

**Agenda for the  
Regular Meeting of the  
Englewood City Council  
Monday, July 15, 2013  
7:30 pm**

Englewood Civic Center – Council Chambers  
1000 Englewood Parkway  
Englewood, CO 80110

1. Call to Order.
2. Invocation.
3. Pledge of Allegiance.
4. Roll Call.
5. Consideration of Minutes of Previous Session.
  - a. Minutes from the Regular City Council Meeting of July 1, 2013.
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.
  - a. A resolution appointing Martha Kirkpatrick to the Cultural Arts Commission.

9. Consent Agenda Items.

a. Approval of Ordinances on First Reading.

- i. Council Bill No. 28 – Recommendation from the Englewood Office of Emergency Management to adopt a bill for an ordinance authorizing the application for, and acceptance of, a 2013 Emergency Management Performance Grant from the State of Colorado Department of Emergency Management in the amount of \$3,600. **Staff Source: Steve Green, Emergency Management Coordinator.**
- ii. Council Bill No. 29 – Recommendation from the Englewood Office of Emergency Management to adopt a bill for an ordinance authorizing the application for, and acceptance of, a 2013 Emergency Management Performance Grant the State of Colorado Department of Emergency Management in the amount of \$1,700 **Staff Source: Steve Green, Emergency Management Coordinator.**
- iii. Council Bill No. 30 – Recommendation from the Utilities Department to adopt a bill for an ordinance approving an intergovernmental agreement with Urban Drainage and Flood Control District to support funding of a study of Big Dry Creek Drainageway. **Staff Source: Dave Henderson, Deputy Public Works Director.**
- iv. Council Bill No. 31 – Recommendation from the Parks and Recreation Department to adopt a bill for an ordinance approving an intergovernmental agreement accepting grant funds from Great Outdoors Colorado (GOCO) for the Duncan Park development. **Staff Source: Jerrell Black, Parks and Recreation Director and Dave Lee, Manager of Open Space.**
- v. Council Bill No. 32 – Recommendation from the Parks and Recreation Department to adopt a bill for an ordinance approving an intergovernmental agreement accepting grant funds from Arapahoe County Open Space (ACOS) for the Duncan Park development. **Staff Source: Jerrell Black, Parks and Recreation Director and Dave Lee, Manager of Open Space.**

b. Approval of Ordinances on Second Reading.

- i. Council Bill No. 22 – Approving an Intergovernmental Wastewater Connector's Agreement with the Sheridan Sanitation District No. 1.
- ii. Council Bill No. 23 – Approving Supplement #170 to the Southgate Sanitation Connectors Agreement authorizing the inclusion of land within the district.
- iii. Council Bill No. 24 – Authorizing the proposed Memorandum of Understanding for an Intergovernmental Agreement with the Governor's Office of Information Technology to participate in the State of Colorado's digital trunked radio system.
- iv. Council Bill No. 25 – Approving an Intergovernmental Agreement with Arapahoe County for the November 5, 2013 Coordinated Election.
- v. Council Bill No. 26 – Authorizing the dissolution of the South-Broadway Business Improvement District.

- c. Resolutions and Motions.
  - i. Recommendation from the Finance and Administrative Service Department to approve a resolution for a supplemental appropriation in the amount of \$150,000 for the replacement and repair of the Englewood Recreation Center's boilers and handicap lift. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**
  - ii. Recommendation from the Public Works Department to authorize, by motion, a construction contract to upgrade the boiler room at the Englewood Recreation Center. Staff recommends awarding the contract to the lowest acceptable bidder, American Mechanical Services of Denver, LLC in the amount of \$110,875 and a construction contingency in the amount of \$5,125. **Staff Source: Dave Henderson, Deputy Public Works Director.**
  
- 10. Public Hearing Items. (None Scheduled)
  
- 11. Ordinances, Resolutions and Motions
  - a. Approval of Ordinances on First Reading.
    - i. Council Bill No. 27 – Recommendation from the Finance and Administrative Service Department to adopt an emergency bill for an ordinance authorizing the issuance of Golf Course Bonds. **Staff Source: Frank Grylewicz, Director of Finance and Administrative Services.**
  - 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.

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2013

A RESOLUTION APPOINTING MARTHA KIRKPATRICK AS A MEMBER OF THE  
CULTURAL ARTS COMMISSION FOR THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Englewood Cultural Arts Commission was established by the Englewood  
City Council with the passage of Ordinance No. 5, Series of 1996; and

WHEREAS, the purpose of the Cultural Arts Commission is to provide planning for the  
development of cultural arts activities and to implement an Arts Plan; and

WHEREAS, there is a vacancy on the Englewood Cultural Arts Commission; and

WHEREAS, Martha Kirkpatrick has graciously applied for appointment to the Englewood  
Cultural Arts Commission; and

WHEREAS, Martha Kirkpatrick was previously named as an alternate member of the Cultural  
Arts Commission; and

WHEREAS, the Englewood City Council desires to appoint Martha Kirkpatrick to the  
Englewood Cultural Arts Commission.

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

Section 1. Martha Kirkpatrick is hereby appointed to the Cultural Arts Commission for the  
City of Englewood, Colorado. Martha Kirkpatrick's term will become effective immediately and  
expiring July 1, 2015.

ADOPTED AND APPROVED this 15th day of July, 2013.

ATTEST:

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

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

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the  
above is a true copy of Resolution No. \_\_\_\_\_, Series of 2013.

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

## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 9 a i	<b>Subject:</b> 2013 Emergency Management Performance Grant – Special Project, Wastewater Treatment Plant Preparedness
<b>Initiated By:</b> Englewood Office of Emergency Management		<b>Staff Source:</b> Steve Green, Emergency Management Coordinator

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council has approved previous grants from the Emergency Management Performance Grant program to support disaster preparedness within the City of Englewood.

### RECOMMENDED ACTION

Staff seeks Council's approval to apply for and accept, if awarded, funds of up to \$3,600.00 from the 2013 Emergency Management Performance Grant (EMPG) Special Projects program, to fund emergency supplies and equipment for the Littleton/Englewood Wastewater Treatment Plant (L/E WWTP).

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The EMPG grant program originates with federal funds, which are distributed by the Federal Emergency Management Agency (FEMA) to the states, who then distribute funding to requesting jurisdictions' emergency management offices. The City of Englewood has received funds from the EMPG program starting with the FY2007 Supplemental Grant, in support of the Englewood Office of Emergency Management (OEM).

In coordination with the Englewood OEM, the L/E WWTP has been updating its emergency plans and procedures and has identified gaps in necessary emergency capabilities, including the need for eight hand-held radios for field staff, emergency food rations, one mounted and one portable AED. The total expenditure for these supplies would be \$7,200, 50% of which would be supported by the EMPG award.

### FINANCIAL IMPACT

EMPG grants require a 50% match. The L/E WWTP has available funds that have been allocated to meet the match for this grant request.

### LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 28  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING AN APPLICATION FOR AND ACCEPTANCE OF THE 2013 COLORADO DIVISION OF EMERGENCY MANAGEMENT "SPECIAL PROJECT GRANT" BETWEEN THE CITY OF ENGLEWOOD, COLORADO AND THE STATE OF COLORADO DIVISION OF EMERGENCY MANAGEMENT FOR THE LITTLETON/ENGLEWOOD WASTEWATER TREATMENT PLANT HAZARD ANALYSIS.

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

WHEREAS, the City of Englewood received grants starting with the FY-2007-Supplemental Grant to assist in the development of the disaster preparedness for the City of Englewood; and

WHEREAS, the Colorado Division of Emergency Management has stated that the EMPG program is expected to continue for the foreseeable future and has encouraged the City's participation; and

WHEREAS, the Littleton/Englewood Wastewater Treatment Plant has been updating its emergency plans and procedures and has conducted a hazard analysis of the facilities which revealed gaps in necessary emergency capabilities; and

WHEREAS, the passage of this Ordinance will approve an application for the 2013 EMPG – "Special Project Grant" for funds totaling up to \$3,600.00, to fund emergency supplies for the Littleton/Englewood Wastewater Treatment Plant which will include eight (8) hand held radios for field staff, emergency food rations, one mounted AED and one portable AED, which will be funded with the acceptance of the 2013 EMPG – "Special Project Grant"; and

WHEREAS, the applications are made through the State of Colorado, who manages the distribution of the EMPG funds, which originate at the Federal level with Federal Emergency Management Agency (FEMA); and

WHEREAS, this is a 50% match grant which will be paid by the L/E Wastewater Department, who have funds allocated for this purpose; and

WHEREAS, there are Federal Emergency Management Agency (FEMA) funds being received for the L/E Wastewater Treatment Plant Hazard Analysis projects "Special Project Grant".

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes an application for 2013 EMPG– “Special Project Grant” for funds up to \$3,600.00, attached hereto as Exhibit A.

Section 2. The City Manager is hereby authorized to sign the 2013 EMPG – “Special Project Grant Application” for this project, for and on behalf of the City of Englewood.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes the acceptance of a 2013 EMPG – “Special Project Grant” upon award by the State of Colorado.

Section 4. Upon award of the 2013 EMPG – “Special Project Grant” the Mayor is hereby authorized to sign for and on behalf of the City of Englewood, Colorado in accepting this grant

Section 5. There are Federal Emergency Management Agency (FEMA) funds being received for the L/E Wastewater Treatment Plant Hazard Analysis projects “Special Project Grant”.

Introduced, read in full, and passed on first reading on the 15<sup>th</sup> day of July, 2013.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 19<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City’s official website beginning on the 17th day of July 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15th day of July, 2013.

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Loucrishia A. Ellis

## 2013 EMPG Special Project Grant Application

### Applicant Information

Applicant Name (Tribe/County/City): City of Englewood

Contact (Name): Steve Green

Title: Emergency Management Coordinator

Address: 3615 S. Elati St. Englewood, Co 80110

Phone: 303-762-2476

Email:

### Proposed Use of Funds

Operational (EMPG-eligible costs within the performance period)

Project Completion (EMPG-eligible costs within the performance period)

Both (award to be used for a combination of costs)

Please provide a brief description below:

The Littleton/Englewood Wastewater Treatment Plant has been updating their emergency plans and procedures and has conducted a hazard analysis of their facilities. The analysis has revealed gaps in necessary emergency capabilities.

We are requesting funds to purchase 8 hand held radios for field staff, emergency food rations, one mounted AED and one portable AED.

