_\_\_ OF \_\_\_\_\_  
 MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

APPROVED FOR THE CITY OF ENGLEWOOD:

PLANNING AND ZONING COMMISSION CHAIRPERSON \_\_\_\_\_ DATE \_\_\_\_\_  
 PLANNING AND ZONING COMMISSION RECORDING SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_  
 MAYOR OF ENGLEWOOD \_\_\_\_\_ DATE \_\_\_\_\_  
 ATTESTED  
 THE FOREGOING APPROVAL WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_  
 BY \_\_\_\_\_ AND \_\_\_\_\_

CITY CLERK \_\_\_\_\_

### CLERK AND RECORDER'S OFFICE

THIS PLANNED UNIT DEVELOPMENT IS ACCEPTED FOR FILING IN THE OFFICE OF THE CLERK AND RECORDER OF ARAPAHOE COUNTY,  
 COLORADO, AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M., THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_  
 RECEPTION NUMBER \_\_\_\_\_ BOOK NUMBER \_\_\_\_\_ PAGE NUMBER \_\_\_\_\_

CITY CLERK \_\_\_\_\_ BY: \_\_\_\_\_ DEPUTY

## CARROLL & LANGE-MANHARD

A MANHARD CONSULTING COMPANY

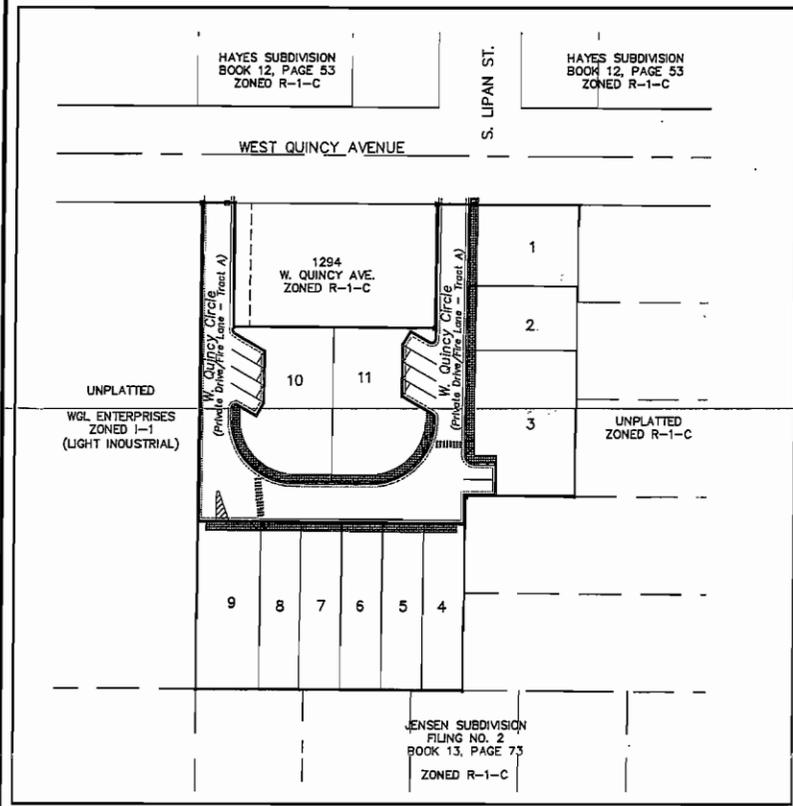
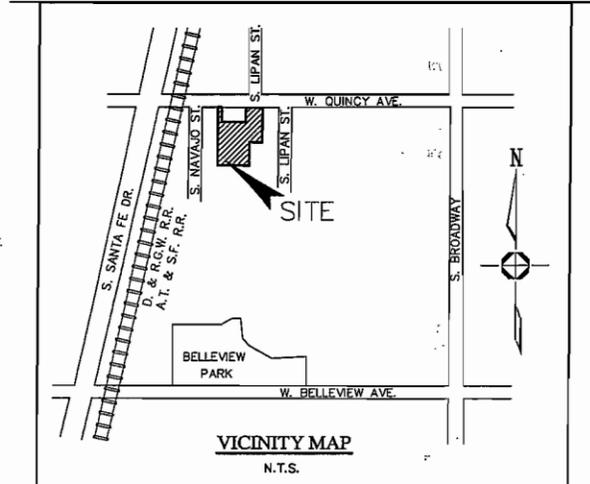
7442 South Tucson Way, Suite 190-A Centennial, CO 80112 ph:303.708.0300 fax:303.708.0400  
 Civil Engineers • Surveyors • Water Resource Engineers • Water & Wastewater Engineers  
 Construction Managers • Environmental Scientists • Landscape Architects • Planners

W. QUINCY AVENUE  
 ENGLEWOOD, COLORADO 80110

DESIGNED BY: MAP DATE: JANUARY 18, 2011 SHEET: \_\_\_\_\_  
 DRAWN BY: MAP SCALE: AS NOTED  
 CHECKED BY: BCH PROJECT: 7

**DISTRICT PLAN**  
 ENGLEWOOD ESTATES AMENDMENT NO.1

**PUD-1**



PROJECT AREA MAP  
 SCALE ~ 1"=50'

ENGLEWOOD ESTATES AMENDMENT NO. 1  
 PLANNED UNIT DEVELOPMENT - DISTRICT PLAN  
 ENGLEWOOD, COLORADO 80110

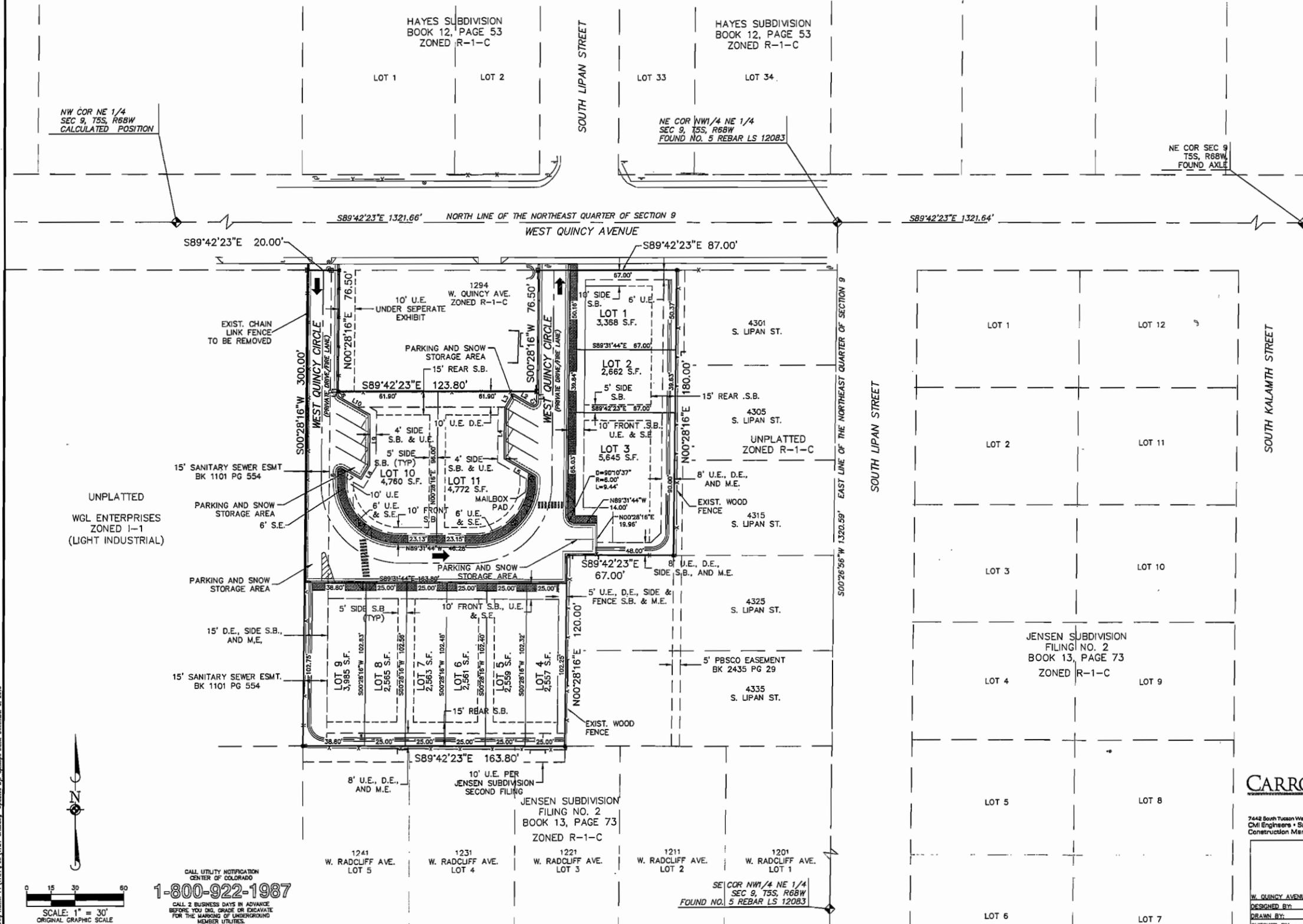
CARROLL & LANGE-MANHARD

# ENGLEWOOD ESTATES

## AMENDMENT NO. 1

### PLANNED UNIT DEVELOPMENT

### SITE AREA PLAN



**LEGEND**

- w—d—d— EXISTING WATER LINE AND VALVE
- EXISTING EDGE OF ASPHALT (E.O.A.)
- EXISTING RIGHT-OF-WAY (R.O.W.)
- ⊕ EXISTING POWER POLE
- EXISTING STORM
- x--- EXISTING FENCE
- s--- EXISTING SANITARY SEWER
- g--- EXISTING GASLINE
- PROPOSED TRACT LINE
- s--- PROPOSED SANITARY SEWER
- PROPOSED WATER
- PROPOSED STORM
- PROPOSED CATCH GUTTER
- PROPOSED SIDEWALK
- S SAN-SERV
- W WAT-SERV
- F FIRE-SERV
- U.E. UTILITY EASEMENT
- S.E. SIDEWALK EASEMENT
- D.E. DRAINAGE EASEMENT
- S.B. BUILDING SETBACK OR SETBACK AS DEFINED
- M.E. MAINTENANCE EASEMENT
- TRAFFIC DIRECTION

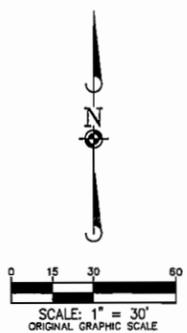
**Line Table**

| LINE # | LENGTH | DIRECTION   |
|--------|--------|-------------|
| L1     | 6.85'  | S0°28'20"W  |
| L2     | 13.80' | N59°31'40"W |
| L3     | 10.27' | S30°28'20"W |
| L4     | 32.02' | S0°28'20"W  |
| L5     | 22.04' | S59°31'40"E |
| L6     | 6.88'  | N0°27'40"E  |
| L7     | 13.80' | S59°31'40"E |
| L8     | 10.27' | N30°28'20"E |
| L9     | 32.02' | N0°28'20"E  |
| L10    | 22.04' | N59°31'40"W |
| L11    | 2.00'  | N0°29'30"E  |

**CURVE TABLE**

| CURVE # | LENGTH | RADIUS | DELTA      |
|---------|--------|--------|------------|
| C1      | 4.19'  | 2.00'  | 120°00'00" |
| C2      | 2.09'  | 2.00'  | 60°00'00"  |
| C3      | 60.87' | 38.75' | 90°00'00"  |
| C4      | 60.87' | 38.75' | 90°00'00"  |
| C5      | 4.19'  | 2.00'  | 120°00'00" |
| C6      | 2.09'  | 2.00'  | 60°00'00"  |

Draw Name: P:\K25\K25\1724-SITE.dwg Updated By: gphillips Date: December 8, 2010



CALL UTILITY NOTIFICATION  
 CENTER OF COLORADO  
**1-800-922-1987**  
 CALL 2 BUSINESS DAYS IN ADVANCE  
 BEFORE YOU DIG, GRADE OR EXCAVATE  
 FOR THE MARKING OF UNDERGROUND  
 MEMBER UTILITIES.

**CARROLL & LANGE-MANHARD**  
 A MANHARD CONSULTING COMPANY  
 7442 South Tucson Way, Suite 180A, Centennial, CO 80112 ph:303.708.0500 fx:303.708.0400 manhard.com  
 Civil Engineers • Surveyors • Water Resource Engineers • Water & Wastewater Engineers  
 Construction Managers • Environmental Scientists • Landscape Architects • Planners

**SITE AREA PLAN**  
 ENGLEWOOD ESTATES AMENDMENT NO. 1

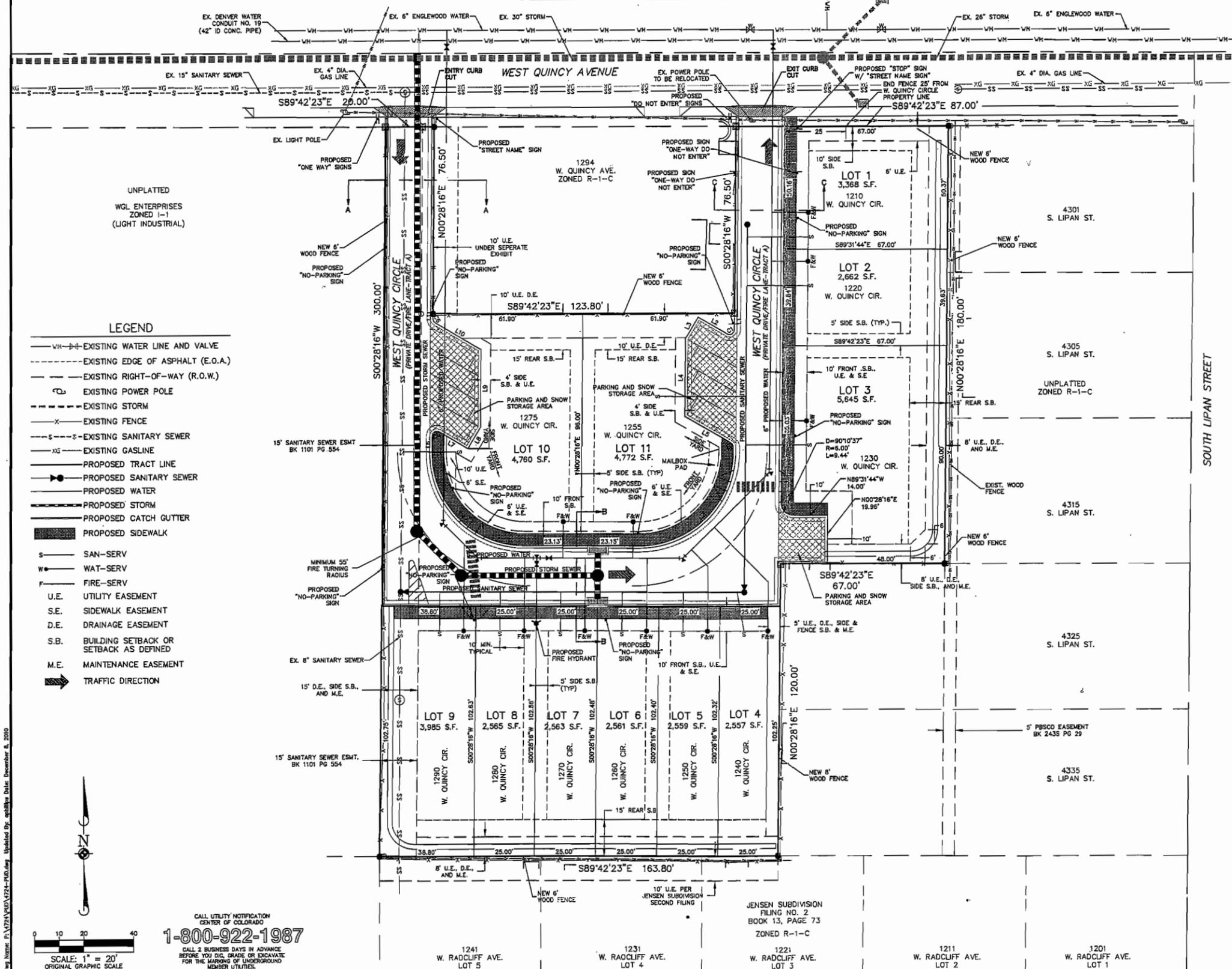
W. QUINCY AVENUE ENGLEWOOD, COLORADO 80110  
 DESIGNED BY: MAP DATE: JANUARY 18, 2011 SHEET:  
 DRAWN BY: MAP SCALE: AS NOTED  
 CHECKED BY: BCH PROJECT: 7

**PUD-2**

ENGLEWOOD ESTATES AMENDMENT NO. 1  
 PLANNED UNIT DEVELOPMENT - SITE AREA PLAN  
 ENGLEWOOD, COLORADO 80110

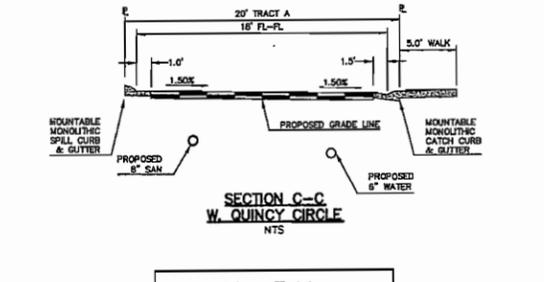
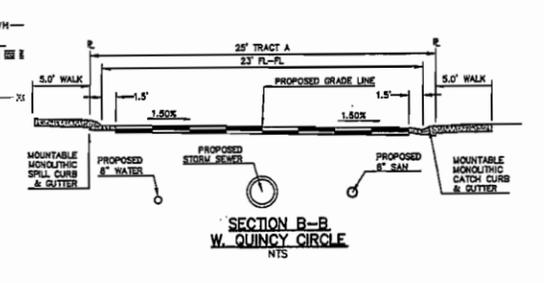
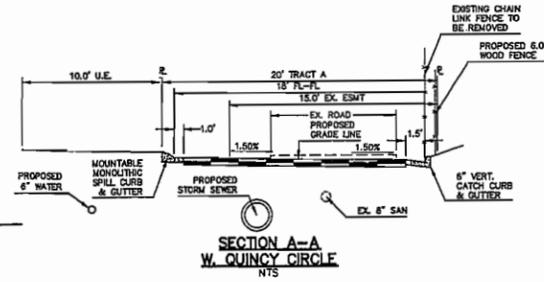
7442 SOUTH TUCSON WAY, SUITE 180-A CENTENNIAL, CO. 80112 (303) 708-0500  
 CARROLL & LANGE-MANHARD

# ENGLEWOOD ESTATES AMENDMENT NO. 1 PLANNED UNIT DEVELOPMENT PUD SITE PLAN



### LEGEND

- VH— EXISTING WATER LINE AND VALVE
- E.A.— EXISTING EDGE OF ASPHALT (E.O.A.)
- R.O.W.— EXISTING RIGHT-OF-WAY (R.O.W.)
- P— EXISTING POWER POLE
- S— EXISTING STORM
- X— EXISTING FENCE
- S—S— EXISTING SANITARY SEWER
- XG— EXISTING GASLINE
- P— PROPOSED TRACT LINE
- S—S— PROPOSED SANITARY SEWER
- W— PROPOSED WATER
- S—S— PROPOSED STORM
- G— PROPOSED CATCH GUTTER
- S—S— PROPOSED SIDEWALK
- S— SAN-SERV
- W— WAT-SERV
- F— FIRE-SERV
- U.E. UTILITY EASEMENT
- S.E. SIDEWALK EASEMENT
- D.E. DRAINAGE EASEMENT
- S.B. BUILDING SETBACK OR SETBACK AS DEFINED
- M.E. MAINTENANCE EASEMENT
- TRAFFIC DIRECTION



| LINE # | LENGTH | DIRECTION   |
|--------|--------|-------------|
| L1     | 6.85'  | S0°28'20"W  |
| L2     | 13.80' | N59°31'40"W |
| L3     | 10.27' | S30°28'20"W |
| L4     | 32.02' | S0°28'20"W  |
| L5     | 22.04' | S59°31'40"E |
| L6     | 6.88'  | N0°27'40"E  |
| L7     | 13.80' | S59°31'40"E |
| L8     | 10.27' | N30°28'20"E |
| L9     | 32.02' | N0°28'20"E  |
| L10    | 22.04' | N59°31'40"W |
| L11    | 2.00'  | N0°29'30"E  |

| CURVE # | LENGTH | RADIUS | DELTA      |
|---------|--------|--------|------------|
| C1      | 4.19'  | 2.00'  | 120°00'00" |
| C2      | 2.09'  | 2.00'  | 60°00'00"  |
| C3      | 60.87' | 38.75' | 90°00'00"  |
| C4      | 60.87' | 38.75' | 90°00'00"  |
| C5      | 4.19'  | 2.00'  | 120°00'00" |
| C6      | 2.09'  | 2.00'  | 60°00'00"  |

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Construction Managers • Environmental Scientists • Landscape Architects • Planners

**PUD SITE PLAN**  
ENGLEWOOD ESTATES AMENDMENT NO. 1

W. QUINCY AVENUE  
DESIGNED BY: MAP DATE: JANUARY 18, 2011 SHEET:  
DRAWN BY: MAP SCALE: AS NOTED  
CHECKED BY: BCL PROJECT: 7

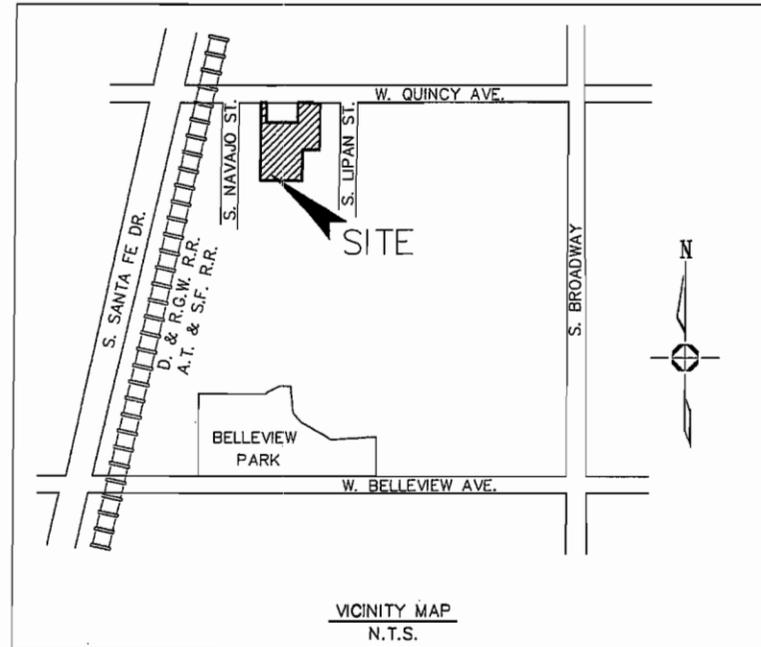
ENGLEWOOD, COLORADO 80110  
**PUD-3**

ENGLEWOOD ESTATES AMENDMENT NO. 1  
PLANNED UNIT DEVELOPMENT - PUD SITE PLAN  
ENGLEWOOD, COLORADO 80110

# ALTA/ACSM LAND TITLE SURVEY

A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO.

SHEET 1 OF 3



## LEGAL DESCRIPTION

LOTS 1 THRU 7 INCLUSIVE AND TRACT A, ENGLEWOOD ESTATES AS RECORDED UNDER RECEPTION NO. B4205364 OF THE RECORDS OF THE ARAPAHOE COUNTY CLERK AND RECORDER, SAID PROPERTY BEING LOCATED WITHIN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO, CONTAINING A PLATTED AREA OF 1.19 ACRES, MORE OR LESS.

## NOTES

- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY CARROLL & LANGE, INC. TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY, AND TITLE OF RECORD, CARROLL & LANGE, INC. RELIED UPON THE TITLE COMMITMENT AS NOTED HEREON.
- THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON(S) OR ENTITY(S) NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON(S) OR ENTITY(S) WITHOUT AN EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON(S) OR ENTITY(S).
- THE LINEAL UNIT USED IN THE PREPARATION OF THIS PLAT IS THE U.S. SURVEY FOOT AS DEFINED BY THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.
- BASIS OF BEARINGS: THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN IS ASSUMED TO BEAR SOUTH 00°28'56" WEST, AND IS MONUMENTED AS SHOWN HEREON.
- FLOODPLAIN: BASED ON A GRAPHICAL REPRESENTATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) MAP NO. 08D01C0045 G WITH AN EFFECTIVE DATE OF AUGUST 16, 1995 THIS PROPERTY IS NOT WITHIN THE 100-YEAR FLOOD PLAIN LIMITS.
- THE PROPERTY SHOWN HEREON MAY CONTAIN UNDERGROUND UTILITIES. ONLY VISIBLE SURFACE EVIDENCE OF UTILITIES WERE FIELD LOCATED AS A PART OF THIS SURVEY AND ARE SHOWN HEREON.
- DATE OF FIELD WORK AUGUST 17, 2009.
- WEST QUINCY CIRCLE AND THE SUBDIVISION LOTS WERE UNIMPROVED AT THE TIME OF THIS SURVEY.

## SCHEDULE B-2 TITLE EXCEPTION NOTES:

- BASED ON A REVIEW OF THE TITLE COMMITMENT AS NOTED HEREON, SCHEDULE B-2 EXCEPTIONS 1, 2, 3, 4, 5 AND 6 ARE NOT SURVEY MATTERS. THE FOLLOWING SCHEDULE B-2 EXCEPTIONS ARE NOTED WITH SURVEYOR COMMENTS IN AN ITALIC TEXT STYLE:
- EXCEPTION 9. RIGHT OF THE PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES HEREBY GRANTED AS RESERVED IN UNITED STATES PATENTS RECORDED MARCH 06, 1871 IN BOOK A57 AT PAGE 385. *CARROLL & LANGE DID NOT EXAMINE OIL COAL OR OTHER MINERAL RIGHTS. CARROLL & LANGE AND THE SURVEYOR OR RECORD ASSUMES NO RESPONSIBILITY FOR MINERAL RIGHTS ON THE SUBJECT PROPERTY.*
- EXCEPTION 10. RIGHT OF WAY FOR A PIPELINE AS RESERVED BY S. ELLA STONE IN DEED TO ROBERT S. BROWN RECORDED JULY 18, 1911 IN BOOK 55 AT PAGE 172. *DOES NOT AFFECT THE SUBJECT PROPERTY.*
- EXCEPTION 11. RIGHT OF WAY FOR THE PURPOSE OF CONSTRUCTION, OPERATION AND MAINTENANCE OF A SANITARY SEWER LINE AS GRANTED TO SOUTH ENGLEWOOD SANITATION DISTRICT NO. 1 RECORDED DECEMBER 15, 1958 IN BOOK 1101 AT PAGE 554. *AS SHOWN.*
- EXCEPTION 12. (ITEM INTENTIONALLY DELETED)
- EXCEPTION 13. UTILITY EASEMENT GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO RECORDED APRIL 6, 1976 IN BOOK 2435 AT PAGE 29. *LIES OUTSIDE THE SUBJECT PROPERTY AS SHOWN.*
- EXCEPTION 14. TERMS, CONDITIONS AND PROVISIONS OF RESOLUTION NO. 83 RECORDED SEPTEMBER 01, 2004 AT RECEPTION NO. B4156066. *AFFECTS THE SUBJECT PROPERTY NOT PLOTTED.*
- EXCEPTION 15. TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE NO. 47 RECORDED SEPTEMBER 01, 2004 AT RECEPTION NO. B4156067. *AFFECTS THE SUBJECT PROPERTY NOT PLOTTED.*
- EXCEPTION 16. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE RECORDED PLAT OF ENGLEWOOD ESTATES RECORDED NOVEMBER 29, 2004 UNDER RECEPTION NO. B4205364. *AS SHOWN.*
- EXCEPTION 17. TERMS, CONDITIONS AND PROVISIONS OF PLANNED UNIT DEVELOPMENT DISTRICT PLAN RECORDED NOVEMBER 29, 2004 AT RECEPTION NO. B4205365. *AFFECTS THE SUBJECT PROPERTY NOT PLOTTED.*
- EXCEPTION 18. ANY LOSS, DAMAGE OR LACK OF ACCESS DUE TO THE NON-COMPLIANCE OF THE RECORDED PLANNED UNIT DEVELOPMENT DISTRICT PLAN RECORDED NOVEMBER 29, 2004 AT RECEPTION NUMBER B4205365. *NOT A SURVEY MATTER.* UPON COMPLIANCE WITH REQUIREMENT NUMBER 1 THE ABOVE EXCEPTION MAY BE DELETED.

## AREA OF CONCERNS:

THE FOLLOWING MATTERS WHICH MAY AFFECT THE STATUS OF TITLE TO THE SURVEYED PROPERTY ARE NOTED BY CARROLL & LANGE, INC. FOR THE BENEFIT OF THE PARTY REQUESTING THIS SURVEY. CARROLL & LANGE, INC. AND THE SURVEYOR OF RECORD DO NOT WARRANT OR REPRESENT THAT ALL MATTERS THAT MAY AFFECT TITLE ARE NOTED BELOW. THE NUMBERS IN THE FOLLOWING COMMENTS CORRESPOND TO THE NUMBERS SHOWN ON OUR SURVEY PLAT:

- THE LOCATION OF THE BUILDINGS AT THE SOUTHWEST CORNER OF LOT 2, ARE 0.3 FEET AND 0.2 FEET NORTH OF THE PROPERTY LINE, CREATING AN AREA OF CONCERN.
- THE FENCE LINE ALONG THE SOUTHERLY LINE OF LOTS 3-5 LIES OUTSIDE THE SUBDIVISION BOUNDARY BY DISTANCES UP TO 2.2 FEET, CREATING AN AREA OF CONCERN.
- THE FENCE LINE ALONG THE NORTHERLY LINE OF LOTS 6 AND 7 LIES WITHIN THE SUBDIVISION BOUNDARY BY DISTANCES UP TO 0.5 FEET, CREATING AN AREA OF CONCERN.
- THE LOCATION OF THE SHED AT THE NORTHEASTERLY PORTION OF THE PLATTED WEST QUINCY CIRCLE RIGHT-OF-WAY, IS 0.8 FEET INTO SAID RIGHT-OF-WAY, CREATING AN AREA OF CONCERN.

## SURVEYOR'S CERTIFICATION

THIS IS TO CERTIFY TO HABITAT FOR HUMANITY OF METRO DENVER, INC., A COLORADO NONPROFIT CORPORATION; TO DISTINCTIVE BUILDERS, L.L.C., A COLORADO LIMITED LIABILITY COMPANY; AND TO LAND TITLE GUARANTEE COMPANY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005, AND INCLUDES ITEMS 1, 2, 3, 4, 6, 7(c), 8, 9, 10, 11(c), 13 AND 14 OF TABLE A THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATION, THE UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF COLORADO, THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

WILLIAM F. HESSELBACH, JR., P.L.S. NO. 25369  
FOR AND ON BEHALF OF  
CARROLL & LANGE-MANHARD

DATE 8/20/09



THIS MAP WAS PREPARED WITH LAND TITLE GUARANTEE COMPANY COMMITMENT NO. F70249633-4, EFFECTIVE JUNE 23, 2009 AT 5:00 P.M.

|     |           |      |    |             |       |          |                  |
|-----|-----------|------|----|-------------|-------|----------|------------------|
| 10  |           |      |    |             |       |          |                  |
| 9   |           |      |    |             |       |          |                  |
| 8   |           |      |    |             |       |          |                  |
| 7   |           |      |    |             |       |          |                  |
| 6   |           |      |    |             |       |          |                  |
| 5   |           |      |    |             |       |          |                  |
| 4   |           |      |    |             |       |          |                  |
| 3   |           |      |    |             |       |          |                  |
| 2   |           |      |    |             |       |          |                  |
| 1   |           |      |    |             |       |          |                  |
| NO. | REVISIONS | DATE | BY | CHECKED BY: | DATE: | FILE NO. | 4724 ALTA UPDATE |

**Carroll & Lange**  
Professional Engineers & Land Surveyors  
7442 South Tucson Way, Suite 100-A  
Centennial, Colorado 80112  
(303) 798-0500

PROJECT: ENGLEWOOD ESTATES

TITLE: ALTA / ACSM LAND TITLE SURVEY

DESIGNED BY: TP

DRAWN BY: TP

SCALE: 1"=20'

SHEET 1 OF 3

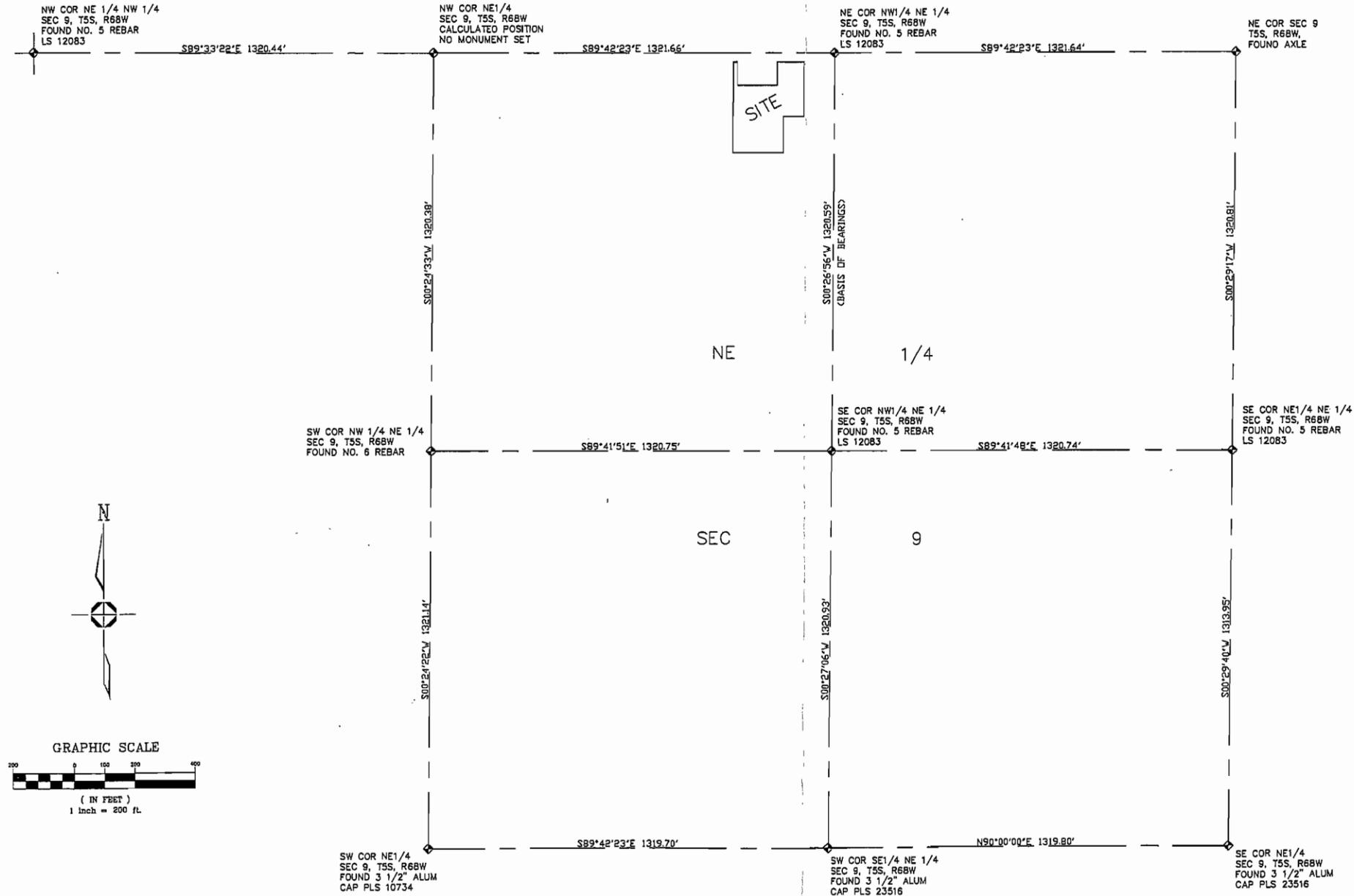
JOB NO. 4724

DATE: 08.18.09

# ALTA/ACSM LAND TITLE SURVEY

A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO.