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Signature

**Budget:**

Normal Operating Costs	Federal Share Reimbursed (up to 50%)	Non-Federal Match (50% or greater)
Salary	\$	\$
Rent/Lease/Utilities*	\$	\$
Phone*	\$	\$
Office Supplies*	\$	\$
Copying/Printing*	\$	\$
Travel*	\$	\$
Training	\$	\$
Equipment	\$ 3,600.00	\$ 3,600.00
<b>Total</b>		

Special Project Costs	Reimbursed (up to 50%)	Match (50% or greater)
Salary/Staffing	\$	\$
Design/Planning	\$	\$
Equipment	\$	\$
Materials/Supplies*	\$	\$
Copying/Printing*	\$	\$
Travel*	\$	\$
Training	\$	\$
Administration*	\$	\$
<b>Total \$</b>	<b>\$ 3,600.00</b>	<b>\$ 3,600.00</b>

**\*Note: Please see the EMPG federal guidance regarding classification of Management and Administration (M&A) costs. The federal share (to be reimbursed) M&A costs may not exceed 3% of the federal share of the budget. M&A costs beyond 3% of the federal share may be approved and documented as part of the non-federal match requirement.**

**Note: Please ensure that any equipment proposed is listed as EMPG eligible on the DHS Approved Equipment List (AEL). Provide a list of equipment to be purchased with these funds.**



## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 9 a ii	<b>Subject:</b> 2013 Emergency Management Performance Grant - Special Project, Training
<b>Initiated By:</b> Englewood Office of Emergency Management		<b>Staff Source:</b> Steve Green, Emergency Management Coordinator

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council has approved previous grants from the Emergency Management Performance Grant program to support disaster preparedness within the City of Englewood.

### RECOMMENDED ACTION

Staff seeks Council's approval to apply for and accept, if awarded, funds of up to \$1,700 from the 2013 Emergency Management Performance Grant (EMPG) Special Projects program, to support hiring a contractor to conduct a Unified Command class and tabletop exercise, along with associated printing costs for the class and exercise.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The EMPG grant program originates with federal funds, which are distributed by Federal Emergency Management Agency (FEMA) to the states, who then distribute funding to requesting jurisdictions' emergency management offices. The City of Englewood has received funds from the EMPG program starting with the FY2007 Supplemental Grant, in support of the Englewood Office of Emergency Management (OEM).

The Englewood OEM is planning a full-scale active shooter exercise for November, 2013, which involves six neighboring police agencies, three neighboring fire departments, two hospitals, the Tri-County Health Department and the Englewood School District.

Funds from this grant would be used to support hiring a contractor to conduct a Unified Command class and tabletop exercise for police and fire departments. It will also be used to pay for printing costs associated with the training and exercise.

### FINANCIAL IMPACT

The award is a soft-match grant, so there are no direct costs to the City in accepting it. Required matching funds are accounted for through the existing salaries of full-time employees who work in emergency management as all or part of their duties. Applying for and accepting this grant, if awarded, would help to conserve limited City resources.

### LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 29  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING THE APPLICATION FOR AND ACCEPTANCE OF THE 2013 COLORADO DIVISION OF EMERGENCY MANAGEMENT "SPECIAL PROJECT GRANT" BETWEEN THE CITY OF ENGLEWOOD, COLORADO AND THE STATE OF COLORADO DIVISION OF EMERGENCY MANAGEMENT FOR AN ACTIVE SHOOTER EXERCISE.

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

WHEREAS, the City of Englewood received grants starting with the FY-2007-Supplemental Grant to assist in the development of the disaster preparedness for the City of Englewood; and

WHEREAS, the Colorado Division of Emergency Management has stated that the EMPG program is expected to continue for the foreseeable future and have encouraged the City's participation; and

WHEREAS, Englewood's Office of Emergency Management (OEM) is planning a full-scale active shooter exercise scheduled to take place in November, 2013, which will involve 6 neighboring police agencies, 3 neighboring fire departments, 2 hospitals, Tri-County Health Department and the Englewood School District; and

WHEREAS, the passage of this Ordinance will approve the application for the 2013 EMPG - "Special Project Grant" for funds of up to \$1,700, which will support hiring a contractor to conduct a Unified Command class and related tabletop exercise for the police and fire departments, these funds will also pay for the printing costs associated with printing the exercise materials; and

WHEREAS, this is a soft-match grant, so there are no direct costs to the City in accepting this grant the required matching funds are accounted for thorough the existing salaries of full-time employees who work in emergency management as all or part of their duties; and

WHEREAS, the applications are made through the State of Colorado, who manages the distribution of the EMPG funds, which originate at the Federal level with Federal Emergency Management Agency (FEMA); and

WHEREAS, there are Federal Emergency Management Agency (FEMA) funds being received for the Active Shooter Exercise "Special Project Grant" project.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes application for a 2013 EMPG- "Special Project Grant" for funds up to \$1,700.00, attached hereto as Exhibit A.

Section 2. The City Manager is hereby authorized to sign the 2013 EMPG - "Special Project Grant Application" for and on behalf of the City of Englewood.

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes the acceptance of the 2013 EMPG - "Special Project Grant" upon award by the State of Colorado.

Section 4. Upon award of the 2013 EMPG - "Special Project Grant" the Mayor is hereby authorized to sign for and on behalf of the City of Englewood, Colorado.

Section 5. There are Federal Emergency Management Agency (FEMA) funds being received for the Active Shooter Exercise "Special Project Grant" project

Introduced, read in full, and passed on first reading on the 15<sup>th</sup> day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 19<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 17<sup>th</sup> day of July 2013 for thirty (30) days.

ATTEST:

\_\_\_\_\_  
Randy P. Penn, 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 15<sup>th</sup> day of July, 2013.

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

2013 EMPG Special Project Grant Application

**Applicant Information**

Applicant Name (Tribe/County/City): City of Englewood  
Contact (Name): Steve Green  
Title: Emergency Management Coordinator  
Address: 3615 S. Elati St. Englewood, Co 80110  
Phone: 303-762-2476  
Email:

**Proposed Use of Funds**

- Operational (EMPG-eligible costs within the performance period)
- Project Completion (EMPG-eligible costs within the performance period)
- Both (award to be used for a combination of costs)

Please provide a brief description below:

Englewood OEM is planning a full-scale active shooter exercise scheduled for November 8, 2013. The exercise involves 6 police agencies, 3 fire departments, 2 hospitals, Tri-County Health Department and the Englewood school district.

We are requesting funds to hire a contractor to conduct a Unified Command class and related tabletop exercise for the police and fire departments. In addition, we are requesting funds to pay for the printing costs associated with printing the exercise materials.

\_\_\_\_\_  
Signature

**Budget:**

Normal Operating Costs	Federal Share Reimbursed (up to 50%)	Non-Federal Match (50% or greater)
Salary	\$	\$
Rent/Lease/Utilities*	\$	\$
Phone*	\$	\$
Office Supplies*	\$	\$
Copying/Printing*	\$	\$
Travel*	\$	\$
Training	\$	\$
Equipment	\$	\$
<b>Total</b>		

Special Project Costs	Reimbursed (up to 50%)	Match (50% or greater)
Salary/Staffing	\$ 1700.00	\$ 1700.00
Design/Planning	\$	\$
Equipment	\$	\$
Materials/Supplies*	\$	\$
Copying/Printing*	\$ 200.00	\$
Travel*	\$	\$
Training	\$ 1500.00	\$
Administration*	\$	\$
<b>Total \$</b>	<b>\$1700.00</b>	<b>\$1700.00</b>

**\*Note: Please see the EMPG federal guidance regarding classification of Management and Administration (M&A) costs. The federal share (to be reimbursed) M&A costs may not exceed 3% of the federal share of the budget. M&A costs beyond 3% of the federal share may be approved and documented as part of the non-federal match requirement.**

**Note: Please ensure that any equipment proposed is listed as EMPG eligible on the DHS Approved Equipment List (AEL). Provide a list of equipment to be purchased with these funds.**

**Authorization (Signature of Authorized Local Government Representative)**

The undersigned does hereby warrant and guarantee that he/she is authorized to sign and submit grant applications on behalf of the named local government. The undersigned does hereby submit this application for financial assistance in accordance with the Emergency Management Performance Grant program administered by the Colorado Division of Emergency Management and certifies that the applicant will fulfill all requirements of the program and that all information contained herein is true and correct to the best of his/her knowledge.

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

Title: *Emergency Management Coordinator*

Organization: *City of Englewood Office of Emergency Management*

For OEM Use:

OEM Regional Field Manager Approval

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

Budget:

Planning	Exercise
Organization	Equipment
Training	M&A

CITY OF ENGLEWOOD, COLORADO

By: \_\_\_\_\_  
Gary Sears, City Manager

## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 9 a iii	<b>Subject:</b> Intergovernmental Agreement with Urban Drainage and Flood Control District for Big Dry Creek
<b>Initiated By:</b> Department of Public Works	<b>Staff Source:</b> Dave Henderson, Deputy Public Works Director	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

- Englewood participated in the last comprehensive analysis of Big Dry Creek in 1998.
- Staff discussed this proposed Agreement with City Council at the July 8, 2013 Study Session.

### RECOMMENDED ACTION

Staff recommends Council approval of a Bill for an Ordinance to enter into an agreement with the Urban Drainage and Flood Control District (UDFCD).

The agreement covers financial commitments regarding Major Drainageway Planning and Flood Hazard Area Delineation for Big Dry Creek (downstream of County Line).

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Urban Drainage and Flood Control District (UDFCD) programmed a new study of the Big Dry Creek Drainageway from County Line Road to the South Platte River. The project request was initiated by the Southeast Metro Stormwater Authority (SEMSWA), with the Cities of Greenwood Village and Englewood listed as "local sponsors".

This is the first comprehensive study of Big Dry Creek drainageway since 1998. The project will include new mapping of Big Dry Creek from County Line Road to the Platte River, development of a Master Plan, and defining the Flood Hazard Area.

Benefits to our citizens include:

- Identifying design storm flows for future improvements (i.e. crossing structures)
- Identifying areas needing stabilization
- Identifying regional water quality opportunities
- Floodplain management for future development
- Hydrologic information and locations, alignments, and sizing of storm sewers, channels, and detention/retention basins
- New mapping of flood hazard areas and limits
- Cost estimates for budgeting purposes

Pending funding approval by the other co-sponsors, the project kickoff is anticipated around the first week of September. The UDFCD will retain the services of a qualified engineering firm to complete the project. UDFCD will manage the project with regular meetings and updates provided to the project sponsors. The process is expected to take approximately eight months to complete.

Several factors are considered by the UDFCD when determining the cost-sharing agreement for each sponsor including who requested the study, the contributing drainage area from each jurisdiction, the length of drainageway flowing through each jurisdiction, and the benefit received by doing the study. Staff finds the cost sharing proposal favorable to the City of Englewood.

**FINANCIAL IMPACT**

The total estimated cost of the "Master Plan Study" and "Flood Hazard Area Delineation" is \$250,000. The UDFCD proposed funding is detailed below:

UDFCD	\$150,000
SEMSWA	71,000
Greenwood Village	17,000
Englewood	<u>12,000</u>
Total	\$250,000

Englewood's \$12,000 share will be funded by the City's Stormwater Utility Fund.

**LIST OF ATTACHMENTS**

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 30  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT ENTITLED "AGREEMENT REGARDING FUNDING OF MAJOR DRAINAGEWAY PLANNING AND FLOOD HAZARD AREA DELINEATION FOR BIG DRY CREEK (DOWNSTREAM OF COUNTY LINE)" BETWEEN THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT, GREENWOOD VILLAGE AND THE CITY OF ENGLEWOOD.

WHEREAS, Englewood participated in the last comprehensive analysis of Big Dry Creek in 1998; and

WHEREAS, Urban Drainage and Flood Control District (UDFCD) programmed a new study of the Big Dry Creek Drainageway from County Line Road to the South Platte River; and

WHEREAS, the project will include new mapping of Big Dry Creek from County Line Road to the Platte River, development of a Mater Plan, and defining the Flood Hazard Area; and

WHEREAS, the cost sharing proposal is favorable to the City of Englewood and benefits the Englewood citizens with: Identifying design storm flows for future improvements (i.e. crossing structures); identifying areas needing stabilization; identifying regional water quality opportunities; and Floodplain management for future development; Hydrologic information and locations, alignments, and sizing of storm sewers, channels, and detention/retention basins; New mapping of flood hazard areas and limits; and Cost estimates for budgeting purposes; and

WHEREAS, there are no Federal Funds being used as this project will be funded by funds received from the Urban Drainage and Flood Control District, the Southeast Metro Stormwater Authority, the City of Greenwood Village and the City of Englewood.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the Intergovernmental Agreement entitled "Agreement Regarding Funding of Major Drainageway Planning and Flood Hazard Area Delineation for Big Dry Creek (Downstream of County Line)" between the Urban Drainage and Flood Control District, Southeast Metro Stormwater Authority, Greenwood Village and the City of Englewood, a copy of which is marked as "Exhibit A" and attached hereto.

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

Section 3. No federal funds are being used for the Major Drainageway Planning and Flood Hazard Area Delineation for Big Dry Creek project.

Introduced, read in full, and passed on first reading on the 15th day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 19<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of July, 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15th day of July, 2013.

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Loucrishia A. Ellis

AGREEMENT REGARDING FUNDING OF MAJOR DRAINAGEWAY PLANNING AND FLOOD HAZARD AREA DELINEATION FOR BIG DRY CREEK (DOWNSTREAM OF COUNTY LINE)

Agreement No. 13-06.02

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT"), SOUTHEAST METRO STORMWATER AUTHORITY (hereinafter called "SEMSWA"), CITY OF GREENWOOD VILLAGE (hereinafter called "GREENWOOD") and CITY OF ENGLEWOOD (hereinafter called "ENGLEWOOD"); (hereinafter SEMSWA, GREENWOOD and ENGLEWOOD shall be collectively known as "LOCAL SPONSORS" and DISTRICT and LOCAL SPONSORS shall be collectively known as "PARTIES");

WITNESSETH THAT:

WHEREAS, DISTRICT in a policy statement previously adopted (Resolution No. 14, Series of 1970), expressed an intent to assist public bodies which have heretofore enacted floodplain zoning measures; and

WHEREAS, DISTRICT has previously established a Work Program for 2013 (Resolution No. 57, Series of 2012) which includes master planning; and

WHEREAS, PARTIES now desire to proceed with development of a drainageway master plan and flood hazard area delineation (FHAD) for Big Dry Creek downstream of County Line Road (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to acquire mapping needed to conduct the engineering studies for PROJECT; and

WHEREAS, PARTIES desire to engage an engineer to render certain technical and professional advice and to compile information, evaluate, study, and recommend design solutions to such drainage problems for PROJECT which are in the best interest of PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. SCOPE OF AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. PROJECT AREA

DISTRICT shall engage an engineer and obtain mapping as needed to perform or supply necessary services in connection with and respecting the planning of PROJECT of the area and watershed shown on the attached Exhibit A dated April 2013, (hereinafter called "AREA").

3. SCOPE OF PROJECT

The purpose of PROJECT is to develop a drainageway master plan and FHAD, including hydrologic information and the locations, alignments, and sizing of storm sewers, channels,

detention/retention basins, and other facilities and appurtenances needed to provide efficient stormwater drainage within AREA. The proposed work shall include, but not be limited to, mapping; compilation of existing data; necessary field work; and development and consistent evaluation of all reasonable alternatives so that the most feasible drainage and flood control master plan can be determined and justified for AREA. Consideration shall be given to costs, existing and proposed land use, existing and proposed drainage systems, known drainage or flooding problems, known or anticipated erosion problems, stormwater quality, right-of-way needs, existing wetlands and riparian zones, open space and wildlife habitat benefits, and legal requirements. Conceptual alternate plans shall be developed such that comparison with other alternates can be made. Drainage system planning shall be done in two phases by the engineer engaged by DISTRICT, culminating in a drainage master plan report. During the first phase, the selected engineer shall perform all studies and data gathering needed to prepare an alternatives analysis report containing a brief PROJECT description, study history, schematics of alternatives developed, their costs, and a discussion of the pros and cons of each alternative. A single alternative will be selected by PARTIES after the review and evaluation of the alternatives analysis report. During the second phase, the engineer shall be directed to prepare a preliminary design for the selected alternative, which shall be included in the final drainage master plan report.

4. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of PARTIES and to their property therein.

5. PROJECT COSTS

PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of, and be limited to, mapping, master planning, FHAD and related services and contingencies mutually agreeable to PARTIES. Project costs are estimated not to exceed \$250,000.

6. FINANCIAL COMMITMENTS OF PARTIES

PARTIES shall each contribute the following percentages and maximum amounts for PROJECT costs as defined in Paragraphs 5:

	<u>Master Plan Percentage Share</u>	<u>Maximum Contribution</u>	<u>FHAD Contribution</u>
DISTRICT	50.00%	\$100,000	\$50,000
SEMSWA	35.50%	\$71,000	-
GREENWOOD	8.50%	\$17,000	-
ENGLEWOOD	6.00%	\$12,000	-
TOTAL	100.00%	\$200,000	\$50,000

7. MANAGEMENT OF FINANCES

Payment by DISTRICT of \$150,000, by SEMSWA of \$71,000, by GREENWOOD of \$17,000 and by ENGLEWOOD of \$12,000 shall be made to DISTRICT subsequent to execution of this

Agreement and within thirty (30) calendar days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to LOCAL SPONSORS of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT and will not require an amendment to this Agreement.

In the event that it becomes necessary and advisable to change the scope of work to be performed, the need for such changes shall first be discussed with PARTIES, and their general concurrence received before issuance of any amendments or addenda. No changes shall be approved that increase the costs beyond the funds available in the PROJECT fund unless and until the additional funds needed are committed by PARTIES by an amendment to this Agreement.

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or dispersed, each party shall receive a share of such monies, which shares shall be computed as were the original shares.

8. PROJECT MAPPING

Upon execution of this Agreement DISTRICT will solicit priced proposals for mapping services and engage the mapping firm submitting the lowest priced proposal that is also judged by DISTRICT to be responsible and qualified to perform the work. DISTRICT reserves the right to reject any proposal and to waive any formal requirements during the evaluation of the proposals. DISTRICT will administer the contract with the mapping firm. The mapping services contracted by DISTRICT will provide for topographic mapping at a 2-foot contour interval and a scale of 1-inch = 100-feet.

9. MASTER PLANNING AND FHAD

Upon execution of this Agreement, PARTIES shall select an engineer mutually agreeable to PARTIES. DISTRICT, with the approval of LOCAL SPONSORS, shall contract with the selected engineer, shall administer the contract, and shall supervise and coordinate the planning for the development of alternatives and of preliminary design.

10. PUBLISHED REPORTS AND PROJECT DATA

DISTRICT will provide to each of LOCAL SPONSORS one copy of the draft FHAD report and one copy of the final FHAD report and one copy of the final conceptual design report in Electronic Master Plan (ePlan) format.

Upon completion of PROJECT, electronic files of all mapping, drawings, and hydrologic and hydraulic calculations developed by the engineer contracted for PROJECT shall be provided to any LOCAL SPONSORS requesting such data.

11. TERM OF THE AGREEMENT

The term of this Agreement shall commence upon final execution by all PARTIES and shall terminate two years after the final master planning report is delivered to DISTRICT and the final

accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 7 herein.

12. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

13. RESPONSIBILITIES OF LOCAL SPONSORS

Each LOCAL SPONSOR agrees to designate and assign a PROJECT representative to act on its behalf in all matters related to PROJECT. Said representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT. Said representative shall have the authority for all approvals, authorizations, notices, or concurrences required under this Agreement with the exception of the authority to execute this Agreement or any amendments or addenda to this Agreement, unless specifically authorized to do so by the LOCAL SPONSOR being represented.

LOCAL SPONSORS agree to review all draft reports and to provide comments within 21 calendar days after the draft reports have been provided by DISTRICT to LOCAL SPONSORS. LOCAL SPONSORS also agree to evaluate the alternatives presented in the alternatives analysis report, to select an alternative, and to notify DISTRICT of their decision(s) within 60 calendar days after the alternatives analysis report is provided to LOCAL SPONSORS by DISTRICT.

14. RESPONSIBILITIES OF DISTRICT

Notwithstanding any of the provisions of the Agreement, the Executive Director of DISTRICT, after coordination with LOCAL SPONSORS, shall be the only individual authorized to direct or redirect the effort funded under this Agreement. DISTRICT may appoint a Project Director who shall represent the Executive Director in matters related to PROJECT. DISTRICT shall be responsible for coordinating with LOCAL SPONSORS the information developed by the various consultants hired by DISTRICT and for obtaining all concurrences from LOCAL SPONSORS needed to complete PROJECT in a timely manner.

15. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

16. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

17. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any and all legal actions arising under the Agreement shall lie in the District Court in and for the County of Denver, State of Colorado.

18. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

19. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

20. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

21. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days written notice by any party to this Agreement, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions and subject to the maximum amount of each party's contribution as set forth herein.

22. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified on the basis of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agrees to insert the foregoing provision in all subcontracts hereunder.

23. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of LOCAL SPONSORS and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of each LOCAL SPONSOR and/or DISTRICT.

24. 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 PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that

any person or party other than any one of LOCAL SPONSORS or DISTRICT receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

25. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. et seq. The following language shall be included in any contract for public services: "The Consultant or Contractor shall not and by signing this Agreement certifies that it does not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant or Contractor shall not enter into a subcontract with a subcontractor that fails to certify to the Consultant or Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services. Consultant or Contractor affirms that they have verified through participation in the Colorado Employment Verification program established pursuant to 8-17.5-102 (5)(c) C.R.S. or the Electronic Employment Verification Program administered jointly by the United States Department of Homeland Security and the Social Security Administration that Consultant or Contractor does not employ illegal aliens. Consultant or Contractor is prohibited from using these procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

In the event that the Consultant or Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant or Contractor shall be required to:

- A. Notify the subcontractor and PARTIES within three days that the Consultant or Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- B. Terminate the subcontract with the subcontractor if within three days of receiving the notice required the Subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant or Contractor shall not terminate the contract with the Subcontractor if during such three days the Subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant or Contractor is required under this Agreement to comply with any reasonable request by the Colorado Department of Labor and Employment (DEPARTMENT) made in the course of an investigation DEPARTMENT is undertaking pursuant to its legal authority.

Violation of this section of this Agreement shall constitute a breach of this Agreement and may result in termination by PARTIES. Consultant or Contractor shall be liable to PARTIES for actual and consequential damages to PARTIES resulting from such breach pursuant to §8-17.5-101(3) C.R.S. PARTIES shall also report any such breach to the Office of the Secretary of State.