SHEET 2 OF 3

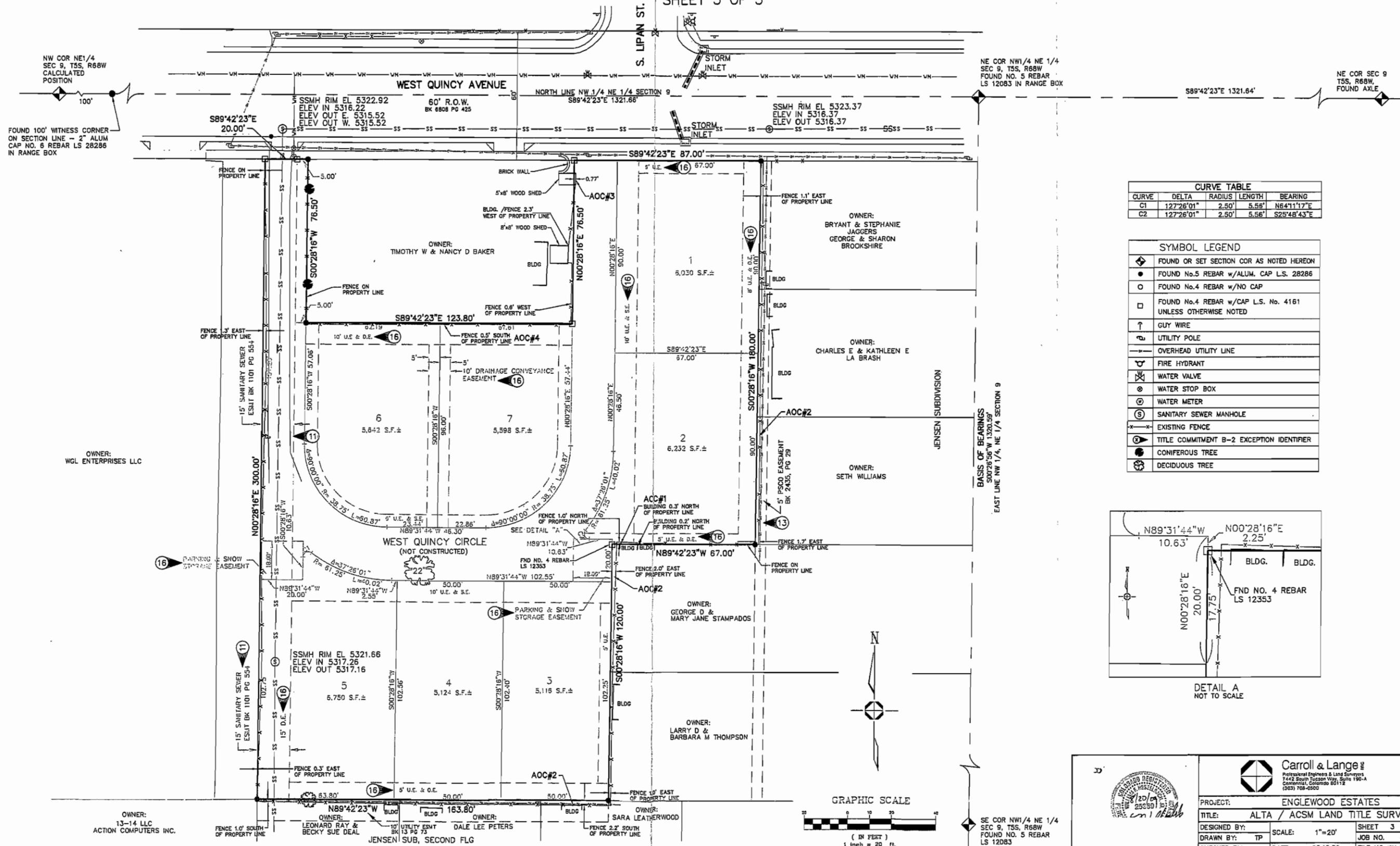


|              |        |  |                           |
|--------------|--------|--|---------------------------|
|              |        |  |                           |
|              |        | Carroll & Lange<br>Professional Engineers & Land Surveyors<br>7442 South Tucson Way, Suite 190-A<br>Centennial, Colorado 80112<br>(303) 709-0500 |                           |
| PROJECT:     |        | ENGLEWOOD ESTATES  |                           |
| TITLE:       |        | ALTA / ACSM LAND TITLE SURVEY  |                           |
| DESIGNED BY: | SCALE: | 1"=200'  | SHEET 2 OF 3              |
| DRAWN BY: TP | DATE:  | 08.18.09   | JOB NO. 4724              |
| CHECKED BY:  | DATE:  | 08.18.09   | FILE NO. 4724 ALTA UPDATE |

# ALTA/ACSM LAND TITLE SURVEY

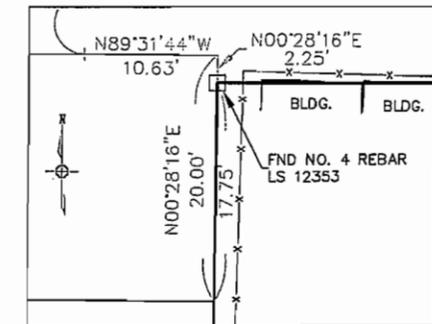
A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF ENGLEWOOD, COUNTY OF ARAPAHOE, STATE OF COLORADO.

SHEET 3 OF 3



| CURVE TABLE |            |        |        |             |
|-------------|------------|--------|--------|-------------|
| CURVE       | DELTA      | RADIUS | LENGTH | BEARING     |
| C1          | 127°26'01" | 2.50'  | 5.56'  | N64°11'17"E |
| C2          | 127°26'01" | 2.50'  | 5.56'  | S25°48'43"E |

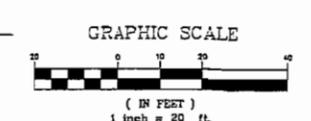
| SYMBOL LEGEND |  |
|---------------|--|
|               | FOUND OR SET SECTION COR AS NOTED HEREON                     |
|               | FOUND No. 5 REBAR w/ALUM. CAP. L.S. 28286                    |
|               | FOUND No. 4 REBAR w/NO CAP                                   |
|               | FOUND No. 4 REBAR w/CAP L.S. No. 4161 UNLESS OTHERWISE NOTED |
|               | GUY WIRE   |
|               | UTILITY POLE   |
|               | OVERHEAD UTILITY LINE  |
|               | FIRE HYDRANT   |
|               | WATER VALVE  |
|               | WATER STOP BOX   |
|               | WATER METER  |
|               | SANITARY SEWER MANHOLE                                       |
|               | EXISTING FENCE   |
|               | TITLE COMMITMENT B-2 EXCEPTION IDENTIFIER                    |
|               | CONIFEROUS TREE  |
|               | DECIDUOUS TREE   |



DETAIL A  
NOT TO SCALE

**Carroll & Lange**  
Professional Engineers & Land Surveyors  
7442 South Tucson Way, Suite 100-A  
Centennial, Colorado 80112  
(303) 768-0200

|                                      |                          |
|--------------------------------------|--------------------------|
| PROJECT: ENGLEWOOD ESTATES           |                          |
| TITLE: ALTA / ACSM LAND TITLE SURVEY |                          |
| DESIGNED BY: TP                      | SCALE: 1"=20'            |
| DRAWN BY: TP                         | SHEET 3 OF 3             |
| CHECKED BY:                          | DATE: 08.18.09           |
|                                      | FILE NO. 474-ALTA UPDATE |



SE COR NW1/4 NE 1/4  
SEC 9, T5S, R68W  
FOUND NO. 5 REBAR  
LS 12083

OWNER:  
13-14 LLC  
ACTION COMPUTERS INC.

OWNER:  
LEONARD RAY &  
BECKY SUE DEAL

OWNER:  
DALE LEE PETERS

OWNER:  
SARA LEATHERWOOD

**Leigh Ann Hoffhines**

---

**Subject:** FW: Public Hearing Email for Next Monday

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**From:** Rick Gillit [redacted]

**Sent:** Tuesday, March 01, 2011 12:25 PM

**To:** Leigh Ann Hoffhines

**Subject:** Public Hearing Email for Next Monday

Leigh Ann,

Ms. Baty sent me this email and wanted me to make sure that Council received it so I am passing it along to you to send to them! She asked that since she was unable to make the "Public Hearing" that I send her comments along to the rest of Council for consideration. I said I would so here it is:

Thank you! Rick Gillit

---

**From:** [redacted]

**Sent:** Tuesday, March 01, 2011 11:29 AM

**To:**

**Subject:** March 2nd Meeting

Dear Councilman Gillit,

Thank you for taking the time to inform the residence's of this neighborhood about the planned development. We have lived in this house for over 40 year and our next door neighbors (who are in the 90's) bought their home brand new. This is a nice, quiet, 1 family residential neighborhood. Quincy traffic at this point is not too bad, and the park is wonderful.

I am very concerned about this planned project. I cannot image putting that many houses in that small of space. Also, I would like to know where they are to park all of the cars for this project. It will mean a lot of increased traffic on our streets, and increase in noise, an inconvenient project for the police and fire departments.

I think Habitat for Humanity does a great job with all of the projects, but I do not feel that this is the neighborhood for this new project.

I understand the history behind this property, and know that they only way the sellers could make any money on this property was to go with a project that would make them the most money.

I am sorry, due to my health, that I will not be able to attend this meet.

Sincerely

Anne Baty  
4301 So. Kalamath  
Englewood, Colorado 80110

## COUNCIL COMMUNICATION

|   |                               |   |
|---|-------------------------------|---|
| <b>Date:</b><br>March 7, 2011           | <b>Agenda Item:</b><br>11 a i | <b>Subject:</b><br>Mini Grant – Request for Funding for Child Passenger Safety Seat Program from CDOT |
| <b>Initiated By:</b><br>Fire Department |                               | <b>Staff Source:</b><br>Michael Pattarozzi, Fire Chief  |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The grant supports the following outcomes:

- A safe, clean, healthy and attractive City.
- A progressive City that provides responsive and cost-efficient services.

Council has not had any previous action on this matter.

### RECOMMENDED ACTION

Staff recommends Council adopt a bill for an ordinance approving an Intergovernmental Agreement with the Colorado Department of Transportation. This will allow for the awarding of the grant.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

This grant will support the Fire Department's Child Passenger Safety Program. The grant will fund the purchase of car seats and the supplies required for installation. The grant will also cover the cost of recertifying six Child Passenger Safety Technicians, and the training of an additional Child Passenger Safety Technician.

### FINANCIAL IMPACT

This is a 'no match required' grant.

### LIST OF ATTACHMENTS

Grant Request for Funding for Child Passenger Safety Seat Program  
Notice to Proceed from CDOT  
Bill for an Ordinance



C I T Y O F E N G L E W O O D  
F I R E D E P A R T M E N T

---

**Request for Funding for Child Passenger Safety Seat Program**

**Name of Organization:** Englewood Fire Department  
**Mailing Address:** 3615 S. Elati Street, Englewood, CO 80110  
**Project:** Car Seat Safety Check Program  
**Contact:** Madeline Norconk, Executive Assistant  
Englewood Fire Department  
3615 S. Elati Street  
Englewood, CO 80110

**Amount Requested:** \$4,515.00

The Englewood Fire Department provides child passenger safety seat installation education to the public at no charge. The department is committed to helping parents and/or caregivers learn how to properly install these devices. Certified Firefighter Car Seat Technicians are available during pre-designated hours to inspect child safety seats and educate parents and/or caregivers on proper installation.

The Englewood Fire Department's mission is to protect life, property and the environment through a commitment to excellence in emergency response, training, public education, fire prevention, and the efficient utilization of resources. The department's Car Seat Safety Education Program is an important area of safety education provided to the local community which enhances the safety of children.

**Goal**

The fire department is committed to reducing the injuries, disabilities and deaths caused by the improper installation of child passenger safety seats. Occasionally, the city's victim advocate coordinator will request the department's technicians to provide education to someone who has been involved in an accident where the child passenger safety seat was improperly installed, or was absent due to financial hardship. In the past, the department would provide these families

with a car seat and educate the parent(s) on proper installation. Due to budget shortfalls, the Englewood Fire Department no longer has the resources to supply car seats to families that cannot afford one. With the monies from this grant proposal, the department will again be able to assist families in need in this way, as well as provide the other supplies required to sustain the car passenger safety seat program.

### **Activities**

The Englewood Fire Department provides individual child passenger safety seat installation education through child passenger safety seat appointments and prescheduled check-points. Technicians assist with and demonstrate proper installation technique and answer questions to ensure parents, grandparents and caregivers understand the benefits of the proper installation and use of a restraint system for anyone who rides in a vehicle. The education provided includes information regarding the Colorado Child Passenger Safety Law, passed in 2010.

### **Program Evaluation**

Program success is evaluated by measuring the number of child passenger safety seat education sessions the department provides, and recording proper car seat use and installation in motor vehicle accidents involving children in the Englewood community.

### **Car Seats/Supplies:**

|                         |                        |
|-------------------------|------------------------|
| Infant Car Seats        | 15 x \$50 = \$ 750.00  |
| Convertible Car Seats   | 20 x \$65 = \$1,300.00 |
| Combination Car Seats   | 10 x \$60 = \$ 600.00  |
| High-Back Booster Seats | 10 x \$45 = \$ 450.00  |
| Low-Back Booster Seats  | 12 x \$35 = \$ 420.00  |

|                                     |                            |
|-------------------------------------|----------------------------|
| LATCH Manual                        | 4 x \$30 = \$ 120.00       |
| Supplies for car seat installations | \$ 500.00                  |
| Technician Recertifications         | 6 x \$50 = \$ 300.00       |
| Technician Certification            | 1 x \$75 = <u>\$ 75.00</u> |

|                        |                          |
|------------------------|--------------------------|
| Total Amount Requested | <u><u>\$4,515.00</u></u> |
|------------------------|--------------------------|

## Nancy Fritz

---

**From:** Madeline Norconk  
**Sent:** Thursday, February 10, 2011 3:11 PM  
**To:** Nancy Fritz  
**Cc:** Michael Pattarozzi  
**Subject:** Notice to Proceed (Child Passenger Safety Program - CDOT Mini Grant Request)  
**Attachments:** Request for Funding for Child Passenger Safety Seat Program CDOT.Feb2011.pdf

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Nancy,

Below is the communication I received from CDOT approving our request for a mini grant to help sustain our Child Passenger Safety Program. I have attached a copy of our original grant request.

Please let me know if you have any questions.

Thank you.

Madeline

**From:** Erez, Ilana  
**Sent:** Thursday, February 10, 2011 8:59 AM  
**To:** Madeline Norconk  
**Subject:** RE: Notice to Proceed

Sorry about that.  
The grant period ends on September 30<sup>th</sup> 2011.

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**From:** Madeline Norconk  
**Sent:** Thursday, February 10, 2011 8:54 AM  
**To:** Erez, Ilana  
**Subject:** RE: Notice to Proceed

Good morning, Ilana.

Thank you for notifying us that the Englewood Fire Department has been awarded our mini grant request!

Would you mind forwarding me another e-mail indicating the grant period as 9/30/2011, please?

Again, thank you very much for approving our request!

Madeline

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**From:** Erez, Ilana  
**Sent:** Thursday, February 10, 2011 8:38 AM  
**To:** Madeline Norconk  
**Subject:** Notice to Proceed

This email is to serve as a Notice to Proceed for Englewood Fire Department in the amount of \$4,515.00. This is federal 402 State and Community Highway Safety funding provided through the National Highway Traffic Safety Administration (NHTSA), CDFDA # 20.600.

Funds are available on a reimbursement basis only and an invoice with sufficient backup documentation will be required in order for payment to be processed.

The grant period ends on September 30<sup>th</sup> 2010. Please make sure to purchase items before that date.

Call me if you have any questions.

*Ilana Erez*  
*CDOT - Office of Transportation Safety*  
*4201 East Arkansas Avenue*  
*Denver, CO 80222*  
*Phone and Fax 303.757.9446 (fax into my inbox)*  
*Office Fax # : 303-757-9078*

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

COUNCIL BILL NO. 12  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A COLORADO DEPARTMENT OF TRANSPORTATION GRANT AWARDED TO THE CITY OF ENGLEWOOD FOR THE CHILD PASSENGER SAFETY SEAT PROGRAM.

WHEREAS, the City of Englewood Fire Department is committed to reducing the injuries, disabilities and deaths caused by the improper installation of child passenger safety seats; and

WHEREAS, the City of Englewood Fire Department sought and was awarded a grant from the Colorado Department of Transportation (CDOT) Grant ; and

WHEREAS, the passage of this Ordinance authorizes the acceptance of funding for Child Passenger Safety Seat Program; and

WHEREAS, the Englewood Fire Department provides child passenger safety seat installation education to the public at no charge and is committed to helping parents and/or caregivers learn how to properly install these devices; and

WHEREAS, the certified Firefighter Car Seat Technicians are available during pre-designated hours to inspect child safety seats and educate parents and/or caregivers on proper installation; and

WHEREAS, the grant will cover the cost of recertifying six Child Passenger Safety Technicians and the training of an additional Child Passenger Safety Technician and supply car seats for families in need; and

WHEREAS, the passage of this Ordinance will fund the purchase of car seats and the supplies required for installation; and

WHEREAS, this CDOT Grant awarded to the City of Englewood is \$4,515.00 with no match required the Grant period ends on September 30<sup>th</sup>, 2011;

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the acceptance of the Colorado Department of Transportation Grant awarded to the City of Englewood for funding the Englewood Fire Department's Child Passenger Safety Program.

Introduced, read in full, and passed on first reading on the 7th day of March, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 11th day of March, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

---

James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 7th day of March, 2011.

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Loucrishia A. Ellis

## COUNCIL COMMUNICATION

|  |                                |  |
|--|--------------------------------|--|
| <b>Date:</b><br>March 7, 2011                              | <b>Agenda Item:</b><br>11 a ii | <b>Subject:</b><br>Restaurant Contract – Golf Course       |
| <b>Initiated By:</b><br>Department of Parks and Recreation |                                | <b>Staff Source:</b><br>Bob Spada, Golf Operations Manager |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

2007 Approval of Restaurant Contract – Dadiotis Golf Enterprises, LLC  
2006 Approval of Revised Restaurant Contract – Caddie Shack, LLC  
2004 Approval of Restaurant Contract- Caddie Shack, LLC  
2000 Approval of Restaurant Contract- Reif Golf, Inc  
1996 Approval of Restaurant Contract- JOQ's Corporation  
1988 Approval of Restaurant Contract- Anderson/Malloy, Inc. D.B.A. Woody's Club  
1986 Approval of Restaurant Contract- Mur-James Corporation  
1982 Approval of Restaurant Contract- 2101 Corporation

The current request for delay of payment was discussed during the February 7, 2011 City Council Study Session.

### RECOMMENDED ACTION

Staff recommends City Council adopt a bill for an ordinance approving an addendum to the current golf course restaurant contract authorizing the payment delay of \$9,000 for rent due in 2010 and to eliminate the maintenance/repair financial commitment for restaurant equipment repairs of \$3,500 through 2011.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Jim Dadiotis, of Dadiotis Golf and operator of the Broken Tee Grill, has requested a payment delay for rent due in 2010. The remaining balance is \$9,000. He also has requested that contract be adjusted to eliminate the maintenance/repair financial commitment for restaurant equipment repairs of \$3,500 through 2011. These requests are due to the current economic conditions which have impacted his business with less clientele and increased costs.

The Englewood Golf Course has provided a restaurant concession at the existing clubhouse since 1982. Caddie Shack, LLC now Dadiotis Golf Enterprises, LLC took over the operation in October 2004. They have always been committed to providing good service and have resolved any issues when approached by city staff. They remained committed to serving our guests during the 22 months of renovation of the golf course which saw a significant reduction in golf play from September 2006 through June of 2008. The restaurant revenue produced during this time period was reduced by 57%.

## **FINANCIAL IMPACT**

The Englewood Golf Course is an Enterprise Fund therefore there will be no financial impact to the City of Englewood's General Fund. The financial impact to the golf course could be \$3,500 (the maximum amount owed for kitchen repairs if needed) plus the interest lost on \$9,000.

## **LIST OF ATTACHMENTS**

Restaurant Contract  
Bill for an Ordinance

11 b i  
18 28

BY AUTHORITY

ORDINANCE NO. 172  
SERIES OF 2007

COUNCIL BILL NO. 69  
INTRODUCED BY COUNCIL  
MEMBER OAKLEY

AN ORDINANCE APPROVING THE GOLF COURSE RESTAURANT CONCESSIONAIRE AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND DADIOTIS GOLF ENTERPRISES, LLC, FORMERLY CADDIE SHACK, LLC.

WHEREAS, the purpose of this Agreement is to provide snack bar, grill and bar services to the golfing public and a quality, full-service restaurant facility offering breakfast, lunch and dinner for group meetings, service clubs and informal evening dining;

WHEREAS, the Englewood City Council selected Caddie Shack as the Concessionaire to operate the Englewood Golf Course Clubhouse restaurant by the passage of Ordinance No. 53, Series of 2004; and

WHEREAS, the City of Englewood, was approached by Miller Weingarten Realty on behalf of the Sheridan Redevelopment Agency in 2004 regarding the proposed redevelopment plan for the area west of South Santa Fe Drive, between Hampden and Oxford Avenues and the Englewood City Council approved a property lease agreement with the Sheridan Redevelopment Agency and Miller Weingarten; and

WHEREAS, due to the renovation of the golf course and the significant reduction in golf play in 2006, the Englewood City Council approved a revised contract for the current restaurant concessionaire which allowed the restaurant to continue operations during the golf course construction period by the passage of Ordinance No. 48, Series of 2006; and

WHEREAS, Caddie Shack LLC, the current concessionaire, is changing the name of the business to Dadiotis Golf Enterprises, LLC; and

WHEREAS, the passage of this proposed Ordinance will approve a new Golf Course Restaurant Concessionaire Agreement between the City and Dadiotis Golf Enterprises, LLC; and

WHEREAS, the Agreement is for a one year period with two one year renewals at the option of the Concessionaire and two additional optional one year periods by agreement of both parties;

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

Section 1. The City Council of the City of Englewood, Colorado, hereby authorizes and approves the Golf Course Restaurant Concessionaire Agreement, attached hereto as Attachment 1.