Consultant or Contractor acknowledges that DEPARTMENT may investigate whether Consultant or Contractor is complying with the provision of the Agreement. This may include on-site inspections and the review of documentation that proves the citizenship of any person performing

work under this Agreement and any other reasonable steps necessary to determine compliance with the provisions of this section."

26. EXECUTION IN COUNTERPARTS

This Agreement shall be executed by PARTIES in counterparts and only upon execution of the responsible counterparts by everyone listed herein shall this Agreement be treated as executed by PARTIES.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatures as of the date and year above written.

URBAN DRAINAGE AND  
FLOOD CONTROL DISTRICT

(SEAL)

By \_\_\_\_\_

ATTEST:

Title Executive Director

\_\_\_\_\_

Date \_\_\_\_\_

SOUTHEAST METRO STORMWATER  
AUTHORITY

(SEAL)

By \_\_\_\_\_

ATTEST:

Title \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

APPROVED:

\_\_\_\_\_

CITY OF GREENWOOD VILLAGE

(SEAL)

By \_\_\_\_\_

ATTEST:

Title \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

APPROVED:

\_\_\_\_\_

CITY OF ENGLEWOOD

(SEAL)

ATTEST:

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

By \_\_\_\_\_

Randy P. Penn

Title \_\_\_\_\_  
Mayor

Date \_\_\_\_\_

AGREEMENT REGARDING FUNDING OF  
MAJOR DRAINAGEWAY PLANNING AND  
FLOOD HAZARD AREA DELINEATION FOR  
BIG DRY CREEK (DOWNSTREAM OF COUNTY LINE)

Agreement No. 13-06.02

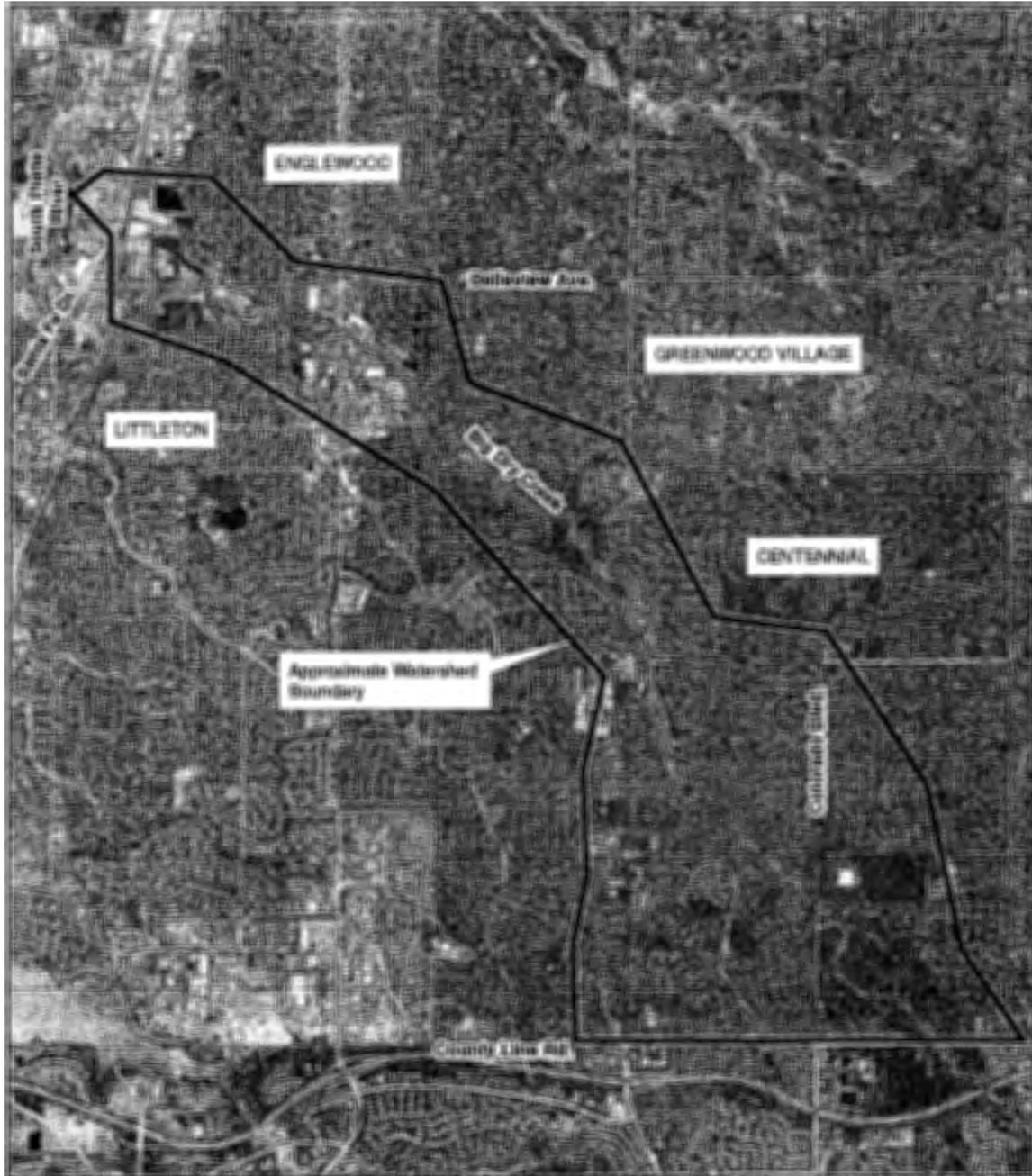
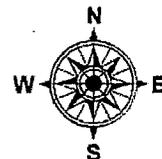


EXHIBIT A  
Big Dry Creek MDP & FHAD  
Approximate Watershed Limits  
April 2013



## COUNCIL COMMUNICATION

Date: July 15, 2013	Agenda Item: 9 a iv	Subject: Ordinance Approving the Use of Grant Funds from GOCO for Duncan Park Development
Initiated By: Department of Parks and Recreation	Staff Source: Jerrell Black, Parks and Recreation Director Dave Lee, Manager of Open Space	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

**Ordinance No. 35, Series of 1978** – Intergovernmental agreement between the City of Englewood and Englewood Schools for the lease of Duncan School/property for park and recreational purposes.

**Council Bill No. 41, Series of 2007** authorizing a Contract for Deed for the purchase of Duncan Park between the City of Englewood and Arapahoe County School District No. 1 (Englewood Schools).

**Council Bill No. 52, Series of 2007** authorizing an Intergovernmental Agreement regarding the 2007 ACOS grant between Arapahoe County and the City of Englewood for Duncan Park Acquisition.

**Council Bill No. 6, Series of 2008** authorizing an Intergovernmental Agreement regarding the 2007 grant of Great Outdoors Colorado between Great Outdoors Colorado Trust Fund and the City of Englewood for Duncan Park Acquisition.

**Council Bill No. 52, Ordinance No.50, Series of 2009** in support of the City's Great Outdoors Colorado (GOCO) grant application for design and development of Duncan Park.

**Resolution No. 2, Series of 2010** in support of the City's Arapahoe County Open Space (ACOS) grant application for design and development of Duncan Park.

**Council Bill No. 18, Ordinance No. 20, Series of 2011** in support of the City's GOCO grant award for the Duncan Park Planning.

**Resolution No. 74, Series of 2012** in support of the City's GOCO grant application for redevelopment of Duncan Park.

**Resolution No. 6, Series of 2013** in support of the City's Arapahoe County Open Space (ACOS) grant application for development of Duncan Park.

**Resolution No. 33, Series of 2013** in support of the City's grant application to Great Outdoors Colorado (GOCO) for development of Duncan Park.

City Council discussed the Great Outdoors Colorado grant for Development of Duncan park at the July 8, 2013 Study Session.

### RECOMMENDED ACTION

Staff recommends Council approve a bill for an ordinance accepting the grant funds awarded by Great Outdoors Colorado (GOCO) and for the development of Duncan Park.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Council authorized the purchase of Duncan Park from Englewood Schools in 2007. The purchase of Duncan Park was supported by a GOCO grant, a ACOS grant and Arapahoe County Shareback Funds. Final park acquisition was completed in 2010. Redevelopment of Duncan Park, including the removal of the

old school building, is supported by the 2006 Parks Master Plan. Council authorized the acceptance of the GOCO Duncan Planning grant in 2011. During the vetted planning process park amenities were determined to include: a pavilion, a multi-use sport field, a basketball court, playgrounds, restrooms, landscaping and an internal trail. The estimated cost of the total redevelopment of Duncan Park is 1.2 million dollars.

### **FINANCIAL IMPACT**

The GOCO grant award amount is \$350,000, with the City's cash match of \$441,260 which will come from the Arapahoe County Open Space (ACOS) Shareback funds. There are no Federal funds being used for this project.

### **LIST OF ATTACHMENTS**

Proposed Bill for an ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 31  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE 2013 GRANT FROM GREAT OUTDOORS COLORADO, BETWEEN THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND AND THE CITY OF ENGLEWOOD, COLORADO FOR DUNCAN PARK DEVELOPMENT.

WHEREAS, the Englewood City Council authorized an Intergovernmental Agreement between the City and Englewood Schools for the lease of Duncan School property for park and recreational purposes with the passage of Ordinance No. 35, 1978; and

WHEREAS, the City of Englewood, Colorado has maintained and operated Duncan Park as a community park for over thirty years and the park is considered a valuable and irreplaceable part of the Englewood park system; and

WHEREAS, in 2006 the Arapahoe School District No. 1 [Englewood School District] voted to sell the Duncan Park property; and

WHEREAS, Duncan Park is the only Park located in the southeast quadrant of the City of Englewood; and

WHEREAS, the Englewood City Council authorized a Contract for Deed for the purchase of Duncan Park between the City of Englewood and Arapahoe County School District No. 1 (Englewood Schools) with the passage of Ordinance No. 41, Series of 2007; and

WHEREAS, the Englewood City Council authorized an Intergovernmental Agreement regarding the 2007 Great Outdoors Colorado (GOCO) Grant between the City and Great Outdoors Colorado Trust Fund for Duncan Park acquisition with the passage of Ordinance No. 8, Series of 2008; and

WHEREAS, the Englewood City Council authorized Englewood's Grant application for the City's Great Outdoors Colorado (GOCO) for the design and development of Duncan Park with the passage of Ordinance No. 52, Series of 2009; and

WHEREAS, in support of Englewood's Great Outdoors Colorado (GOCO) Grant award for the Duncan Park Planning the City Council of the City of Englewood passed Ordinance No. 20, 2011; and

WHEREAS, the Englewood City Council passed Resolution No. 33, Series of 2013 in support of Englewood's Grant application to Great Outdoors Colorado (GOCO) for development of Duncan Park; and

WHEREAS, the passage of this Ordinance will authorize the acceptance of the Great Outdoor Colorado Grant (GOCO) for the Duncan Park Development; and

WHEREAS, there are no Federal funds being used for the Great Outdoors Colorado Grant for Duncan Park development; and

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

Section 1. The Intergovernmental Grant Agreement regarding the 2013 Grant of Great Outdoors Colorado (GOCO) for the development of Duncan Park, attached hereto as Exhibit A, is hereby accepted and approved by the Englewood City Council.

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

Section 3. No Federal funds are being used for the Great Outdoors Colorado Grant for Duncan Park development.