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

Introduced, read in full, and passed on first reading on the 3<sup>rd</sup> day of December, 2007.

Published as a Bill for an Ordinance on the 7<sup>th</sup> day of December, 2007.

Read by title and passed on final reading on the 17th day of December, 2007.

Published by title as Ordinance No. 12, Series of 2007, on the 21st day of December, 2007.

ATTEST:

\_\_\_\_\_  
James K. Woodward, Mayor

\_\_\_\_\_  
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. 12, Series of 2007.

\_\_\_\_\_  
Loucrishia A. Ellis

AGREEMENT

THIS AGREEMENT, hereinafter called "Lease", made and entered into this 17<sup>th</sup> of December, 2007, by and between the CITY OF ENGLEWOOD, a Colorado municipal corporation, hereinafter referred to as "City", and DADIOTIS GOLF ENTERPRISES, LLC., hereinafter referred to as "Concessionaire";

WITNESSETH:

WHEREAS, the City owns certain real property which is now operated as a municipal golf course, hereinafter called "Golf Course", and located in the City of Sheridan; and

WHEREAS, City and Concessionaire desire to enter into a lease for the management of the restaurant and lounge located at 2101 West Oxford Avenue, Sheridan, Colorado 80110;

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

Section 1. STATEMENT OF INTENT.

The purpose of this Lease to provide snack bar, grill and bar services to the golfing public and a quality, full-service restaurant facility offering breakfast, lunch and dinner for group meetings, service clubs and informal evening dining.

Section 2. GRANT.

The City hereby leases to Concessionaire the portion of its golf clubhouse presently used as its restaurant concession, together with the improvements thereon, located at 2101 West Oxford Avenue, Sheridan, Colorado 80110, for the purposes of serving food and beverages, including alcoholic beverages.

Section 3. DEFINITION OF PREMISES.

The "Leased Premises" as referred to herein is defined to be the golf clubhouse restaurant and lounge which is owned by the City of Englewood, Colorado. [See Exhibit "A"] Proposed food and beverage operations shall also be allowed on the golf course. Nothing herein gives Concessionaire any right to interfere with or participate in the operation of the Golf Course as a golf course, i.e. fairways and greens, Pro Shop, and all other golf course operations.

Section 4. TERM OF AGREEMENT.

This Lease shall not be effective until Concessionaire has obtained a liquor license to dispense alcoholic beverages pursuant to C.R.S. 12-47-101 et. seq. From the date of signature until the liquor license is authorized by the proper officials, this Lease shall be considered an Option to Lease that may not be terminated by either party, except that if the Liquor License is not granted and in operation on or before January 1, 2008. The City hereby grants to Concessionaire the right to hold the Leased Premises pursuant to the terms of this Lease for a one (1) year lease with two (2) one (1) year renewals at the option of the Concessionaire and with two

(2) additional optional one (1) year periods by agreement of both parties. The City reserves the right to accept, modify, or reject said written proposal. If the Concessionaire intends to renew the contract they must inform the Director of Parks and Recreation ninety (90) days prior to termination of the lease. The City shall inform Concessionaire of its decision through the Director of Parks and Recreation.

Section 5. USE OF THE PREMISES.

Concessionaire shall have the right to possession of the Leased Premises for the purpose of serving food and/or beverages, including alcoholic beverages, for consumption on the golf course. However, nothing in this Lease shall be construed to authorize that which is prohibited under United States, State or local law, ordinance, code or regulation. The Leased Premises shall be used by the Concessionaire for the purveying of alcoholic beverages, as the same may be authorized by and regulated under the Colorado Liquor Code, C.R.S. 12-47-101, et seq., and for the operation of a restaurant. Concessionaire shall operate the Leased Premises in a careful, safe, quiet, orderly, and businesslike manner. Concessionaire shall not use or permit the premises to be used for any purpose that is prohibited under the laws of the United States, statutes of the State of Colorado, or ordinances, regulations or codes of the City of Englewood or the City of Sheridan.

Concessionaire shall provide food and/or beverages including alcoholic beverages on the golf course through the use of concession sheds, beverage cart(s) or a combination thereof. Operation time and use of the concession sheds and beverage cart(s) shall be provided by the Concessionaire and shall be approved by the City Manager or designee in the same manner as Section 8. Use of beverage cart(s) shall follow the same rules and regulations as golf course rental carts. Concession shed design shall be approved by the City Manager or his designee. Use of beverage carts shall not interfere with the operation of the golf course. Service to the golfers on the course shall be reviewed by the City Manager or his designee every six (6) months.

Entertainment of any nature that Concessionaire proposes on the premises shall be subject to prior approval by the Englewood City Manager or his designee, which approval shall not be unreasonably withheld. If the City determines any entertainment to be objectionable, City shall notify Concessionaire in writing thereof and Concessionaire shall terminate said entertainment immediately.

Section 6. EXCLUSIVE RIGHT TO USE PREMISES.

City hereby grants to Concessionaire the exclusive right to use the Leased Premises to operate a restaurant and to purvey alcoholic beverages. Use of vending machines by the Concessionaire must be approved by the City Manager or designee. The City may use outside food vendors for certain special events such as Junior Golf, Golf 4 Fun, etc. This will be done on a limited basis as requested by the Parks & Recreation Director or his appointee.

Section 7. MENU.

The Concessionaire shall provide an attractive menu for breakfast, lunch, and evening meals listing meal items, beverages available and current pricing. Menus, pricing and changes to menus or pricing of menu items shall be reviewed and approved by the City Manager or his designee.

Section 8. HOURS OF OPERATION.

- a) From May 1st through September 30th of each year, the Concessionaire shall operate the restaurant facility seven (7) days per week and during these months shall be open each day to serve meals to the public from one-half hour before dawn and shall remain open until at least 10:00 p.m.
- b) During the months of October 1st through April 30th of each year, the Concessionaire shall operate the restaurant facility seven (7) days per week and during these months shall be open each day to serve meals to the public at dawn and shall remain open until at least 8:00 pm.
- c) Beverage cart(s) must be provided seven (7) days per week and two (2) beverage carts are required for larger tournaments (60 participants or more), weekends and holidays. Hours of operation, including the hours of concession shed and beverage cart operation, may be modified with written approval from the City Manager or his designee.
- d) Beverage cart operation (including concession shed) needs to service the 18-hole regulation course and the Par 3 course. During the months of June, July and August and on Friday, Saturday and Sunday, two (2) beverage carts are required.
- e) Sunday closing at 8:00 p.m. is permitted. Nothing herein shall be construed as prohibiting the Concessionaire from being open for other hours in addition to those stated in paragraphs "a" and "b" above. Restaurant may close on Christmas Day.
- f) Concessionaire agrees to cooperate with the Golf Course Manager in scheduling golf meetings and events that involve use of the grill, meeting room and dining room. In the event of any disagreement, the matter shall be referred to the City Manager or his designee.

Section 9. MAINTENANCE, REPAIR AND REPLACEMENT.

- i. The Concessionaire shall be responsible for repairs and/or replacement of small appliances, dishes, glasses, silverware, and other equipment and miscellaneous cooking pots, pans and utensils. [See Exhibit B]
- ii. The City shall be responsible for the selection of the contractor for maintenance, repairs and replacement of the stove, grill and oven, hood and fire suppression system, deep fat fryer, sinks, grease trap, drains, cabinets, dishwashers, freezer, walk-in cooler, bar refrigeration, furniture, and snack bar cooler.

The first expense of any contractual maintenance costs will be paid by the Concessionaire as follows:

2008: \$1750  
2009: \$1750  
2010: \$1750  
2011: \$3500  
2012: \$3500

Thereafter, the City shall be responsible for all additional costs, unless such cost is due to negligence or other acts by Concessionaire or employees of Concessionaire.

- g) Concessionaire and or the City may temporarily close the restaurant facility for cleaning, construction and maintenance under a mutually agreed upon schedule.

#### SECTION 10. CLEANLINESS GUIDELINES.

The Concessionaire will maintain, at all times, the kitchen, food preparation, dining and banquet areas, all equipment, fixtures, paraphernalia, materials, utensils and other items there in, in a clean and sanitary manner, polished and waxed to the highest degree possible. Concessionaire shall keep the concession facilities clear of broken glass, debris, and garbage. Concessionaire shall dispose of any waste water or other waste fluid in the sanitary sewer. In the event waste fluids may not legally be disposed of in the sanitary sewer, then Concessionaire is responsible for disposing of same in an appropriate and lawful manner. Concessionaire shall comply with all applicable health and sanitation laws and regulations in effect where the food/beverage areas are located. The Concessionaire shall permit and facilitate inspection of the food/beverage areas by the City and its representatives and by public health/sanitation/building/fire authorities so authorized at all times.

The following shall establish the minimum sanitation guidelines for the Concessionaire:

- a) The Sanitation Code of the U.S. Food Service Industry as published by the National Restaurant Association.
- b) All State of Colorado Acts and Regulations governing food service operations.
- c) All applicable County Public Health/Sanitation Regulations.
- d) All applicable Federal Government Acts and Regulations.
- e) Any specific guidelines established by the Manager.

#### SECTION 11. SANITATION REGULATION AND JOB INSPECTION.

- a) Informal inspections of the food service facilities are to be conducted weekly by the Concessionaire. An inspection checklist is to be prepared and completed by the Concessionaire for each inspection, and said checklists are to be made available to the City upon its request. A complete report of corrective measures taken or to be taken for any deficiencies noted should accompany the inspection report.
- b) Informal inspections of the food service facilities are to be conducted daily by the Concessionaire with immediate corrective measures taken for any deficiencies noted.
- c) Formal inspections of the food service facilities are to be conducted a minimum of two (2) times per year, by the City's designated representative, accompanied by the Concessionaire.

Section 12. RENT.

- a) Concessionaire shall pay rent to the City in accordance with the following schedule:
  - i. Commencing on January 1, 2008 Concessionaire shall pay \$1,000 per month or \$12,000 per year with the assumption the golf course opens on May 24, 2008. And shall be prorated upon the opening date of the Golf Course [estimated date of June 1, 2008] If the golf course opening is delayed until July 1, 2008, the concessionaire would get a \$3,000 reduction in rent instead of \$1,714.
  - ii. Commencing on January 1, 2009, Concessionaire shall pay \$2166.67 per month or \$26,000 per year.
  - iii. Commencing on January 2010 and for each remaining year on the contract, the Concessionaire shall pay \$3,000 per month or \$36,000 per year.

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

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

Section 13. UTILITIES.

City shall provide all utility costs for operation

Section 14. JANITORIAL SERVICE AND TRASH REMOVAL.

City shall be responsible for the reasonable cost of trash removal and janitorial service for the Leased Premises. Nothing in this Paragraph shall diminish the Concessionaire's requirements set forth in Paragraphs 10 and 11.

Section 15. PARKING FACILITIES.

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

Section 16. PHYSICAL FACILITY AND EQUIPMENT.

City agrees to provide space, fixtures, equipment and furniture for an equipped kitchen, bar, lounge area, grill, snack bar and two dining/meeting rooms. Concessionaire agrees not to

move existing partitions separating dining area and meeting room without the written permission of the City Manager or his designee.

Section 17. ADDITIONAL FACILITIES AND EQUIPMENT.

Concessionaire shall have the right to install additional facilities and equipment with the consent of the City Manager or his designee. Said facilities and equipment shall become the property of the City upon the termination of the lease.

Section 18. SECURITY.

Concessionaire is responsible for the obtaining of theft insurance covering all food, liquor, and other supplies and personal property of Concessionaire. Such policies shall contain no right of subrogation against the City. Concessionaire shall provide a copy of the policy to the City Manager or his designee.

Section 19. PERSONNEL.

- a) Concessionaire shall at its own expense employ such qualified personnel as may be necessary for the concession operation and shall require all personnel to be clean, polite, and courteous in their transactions with the public.
- b) Concessionaire shall give personal supervision and direction to the operation of the concession and, when absent, keep competent personnel in charge.
- c) City shall not be responsible for the wages or salaries of any employee or representative of Concessionaire, nor for any debts, liabilities or other obligations of Concessionaire.
- d) Neither the Concessionaire nor the employees who perform services pursuant to the Agreement shall be considered employees, servants or agents of the City of Englewood as a result of the performance of services under the Agreement.
- e) Violence and acts prohibited by law committed by Concessionaire or employees of Concessionaire shall cause immediate termination of the Lease.
- f) All concession personnel are responsible for the safe use and proper maintenance of all kitchen equipment. Concessionaire is responsible for training personnel on all kitchen equipment operations and maintenance.

Section 20. LICENSES AND PERMITS.

Concessionaire, at its own expense, shall secure any and all licenses and permits for food services and purveyance of alcoholic and non-alcoholic beverages. Concessionaire agrees to promptly initiate an application and obtain a Hotel and Restaurant Liquor License pursuant to C.R.S. 12-47-101 et seq. Concessionaire shall have the responsibility of the enforcement of all liquor laws and regulations on the premises.

Concessionaire shall reimburse the City for all license fees it has paid to Sheridan and the State of Colorado.

Section 21. COMPLIANCE WITH STATE AND CITY HEALTH CODES.

Concessionaire shall keep all concession areas in a clean and sanitary condition at all times and shall comply with all State, County and City health laws relating to the dispensing of food and beverages.

Section 22. INSURANCE/INDEMNIFICATION.

- a) Concessionaire agrees to furnish to City a performance bond or a cash deposit in the amount of Ten Thousand Dollars (\$10,000.00) guaranteeing faithful performance by Concessionaire of all terms, covenants, and conditions herein contained and compliance with applicable City ordinances. Said bond shall be furnished as of the date of execution of this Lease.
- b) Concessionaire shall at Concessionaire's own expense keep in full force and effect during the term of this Lease statutory Worker's Compensation coverage. A copy of the certificates of insurance shall be sent to the City in care of the purchasing division.
- c) INDEMNIFICATION. Concessionaire agrees to indemnify and hold harmless the City of Englewood, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss or damage, of any kind whatsoever, which arise out of or are in any manner connected with Concessionaire, if such injury, loss, or damage is caused in whole or in part by the act, omission, or other fault of Concessionaire, or any officer or employee of Concessionaire. Concessionaire agrees to investigate, handle, respond to, and to provide defense for any such liability, claims, or demands at the sole expense of Concessionaire, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.
- d) INSURANCE.
  - i. Concessionaire is to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all obligations assumed by Concessionaire pursuant to this Lease.
  - ii. Concessionaire shall procure and continuously maintain the minimum insurance coverage's listed below, with the forms and insurers acceptable to the City of Englewood. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
    - (A) General liability and errors and omissions insurance with minimum limits of one million dollars (\$1,000,000) per each person and one million dollars (\$1,000,000) per each occurrence, plus an additional amount sufficient to pay related attorneys' fees and defense costs.
    - (B) Liquor Legal Liability Insurance, with minimum limits of \$1,000,000 for injury or death of any one person; \$1,000,000 for injuries or death

occurring as a result of any one accident; \$1,000,000 for property damage; and \$1,000,000 for products liability. A certificate evidencing said insurance policies shall be kept on file with the Clerk of the City and the City Purchasing division and shall have a provision that the same shall not be altered, amended, or canceled without first giving written notification thereof to the City thirty days prior thereto. Concessionaire further agrees to indemnify the City for any claims brought against the City because of or on account of Concessionaire's operation.

- iii. Fire and Extended Coverage Insurance shall be provided by the City on the Club House building, and extended buildings included in Leased Premises, only. Concessionaire shall be solely responsible for securing and paying for insurance coverage on those improvements and contents belonging to Concessionaire located in or on the Leased Premises. Concessionaire hereby expressly waives any cause of action or right of recovery which Concessionaire may hereafter have against City for any loss or damage to Leased Premises or to any contents or improvements thereto belonging to either party, caused by fire or explosion.
- iv. The policies required above shall be endorsed to include the City of Englewood and the City of Englewood's officers and employees as additional insured. Every policy required above shall be primary insurance, and any insurance carried by the City of Englewood, its officers, or its employees, or carried by or provided through any self-insurance pool of the City of Englewood, shall be excess and not contributory insurance to that provided by Concessionaire.
- v. The certificate of insurance provided to the City of Englewood shall be completed by the Concessionaire's insurance agent as evidence that policies providing the required coverage's, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City of Englewood prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverage's afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been given to the City of Englewood. The completed certificate of insurance shall be sent to:

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

A certified copy of any policy shall be provided to the City of Englewood at its request. A copy of the certificates of insurance shall be sent to the City in care of the Purchasing Division, 2800 South Platte River Drive, Englewood, Colorado 80110.

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

amended, or otherwise available to the parties, their officers, or their employees.

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

Section 23. FIRE OR NATURAL DISASTERS.

In the event fire or natural disaster renders the Club House and its concession facilities inoperable, the Concessionaire shall be released from the terms of compensation to be paid the City until such time as the Club House and its concession facilities are declared open and operable by the City. If in the event such concession facilities are not open and operable within a period of thirty (30) days from the time of such disaster, Concessionaire has the right to terminate its contract and Lease with the City under Section 24, Termination of Lease, contained herein.

Section 24. TENANT RECORDS.

Concessionaire shall keep and maintain complete and accurate records and accounts of its business on a calendar year basis. A monthly report shall be generated providing a breakdown of "gross sales" into the following categories:

Food Operations,  
Banquet Operations,  
Beverage Operations AND  
Cart Operations.

Such records shall be maintained in accordance with generally accepted accounting principles. The records shall clearly show Concessionaire's gross sales, including proceeds from all catering activities. Gross sales shall be divided in restaurant operations, catering operations and bar operations. Such records and accounts, including all sales tax reports that Concessionaire furnishes to any government or governmental agency shall be made available for inspection at any reasonable time upon request of the City, the City's auditor, or other authorized representative. The City reserves the right to require Concessionaire to engage an independent auditor to perform an audit of the Concessionaire's records at Concessionaire's expense.

Section 25. TERMINATION OF LEASE.

- a) This Lease may, at any time, be terminated by either party upon ninety (90) days' written notice to the other without cause.
- b) The parties may terminate the Lease by giving thirty (30) days' written notice of a violation of paragraphs 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17.
- c) Violation of paragraphs 18, 19, 20, and 21 shall be grounds for immediate termination of the Lease.

Section 26. DELIVERY AND REMOVAL UPON TERMINATION.

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

All liquor licenses shall be transferred to the City of Englewood or new concessionaire. At no time shall Concessionaire terminate, alter or surrender the liquor license without approval of the City of Englewood. The Concessionaire shall be subject to injunction to prevent surrender or injury to the liquor license. Upon termination, the attached Power of Attorney shall be operative and shall allow the City to operate the establishment pursuant to law. In the event the liquor license is transferred to the City of Englewood or new concessionaire, the City shall pay the Concessionaire \$2,500.00 less any offsets allowed by the prior provisions of this Agreement.

Section 27. This Agreement may not be assigned and a sublease shall not be allowed without the written consent of both parties.

Section 28. NOTICES.

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

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

City of Englewood  
Attention: City Manager  
1000 Englewood parkway  
Englewood, Colorado 80110

with a copy to:

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

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

Dadiotis Golf Enterprises, LLC.  
201 Denargo Market  
Denver, Colorado 80126

with a copy to:

Jim Dadiotis  
201 Denargo Market  
Denver, Colorado 80126

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

Section 29. ENTIRE AGREEMENT.

This Lease, together with the exhibits attached hereto:

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

Section 30. SEVERABILITY.

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

Section 31. CAPTIONS.

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

Section 32. BINDING EFFECT.

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

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

CITY OF ENGLEWOOD, COLORADO

DADIOTIS GOLF ENTERPRISES, LLC

"City"

"Concessionaire"     ^ <

By \_\_\_\_\_  
James K. Woodward, Mayor

By \_\_\_\_\_  
Jim Dadiotis

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

By \_\_\_\_\_



2007 Restaurant Inventory List - Exhibit B

| Item              | Quantity | Item                           | Quantity | Item          | Quantity                     |
|-------------------|----------|--------------------------------|----------|---------------|------------------------------|
| BS0101            | 1        | Blender Comp S/S               | 1        | BS0007        | Black Cond Dispo 6 pt        |
| BS0056            | 1        | Margarita Salter               | 1        | BS0044        | Funnell 1/2 Pint             |
| BS0094            | 1        | Glasswasher Triple Brush 40461 | 1        | BS0045        | Funnell 1 pint               |
| BV1530            | 6        | Coffee Serv Insul #144         | 6        | BS0082        | Bar Keep Quart Complete      |
| CU0811/#PS286-8   | 2        | Pierced Turner 8x3             | 2        | BS0126        | Upright Glass Washer         |
| CU0828 WSK-60     | 12       | Steak knife/w Wood Handle      | 12       | Cr1309        | Martini 7 1/4 Oz             |
| D11265            | 24       | Basket Oval #47206             | 24       | CU0800        | S/S Turner                   |
| D11577 #9000      | 1        | Bulane Stove                   | 1        | DI1252        | Oak High Chair               |
| D111348           | 50       | S & P Tower 1 Oz               | 50       | DI1257        | Call Bell                    |
| DI1274            | 2        | Buff Ware Serving Tong         | 2        | DI1261        | Ladle plain 10.5" all colors |
| DI1286 #406(206)  | 12       | Syrup Disp 6 oz Glass/Chrome   | 12       | DI1454        | Pitcher 60 Oz Clear          |
| DI1618 PSB_15     | 1        | Pebbled Bowl 15"               | 1        | DI1465        | Cam Tray 16" Round           |
| DI1622 PSB-10     | 1        | Pebbled Bowl 10"               | 1        | DI1509        | 8.5"x11" Double Menu cover   |
| DI1711 #1120CBP   | 1        | Silverware Bin                 | 1        | DI1684        | Cam Tray 14" Round           |
| DI1865 #PSB-10    | 1        | Pebbled Bowl 8"                | 1        | DI1687        | Cam Tray 27" oval            |
| DI1909            | 2        | Self Serve 3 Tier 11" Bin      | 2        | DI1701        | Chrome Tray Stand            |
| DI1935            | 2        | Buffet Ware Serving Tong       | 2        | DI1942        | Value Chafer                 |
| DI275             | 2        | Buffet Ware Slotted Spoon      | 2        | DS2437        | Storesafe Food Labels        |
| DS2054            | 1        | Towel HD Natureal 12 RL        | 1        | GL1025        | Irish Coffee 8 12 Oz         |
| DS2407            | 2        | Towel Roll Dispenser           | 2        | GL1217        | 16 Oz Cooler                 |
| GL0950/#03792     | 12       | Brandy 2 oz                    | 12       | JA0506        | Lobby Dust Pan Plastic       |
| GL1015/#05258     | 30       | Sugar Packet Holder            | 30       | JA0522        | Huskee 32 Gal Gray           |
| GL1087/#15447     | 12       | Ramekin 5 Oz                   | 12       | JA0573        | WFT Floor Cone #125          |
| GL1109/#05265     | 24       | Ashtray                        | 24       | JA0574 #40340 | Mop Handle Quick Change      |
| GL1244/7727U      | 36       | Rocks7 Oz                      | 36       | JA0578        | Duo Sweep Lobby Broom        |
| GL1248/#7729U     | 36       | Beverage 9 Oz                  | 36       | JA0598        | 60" Tapered Handle           |
| GL1250/#77174     | 36       | Mixing Glass 14 Oz             | 36       | JA0617 #87501 | Hi-Lo Scrub Brush            |
| GL1480 #5281/932U | 36       | 1.5 7/8 In (4)                 | 36       | JA0626        | Floor Squeegee 18"           |
| GL1510/#80221     | 24       | Wine Glass 10.5 Oz             | 24       | JA0654        | High Boy Wastebasket         |
| GL1518/#80220     | 24       | Marbeya Wine Glass 8 Oz        | 24       | JA06597       | Luma Thread Handle           |
| i11620 PSB-18     | 1        | Pebbled Bowl 18"               | 1        | JA0669        | Mopping Combo Pack 35 QT     |
|                   | 1        | Ice Machine                    | 1        | JA0723        | ACS Grill Screen             |
|                   | 1        | Ice Scoop                      | 1        | JA0726/VIP    | Light Mat 3x5 Black          |
| M12439            | 1        | Ladle 02 Oz s/s                | 1        | M1278         | Dish Table                   |
| M12442            | 2        | Ladle 06 Oz s/s                | 2        | M1278         | Low Temp Sanitizer           |
| M12444            | 2        | Ladle 12 OZ s/s                | 2        | M1278         | Soiled Dish Table            |
| M12805            | 2        | Basting Spoon 15" Slotted      | 2        | M1313         | Work Table                   |
| M190              |          | Cheesemelter                   |          | M2726         | Counter/Salad                |
| M2726             | 1        | Hot Food Table                 | 1        | M2726         | Undercounter Freezer         |
| i157/TA #P7004-22 | 3        | Full Pan 4"                    | 3        | Mi1204        | Time Clock w/cards           |
| 2107/TA #P7132-22 | 3        | Third Pan 2"                   | 3        | Mi2071        | 8 Qt Sauce Pan               |
| Mi2125 TA         | 1        | 12" Silver Select Fry Pan      | 1        | Mi2097/TA     | Bar Shaker Cocktail          |
| Mi2132 5303       | 3        | Bun Pan Half Size 12x18        | 3        | Mi2098/TA     | 10 Qt Sauce Pan              |
| Mi2139 9003       | 24       | Bun & Roll Pan 18x26           | 24       | Mi2171        | Third Cover Slotted          |

2007 Restaurant Inventory List - Exhibit B

|                    |                             |     |                 |                                 |     |
|--------------------|-----------------------------|-----|-----------------|---------------------------------|-----|
| 2156/TA #P-7002-24 | Full Pan 2"                 | 4   | Mi2217          | Combo Can Punch                 | 1   |
| 2160/TA #P7124-24  | Half Pan 4"                 | 4   | Mi2240/ SFSP    | Cover 12 Qt Sq                  | 2   |
| 2161/TA #P7126-24  | Half Pan 6"                 | 4   | Mi2261/ #22SFSP | Food Container Sq 22 Qt Poly    | 2   |
| 2163/TA #P7136-24  | Third Pan 6"                | 3   | Mi2265/ #6SFSP  | Food Container Sq 6 Qt PLY      | 2   |
| 2166/TA #P7166-24  | Sixth Pan 6"                | 4   | Mi2265/#8SFSP   | Food Container Sq 8 Qt PLY      | 2   |
| Mi2211 #1          | Can Opener No Base          | 1   | Mi2303          | Silvatainer Gray                | 1   |
| 12299 #2115-5CBP   | Bus Tub 9"                  | 1   | Mi2332/#40082   | Fry Pan 8" CeramiGuard          | 2   |
| Mi2304 #2115-7CBP  | Bus Tub Black 7"            | 3   | Mi2386/ #12SFSP | Food Container Sq 12 Qt Poly    | 2   |
| Mi2335/TA          | 8" Silver Select Fry Pan    | 3   | Mi2422          | Four Sided Grater               | 1   |
| Mi2347/TA          | 10" Silver Select Fry Pan   | 1   | Mi2479          | Measure 1 Pint                  | 1   |
| Mi2347/TA          | 12" Silver Select Fry Pan   | 1   | Mi2480          | Measure 2 Qt                    | 1   |
| Mi2418             | Fryer Boil Out 36/2 Oz      | 1   | Mi2481          | Measure 4 Qt                    | 1   |
| Mi2487             | Mixing Bowl 1.5 Qt          | 1   | Mi2482          | Measure 1 Qt                    | 1   |
| Mi2489             | Mixing Bowl 4 Qt            | 1   | Mi2483          | Measure 1 cup                   | 1   |
| Mi2491             | Mixing Bowl 8 Qt            | 1   | Mi2484          | Measuring Spoon Set             | 1   |
| Mi2494             | Mixing Bowl 16 Qt           | 1   | Mi2526          | Boar Bristle 2" Pastry Brush    | 1   |
| Mi264/TA #P7164-22 | Sixth Pan 4"                | 4   | Mi2540          | Broiler King Course Wood Handle | 1   |
| Mi2694             | Hinged Tong 10"             | 2   | Mi2542          | Potato Peeler                   | 2   |
| Mi2695             | Hinged Tong 12 in           | 3   | Mi2546          | Measuring Cup Set s/s           | 1   |
| Mi2702             | Tong Salad 6" #4606         | 1   | Mi2578          | Potato Masher 5 1/4"            | 1   |
| Mi2705 6TGS        | Scalloped Tongs 6"          | 4   | Mi2624          | Silverware Cylinder Plastic     | 6   |
| Mi2996 HD-2        | 32 oz SS Scale w/Dashpot    | 1   | Mi2654          | Steak Weight Cast Iron          | 2   |
| Mi3062 #394539     | Must Wash Hands Sign        | 2   | Mi2674          | /Strainer, Double Mesh 10" #99  | 2   |
| 7/TA PCRF #P1250   | Full Size 21/2"             | 3   | Mi2733          | Piano Whip 10"                  | 1   |
| ST1731             | Half Size Pan 21/2"         | 4   | Mi2738          | French Whip 16"                 | 1   |
| TA3052/PR39-M      | Maurissa Plate 10.25"       | 108 | Mi2739          | Piano Whip 12"                  | 1   |
| TA3059/PR06-M      | Maurissa Saucer             | 108 | Mi2746          | Spoonula 16"                    | 1   |
| TA30598/PR-07-M    | Maurissa Bouillon           | 36  | Mi2785          | Kleen Pail 6 Qt                 | 3   |
| TW1956             | Napolean Teaspoon           | 108 | Mi2790          | Chill Stick Rap                 | 2   |
| TW1958             | Napolean Bouillon Spoon     | 48  | Mi2815          | 10" High Heat Spatula           | 2   |
| TW1959             | Napolean Salad Fork         | 108 | Mi2879/         | 1/2Roast Pan 18x24x4.5          | 1   |
| TW1960             | Napolean Dinner Knife       | 108 | Mi2924          | Plate WR 7 1/8"                 | 108 |
| TW1962             | Napolean Iced Teaspoon      | 36  | Mi3033          | Meat Tenderizer Alum            | 1   |
| TW2104             | Napolean Dinner Fork        | 108 | MUN123          | Dough Cutter                    | 1   |
| UN2101 #6301       | Bun Rack Pan                | 2   | ST1782          | Vegetable Insert 7.5 Qt         | 2   |
| UN2750/X           | Press Conveyor Toaster 120V | 1   | ST1960          | Vegetable Insert Cover 7 Qt     | 2   |
| UN2756             | Bulb Warmer                 | 2   | TS1859          | Wall mount Pre-Rinse Unit       | 1   |
| UN2759             | Cooker Warmer               | 1   | TS1866          | Glass Filler                    | 1   |
| UN2817             | Potato Cutter               | 1   | UN2803          | APW Full Size Warmern W-3V      | 1   |
| UN3097/RCS10MP     | Microwave                   | 1   | UN2804          | Mandolin Slicer 3 blades        | 1   |
|                    |                             |     | UN3049          | Grah48 Food Warmer 120V         | 1   |

2007 Restaurant Inventory List - Exhibit B

| Item                              | Quantity | Item                        | Quantity |
|-----------------------------------|----------|-----------------------------|----------|
| Silverware Tub                    | 1        | Stainless Serving Spoons    | 6        |
| Oval Dinner Plates                | 70       | Plastic Serving Spoons      | 2        |
| Bread Plates (in Box)             | 58       | Stainless Dressing Ladels   | 8        |
| Rectangular Plates                | 22       | Large Plastic Ladel         | 2        |
| monkey dishes                     | 5        | Small Spatula               | 2        |
| dessert plates                    | 111      | Cake Server                 | 1        |
| Small Round Bowls                 | 10       | Black Plastic Tongs         | 5        |
| saucers                           | 45       | Tan Plastic Tongs           | 2        |
| coffe urn                         | 1        | Tiny Stainless Tong         | 1        |
| Coffee Warmers                    | 2        | Black Plastic Tongs-Small   | 2        |
| Small Plastic Inserts-Steam Table | 12       | Black Pastic Tongs- Lrg     | 2        |
| Large Baking Sheets               | 10       | Stainless Tongs- Lrg        | 2        |
| ice cream scoop                   | 1        | Stainless Spatula           | 3        |
| Silver Round Trays                | 6        | Stainless Tongs- Med        | 3        |
| Extra Large Cooking Pot           | 1        | Stainless Ladel- Sm         | 2        |
| Lg Cooking Pot                    | 2        | Stainless Ladel- Med        | 3        |
| Med Cooking Pot                   | 3        | Bread Knife                 | 1        |
| Pot Lids                          | 6        | Chopping Knife              | 1        |
| Simmering Pot w/handle            | 1        | Wooden Handle Steak Knives  | 33       |
| Large Skillets                    | 2        | Stainless Steak Knives      | 56       |
| Med Skillets                      | 2        | Forks                       | 39       |
| Small Skillets                    | 3        | Knives                      | 41       |
| Vegetable Pans                    | 3        | Salad Forks                 | 42       |
| Large Straining Bowl              | 1        | Spoons                      | 40       |
| Large Plastic Salad Bowl          | 1        |                             |          |
| Med Plastic Salad Bowl            | 3        | Black Bus Tubs w/stand      | 3        |
| Med Stainless Bowls               | 3        | Steam Table                 | 1        |
| Lg Black Plastic Catering Tray    | 1        | Toaster                     | 1        |
| Lg Stainless Pitcher              | 1        | Sharp Microwave             | 1        |
| Large Glass Measuring Cup         | 1        | Cold Prep Table             | 1        |
| Plastic Beer Pitchers- Bud        | 11       | Line Heat Lamp              | 1        |
| Water Pitchers                    | 3        | Silverware Holders Round    | 3        |
| Utensil Rack w/ 5 Shelves         | 1        | Fire Extinguishers          | 2        |
| Meat Slicer                       | 1        | Paper Towel Dispenser       | 1        |
| Stainless Prep Table w/sink       | 1        | high chair                  | 1        |
|                                   |          | stacking organizing shelves | 4        |
| Cutting Boards                    | 2        | large glass holder rack     | 1        |
| Food Scale                        | 1        | glass holder racks          | 2        |

2007 Restaurant Inventory List - Exhibit B

|                               |  |       |  |   |   |
|-------------------------------|--|-------|--|---|---|
| Aqua Funnell                  |  | 1     |  | podium  | 1 |
| Chafing Pan Racks             |  | 4     |  | movie screen  | 1 |
| Chafing Pan Inserts           |  | 8     |  | Metal Shelf in Office   | 1 |
| Chafing Pan Lids              |  | 3     |  | Desk  | 1 |
| Self Contained Chafing        |  | 3     |  | chair racks   | 1 |
| Stainless Rack Above Sink     |  | 3     |  | banquet tables  | 2 |
| Stainless Storage Racks       |  | 6     |  | sound equipment   | 7 |
| 3 Shelf Table                 |  | 1     |  | Rack on wall in office  | 1 |
| 2 Shelf Wall Rack             |  | 1     |  | all cooking stoves, ovens, microwave, refrigerators, freezers, coolers, etc | 1 |
| 1 Shelf Wall Rack             |  | 1     |  | Exception: True Coolers, Pepsi Cooler, Nestle Cooler                        |   |
| Beer Coolers w/Lids- portable |  | 3     |  |   |   |
| Racks in Walk in              |  | 2     |  |   |   |
| Racks in Freezer              |  | 3     |  |   |   |
| Beer Mugs                     |  | 12    |  |   |   |
| Beverage Glasses              |  | 25    |  |   |   |
| Juices Glasses                |  | 29    |  |   |   |
| Coffee Cups (some in boxes)   |  | 74    |  |   |   |
| Glass Coffee Mugs             |  | 16    |  |   |   |
| Shot Glasses                  |  | 7     |  |   |   |
| Wine Glasses                  |  | 18    |  |   |   |
| Large Glasses                 |  | 15    |  |   |   |
| Highball Glasses              |  | 24    |  |   |   |
| Can Opener behind Bar         |  | 1     |  |   |   |
| Bar Shaker                    |  | 1     |  |   |   |
| Plastice Juice Holders w/lids |  | 3     |  |   |   |
| Silverware Holder             |  | 1     |  |   |   |
| Small Round serving Tray      |  | 1     |  |   |   |
| Sugar Holders                 |  | 15    |  |   |   |
| Salt/Pepper Shakers           |  | 15/15 |  |   |   |

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

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

A BILL FOR

AN ORDINANCE APPROVING AN ADDENDUM TO THE GOLF COURSE RESTAURANT CONCESSIONAIRE AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND DADIOTIS GOLF ENTERPRISES, LLC.

WHEREAS, the purpose of the Agreement is to provide snack bar, grill and bar services to the golfing public and a quality, full-service restaurant facility offering breakfast, lunch and dinner for group meetings, service clubs and informal evening dining; and

WHEREAS, the Englewood City Council selected Caddie Shack as the Concessionaire to operate the Englewood Golf Course Clubhouse restaurant by the passage of Ordinance No. 53, Series of 2004; and

WHEREAS, due to the renovation of the golf course and the significant reduction in golf play in 2006, the Englewood City Council approved a revised contract for the current restaurant concessionaire which allowed the restaurant to continue operations during the golf course construction period by the passage of Ordinance No. 48, Series of 2006; and

WHEREAS, the Englewood City Council approved a golf course restaurant concessionaire agreement with Dadiotis Golf Enterprises, LLC by the passage of Ordinance No. 72, Series of 2007; and

WHEREAS, the passage of this proposed Ordinance will approve an Addendum to the 2007 Contract by the payment delay of \$9,000 for rent due in 2010 and eliminate the maintenance/repair financial commitment for the restaurant repairs of \$3,500 through 2011;

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

Section 1. The City Council of the City of Englewood, Colorado, hereby authorizes and approves an Addendum to the 2007 Golf Course Restaurant Concessionaire Agreement with Dadiotis Golf Enterprises, LLC., attached hereto and incorporated herein as Exhibit A.

Section 2. The Mayor and City Clerk are authorized to execute and attest said Addendum for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 7th day of March, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 11th day of March, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 7th day of March, 2011.

---

Loucrishia A. Ellis

ADDENDUM

THIS ADDENDUM TO THE AGREEMENT which was made on December 17, 2007, between the CITY OF ENGLEWOOD, a Colorado municipal corporation, hereinafter referred to as "City", and DADIOTIS GOLF ENTERPRISES, LLC., hereinafter referred to as "Concessionaire";

Under Section 9 ii. Maintenance, Repair and Replacement – The first expense of any contractual maintenance costs will be paid by the concessionaire as follows:

2011 \$3,500 will be eliminated

Under Section 12. Rent.