Introduced, read in full, and passed on first reading on the 15th day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 19<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of July, 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15th day of July, 2013.

---

Loucrishia A. Ellis

**GRANT AGREEMENT**

**DATE:** \_\_\_\_\_

**PROJECT:**

**Project Title:** Duncan Park Development Phase II  
**Contract Number:** 13304  
**Completion Date:** June 11, 2015

**PARTIES TO AGREEMENT:**

**Board:** The State Board of the Great Outdoors Colorado Trust Fund  
303 East 17<sup>th</sup> Avenue, Suite 1060  
Denver, CO 80203

**Grantee:** City of Englewood

**RECITALS**

A. The State Board of the Great Outdoors Colorado Trust Fund (referred to herein as "GOCO" or the "Board") is a political subdivision of the State of Colorado, created by Article XXVII of the Colorado Constitution, adopted at the November 1992 General Election, which article appropriates a portion of the net proceeds of the Colorado Lottery to the Board and directs the Board to invest those proceeds in the State's parks, wildlife, open space and recreational resources.

B. In 1994, the Board created a statewide grant program, pursuant to which eligible entities could apply for grants for local government parks and outdoor recreation projects to which Grantee responded with a detailed application (the "Project Application").

C. Grantee submitted a Project Application to the Board which contemplates the execution of the project entitled and described above (the "Project"). The parties acknowledge that they have on file a complete copy of the Project Application, which is incorporated herein.

D. The Board approved Grantee's Project Application on June 11, 2013, subject to the execution of a detailed grant agreement, and subject to the terms and conditions set forth herein. The parties intend this agreement to be the detailed final grant agreement required by the Board (the "Agreement").

**AGREEMENT**

NOW, THEREFORE, in consideration of the parties' mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are hereby incorporated into the terms of this Agreement.

2. **Representations and Warranties of Grantee.**

a. Grantee is a Municipality, duly organized in accordance with the laws of Colorado and has full and lawful authority to enter into, and comply with the terms of, this Agreement.

b. Grantee's governing body has authorized entering into this Agreement as evidenced by the resolution attached hereto as Exhibit A.

c. Grantee warrants that it has good and sufficient title to the property or properties on which the Project is to be located (the "Property"). GOCO may require Grantee to provide evidence of its ownership of the Property and encumbrances against the Property satisfactory to GOCO in GOCO's discretion prior to funding.

3. **Grant and Project.** Subject to the terms and conditions set forth in this Agreement, the Board hereby awards to Grantee a sum not to exceed \$350,000.00 (the "Grant"). The Grant shall be used by Grantee solely to complete the Project, in substantial conformity with the final plans, specifications, designs and uses approved by the Board.

4. **Project Scope.** Grantee shall not materially modify the Project or the Project budget (attached hereto as Exhibit B, the "Budget") without the prior written approval of the Executive Director of GOCO ("Executive Director") or the Executive Director's designee, such approval to be in GOCO's sole discretion. Any material modification to the Project undertaken without GOCO's prior written consent may be deemed a breach of this Agreement by GOCO, entitling GOCO to all remedies available under this Agreement. If Grantee determines with reasonable probability that the Project will not or cannot be completed as reflected in the Project Application, Grantee will promptly so advise the Board, and cooperate in good faith to seek a resolution before any further funds are advanced.

5. **Grantee Efforts.** Grantee shall complete the Project in a timely fashion, in a good and workmanlike manner, and consistent with this Agreement and GOCO's approvals related to the Project.

6. **Completion Date.** Grantee shall complete the Project and submit its Final Report no later than June 11, 2015 (the "Completion Date") which is two calendar years after the Board's approval of the Project. Grantee may request an extension of the Completion Date in compliance with GOCO's Overdue Grants Policy, a summary of which is attached as Exhibit C ("Overdue Grants Policy"). If Grantee determines with reasonable probability that the Project will not or cannot be completed by the Completion Date or any extended completion date, Grantee will promptly so advise the Board, and cooperate in good faith to seek a resolution before any further funds are advanced.

7. **Matching Funds.** Grantee shall obtain the matching cash and in-kind contributions for the Project as reflected in the Budget and as required by GOCO policy, and shall provide such evidence of the same as GOCO may require in its reasonable discretion.

8. **Disbursement of Funds.**

a. Progress Payment: Grantee may opt to receive a portion of the Grant funds after starting but prior to completing work on the Project (a "Progress Payment"). Grantee shall provide GOCO with a progress report detailing expenditures and progress made to date ("Progress Report"). The Progress Report must be submitted using GOCO's Progress Report form (available at [www.goco.org](http://www.goco.org) or by contacting GOCO). GOCO may, in its discretion, request additional documentation to support making a Progress Payment. A Progress Payment shall not exceed GOCO's percentage of expected overall costs (as determined by the GOCO-approved budget) applied to the value of documented eligible expenses or 50% of the Grant, whichever is less. A Progress Payment shall be considered a loan until the Project is complete and Final Payment (as defined below) has been made.

b. Final Payment: Once the Project is complete, Grantee shall submit a final report to GOCO detailing the accomplishments of and expenditures related to the Project (the "Final Report"). The Project is "complete" when all facilities, trails or other improvements included in the Project have been built and are ready for their intended use. The Final Report must be submitted using GOCO's Final Report form (available at [www.goco.org](http://www.goco.org) or by contacting GOCO). GOCO may, in its discretion, request additional documentation before its approval of the contents of the Final Report. Upon GOCO's review and approval of the Final Report, GOCO shall pay the outstanding balance on the Grant (the "Final Payment"), subject to any reductions contemplated by any provision of this Agreement.

9. **Conditions for Disbursement of Funds.** Except as provided in Paragraph 10 below, the Grant is subject to the following requirements and conditions.

a. The Grant and all matching funds shall be used only for the cost of fixed assets, including construction of new facilities, and enlargement or renovation of existing facilities. The Grant and all matching funds may not be used to pay for maintenance costs, administrative costs (such as salaries associated with administering the Grant, office supplies, telephone, or travel expenses), non-fixed assets (such as athletic or maintenance equipment), or any other costs deemed to be ineligible by the Board, at the Board's sole discretion.

b. Disbursement of Grant funds shall be made on the basis of costs actually incurred by Grantee and supported by written documentation (receipts, bills, etc.). GOCO may, in its discretion, depending on the nature of the Project, require documentation of mechanics lien waivers or waivers of claims to public project performance bonds as a precondition to any disbursement under this Agreement.

c. Except as otherwise agreed to in advance by GOCO in accordance with the terms of this Agreement, no material modifications may be made to the Project. Material modifications to the Project to which GOCO has not agreed may result in a reduction in the Grant. "Material

modifications” may include, but are not necessarily limited to, a reduction in the total cost of the Project, a reduction in the size or number of recreational development components to be constructed, changes to the nature of the recreational development components to be constructed, or any other variance from the Project as presented in the Project Application. It is the sole responsibility of Grantee to inform GOCO of any such modifications to the Project. GOCO strongly encourages Grantee to contact GOCO in writing when it becomes aware of or wishes to make any such modifications, however seemingly minor, to the Project.

10. **Waiver.** The Executive Director or the Executive Director’s designee may in such person’s discretion, waive or agree to modify one or more of the obligations in sections 8, 9, and 16 of the Agreement, or may permit performance of one or more of such obligations subsequent to disbursement.

11. **Payment of Grant Subject to Sufficient Net Lottery Proceeds.** Payment of the Grant is subject to GOCO’s determination in its sole discretion that it has received and has available sufficient net lottery proceeds to fund the Grant. In determining the sufficiency of net lottery proceeds, GOCO may consider all facts and circumstances as it deems necessary or desirable in its discretion, including, but not limited to, adequate reserves, funding requirements and/or commitments for other past, current and future grants, and past, current and future GOCO operating expenses and budgetary needs.

12. **Project Operation and Maintenance.**

a. Grantee shall operate, manage, and maintain the Project in a reasonable state of repair for the purposes specified in the Project Application for a period of 25 years from the date of completion of the Project or the useful life of the Project, in accordance with product warranties and/or the generally accepted standards in the parks/recreation community, and provide and maintain access to the Project and to the Property, regardless of the Property’s ownership.

b. Failure to comply with the provisions of Paragraph 12.a. may be deemed a breach by Grantee under Paragraph 21, below.

c. GOCO shall not be liable for any cost of maintenance, management or operation of the Project.

d. Within 60 days of a reasonable request by the Board, Grantee will provide the Board with adequate records reflecting the operating and maintenance costs of the Project and provide the Board with such other information concerning the use of the Project by the public and the impact of the Project.

13. **Public Access.** Grantee agrees, for itself and its successors in interest, to allow reasonable public access to the Project for the term specified in Section 12. Grantee may temporarily close such public access for construction, maintenance, emergency situations, or other reasonable purposes.

14. **Compliance with Regulatory Requirements and Federal and State Mandates.**

Grantee hereby assumes responsibility for compliance with all regulatory requirements in all applicable areas, including but not limited to nondiscrimination, worker safety, local labor preferences, preferred vendor programs, equal employment opportunity, use of competitive bidding, permits, approvals, and other similar requirements. To the extent permitted by law, Grantee will indemnify and hold the Board harmless from any liability for any failure to comply with any such applicable requirements.

15. **Nondiscrimination.** During the performance of this Agreement, Grantee and its contractors, subcontractors and agents shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex, or any other basis prohibited by local, state or federal law. Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Further, during the performance of this Agreement, Grantee and anyone acting on behalf of Grantee shall not engage in any unlawful discrimination in permitting access and use of the Project.

16. **Publicity and Project Information.**

a. Grantee shall erect and maintain a sign at a prominent location on the Project site acknowledging the assistance of Great Outdoors Colorado and the Colorado Lottery. GOCO will provide such signs at no cost to Grantee. Alternatively, GOCO will provide reproducible samples of its logo to Grantee for custom signs.

i. GOCO shall approve in advance the design of any permanent sign materially varying from the signs provided by GOCO. To obtain such approval, Grantee shall submit to GOCO plans describing the number, design, placement, and wording of signs and placards. Plans shall be submitted to the Board for review and approval prior to completion of the Project.

ii. The Board may withhold Final Payment pending evidence of placement of permanent signage.

b. Grantee shall acknowledge Board funding in all publicity issued by it concerning the Project.

c. Grantee shall cooperate with the Board or the Board's designee in advance in preparing public information pieces related to the Project.

d. Grantee shall give the Board the right and opportunity to use information gained from the Project.

e. Grantee shall give the Board a minimum 30 days' notice of Project grand openings, dedications, or other events.

f. Grantee shall give timely notice of the Project, its inauguration, significance, and completion to the local members of the Colorado General Assembly, members of the board of

county commissioners of the county or counties in which the Project is located, as well as to other appropriate public officials.

g. Grantee shall provide quality digital photographs or printed photographs, if unable to provide digital photographs (collectively, "Photographs") of the completed Project with the Final Report. For the avoidance of doubt, all Photographs taken by Grantee of the Project constitutes a "work made for hire" pursuant to the U.S. copyright law (17 U.S.C. Section 201(b)) Grantee agrees that all copyrights and other property rights, in the Photographs developed by Grantee in conjunction with the Project are further owned by GOCO and Grantee hereby forever and irrevocably assigns to GOCO, without further consideration, all right, title and interest in such copyrights and other proprietary rights. Grantee agrees that GOCO, its successors and assigns, shall have the exclusive right to file copyright applications in the United States and throughout the world to the Photographs, or any portion thereof, in the name of GOCO. Grantee hereby agrees that GOCO, its successors and assigns may act as attorney-in-fact to execute any documents that GOCO deems necessary to record this grant with the United States Copyright Office or elsewhere. Grantee agrees to execute any and all documents reasonably requested by GOCO to enforce its rights under this provision.

h. At no time shall Grantee represent in any manner to the public or to any party that it is affiliated with GOCO or acting on behalf of GOCO.