Payment delay for rent due in 2010, by the following payment plan to fulfill the remaining rent balance for 2010:

|                |             |
|----------------|-------------|
| March 2011     | \$ 650.00   |
| April 2011     | \$ 1,100.00 |
| May 2011       | \$ 1,250.00 |
| June 2011      | \$ 1,500.00 |
| July 2011      | \$ 1,500.00 |
| August 2011    | \$ 1,500.00 |
| September 2011 | \$ 1,500.00 |

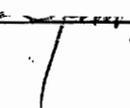
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

DATED: \_\_\_\_\_

CITY OF ENGLEWOOD, COLORADO  
"City"

DADIOTIS GOLF ENTERPRISES, LLC.  
"Concessionaire" 

By \_\_\_\_\_  
James K. Woodward, Mayor

By  \_\_\_\_\_  
Jim Dadiotis

ATTEST:

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

## COUNCIL COMMUNICATION

|   |                                 |  |
|---|---------------------------------|--|
| <b>Date:</b><br>March 7, 2011           | <b>Agenda Item:</b><br>11 a iii | <b>Subject:</b><br>EMPG Special Project Grant  |
| <b>Initiated By:</b><br>Fire Department |                                 | <b>Staff Source:</b><br>Michael Pattarozzi, Fire Chief<br>Kraig Stovall, Fire Training Chief |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The Emergency Management Performance Grant (EMPG) Special Project Grant supports the following City Council goals:

- *A City that provides and maintains quality infrastructure* (this grant supports the upgrade of the current emergency generator at Safety Services)
- *A safe, clean and attractive City* (The provision of a reliable and adequate emergency power supply for fire and police operations and the city EOC enhances public safety)
- *A progressive City that provides responsive and cost efficient services* (This grant pays for the entire cost of the plans required to go to bid for the generator upgrade).

City Council has historically supported the application for and receipt of funds through various grants to enhance city infrastructure and services. The Fire Department has previously received awards through the Assistance to Firefighters Grant Program in 2002, 2003, 2004, and 2009 - and through the EMPG since the 2007 EMPG Supplemental Grant through the 2010 EMPG process.

This grant was discussed with City Council during the January 10, 2011 Study Session.

### RECOMMENDED ACTION

Staff recommends that City Council adopt a bill for an ordinance accepting the 2010 EMPG Special Project Grant Award in the amount of \$8,700 to fund the preparation of installation plans for the upgrade of the Fire/Police Complex emergency generator.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The EMPG Special Project Grant is administered by the State Department of Local Affairs and exists to support the emergency management functions of local governments and municipalities. The awarded funds support the replacement of the Fire/Police complex emergency generator. The current generator in the Fire/Police complex is the original generator supplied to the building in the early 1970s, before the communications center addition and the advent of computer systems and routine dependency on electrical power. An engineering study recommends the replacement of the current 85 KW generator with a 200 KW generator to supply the emergency needs of the building. In order to go out to bid on the project the city engineer was required to have plans prepared from which contractors could formulate their bids. We will be able to use the EMPG Special Project Grant to fund the plans that were prepared, which allows the previously approved

funding through the Assistance to Firefighter's Grant to be used for the costs related to the actual purchase and installation of the generator.

### **FINANCIAL IMPACT**

The EMPG Special Project Grant is a 50% soft match grant, meaning that the grant is matched through other emergency management expenditures, including salaries of employees involved in emergency management. The fire department has already identified current expenditures adequate to match the grant funding, resulting in no additional cost to the city for accepting these funds. The total amount of the grant is \$17,400. The city receives \$8,700, which is the cost of the electrical design plans.

### **LIST OF ATTACHMENTS**

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

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

A BILL FOR

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF AN EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) AWARDED TO THE CITY OF ENGLEWOOD, COLORADO BY THE STATE OF COLORADO DEPARTMENT OF LOCAL AFFAIRS.

WHEREAS, the current generator in the Fire/Police complex is the original generator supplied to the building in the early 1970's, before the communications center addition and the advent of computer systems and routine dependency on electrical power; and

WHEREAS, an engineering study recommended the replacement of the current 85 KW generator with a 200 KW generator to supply the emergency needs of the Fire/Police complex; and

WHEREAS, the Englewood City Council authorized the acceptance of a 2009 FEMA U.S. Department of Homeland Security Assistance to Firefighters Grant Award for the purchase and installation of an emergency backup generator for the Police/Fire building at 3615 S. Elati and for the purchase of hazardous materials monitoring equipment with the passage of Ordinance No. 4, Series 2011; and

WHEREAS, the City of Englewood Fire Department sought and was also awarded an Emergency Management Performance Grant (EMPG) Special Project Grant which supports the Englewood City Council goals of:

- A City that provides and maintains quality infrastructure (this grant supports the upgrade of the current emergency generator at Safety Services)
- A safe, clean and attractive City (The provision of a reliable and adequate emergency power supply for fire and police operations and the City EOC enhances public safety)
- A progressive City that provides responsive and cost efficient services (This grant pays for the entire cost of the plans required to go to bid for the generator upgrade); and

WHEREAS, the EMPG Special Project Grant is administered by the State Department of Local Affairs and exists to support the emergency management functions of local governments and municipalities; and

WHEREAS, using the EMPG Special Project Grant Funds for this purpose allows the previously approved funding through the Assistance to Firefighter's Grant to be used for the costs related to the actual purchase and installation of the generator; and

WHEREAS, this EMPG Special Project Grant is a soft match grant, meaning that the grant is matched through other emergency management expenditures, including salaries of employees involved in emergency management; and

WHEREAS, the Englewood Fire Department has already identified current expenditures adequate to match the grant funding, resulting in no additional cost to the City for accepting these funds; and

WHEREAS, the amount of the EMPG Special Projects Grant is \$17,400 with the City receiving \$8,700, which is the cost of the electrical plans;

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 Emergency Management Performance Grant (EMPG) Special Project Grant providing the funds for the preparation of installation plans for the upgrade of the Fire/Police Complex emergency generator, attached hereto as Attachment A.

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

Introduced, read in full, and passed on first reading on the 7th day of March, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 11th day of March, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 7th day of March, 2011.

---

Loucrishia A. Ellis

EMPG: 11EM10P98

**AGREEMENT**

**Between the**

**STATE OF COLORADO  
DEPARTMENT OF LOCAL AFFAIRS**

**And the**

**CITY OF ENGLEWOOD**

**Summary**

Form of Financial Assistance:  Grant  Loan Award Amount: **\$8,700.00**

**Agreement Identification:**

Contract Encumbrance #: 11EM10P98 *(DOLA's primary identification # for this agreement)*  
Contract Management System #: \_\_\_\_\_ *(State of Colorado's primary identification # for this agreement)*

**Project Information:**

Project/Award Number: 11EM10P98  
Project Name: City of Englewood electrical design update.  
Performance Period: Start Date: The Effective Date End Date: 9/30/2011  
Brief Description of Project / Assistance: City of Englewood Emergency Operations Center electrical upgrades.

**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: 100/710/FOP0/3710/5110 **\$8,700.00**

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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, if specifically authorized by the funding authority, incurred on or after insert federal grant's effective date; 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 9/30/2011 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 **\$8,700.00**, 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 insuch 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:**

|   |
|---|
| Hans Kallam, Director<br>Colorado Department of Local Affairs<br>Division of Emergency Management<br>9195 E. Mineral Ave., Ste. 200<br>Centennial, CO 80112<br>Email: _____ |
|---|

**B. Grantee:**

|  |
|--|
| Steve Green, Emergency Management Coordinator<br>CITY OF ENGLEWOOD<br>3615 S. Elati St.<br>Englewood, CO 80110<br>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 4 with the county 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) Form 3, the Promissory Note
- b) This Grant

**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;"><b>GRANTEE<br/>CITY OF ENGLEWOOD</b></p> <p>By: <u>James K. Woodward</u><br/>Printed Name of Authorized Individual</p> <p>Title: <u>Mayor</u><br/>Official Title of Authorized Individual</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p> | <p style="text-align: center;"><b>STATE OF COLORADO<br/>John W. Hickenlooper, GOVERNOR<br/>DEPARTMENT OF LOCAL AFFAIRS</b></p> <p>By: _____<br/>Reeves Brown, Executive Director</p> <p>Date: _____</p> |
|  | <p style="text-align: center;"><b>PRE-APPROVED FORM CONTRACT REVIEWER</b></p> <p>By: _____<br/>William F. Archambault, Jr.,<br/>Finance and Administration Chief</p> <p>Date: _____</p>                 |

**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.**

**STATE CONTROLLER  
David J. McDermott, CPA**

By: \_\_\_\_\_  
Barbara M. Casey,  
Controller Delegate

Date: \_\_\_\_\_

## 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. EMPG 2010 –Grant Guidance

**EXHIBIT B – STATEMENT OF PROJECT (SOP)**

**1. GENERAL DESCRIPTION OF THE PROJECT(S).**

**1.1. Project Description.** As detailed in Exhibit C, this project will support the electrical design required to connect a generator to the police/fire building.

**1.2. Project expenses.** All expenses described in the approved grant application, Exhibit C, and categorized in the Budget Table §4.2 of this Exhibit B are eligible for reimbursement. The required non-federal match need not be provided by the Grantee on a line-item by line-item basis, but must be eligible expenditures within this grant and project. Any in-kind match must likewise be eligible as if it were a cash expenditure within the program and project.

**1.3. Identification of Subgrantee.**

**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. None.

**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 Mr. Steve Green, Emergency Management 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**

|                                   |   |
|-----------------------------------|---|
| <i>Project Activity/Line Item</i> | <i>Federal Share up to: \$8,700.00</i><br><i>Matching Non-Federal Share: \$8,700.00</i> |
|                                   | <b>Total for Category/Line Item Grant Funds and Grantee Matching Contribution</b>       |
| <b>Supplies</b>                   | 17,400.00   |
| <b>Total Budget</b>               | <b>\$17,400.00</b>  |

**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.

**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 St.  
 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](mailto: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 or digital 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.
- 6.8. Additional Administrative Requirements.** None.

## COUNCIL COMMUNICATION

|  |                                |   |
|--|--------------------------------|---|
| <b>Date:</b><br>March 7, 2011  | <b>Agenda Item:</b><br>11 a iv | <b>Subject:</b><br>Farm Lease Agreements L/E WWTP Beneficial Use Farms                                      |
| <b>Initiated By:</b><br>Littleton/Englewood Wastewater Treatment Plant Supervisory Committee |                                | <b>Staff Source:</b><br>Stewart H. Fonda, Director of Utilities<br>Jim Tallent, Operations Division Manager |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The goal is cost effective disposal of biosolids from the Littleton Englewood Wastewater Treatment Plant.

There has been no previous Council action on these lease agreements.

### RECOMMENDED ACTION

The recommended action is to approve, by Ordinance, new 5-year farming lease agreements for:

1. Progressive Farms (c/o Mark Linnebur)
2. Craig Farms General Partnership (c/o Jerry Craig)
3. James Burnet
4. Kent Beichle

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Various farmers perform land management services on City owned properties near Byers and Bennett, CO. The Byers farm is used to apply stabilized domestic wastewater biosolids in a beneficial use program. Farm management services for our Kiowa/Bennett farm (property currently for sale and no biosolids are applied here) are performed through agreements with local farmers. Previous lease agreements were included through original land purchases and have expired.

Based on criteria established by regulatory requirements, the Littleton/Englewood Wastewater Treatment Plant (L/E WWTP) was granted approval by the Cities of Englewood and Littleton (1995 and 1996) to purchase approximately 6,400 acres of dryland farm property (Byers farm) to be used for long-term application of domestic wastewater biosolids generated by the facility. While plant staff operates and maintains the biosolids application program, farming services are contracted and provided through local farmers. Progressive Farms and Craig Farms General Partnership conduct farm management activities at the Byers farm, while Jim Burnet and Kent Beichle manage the Kiowa/Bennett farm property (currently for sale).

At the February 16, 2006 L/E WWTP Supervisory Committee meeting, discussion was held and action recommended and approved for an \$8.00/acre cash lease with Progressive Farms. With this arrangement, farming costs for chemicals, soil ripping and crop insurance would be borne solely by Progressive Farms and not shared with the Cities, resulting in reduced budgetary expenditures for L/E WWTP. Previous agreements were based on a 1/3 share of crop proceeds and 1/3 share of associated farming expenses (fertilizer, weed control, etc.).

### **FINANCIAL IMPACT**

Financial review of farm management costs was conducted for the period of 2000 through 2010. Net annual farm income ranged from \$158,234 to (-\$6,788), averaging \$69,446/year. With recommended cash lease pricing of \$8.00/acre for all farm sites, firm revenue of \$50,132 will be generated each year, regardless of commodity/economy trends. The L/E WWTP Supervisory Committee approved the \$8.00/acre lease agreement for all contracts. New 5-year lease documents, based on continuing the previously approved \$8.00/acre cash lease, were prepared by Hill and Robbins and reviewed by both Littleton and Englewood City Attorneys.

### **LIST OF ATTACHMENTS**

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

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

A BILL FOR

AN ORDINANCE AUTHORIZING FOUR (4) FARM LEASE AGREEMENTS FOR THE FARMS IN THE LITTLETON/ENGLEWOOD WASTEWATER TREATMENT PLANT BIOSOLIDS MANAGEMENT PROGRAM.

WHEREAS, the Cities of Littleton and Englewood jointly own properties near Byers, Colorado and Bennett, Colorado which are used for the Littleton/Englewood Wastewater Treatment Plant (L/E WWTP) Biosolids Management Program; and

WHEREAS, this Program uses dryland farm property for long-term applications of domestic wastewater biosolids generated by the (L/E WWTP); and

WHEREAS, the Bennett property is currently for sale so that there is no current biosolids application on those two leases; and

WHEREAS, there is ongoing biosolids application on the Byers property covered by the two proposed leases as well as an existing lease on the Meyer farm which runs through 2013; and

WHEREAS, these leases commence on January 1, 2011 and are for a term of one (1) year, renewable for five years;

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 hereby authorizes a "Farm Lease" between Progressive Farms and the cities of Littleton and Englewood commencing on January 1, 2011, for a term of one (1) year, renewable for five (5) years, ending on December 31, 2015; attached hereto as Exhibit A.

Section 2. The City Council of the City of Englewood hereby authorizes a "Farm Lease" between Craig Farms General Partnership and the cities of Littleton and Englewood commencing on January 1, 2011, for a term of one (1) year, renewable for five (5) years, ending on December 31, 2015; attached hereto as Exhibit B.

Section 3. The City Council of the City of Englewood hereby authorizes a "Farm Lease" between Kent Beichle and the cities of Littleton and Englewood commencing on January 1, 2011, for a term of one (1) year, renewable for five (5) years, ending on December 31, 2015; attached hereto as Exhibit C.

Section 4. The City Council of the City of Englewood hereby authorizes a "Farm Lease" between James Burnet and the cities of Littleton and Englewood commencing on January 1,

2011, for a term of one (1) year, renewable for five (5) years, ending on December 31, 2015, attached hereto as Exhibit D.

Section 5. The Mayor is hereby authorized to sign the four (4) Farm Lease Agreements for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 7th day of March, 2011.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 11th day of March, 2011.

Published as a Bill for an Ordinance on the City's official website beginning on the 9th day of March, 2011 for thirty (30) days.

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James K. Woodward, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 7th day of March, 2011.

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Loucrishia A. Ellis

## FARM LEASE

THIS LEASE is dated as of \_\_\_\_\_, 2011, and is made and entered into by and between the Cities of Littleton and Englewood, collectively referred to hereinafter as "Lessor", and **Progressive Farms**, a Colorado general partnership, referred to hereinafter as "Lessee". On this date, Lessor has leased to the Lessee, the following described premises situated in the Counties of Adams and Arapahoe, State of Colorado, to wit:

[See Exhibit A attached hereto and made a part hereof]

together with all buildings and improvements on the premises (hereinafter referred to as the "Leased Property") in accordance with the following terms:

1. This lease replaces and supersedes in its entirety, any prior lease agreement between the parties. This lease shall be for the term of one (1) year, renewable annually for five (5) years commencing on January 1, 2011, and ending on December 31, 2015 at the rent of \$8.00 (Eight dollars) per acre per year on farmable acres on the Leased Property, (4993 acres) for a total annual lease payment of \$39,944.00.

2. The lease payment is to be made payable to the order of:

Littleton/Englewood WWTP

and delivered to:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

by December 31 (following the harvest) of each year that this lease is in effect.

3. Lessee shall thoroughly plow, cultivate and farm in accordance with good farming practices, all lands comprising the Leased Property that are not in grass, fallowed by mutual agreement of the parties, or otherwise unfarmable.

4. Lessee shall use the Leased Property as a dryland farm and for no other purpose whatsoever, and especially will not let or permit the Leased Property to be used for any other business or purpose whatsoever.

5. Lessee shall be responsible for all costs and expenses associated with use of the Leased Property as a dryland farm, except that Lessor, at its own cost and expense, shall be responsible for furnishing, transporting, and applying all fertilizer, in the form of biosolids, to the Leased Property.

6. All fertilizer to be used on the Leased Property shall be transported, furnished, and applied

by Lessor at such times and at agronomic rates as determined by Lessor. Lessee shall not apply any fertilizer on the Leased Property without the prior written consent of Lessor. Lessor may use a portion of the Leased Property for staging areas for biosolids application. Staging area size and location will be as determined by Lessor.

7. Lessee shall not assign this lease, sublet, or relinquish the Leased Property, under the penalty of a forfeiture of all the rights of the Lessee under or by virtue of this lease, at the election of the Lessor.

8. Lessee shall protect the Leased Property, including buildings, gates, fences, shrubbery, and improvements thereon from all damages and shall keep the same in the same condition as they are now in, or may be at any time placed in by the Lessor, subject to normal wear and tear. Lessee shall do no act whereby any insurance on buildings may be invalidated and shall not remove, or allow any other person to remove, from the Leased Property any of the buildings, gates, fences, shrubbery, and improvements of any kind.

9. Lessee shall not run furrows so as to cause ditches to wash the Leased Property, unless first having a written consent of the Lessor. Lessee shall clean out and maintain in good repair, during the operation of this Lease, all ditches belonging or appertaining to the Leased Property.

10. Lessee shall well and seasonably put in and tend to the crops grown on the Leased Property, shall have all small grain harvested and threshed by October 1 of each year; and if not harvested and threshed as stated, the Lessor may proceed to do so after ten (10) days notice to the Lessee, and take enough of the Lessee's grain to pay expense of such harvesting or threshing.

11. Lessee shall accept the fences upon said Leased Property as they now are now existing.

12. Lessee shall, at the expiration of this Lease, or upon a breach by the Lessee of any of the covenants herein contained, without further notice of any kind, quit and surrender the possession and occupancy of Leased Property in as good condition as careful use and natural wear and tear thereof will permit.

13. All goods and chattels, or any other property used or kept on the Leased Property, shall be held for the rent or damages under this Lease, whether exempt from execution or not, meaning or intending hereby to give the Lessor a valid and first lien upon any and all goods and chattels, crops and other property belonging to the Lessee.

14. Lessee shall cultivate around any structures or facilities constructed by Lessor and where applicable, and shall not impair or hinder, but shall cooperate with Lessor in the use of domestic wastewater biosolids application on the Leased Property.

15. The Lessor reserves the right to cancel the lease during its term for any of the following reasons: a) if the Lessee should take any action or fail to take any action that threatens the Lessor's interest in the Leased Property, including the violation of any environmental laws,

rules, regulations or standards; b) if the Lessee should fail to abide by the Lessor's instructions concerning residual nitrogen levels in the soil and agronomic rates of application of biosolids; c) if the Lessee is farming in a manner which limits the Lessor's ability to apply biosolids to the Leased Property; d) if the Lessee is not farming in a manner that constitutes good farming practices; e) if the Lessor determines that it will no longer utilize the Leased Property for the production of crops.

16. Lessor also reserves the right for itself, its agents and its designees, including other government officials, to enter and to have access, at all reasonable times during the term of this lease, to the Leased Property for the purpose of sampling, application, monitoring, testing, screening, mapping, plotting or doing any other procedure, task or function deemed necessary by Lessor in conjunction with its biosolids production and application operation and for any other purpose including, but not limited to, inspecting the Leased Property and to make such repairs, additions, or improvements as Lessor may deem necessary.

17. It is understood and agreed that the Lessor reserves the right to cancel this lease at its sole discretion. Should Lessor elect to exercise its right of cancellation, it must do so in writing, on or before October 1 prior to the anniversary date hereof, in which event this lease shall be terminated effective on the anniversary date and neither party shall be entitled to further payments or damages as the result of said termination except for any payments due and owing at the time of cancellation.

18. All payments from the Lessee shall become due and payable upon forfeiture of said Lease, or upon abandoning said Leased Property, and if it becomes necessary for the Lessor to bring action at law to recover possession, damage or rent, the Lessee agrees to pay a reasonable attorney's fee therefore, and all costs attending the same.

19. Lessee shall indemnify, defend and hold harmless Lessor and its successors, assigns and representatives from and against any and all damages, claims, losses, costs, liabilities, and expenses of any kind whatsoever (including but not limited to reasonable attorney fees) which may be asserted against or suffered by Lessor or the Leased Property or any part thereof, as a result of, on account of or arising from (i) any breach of any covenant, representation; promise, warranty or agreement made by Lessee, or (ii) injuries or damages to person or property resulting or alleged to result from any fault or negligence of Lessee or his agents or employees, or from the possession, use, occupancy, or maintenance of the Leased Property by Lessee, his agents, employees, or affiliates.

20. This Lease shall not be sublet or assigned. Any purported sublease or assignment shall be void, and shall result in immediate termination of this lease.

21. Lessor reserves the right to sell, contract to sell, or grant easements or rights-of-way over, through, under, or on, the Leased Property at any time during the term of this lease, subject to the rights and interests of the Lessee hereunder.

22. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon

receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO LESSOR:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

TO LESSEE:

Progressive Farms  
c/o Mark Linnebur  
800 U.S. Highway 36  
Byers, CO 80103

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

This lease shall be in effect as of the date first above written.

*(Signatures follow on separate pages)*

LESSOR:

CITY ENGLEWOOD

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By: James K. Woodward, Mayor

CITY OF LITTLETON

---

By: Jim Woods, City Manager

LESSEE:

PROGRESSIVE FARMS /

By: Mark Linnebur, Managing Partner \_\_\_\_\_

**FARMLEASE**

THIS LEASE is dated \_\_\_\_\_, 2011, and is made and entered into by and between the Cities of Littleton and Englewood, collectively referred to hereinafter as "Lessor", and **Craig Farms General Partnership**, referred to hereinafter as "Lessee". On this date, Lessor has leased to the Lessee, the following described premises situated in the County of Adams, State of Colorado, to wit:

The E/2 of Section 2, Township 3 South, Range 57 West of the 6<sup>th</sup> P.M.  
consisting of approximately 320 acres, more or less,

together with all buildings and improvements on the premises (hereinafter referred to as the "Leased Property") in accordance with the following terms:

1. This lease replaces and supersedes in its entirety, any prior lease agreement between the parties. This lease shall be for the term of one (1) year, renewable annually for five (5) years commencing on January 1, 2011, and ending on December 31, 2015 at the rent of \$8.00 (Eight dollars) per acre per year on farmable acres on the Leased Property, (316 acres) for a total annual lease payment of \$2,528.00.
2. The lease payment is to be made payable to the order of:

Littleton/Englewood WWTP

and delivered to:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

by December 31 (following the harvest) of each year that this lease is in effect.

3. Lessee shall thoroughly plow, cultivate and farm in accordance with good farming practices, all lands comprising the Leased Property that are not in grass, fallowed by mutual agreement of the parties, or otherwise unfarmable.
4. Lessee shall use the Leased Property as a dryland farm and for no other purpose whatsoever, and especially will not let or permit the Leased Property to be used for any other business or purpose whatsoever.
5. Lessee shall be responsible for all costs and expenses associated with use of the Leased Property as a dryland farm, except that Lessor, at its own cost and expense, shall be responsible for furnishing, transporting, and applying all fertilizer, in the form of biosolids, to the Leased Property.

6. All fertilizer to be used on the Leased Property shall be transported, furnished, and applied by Lessor at such times and at agronomic rates as determined by Lessor. Lessee shall not apply any fertilizer on the Leased Property without the prior written consent of Lessor. Lessor may use a portion of the Leased Property for staging areas for biosolids application. Staging area size and location will be as determined by Lessor.

7. Lessee shall not assign this lease, sublet, or relinquish the Leased Property, under the penalty of a forfeiture of all the rights of the Lessee under or by virtue of this lease, at the election of the Lessor.

8. Lessee shall protect the Leased Property, including buildings, gates, fences, shrubbery, and improvements thereon from all damages and shall keep the same in the same condition as they are now in, or may be at any time placed in by the Lessor, subject to normal wear and tear. Lessee shall do no act whereby any insurance on buildings may be invalidated and shall not remove, or allow any other person to remove, from the Leased Property any of the buildings, gates, fences, shrubbery, and improvements of any kind.

9. Lessee shall not run furrows so as to cause ditches to wash the Leased Property, unless first having a written consent of the Lessor. Lessee shall clean out and maintain in good repair, during the operation of this Lease, all ditches belonging or appertaining to the Leased Property.

10. Lessee shall well and seasonably put in and tend to the crops grown on the Leased Property, shall have all small grain harvested and threshed by October 1 of each year; and if not harvested and threshed as stated, the Lessor may proceed to do so after ten (10) days notice to the Lessee, and take enough of the Lessee's grain to pay expense of such harvesting or threshing.

11. Lessee shall accept the fences upon said Leased Property as they now are now existing.

12. Lessee shall, at the expiration of this Lease, or upon a breach by the Lessee of any of the covenants herein contained, without further notice of any kind, quit and surrender the possession and occupancy of Leased Property in as good condition as careful use and natural wear and tear thereof will permit.

13. All goods and chattels, or any other property used or kept on the Leased Property, shall be held for the rent or damages under this Lease, whether exempt from execution or not, meaning or intending hereby to give the Lessor a valid and first lien upon any and all goods and chattels, crops and other property belonging to the Lessee.

14. Lessee shall cultivate around any structures or facilities constructed by Lessor and where applicable, and shall not impair or hinder, but shall cooperate with Lessor in the use of domestic wastewater biosolids application on the Leased Property.

15. The Lessor reserves the right to cancel the lease during its term for any of the following reasons: a) if the Lessee should take any action or fail to take any action that threatens the

Lessor's interest in the Leased Property, including the violation of any environmental laws, rules, regulations or standards; b) if the Lessee should fail to abide by the Lessor's instructions concerning residual nitrogen levels in the soil and agronomic rates of application of biosolids; c) if the Lessee is farming in a manner which limits the Lessor's ability to apply biosolids to the Leased Property; d) if the Lessee is not farming in a manner that constitutes good farming practices; e) if the Lessor determines that it will no longer utilize the Leased Property for the production of crops.

16. Lessor also reserves the right for itself, its agents and its designees, including other government officials, to enter and to have access, at all reasonable times during the term of this lease, to the Leased Property for the purpose of sampling, application, monitoring, testing, screening, mapping, plotting or doing any other procedure, task or function deemed necessary by Lessor in conjunction with its biosolids production and application operation and for any other purpose including, but not limited to, inspecting the Leased Property and to make such repairs, additions, or improvements as Lessor may deem necessary.

17. It is understood and agreed that the Lessor reserves the right to cancel this lease at its sole discretion. Should Lessor elect to exercise its right of cancellation, it must do so in writing, on or before October 1 prior to the anniversary date hereof, in which event this lease shall be terminated effective on the anniversary date and neither party shall be entitled to further payments or damages as the result of said termination except for any payments due and owing at the time of cancellation.

18. All payments from the Lessee shall become due and payable upon forfeiture of said Lease, or upon abandoning said Leased Property, and if it becomes necessary for the Lessor to bring action at law to recover possession, damage or rent, the Lessee agrees to pay a reasonable attorney's fee therefore, and all costs attending the same.

19. Lessee shall indemnify, defend and hold harmless Lessor and its successors, assigns and representatives from and against any and all damages, claims, losses, costs, liabilities, and expenses of any kind whatsoever (including but not limited to reasonable attorney fees) which may be asserted against or suffered by Lessor or the Leased Property or any part thereof, as a result of, on account of or arising from (i) any breach of any covenant, representation; promise, warranty or agreement made by Lessee, or (ii) injuries or damages to person or property resulting or alleged to result from any fault or negligence of Lessee or his agents or employees, or from the possession, use, occupancy, or maintenance of the Leased Property by Lessee, his agents, employees, or affiliates.

20. This Lease shall not be sublet or assigned. Any purported sublease or assignment shall be void, and shall result in immediate termination of this lease.

21. Lessor reserves the right to sell, contract to sell, or grant easements or rights-of-way over, through, under, or on, the Leased Property at any time during the term of this lease, subject to the rights and interests of the Lessee hereunder.

22. All notices, demands, or other documents required or desired to be given, made or sent to

either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO LESSOR:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

TO LESSEE:

Craig Farms General Partnership  
c/o Jerry Craig  
77201 U.S. Highway 36  
Byers, CO 80103

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

This lease shall be effective as of the date first above written.

*(Signatures follow on separate pages)*

LESSOR:

CITY ENGLEWOOD

---

By: James K. Woodward, Mayor

CITY OF LITTLETON

---

By: Jim Woods, City Manager

LESSEE:

CRAIG FARMS GENERAL PARTNERSHIP

By: Jerry J. Craig, Managing Partner

**FARMLEASE**

THIS LEASE is dated \_\_\_\_\_, 2011, and is made and entered into by and between the Cities of Littleton and Englewood, collectively referred to hereinafter as "Lessor", and **Kent Beichle**, referred to hereinafter as "Lessee". On this date, Lessor has leased to the Lessee, the following described premises situated in the County of Arapahoe, State of Colorado, to wit:

That tract of land described as the W/2 and the W/2 E/2 of Section 25, all in Township 5 South; Range 63 West of the 6<sup>th</sup> P.M., containing 480 acres, more or less,

together with all buildings and improvements on the premises (hereinafter referred to as the "Leased Property") in accordance with the following terms:

1. This lease replaces and supersedes in its entirety, any prior lease agreement between the parties. This lease shall be for the term of one (1) year, renewable annually for five (5) years commencing on January 1, 2011, and ending on December 31, 2015 at the rent of \$8.00 (Eight dollars) per acre per year on farmable acres on the Leased Property, (480 acres) for a total annual lease payment of \$3,840.00.

2. The lease payment is to be made payable to the order of:

Littleton/Englewood WWTP

and delivered to:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

by December 31 (following the harvest) of each year that this lease is in effect.

3. Lessee shall thoroughly plow, cultivate and farm in accordance with good farming practices, all lands comprising the Leased Property that are not in grass, fallowed by mutual agreement of the parties, or otherwise unfarmable.

4. Lessee shall use the Leased Property as a dryland farm and for no other purpose whatsoever, and especially will not let or permit the Leased Property to be used for any other business or purpose whatsoever.

5. Lessee shall be responsible for all costs and expenses associated with use of the Leased Property as a dryland farm.

6. Lessee shall not assign this lease, sublet, or relinquish the Leased Property, under the

penalty of a forfeiture of all the rights of the Lessee under or by virtue of this lease, at the election of the Lessor.

7. Lessee shall protect the Leased Property, including buildings, gates, fences, shrubbery, and improvements thereon from all damages and shall keep the same in the same condition as they are now in, or may be at any time placed in by the Lessor, subject to normal wear and tear. Lessee shall do no act whereby any insurance on buildings may be invalidated and shall not remove, or allow any other person to remove, from the Leased Property any of the buildings, gates, fences, shrubbery, and improvements of any kind.

8. Lessee shall not run furrows so as to cause ditches to wash the Leased Property, unless first having a written consent of the Lessor. Lessee shall clean out and maintain in good repair, during the operation of this Lease, all ditches belonging or appertaining to the Leased Property.

9. Lessee shall well and seasonably put in and tend to the crops grown on the Leased Property, shall have all small grain harvested and threshed by October 1 of each year; and if not harvested and threshed as stated, the Lessor may proceed to do so after ten (10) days notice to the Lessee, and take enough of the Lessee's grain to pay expense of such harvesting or threshing.

10. Lessee shall accept the fences upon said Leased Property as they now are now existing.

11. Lessee shall, at the expiration of this Lease, or upon a breach by the Lessee of any of the covenants herein contained, without further notice of any kind, quit and surrender the possession and occupancy of Leased Property in as good condition as careful use and natural wear and tear thereof will permit.

12. All goods and chattels, or any other property used or kept on the Leased Property, shall be held for the rent or damages under this Lease, whether exempt from execution or not, meaning or intending hereby to give the Lessor a valid and first lien upon any and all goods and chattels, crops and other property belonging to the Lessee.

13. Lessee shall cultivate around any structures or facilities on the Leased Property.

14. The Lessor reserves the right to cancel the lease during its term for any of the following reasons: (a) if the Lessee should take any action or fail to take any action that threatens the Lessor's interest in the Leased Property, including the violation of any environmental laws, rules, regulations or standards; (b) if the Lessee is not farming in a manner that constitutes good farming practices; (c) if the Lessor determines that it will no longer utilize the Leased Property for the production of crops.

15. Lessor also reserves the right for itself, its agents and its designees, including other government officials, to enter and to have access, at all reasonable times during the term of this lease, to the Leased Property for the purpose of sampling, application, monitoring, testing, screening, mapping, plotting or doing any other procedure, task or function deemed necessary by

Lessor, including, but not limited to, inspecting the Leased Property and to make such repairs, additions, or improvements as Lessor may deem necessary.

16. It is understood and agreed that the Lessor reserves the right to cancel this lease at its sole discretion. Should Lessor elect to exercise its right of cancellation, it must do so in writing, on or before October 1 prior to the anniversary date hereof, in which event this lease shall be terminated effective on the anniversary date and neither party shall be entitled to further payments or damages as the result of said termination except for any payments due and owing at the time of cancellation.

17. All payments from the Lessee shall become due and payable upon forfeiture of said Lease, or upon abandoning said Leased Property, and if it becomes necessary for the Lessor to bring action at law to recover possession, damage or rent, the Lessee agrees to pay a reasonable attorney's fee therefore, and all costs attending the same.

18. Lessee shall indemnify, defend and hold harmless Lessor and its successors, assigns and representatives from and against any and all damages, claims, losses, costs, liabilities, and expenses of any kind whatsoever (including but not limited to reasonable attorney fees) which may be asserted against or suffered by Lessor or the Leased Property or any part thereof, as a result of, on account of or arising from (i) any breach of any covenant, representation; promise, warranty or agreement made by Lessee, or (ii) injuries or damages to person or property resulting or alleged to result from any fault or negligence of Lessee or his agents or employees, or from the possession, use, occupancy, or maintenance of the Leased Property by Lessee, his agents, employees, or affiliates.

19. This Lease shall not be sublet or assigned. Any purported sublease or assignment shall be void, and shall result in immediate termination of this lease.

20. Lessor reserves the right to sell, contract to sell, or grant easements or rights-of-way over, through, under, or on, the Leased Property at any time during the term of this lease, subject to the rights and interests of the Lessee hereunder.

21. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO LESSOR:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

TO LESSEE:

Kent Beichle  
7475 South County Road 145  
Bennett, CO 80102

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

This lease shall be effective as of the date first above written.

*(Signatures follow on separate pages)*

LESSOR:

CITY ENGLEWOOD

---

By: James K. Woodward, Mayor

CITY OF LITTLETON

---

By: Jim Woods, City Manager

LESSEE:

~~\_\_\_\_\_~~  
Kent Beichle

**FARMLEASE**

THIS LEASE is dated \_\_\_\_\_, 2011, and is made and entered into by and between the Cities of Littleton and Englewood, collectively referred to hereinafter as "Lessor", and **James Burnet**, referred to hereinafter as "Lessee". On this date, Lessor has leased to the Lessee, the following described premises situated in the County of Arapahoe, State of Colorado, to wit:

That tract of land described as the S/2 of Section 23, except the W 40 feet deeded in Book 636 at Page 9, and the SW/4 of Section 24, all in Township 5 South; Range 63 West of the 6<sup>th</sup> P.M., containing 477.5 acres, more or less,

together with all buildings and improvements on the premises (hereinafter referred to as the "Leased Property") in accordance with the following terms:

1. This lease replaces and supersedes in its entirety, any prior lease agreement between the parties. This lease shall be for the term of one (1) year, renewable annually for five (5) years commencing on January 1, 2011, and ending on December 31, 2015 at the rent of \$8.00 (Eight dollars) per acre per year on farmable acres on the Leased Property, (477.5 acres) for a total annual lease payment of \$3,820.00.

2. The lease payment is to be made payable to the order of:

Littleton/Englewood WWTP

and delivered to:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

by December 31 (following the harvest) of each year that this lease is in effect.

3. Lessee shall thoroughly plow, cultivate and farm in accordance with good farming practices, all lands comprising the Leased Property that are not in grass, fallowed by mutual agreement of the parties, or otherwise unfarmable.

4. Lessee shall use the Leased Property as a dryland farm and for no other purpose whatsoever, and especially will not let or permit the Leased Property to be used for any other business or purpose whatsoever.

5. Lessee shall be responsible for all costs and expenses associated with use of the Leased Property as a dryland farm.

6. Lessee shall not assign this lease, sublet, or relinquish the Leased Property, under the

penalty of a forfeiture of all the rights of the Lessee under or by virtue of this lease, at the election of the Lessor.

7. Lessee shall protect the Leased Property, including buildings, gates, fences, shrubbery, and improvements thereon from all damages and shall keep the same in the same condition as they are now in, or may be at any time placed in by the Lessor, subject to normal wear and tear. Lessee shall do no act whereby any insurance on buildings may be invalidated and shall not remove, or allow any other person to remove, from the Leased Property any of the buildings, gates, fences, shrubbery, and improvements of any kind.

8. Lessee shall not run furrows so as to cause ditches to wash the Leased Property, unless first having a written consent of the Lessor. Lessee shall clean out and maintain in good repair, during the operation of this Lease, all ditches belonging or appertaining to the Leased Property.

9. Lessee shall well and seasonably put in and tend to the crops grown on the Leased Property, shall have all small grain harvested and threshed by October 1 of each year; and if not harvested and threshed as stated, the Lessor may proceed to do so after ten (10) days notice to the Lessee, and take enough of the Lessee's grain to pay expense of such harvesting or threshing.