17. **Liability.**

a. Grantee shall be responsible for, and to the extent permitted by law (including any constitutional or statutory limitations on the ability of a governmental entity to provide indemnification), indemnify, defend and hold harmless the Board, its officers, agents and employees from any and all liabilities, claims, demands, damages or costs (including reasonable legal fees) resulting from, growing out of, or in any way connected with or incident to Grantee's performance of this Agreement. Grantee hereby waives any and all rights to any type of express or implied indemnity or right of contribution from the State of Colorado, the Board, its members, officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this Agreement. Grantee acknowledges that Grantee is the owner of the Project and the Property upon which it is located, or has control of the Project and the Property, and that GOCO neither possesses nor controls the Project, the Property, nor the operations of the Project.

b. Anything else in this Agreement to the contrary notwithstanding, no term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protection provided to the Board under the Colorado Governmental Immunity Act ("CGIA") as amended or as may be amended in the future (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted). This provision may apply to Grantee if Grantee qualifies for protection under the Colorado Governmental Immunity Act, C.R.S. §24-10-101 *et seq.* The Board and Grantee understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the Board, its members, officials, agents and employees may be controlled and/or limited by the provisions of the CGIA. The parties agree that no

provision of this Agreement shall be construed in such a manner as to reduce the extent to which the CGIA limits the liability of the Board, its members, officers, agents and employees.

18. **Audits and Accounting.** Grantee shall maintain standard financial accounts, documents, and records relating to the use, management, and operation of the Project. The accounts, documents, and records related to the Project shall be retained by Grantee for not less than five (5) years following the date of disbursement of funds under this Agreement. The Board, or its designated agent, shall have the right, upon reasonable notice to Grantee, to audit the books and records of Grantee which pertain to the Project and to the use and disposition of the Grant. While Grantee is not required to use GAAP (Generally Accepted Accounting Principles), Grantee shall use reasonable and appropriate accounting systems in maintaining the required records hereunder.

19. **Inspection.** Throughout the term of this Agreement, GOCO shall have the right to inspect the Project to ascertain compliance with this Agreement.

20. **Withdrawal of Board Funding; Termination of Agreement.** Anything else in this Agreement or otherwise to the contrary notwithstanding, the Board may withdraw, in whole or in part, the Grant and/or terminate this Agreement, and/or seek a refund of payments already made if the Board determines in its discretion that:

- a. facts have arisen or situations have occurred that fundamentally alter the expectations of the parties or make the purposes for the Grant as contemplated infeasible or impractical;
- b. any material modifications in the scope or nature of the Project have occurred from that which was presented in the Project Application and such material modifications have not received the prior written approval of GOCO;
- c. any statement or representation made by Grantee in the Project Application, this Agreement, the Progress Report, the Final Report, or otherwise is untrue, inaccurate or incomplete in any material respect;
- d. the results of GOCO's review of the Progress Report, or the Final Report are not acceptable to GOCO;
- e. the Project will not or cannot be completed by the Completion Date or any extensions granted thereto or delays in the implementation of the Project have occurred which, in the Board's judgment, make the Project impracticable;
- f. the Project will not or cannot be completed within the Budget or any approved modifications, or the total Project cost and/or Grantee's matching funding are reduced;
- g. title to or encumbrances against the Property are or become such that Grantee is unable to complete the Project, or the Project and/or the Property are or become unavailable for public use.

21. **Breach.**

a. In the event that Grantee breaches any of the terms, covenants, representations, or conditions of this Agreement, the Board may elect to enforce any and all remedies available at law or in equity, including without limitation, any of the following:

- i. Prior to payment of Grant:
  - A. Withdraw the Grant and terminate this Agreement; and,
  - B. Deny Grantee eligibility for participation in future Board grants, loans or projects.
- ii. After payment (partial or full) of Grant:
  - A. Deny Grantee eligibility for participation in future Board grants, loans or projects;
  - B. Seek specific performance of Grantee's obligations under this Agreement;
  - C. Receive reimbursement in full of disbursement made under the Grant.

b. The foregoing remedies are cumulative and may be exercised independently or in combination and are not exclusive to one another or to any other remedies available at law or in equity. In the event GOCO must pursue any remedy hereunder and is the substantially prevailing party, GOCO shall be awarded its costs and reasonable legal fees, including costs of collection.

22. **Good Faith.** There is an obligation of good faith on the part of both parties, including the obligation to make timely communication of information which may reasonably be believed to be material to the other party.

23. **Assignment.** Grantee may not assign its rights under this Agreement without the consent of the Board, which consent shall be in the discretion of the Board. Any assignment shall require that, at a minimum, the assignee is eligible to receive grants from the Board and assumes Grantee's ongoing obligations under this Agreement.

24. **Applicable Law.** This Agreement shall be governed by the laws of the State of Colorado and venue for any dispute hereunder shall lie exclusively in the State Courts of the City and County of Denver.

25. **No Joint Venture.** Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee or other relationship between the parties hereto other than independent contracting parties. Except as permitted under the remedies provisions hereunder, neither party shall have the express or implied right to act for, on behalf of, or in the name of the other party.

26. **Severability.** If any provision of this Agreement, or the application thereof, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision, other than those as to which it is found to be invalid, shall remain in full force and effect.

27. **Time is of the Essence.** Time is of the essence in this Agreement.

28. **Survival.** The terms and provisions of this Agreement and the parties' covenants hereunder shall survive the funding of the Grant and the completion of the Project.

29. **Fax and Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which when taken together shall constitute one Agreement. In addition, the parties agree to recognize signatures of this Agreement transmitted by telecopy or e-mail as if they were original signatures.

30. **Third Party Beneficiary.** The Board and Grantee hereby acknowledge and agree that this Agreement is intended only to cover the relative rights and obligations between the Board and Grantee, and that no third party beneficiaries are intended.

31. **Construction.** Each party hereto has reviewed and revised (or requested revisions of) this Agreement, and therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement.

32. **Waiver.** The failure of either party to enforce a term hereof shall not be deemed a waiver of such term or right of enforcement as to that breach or any subsequent breach of the same, similar or different nature. No waiver shall be enforceable hereunder unless signed by the party against whom the waiver is sought to be enforced.

33. **Entire Agreement.** Except as expressly provided herein, this Agreement constitutes the entire agreement of the parties. No oral understanding or agreement not incorporated in this Agreement shall be binding upon the parties. No changes to this Agreement shall be valid unless made as an amendment to this contract, approved by the Board, and signed by the parties.

IN WITNESS WHEREOF, the parties by signature below of their authorized representatives execute this Agreement effective as of the \_\_\_ day of \_\_\_\_\_ 20\_\_.

STATE BOARD OF THE GREAT  
OUTDOORS COLORADO TRUST FUND

GRANTEE:  
City of Englewood

By: \_\_\_\_\_  
Lise Aangeenbrug  
Executive Director

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

## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 9 a v	<b>Subject:</b> Ordinance Approving the Use of Grant Funds from ACOS for Duncan Park Development
<b>Initiated By:</b> Department of Parks and Recreation	<b>Staff Source:</b> Jerrell Black, Parks and Recreation Director Dave Lee, Manager of Open Space	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

**Ordinance No. 35, Series of 1978** – Intergovernmental agreement between the City of Englewood and Englewood Schools for the lease of Duncan School/property for park and recreational purposes.

**Council Bill No. 41, Series of 2007** authorizing a Contract for Deed for the purchase of Duncan Park between the City of Englewood and Arapahoe County School District No. 1 (Englewood Schools).

**Council Bill No. 52, Series of 2007** authorizing an Intergovernmental Agreement regarding the 2007 ACOS grant between Arapahoe County and the City of Englewood for Duncan Park Acquisition.

**Council Bill No. 6, Series of 2008** authorizing an Intergovernmental Agreement regarding the 2007 grant of Great Outdoors Colorado between Great Outdoors Colorado Trust Fund and the City of Englewood for Duncan Park Acquisition.

**Council Bill No. 52, Ordinance No.50, Series of 2009** in support of the City's Great Outdoors Colorado (GOCO) grant application for design and development of Duncan Park.

**Resolution No. 2, Series of 2010** in support of the City's Arapahoe County Open Space (ACOS) grant application for design and development of Duncan Park.

**Council Bill No. 18, Ordinance No. 20, Series of 2011** in support of the City's GOCO grant award for the Duncan Park Planning.

**Resolution No. 74, Series of 2012** in support of the City's GOCO grant application for redevelopment of Duncan Park.

**Resolution No. 6, Series of 2013** in support of the City's Arapahoe County Open Space (ACOS) grant application for development of Duncan Park.

**Resolution No. 33, Series of 2013** in support of the City's grant application to Great Outdoors Colorado (GOCO) for development of Duncan Park.

City Council discussed the Arapahoe County Open Space (ACOS) grant for development of Duncan park at the July 8, 2013 Study Session.

### RECOMMENDED ACTION

Staff recommends Council approve an Ordinance for an IGA to accept grant funds awarded by Arapahoe County Open Space (ACOS) for the development of Duncan Park.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Council authorized the purchase of Duncan Park from Englewood Schools in 2007. The purchase of Duncan Park was supported by a GOCO grant, an ACOS grant and Arapahoe County Shareback Funds. Final park acquisition was completed in 2010. Redevelopment of Duncan Park, including the removal of the

old school building, is supported by the 2006 Parks Master Plan. Council authorized the acceptance of the GOCO Duncan Planning grant in 2011. During the vetted planning process park amenities were determined to include: a pavilion, a multi-use sport field, a basketball court, playgrounds, restrooms, landscaping and an internal trail. The estimated cost of the total redevelopment of Duncan Park is 1.2 million dollars.

### **FINANCIAL IMPACT**

The ACOS grant award amount is \$250,000, with the City's cash match of \$172,200. Funding for the project has been budgeted in the 2013 Open Space Fund Budget (Open Space Shareback Funds). There are no Federal funds being used for this project.

### **LIST OF ATTACHMENTS**

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013 \_\_\_\_\_

COUNCIL BILL NO. 32  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT  
ACCEPTING A 2013 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS  
PROJECT NAME: DUNCAN PARK DEVELOPMENT BETWEEN THE CITY OF  
ENGLEWOOD, COLORADO AND THE BOARD OF COUNTY COMMISSIONERS OF THE  
COUNTY OF ARAPAHOE, STATE OF COLORADO.

WHEREAS, the City Council of the City of Englewood authorized an Intergovernmental Agreement for the lease of Duncan School/property for the park and recreational purposes between Englewood Schools and the City by the passage of Ordinance No. 35, Series 1978; and

WHEREAS, the Englewood City Council authorized a Contract for Deed for the purchase of Duncan Park between Englewood Schools and the City by the passage of ordinance No. 41, Series 2007; and

WHEREAS, the Englewood City Council authorized an Intergovernmental Agreement regarding the 2007 ACOS Grant between Arapahoe County and the City for Duncan Park Acquisition by the passage of Ordinance No. 52, Series 2007; and

WHEREAS, the passage of Resolution No. 2, Series of 2010 supported the City's Arapahoe County Open Space (ACOS) Grant application for design and development of Duncan Park; and

WHEREAS, the passage of Resolution No. 6, Series of 2013 supported the City's ACOS Grant application for redevelopment of Duncan Park; and

WHEREAS, the passage of this Ordinance authorizes the City of Englewood to accept the Arapahoe County Open Space Grant for the redevelopment of Duncan Park; and

WHEREAS, Duncan Park Redevelopment at located at 4800 South Pennsylvania Street consisting of 3.3. acre former school site that was purchased from Englewood Schools using Great Outdoors Colorado (GOCO) Grant funds, Arapahoe County Open Space (ACOS) Grant funds as well as share back funds with the intention to develop the property into a neighborhood park; and

WHEREAS, the goal is to redevelop the property into a neighborhood park allowing this Englewood neighborhood and local community to experience the only neighborhood park in the southeast corner of the City; and

WHEREAS, it is anticipated that the redeveloped park amenities will include an athletic field, pavilion, restroom, basketball court, playground, new concrete walks and landscaping; and

WHEREAS, there are no federal funds being used for this grant for the redevelopment of Duncan Park.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the acceptance of the Arapahoe County Open Space Grant for the development of Duncan Park, attached hereto as Exhibit 1.

Section 2. The Mayor is authorized to execute and the City Clerk to attest and seal the Intergovernmental Agreement accepting a 2013 Grant of Arapahoe County Open Space Program Funds Project Name: Duncan Park Redevelopment on behalf of the City of Englewood, Colorado.

Section 3. No federal funds are being used for this grant for the redevelopment of Duncan Park.

Introduced, read in full, and passed on first reading on the 15th day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 19th day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 17th day of July, 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15th day of July, 2013.

---

Loucrishia A. Ellis

**INTERGOVERNMENTAL AGREEMENT REGARDING  
2013 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS  
PROJECT NAME: DUNCAN PARK DEVELOPMENT PHASE 1**

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This Intergovernmental Agreement ("Agreement"), is made and entered into by and between **THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ARAPAHOE, STATE OF COLORADO**, (the "County") and **THE CITY OF ENGLEWOOD**, a municipality and political subdivision of the State of Colorado (the "Grantee") (collectively, "Parties" and individually a "Party").

WHEREAS, on November 4, 2003, and on November 1, 2011, the voters of Arapahoe County approved a county-wide sales and use tax to be deposited in the Arapahoe County Open Space Fund and used for specified open space purposes as set forth in County Resolution No. 030381, as amended by Resolution No. 110637 (Open Space Resolution); and

WHEREAS, the Open Space Resolution authorizes the County to award discretionary grants from its Open Space Fund to municipalities and special districts, as more fully set forth therein; and

WHEREAS, on May 7, 2013 the County approved the Grantee's Grant Proposal for the **Duncan Park Development Phase 1** Project ("Grant Project"), which is attached hereto and incorporated by reference herein as Exhibit A, subject to the execution of an intergovernmental agreement and subject to the terms and conditions contained herein; and

WHEREAS, this intergovernmental agreement is authorized by Article XIV, Section 18 of the Colorado Constitution and COLO. REV. STAT. § 29-1-203.

NOW, THEREFORE, the County and the Grantee agree as follows:

1. Amount of Grant. The County hereby awards Grantee an amount not to exceed **\$250,000** ("Grant Funds") for the Grant Project from the Arapahoe County Open Space Fund.
2. Use of Grant Funds. The Grantee agrees that it shall only use the Grant Funds for the Grant Project, as described in Exhibit A.
3. Time For Use of Grant Funds. The Grantee agrees that the Grant Funds will be expended by no later than two years from the date of transfer of Grant Funds from the Grantor to the Grantee, unless a longer period of time is otherwise agreed to by the County in writing. The Grantee understands and agrees that if the Grant Project cannot be completed by the end of the agreed upon time period as set forth in Exhibit A or by the end of an extended time period as approved by the County, or if the Grantee fails to complete the Grant Project as set forth in this Agreement and as set forth in Exhibit A, the County may require that the Grant Funds be refunded to the County Open Space Grant Fund, to be re-distributed to another agency and/or for another viable and timely grant project.

4. Interest on Grant Funds. The Grantee further agrees that, after receipt of the Grant Funds, the Grantee will use any interest earned on the Grant Funds only for the Grant Project as set forth in Exhibit A.
5. Administration of Grant Project. The Grantee shall be responsible for the direct supervision and administration of the Grant Project. The County shall not be liable or responsible for any cost overruns on the Grant Project. Nor shall the County have any duty or obligation to provide any additional funding for the Grant Project if the Grant Project cannot be completed with the Grant Funds awarded by the County to the Grantee. Grantee also agrees to comply with all local, state and federal requirements while completing the Project unless specifically waived.
6. Grant Project Site Visits. Upon 24 hours written notice to the Grantee, the Grantee agrees to allow the County to make site visits before, during, at the completion of and/or after the Grant Project.
7. Acknowledgement of County by Grantee. The Grantee agrees to acknowledge the County as a contributor to the Grant Project in all publications, news releases and other publicity issued by the Grantee related to the Grant Project and agrees to allow the County to do the same. If any events are planned in regard to the Grant Project, the County shall be acknowledged as a contributor in the invitation to such events. Grantee shall cooperate with the County in preparing public information pieces, providing photos of the Grant Project from time to time, and providing access to the Grant Project for publicity purposes.
8. Required Sign at Project Site. Grantee agrees to erect and permanently maintain at least one sign in a publicly visible area in recognition of the Grant from the Arapahoe County Open Space Program. The location, form, design, and wording of such sign shall be approved by the County prior to manufacture and/or installation of such sign. Such sign shall be erected prior to the completion of the Grant Project or its public opening, whichever is earlier.
9. Report Requirements. On or before **January 31, 2014** the Grantee agrees to provide the County with an initial Grant Project status report that conforms to the format provided by the County. The report narrative shall describe the progress in completing the Grant Project, milestones, and the use of the Grant Funds and matching funds to date. Upon completion of the Grant Project, the Grantee also agrees to submit to the County a final report that conforms to the format provided by the County, along with a final spreadsheet comparing the original budget to actual expenses that certifies what the Grant Funds have been used for and that the Grant Funds have been used in accordance with the Open Space Resolution. The final report shall also include high resolution photographs of the progress and finished results of the Grant Project. The Grantee further agrees to provide the County with digital copies of said photographs, delivered as separate high resolution jpeg images. The final report shall be submitted within three (3) months of Grant Project completion unless a longer period of time has been agreed to by the County in writing. The County shall be allowed to use

information and images from these reports in publications, public information updates, and on the County's web site.

10. Failure to Submit Required Reports. Upon written notice from the County's Open Space Grants Administrator, informing the Grantee that it has failed to submit any required status report and/or final report, the Grantee shall submit such reports to the County through the County's Open Space Grants Administrator within thirty (30) days, and, if it fails to do so, the Grantee shall be deemed to be in violation this Agreement. The Grantee shall be ineligible for any future Grant Funds, until and unless such reports have been submitted to the County.
11. Record Keeping Requirements. The Grantee shall maintain a complete set of books and records documenting its use of the Grant Funds and its supervision and administration of the Grant Project. The County or any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the Grantee which are pertinent to the Grant Project for the purpose of making an audit, examination, or excerpts. The Grantee shall keep all books, documents, papers, and records, which are pertinent to the Grant Project, for a minimum of three years. Grantee agrees to report to the County any unexpended Grant Funds and consult with the County concerning proper accounting for unexpended Grant Funds prior to completion of the Grant Project final report.
12. Reimbursement of Grant Funds. The Grantee understands and agrees that if any portion of the Grant Funds are not used in accordance with its approved Grant Proposal and/or this Agreement, the County may require the Grantee to reimburse the County in the amount of such Grant Funds that are not used for the Grant Project or that are not used in accordance with this Agreement.
13. Remedies. The rights and remedies of the County as set forth in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law.
14. No Waiver of Rights. A waiver by either Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.
15. Changes to Grant Project. The Grantee agrees and understands that its Grant Project, once it has been approved by the County, may not be changed without the County's prior approval. Proposed changes must be requested in writing and may not begin until the County has issued an approval, which may also require the execution of an amendment to this Agreement.
16. Transfer of Interest in Grant Project. The Grantee understands and agrees that no land or interests acquired with the Grant Funds as part of the Grant Project may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on said land or interests be given, without prior approval of the Grantee's governing body after conducting a public hearing. The Grantee further agrees if such sale, lease, trade or conveyance is made or an exclusive license or interest

has been given, the proceeds shall be deposited in an open space fund to be used for purposes consistent with the Open Space Resolution.

17. Use Restrictions on Acquired Lands. In order to ensure the long-term protection of lands for parks and open space purposes, consistent with the Open Space Resolution, unless otherwise notified in writing by the County, Grantee agrees to place use-restrictions on any real property acquired with the Grant Funds, in the form of a conservation easement or a deed restriction ("use-restriction document"), as determined by the County, by executing and recording such use-restriction document. Prior to the execution and recording of any use-restriction document, and prior to the disbursement of any Grant Funds for purposes of the acquisition of real property, the Grantee must first obtain written approval as to the form and content of the use-restriction document, and the manner and timing of its recording, from the County Attorney's Office, and Grantee agrees to comply with the terms and conditions of any such approval, unless Grantee opts instead to not accept the award of Grant Funds and to forgo the disbursement of such Funds.
18. Maintenance: Grantee agrees to assume responsibility for continuous long-term maintenance and public safety of open space lands, trails, recreation facilities, amenities, signage or other projects funded by the Grant Funds.
19. Relationship of the Parties. The Grantee shall perform all duties and obligations under this Agreement as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee, or other relationship with the County.
20. No Third Party Beneficiaries. Nothing in this Agreement shall give or allow any claim or right of action whatsoever by any third party, including, but not limited to, any agents or contractors of the Grantee.
21. Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective; provided, however, the Parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft a provision that will achieve the original intent of the Parties hereunder.
22. Written Amendment Required. This Agreement may be amended, modified, or changed, in whole or in part, only by written agreement duly authorized and executed by the County and the Grantee.
23. Venue. Venue for the trial of any action arising out of any dispute hereunder shall be in Arapahoe County District Court, pursuant to the appropriate rules of civil procedure.
24. Notices. Notices, as referred to in this Agreement, shall be sent to:

**COUNTY:** Board of County Commissioners of Arapahoe County  
5334 South Prince Street  
Littleton, Colorado 80120-1136

and

Arapahoe County Attorney  
5334 South Prince Street  
Littleton, Colorado 80120-1136

and

Arapahoe County Open Space Grants Administrator  
6934 S Lima St, Unit A  
Centennial, Colorado 80112

and

**GRANTEE:** Dave Lee  
Open Space Manager  
City of Englewood  
1155 W. Oxford Ave.  
Englewood, CO 80110

25. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.
26. Extent of Agreement. This Agreement constitutes the entire agreement of the Parties hereto. The Parties agree that there have been no representations made regarding the subject matter hereof other than those, if any, contained herein, that this Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof, and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration of one another.
27. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.
28. Incorporation of Exhibits. Unless otherwise stated in this Agreement, any exhibits, applications, resolutions, or other documents referenced in this Agreement shall be incorporated by reference into this Agreement for all purposes.
29. Section Headings. The headings for any section of this Agreement are only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.
30. Disbursement of Grant Funds. For land acquisition projects, the Grant Funds are to be made available to the Grantee by the County at the time of real estate closing, subject to the provisions of Section 17. For all other types of projects, the Grant Funds shall be transferred soon after the execution of this Agreement. The

preferred method used by the County for transfer of the Grant Funds is by ACH Authorization. Grantee agrees to this method.