10. Lessee shall accept the fences upon said Leased Property as they now are now existing.

11. Lessee shall, at the expiration of this Lease, or upon a breach by the Lessee of any of the covenants herein contained, without further notice of any kind, quit and surrender the possession and occupancy of Leased Property in as good condition as careful use and natural wear and tear thereof will permit.

12. All goods and chattels, or any other property used or kept on the Leased Property, shall be held for the rent or damages under this Lease, whether exempt from execution or not, meaning or intending hereby to give the Lessor a valid and first lien upon any and all goods and chattels, crops and other property belonging to the Lessee.

13. Lessee shall cultivate around any structures or facilities on the Leased Property.

14. The Lessor reserves the right to cancel the lease during its term for any of the following reasons: (a) if the Lessee should take any action or fail to take any action that threatens the Lessor's interest in the Leased Property, including the violation of any environmental laws, rules, regulations or standards; (b) if the Lessee is not farming in a manner that constitutes good farming practices; (c) if the Lessor determines that it will no longer utilize the Leased Property for the production of crops.

15. Lessor also reserves the right for itself, its agents and its designees, including other government officials, to enter and to have access, at all reasonable times during the term of this lease, to the Leased Property for the purpose of sampling, application, monitoring, testing, screening, mapping, plotting or doing any other procedure, task or function deemed necessary by

Lessor, including, but not limited to, inspecting the Leased Property and to make such repairs, additions, or improvements as Lessor may deem necessary.

16. It is understood and agreed that the Lessor reserves the right to cancel this lease at its sole discretion. Should Lessor elect to exercise its right of cancellation, it must do so in writing, on or before October 1 prior to the anniversary date hereof, in which event this lease shall be terminated effective on the anniversary date and neither party shall be entitled to further payments or damages as the result of said termination except for any payments due and owing at the time of cancellation.

17. All payments from the Lessee shall become due and payable upon forfeiture of said Lease, or upon abandoning said Leased Property, and if it becomes necessary for the Lessor to bring action at law to recover possession, damage or rent, the Lessee agrees to pay a reasonable attorney's fee therefore, and all costs attending the same.

18. Lessee shall indemnify, defend and hold harmless Lessor and its successors, assigns and representatives from and against any and all damages, claims, losses, costs, liabilities, and expenses of any kind whatsoever (including but not limited to reasonable attorney fees) which may be asserted against or suffered by Lessor or the Leased Property or any part thereof, as a result of, on account of or arising from (i) any breach of any covenant, representation; promise, warranty or agreement made by Lessee, or (ii) injuries or damages to person or property resulting or alleged to result from any fault or negligence of Lessee or his agents or employees, or from the possession, use, occupancy, or maintenance of the Leased Property by Lessee, his agents, employees, or affiliates.

19. This Lease shall not be sublet or assigned. Any purported sublease or assignment shall be void, and shall result in immediate termination of this lease.

20. Lessor reserves the right to sell, contract to sell, or grant easements or rights-of-way over, through, under, or on, the Leased Property at any time during the term of this lease, subject to the rights and interests of the Lessee hereunder.

21. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO LESSOR:

Littleton/Englewood WWTP  
c/o Operations Manager  
2900 South Platte River Drive  
Englewood, CO 80110

TO LESSEE:

James Burnet  
50155 E County Road 30  
Bennett, CO 80102-8208

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

This lease shall be in effect as of the date first above written.

*(Signatures follow on separate pages)*

LESSOR:

CITY ENGLEWOOD

---

By: James K. Woodward, Mayor

CITY OF LITTLETON

---

By: Jim Woods, City Manager

LESSEE:

~~James~~ Burnet

\_\_\_\_\_

## COUNCIL COMMUNICATION

|   |                               |  |
|---|-------------------------------|--|
| <b>Date:</b><br>March 7, 2011           | <b>Agenda Item:</b><br>11 a v | <b>Subject:</b><br>Red Rocks Community College Affiliation Agreement to Permit Clinical Training |
| <b>Initiated By:</b><br>Fire Department |                               | <b>Staff Source:</b><br>Michael Pattarozzi, Chief  |

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

No previous Council action has been taken.

### RECOMMENDED ACTION

Staff seeks for Council approval of a clinical affiliation agreement between the Fire Department and Red Rocks Community College to allow the Fire Department to provide clinical training to students of the college.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Red Rocks Community College provides training in Emergency Medical Services, including a degree program in this field. As a part of that training, students are required to complete clinical experience, supervised by a preceptor.

The Dean of Instruction and the Assistant Professor of Emergency Medical Services approached the Fire Department, requesting that their students be permitted to work with the Fire Department to gain some of that clinical experience, because of the volume of calls and the expertise of the preceptors in the department.

### FINANCIAL IMPACT

There is no cost to the Fire Department associated with this agreement. There is a minimal expense in paying preceptors when they are working with a student.

### LIST OF ATTACHMENTS

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2011

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

A BILL FOR

AN ORDINANCE AUTHORIZING THE INTERGOVERNMENTAL AGREEMENT ENTITLED  
“AFFILIATION AGREEMENT TO PERMIT CLINICAL TRAINING ENGLEWOOD FIRE  
DEPARTMENT” BETWEEN THE STATE OF COLORADO AND THE CITY OF ENGLEWOOD,  
COLORADO.

WHEREAS, Red Rocks Community College provides training and a degree in emergency medical services; and

WHEREAS, as part of that training, students are required to complete clinical experience, supervised by a preceptor; and

WHEREAS, the Dean of Red Rocks Community College and the Assistant Professor of EMS approached the Englewood Fire Department requesting that their students be permitted to work with the Fire Department to gain some of that clinical experience due to the volume of calls and the expertise of the preceptors of the Englewood Fire Department;

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 IGA entitled “Affiliation Agreement to Permit Clinical Training Englewood Fire Department” between the State of Colorado and the City of Englewood, Colorado, as attached hereto as Exhibit A.

Section 2. The Mayor and Fire Chief are authorized to execute said Intergovernmental Agreement for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 7th day of March, 2011.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 11<sup>th</sup> day of March, 2011.

Published as a Bill for an Ordinance on the City’s official website beginning on the 9th day of March, 2011 for thirty (30) days.

ATTEST:

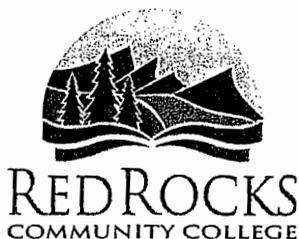
\_\_\_\_\_  
James K. Woodward, Mayor

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

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 7th day of March, 2011.

---

Loucrishia A. Ellis



**AFFILIATION AGREEMENT TO PERMIT CLINICAL TRAINING  
ENGLEWOOD FIRE DEPARTMENT**

**THIS AFFILIATION AGREEMENT** made , by and between the State of Colorado for the use and benefit of the Department of Higher Education, State Board for Community Colleges and Occupational Education, for the use and benefit of RED ROCKS COMMUNITY COLLEGE, located at 13300 West Sixth Avenue, Lakewood, CO 80228-1255 (hereinafter referred to as "RRCC"), and ENGLEWOOD FIRE DEPARTMENT, located at 3615 South Elati Street, Englewood, CO 80110 (hereinafter referred to as the "Institution").

**WHEREAS**, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

**WHEREAS** the Institution has the facilities to provide the necessary learning experiences desired,

**WHEREAS** the parties concur that it is to their mutual advantage and benefit that students enrolled at RRCC utilize the Institution during their Clinical experiences; and,

**WHEREAS** students and faculty of RRCC provide a source of stimulus and an example of excellent patient care,

**WITNESSETH**, that the Parties above-named, in consideration of the mutual promises contained herein and other good and valuable consideration, hereby agree as follows:

**THE CLINICAL SITE SHALL BE: ENGLEWOOD FIRE DEPARTMENT**

**TERMS AND CONDITIONS**

1. **Definitions.** The following definitions apply.
  - a. "Clinical" means a program of study as part of a RRCC course or degree requirement, conducted in cooperation with the Institution, whereby Clinical Students under the supervision of a preceptor receive experience and instruction in a professional setting.
  - b. "Preceptor" means that person employed or retained by either RRCC or the Institution to supervise the clinical experience.
  - c. "Clinical Student" means a person enrolled at RRCC who is to complete the Clinical.

**2. Purpose.**

- a. As part of RRCC educational requirements or as required for the award of a degree or certificate in a particular area of study, students must complete a Clinical experience supervised by a preceptor.
- b. The Institution has facilities and professional staff appropriate for this Clinical.
- c. By entering into this Agreement, the parties hereto do not intend that any of the RRCC staff or any Clinical Student is to be an employee of the Institution's for any purpose, except that to the extent that the activities performed hereunder are subject to the provisions of the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Clinical Student shall be deemed a member of the Institution's workforce at all times while performing the Clinical duties and activities. RRCC staff and Clinical Students shall not act as the Institution's agents or representatives in any capacity, and shall not make any commitments on behalf of the Institution. The Parties hereto are not partners, agents nor principals of one another.

3. **Term.** This contract takes effect on the date signed by the State Controller or delegate. It shall renew annually for a maximum of three (3) consecutive years unless either Party gives written notice to the other Party ninety (90) days prior to the renewal date. This contract may be terminated at any time by mutual consent of the parties hereto in writing, and signed by the authorized representative of each Party. In the event that a notice to terminate is given by either Party, this Agreement shall continue in full force and effect so as to permit the completion of all Clinicals that began prior to the Contract End Date, and with respect to such Clinicals, all terms and conditions of this Agreement shall apply until the last such Clinical is completed.

**4. RRCC Obligations.**

- a. RRCC acknowledges its sole responsibility for the planning and execution of the educational program through its program personnel and community faculty.
- b. RRCC shall be responsible for academic administration, curriculum content and programming, Clinical Student recruitment, admission, promotion and graduation, maintenance of all Clinical records and reports, and final determination of all grades to be awarded to Clinical Students for Clinical participation.
- c. RRCC shall ensure that all Clinical Students have completed all applicable prerequisite courses and any other requirements necessary prior to Clinical placement.
- d. RRCC hereby agrees to apprise Clinical Students of the confidential nature of client information.
- e. RRCC will require Clinical Students to comply with rules and regulations of the Institution while present within the Institution;
- f. RRCC will assure that each Clinical Student and faculty member will maintain appropriate current immunizations and evidence of the absence of tuberculosis;

- g. RRCC will engage in cooperative planning with appropriate Institution personnel for the selection and assignment of student Clinical learning experiences;
- h. RRCC will inform Clinical Students of their responsibility to provide any transportation, meals, and lodging related to the Clinical rotation.
- i. RRCC will assure that Clinical Students will be responsible for their own medical care while within the Institution, although the Institution may be asked to render emergency care in appropriate and extraordinary circumstances;
- j. RRCC recognizes the authority of the Institution to refuse the use of its facilities to any Clinical Student who does not meet the standards of the Institution;

5. **The Institution's Obligations.**

- a. The Institution will provide for the orientation of Clinical Students at the Institution, and will make available to them all of the Institution's pertinent policies, rules and regulations;
- b. The Institution will allow access to the facilities of the Institution for the clinical training of Clinical Students, including the participation of the Clinical Students in the delivery of medical services under the supervision of assigned preceptors;
- c. The Institution shall have sole authority and control over all aspects of client services, including those activities wherein Clinical Students may be exposed to or interrelate with clients.
- d. The Institution shall, in consultation with appropriate RRCC faculty and the Preceptor, designate those clients to whom Clinical Students may be exposed for their Clinical experience. The Institution shall determine the dates of Clinical assignments for specific duties related to the Clinical rotations.
- e. The Institution, in its discretion, may at any time exclude from participation hereunder any Clinical Student whose performance is determined to be detrimental to the Institution's clients, who fails to comply with proper channels of communication or the Institution's established policies and procedures, or whose performance is otherwise unsatisfactory.
- f. The Institution will render emergency care to Clinical Students in appropriate and extraordinary circumstances, including the use of CDC-consistent guidelines after exposure to blood or bodily fluids.

6. **Both Parties agree that:**

- a. they will cooperate in the coordination of Clinical Students placement at the Institution;
- b. they will notify one another of any issues involving the safety of patients, staff, Clinical Students, or faculty;
- c. they will inform one another of changes in personnel, curriculum or the availability of learning opportunities at the earliest possible time;

- d. upon its request, the Institution shall enjoy representation on the curriculum committee and advisory board of the program;
- e. any preceptors who are employed by the Institution shall be given "Clinical Instructor" appointments within RRCC, but shall not receive financial compensation or workers' compensation coverage from RRCC as the result of their service;

**7. Liability and Insurance; Governmental Immunity.**

- a. RRCC, as an entity of the State of Colorado, is entitled to certain immunities under Colorado law, including the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq., and is self-insured for \$150,000 per person and \$600,000 per occurrence as more fully set forth in Risk Management laws, C.R.S. §§ 24-30-1501, et seq. The parties agree that such insurance shall satisfy all insurance requirements of this Agreement except as otherwise specified herein.
- b. The Colorado Constitution prohibits the State of Colorado and RED ROCKS COMMUNITY COLLEGE from agreeing to indemnify any other party, public or private. In addition, the Colorado Governmental Immunity Act limits the tort liability of public entities and their employees and authorized volunteers acting in the course of authorized governmental undertakings. Any provision of this Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise so modified by statute. Parties to this Agreement should seek liability protection through their own insurance or otherwise.
- c. Workers' Compensation insurance coverage for Clinical Students participating under this Agreement shall be provided by RRCC.
- d. Clinical Student liability insurance shall be provided by RRCC in the amount of \$1,000,000 each incident or occurrence and \$3,000,000 in the aggregate.

**8. HIPAA Compliance.**

- a. The parties agree that to the extent required under the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 as that act may be amended from time to time, and regulations promulgated hereunder, RRCC and Institution hereby assure they will appropriately safeguard protected health information (PHI) made available to or obtained pursuant to this Agreement. Without limiting obligations otherwise set forth in this Agreement or imposed by applicable law, the parties agree to comply with applicable requirements of law relating to PHI and shall:
  - Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
  - Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;
  - Report to both parties of this agreement, any use or disclosures of PHI not provided for by this Agreement of which s/he becomes aware;
  - Ensure that any subcontractors or agents to whom RRCC or Institution provides PHI agree to the same restrictions and conditions that apply to them with respect to PHI;
  - Make available PHI in accordance with applicable law;

- Make available to the Secretary of the United States Health & Human Services, RRCC or Institution's internal practices, books, and records relating to the use and disclosure of PHI received pursuant to this Agreement for purposes of determining compliance with applicable law;
- Provide information required to make an accounting of disclosures pursuant to applicable law;
- At the termination of this Agreement, return or destroy all PHI in any form received pursuant to this Agreement and retain no copies of the said PHI; and
- This Agreement may be amended from time to time, if and to the extent required by the provisions of HIPAA and the regulations promulgated there under, so that this Agreement is consistent therewith.

9. **Termination.** This Agreement may be terminated as follows:
- a. **For Convenience.** Either Party may terminate this Agreement for any reason by providing ninety (90) days written notice to the other Party of its intention to terminate, provided that Clinical Students shall be permitted to complete Clinicals that began prior to the termination notice.
  - b. **For Default.** A Party will be considered in default of its obligations under this Agreement if such Party should fail to observe, to comply with, or to perform any term, condition, or covenant contained in this Contract and such failure continues for ten (10) days after the non-defaulting Party gives the defaulting Party written notice thereof. In the event of default, the non-defaulting Party, upon written notice to the defaulting Party, may terminate this Contract as of the date specified in the notice, and may seek such other and further relief as may be provided by law. To the extent reasonable, the Parties shall endeavor in good faith to prevent the early termination of any ongoing Clinical as a result of the termination of this Agreement under this section.
10. **No Third Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement shall be strictly reserved to the parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person. It is the express intention of the parties that any person other than a party to this Agreement receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
11. **Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Denver, State of Colorado.
12. **Assignment.** No assignment of this Agreement or the rights and obligations hereunder shall be valid without the prior written approval of the parties.
13. **Waiver.** The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of the same or other provision hereof.
14. **Anti-Discrimination.** The parties agree that in the performance of this Agreement, there will be no discrimination against Clinical Students, employees, or other persons

related to race, color, sex, religion, creed, age, national origin, sexual orientation, or disability.

15. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any previous contracts, understandings, or agreements of the parties, whether oral or written, concerning the subject matter of this Agreement.
16. **Amendment.** Any amendment to this Agreement must be in writing and must be signed by the parties.
17. **Severability.** In the event that any provision of this Agreement is held unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect.
18. **Commencement.** This contract shall commence on the date signed by the State Controller or delegate.

INSTITUTION Address: ENGLEWOOD FIRE DEPARTMENT  
3615 S. Elati St.  
Englewood, CO 80110  
Phone: 303-762-2476  
Fax: 303-762-2406  
Contact name: Stephen Green  
Email:

COLLEGE Address: RED ROCKS COMMUNITY COLLEGE  
Instructional Services, Box 35  
Lakewood, CO 80228-1255  
Phone: 303-914-6343  
Fax: 303-989-6285  
Contact name: Lori Burns, RN, MSN  
Dean of Instruction  
Also: Robert Vroman, EMS Faculty  
Phone: 303-914-6552  
Email:

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

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

|   |  |
|---|--|
| <p style="text-align: center;"><b>CONTRACTOR</b><br/><b>ENGLEWOOD FIRE DEPARTMENT</b></p> <p>By: James Woodward<br/>Title: Mayor</p> <hr/> <p style="text-align: center;">*Signature</p> <p>Date: _____</p> | <p style="text-align: center;"><b>STATE OF COLORADO</b><br/><b>Bill Ritter, Jr. GOVERNOR</b></p> <p>State of Colorado, Department of Higher Education, State Board for Community Colleges and Occupational Education, for the use and benefit of Red Rocks Community College<br/>C. Michele Haney, President</p> <hr/> <p>By: C. Michele Haney, President</p> <p>Date: _____</p> |
| <p style="text-align: center;">2nd Contractor Signature if Needed</p> <p>By: Michael Pattarozzi<br/>Title: Fire Chief</p> <hr/> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>            | <p style="text-align: center;"><b>LEGAL REVIEW</b><br/>John W. Suthers, Attorney General<br/><b>NOT REQUIRED FOR THIS CONTRACT</b></p> <hr/> <p>By: _____<br/>Signature - Assistant Attorney General</p> <p>Date: _____</p>  |

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

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

**STATE CONTROLLER**  
David J. McDermott, CPA

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

Peggy Morgan, Vice President of Administrative Services  
Or Kathy Kaoudis, Controller, Business Services  
Red Rocks Community College  
State Controller Delegates

Date: \_\_\_\_\_

## RED ROCKS COMMUNITY COLLEGE AGREEMENT APPROVAL AND DISTRIBUTION TRACKING

| Action                                 | Responsible Person                                     | Initial & Date | Notes  |
|--|--|----------------|--|
| <b>AGREEMENT INITIATED</b>             | Jane Banzhaf<br>X6369                                  |                | <u>Standard template used?</u><br>Yes ___ No ___ |
| <b>REVIEW</b>                          | Renee Archuleta<br>Purchasing Agent<br>(or alternate)  | ra             | <u>Revisions?</u><br>Yes __x__ No ___            |
| <b>SIGNATURE</b>                       | Peggy Morgan<br>VP Business Services<br>(or alternate) |                |  |
| <b>SIGNATURE</b>                       | Michele Haney<br>RRCC President<br>(or alternate)      |                |  |
| <b>MAILED TO VENDOR</b>                |  |                |  |
| <b>ORIGINAL RETURNED TO DEPARTMENT</b> |  |                |  |