- 31. Assignment. The rights, or any parts thereof, granted to the Parties herein may be assigned only with the prior written consent of the non-assigning party.
- 32. Signatures. The signatories to this Agreement represent that they are fully authorized to execute this Agreement and bind their respective entities.

IN WITNESS WHEREOF, the County and the Grantee have executed this Agreement as of the date set forth below.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

GRANTEE:

By: \_\_\_\_\_  
 Name - Loucrishia A. Ellis  
 Title - City Clerk

By: \_\_\_\_\_  
 Name - Randy P. Penn  
 Title - Mayor

ATTEST:

COUNTY OF ARAPAHOE  
STATE OF COLORADO

By: \_\_\_\_\_  
 Matthew Crane,  
 County Clerk to the Board,  
 (Or Authorized Deputy)

By: \_\_\_\_\_  
 Shannon Carter, Director, Intergovernmental  
 Relations and Open Spaces  
 Pursuant to Resolution No. 130152



**City of Englewood  
Parks and Recreation Department**

Grant Proposal to Arapahoe County Open Spaces  
**2013 Standard Grant**

**Duncan Park Development  
Phase I**



**ARAPAHOE COUNTY**  
OPEN SPACES

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# Standard Grant Application

## Open Space Grants Program 2013 Standard Grant Application Form

ARAPAHOE COUNTY  
OPEN SPACES

### PART A – Basic Project Information – Standard Grants

#### Applicant / Project Profile

Name of Applicant (city, town or district) : **City of Englewood**

Name of Project (five words or less, please) : **Duncan Park Development Phase I**

#### Contact Information

Primary Contact Name: **Dave Lee**

Phone (work): **303-762-2667**

Phone (cell): **720-884-7808**

Title: **Open Space Manager**

E-mail:

Address: **Englewood Recreation Center, 1155 West Oxford Avenue Englewood, CO 80110**

Project Type: (  check box to the left)

Trail

Site Improvement /Construction

Acquisition

Environmental or Cultural Education/Interpretation

Other (please describe):

#### Project Site Location Information

Project Site Address: **4800 South Pennsylvania St. Englewood, CO 80110**

Nearest major cross streets: **Belleview Avenue and Broadway**

City: **Englewood**

or  Unincorporated Arapahoe County

If any part of site is outside Arapahoe County, please justify proposed use of funds outside County: **NA**

In three words, summarize the benefits of this project to your city, town or district:

**Community park revitalization**

Name(s) of jurisdiction(s) governing the project site:

**City of Englewood**

Zoning description at project site:

**R-1-B**

Is re-zoning required to implement this project?

**No**

Name of landowner(s) of project site or trail corridor:

**City of Englewood**

Has a site plan for this project location been approved? **Yes** When? **12/18/12**

If not, is a site plan pending? Expected date to be adopted?

#### Summary Project Description

In one sentence tell us what you will do with the grant money and what the end result will be.

Duncan Park is a 40 year old school site that will be developed and revitalized with new park amenities including a pavilion, athletic field, restroom, basketball court, playground, horseshoe pit, irrigation system, landscaping and walkways.

In 150 words or less, write a press/news release about your project: (project name, location, agency, goal for the project/end result, who will benefit, why it is important, etc.)

Duncan Park, 4800 South Pennsylvania Street, Englewood, is a 3.3 acre former school site that was purchased from Englewood Schools using Arapahoe County Open Space (AGOS) grant funds, shareback funds and Great Outdoors Colorado (GOCO) grant funds, with the intention to develop the property into a neighborhood park. The goal is to develop the property from a former public school site to a neighborhood park that will benefit the underserved residents in the southeast corner of Englewood. These residents currently lack adequate park acreage. The anticipated park amenities will include an athletic field, pavilion, restroom, basketball court, playground, concrete walks and landscaping. This grant application is requesting funding for Phase I of the project. Phase I will include a 20'x20' pavilion with 4 tables, men's and women's restroom and a portion of the exterior and interior concrete sidewalk.

**Project Financial Summary:** (same numbers as budget page - round all figures to nearest \$100)

1. Grant Request	\$250,000	total requested from County
2. Cash Match Funds	+ \$104,300	applicant cash match must be minimum of 25% of the grant amount requested (25% of line 1)
3. Other Cash Sources	+ \$2,800	funding from other sources
4. In-kind contributions	+ \$0	total value of in-kind contributions
5. Project sub-total	= \$357,100	total of lines 1, 2, 3 and 4
6. Contingency	+ \$67,900	estimate, may not be charged to County and may not be used as cash match
7. TOTAL PROJECT COST	= \$425,000	Total must equal lines 5 and 6 above

Line 7 (above) must equal all expenses plus contingency and must be the same as the \$ figure on the detailed budget page included later in the grant application. Please double check that all figures are the same on this page and on the budget attachment.

**Project Partners** (list contributing partners - cash or in-kind, itemize in the budget; attach letter(s) with Part F

**Funding / In-kind Partners**

**Contact Information:** (Name, Phone, E-mail)

All Souls Catholic Church & School	Rev. Robert Fisher, 303-789-0007.
Englewood Unleashed	Barb Chumley, President 303-418-6692.
Englewood Soccer Association	Misha Rasmussen, (720) 971-7980

**Authorized Agent and Signature**

I, Jerrell Black, hereby affirm that I am the authorized agent for the City of Englewood applying for the grant as described herein, and that I am legally authorized on behalf of said entity to apply for, as its agent, this Arapahoe County Open Space Grant and that I have received and agree to abide by the grant guidelines, policies and procedures.

Signature & Title of Authorized Agent

Date:

12-18-12

## PART B – Project Details

**Site Improvement/Construction Project:** (site improvements, construction or renovation projects such as natural area re-vegetation/restoration, historic site or building restoration, playgrounds, shelters, landscaping, sport fields, *may include* short trail segments or connections but majority of project is site improvements other than the trail; may include items that improve the management / maintenance of site)

**Describe project goal and extent/scope and expected results (what will project provide, size, square or lineal feet, number of plants or square feet of landscaping, irrigation, acres re-vegetated or restored, etc.):**

The goal of the project is to provide new and updated park amenities to the most underserved southeast section of the City. There is a great lack of park acreage and facilities in this area of the City. The project will provide the following park amenities: an under 10 athletic field, 20'x20' pavilion with 4 tables, men's and women's restroom (2 flush amenities for each side with hot/cold water), 74'x42' concrete basketball/sport court, 2 to 5 and 5 to 12 age range playgrounds, 4 seat benches, horseshoe pit, 8 foot wide exterior and interior concrete walks, irrigation system and additional landscaping (58 trees, 105 shrubs, 167 ornamental grasses and 28 perennials). Phase I of this project will include a 20'x20' pavilion with 4 tables, men's and women's restroom and a portion of the exterior and interior concrete sidewalk.

**Discuss how the site is currently managed and programmed, and the impacts of multiple uses:**

The site is currently managed as a neighborhood/community park. During the summer of 2012, the old Duncan School building was demolished to make way for the new park amenities. Currently on the site there exists a playground and basketball court constructed during the 1970's. Local teams use the north end of the park for U6 soccer practices. The site also serves as a formal off-leash area for people to take their dogs.

**Describe the service area for this project (distance people can expect to travel to use Improvements):**

Duncan Park presently accommodates an average number of park users despite its aged amenities and lack of modern park features. This is in part due to the lack of green space available in the southeastern region of the City. It is estimated that 22,000 park guests visit Duncan Park annually. The service area for this project is estimated at one half mile radius (walking distance) surrounding the park. The park is surrounded by single family residential homes. The neighborhood population that Duncan Park serves is estimated at 2,621.

**Describe the type of users (families, children, seniors, etc.):**

Casual drop-in use accounts for the majority of park visits including many dog enthusiasts that enjoy off-leash privileges during the parks specific off-leash hours. Currently Englewood Soccer Association can only hold U6 team practices on the small field space. During the planning process, a majority of the neighbors indicated they wanted a more formal picnic space with the availability of restrooms and activity areas for the neighborhood youth such as playgrounds, athletic field and a sport court while maintaining off-leash privileges.

**Discuss steps you will take to minimize impacts to the environment:**

During a site visit on August 15, 2012, a Colorado Parks and Wildlife official made the following notes after inspecting the park: "Colorado Parks and Wildlife (CPW) would not expect to find any threatened or endangered species inhabiting Duncan Park in Englewood. CPW would expect to find a variety of small mammals and birds utilizing Duncan Park. Migratory birds and their active nests are protected by state and federal laws. CPW recommends inspecting trees and shrubs for active nests prior to the commencement of development and/or postponing tree removal until after the nesting season. Duncan Park is composed of nonnative grasses and a mixture of native and nonnative trees and shrubs. The

habitat value at Duncan Park would be categorized as low. Native and nonnative trees may be removed from the park as a result of the development. The loss of vegetation would result in the loss of potential cover and food for a variety of species. In addition, during the construction phase, silt fencing, tracking control pad, concrete wash out area, inlet protection and curb socks will be implemented in order to minimize any potential impacts to the environment."

**Summarize your planning efforts to date and investments made prior to submitting a grant proposal. Quantify and describe any past funding commitments or grant used to pre-plan this project:**

City Council authorized the purchase of Duncan Park from Englewood Schools in 2007. The purchase of Duncan Park was supported by a GOCO grant, a ACOS grant and Arapahoe County Shareback Funds. Final park acquisition was completed in 2010. Redevelopment of Duncan Park, including the removal of the old school building is supported by the Parks Master Plan, adopted in 2006.

In 2011, City Council authorized the acceptance of a GOCO Duncan Planning grant. During the vetted planning process, park amenities were determined to include: a pavilion, a multi-use sport field, a basketball court, playgrounds, restrooms, landscaping and an internal trail. The estimated cost of the total redevelopment of Duncan Park is 1.2 million dollars.

Currently, shareback and Conservation Trust Funds are being reserved as matching funds to be used in grant applications and for the development of Duncan Park.

**Describe efforts made, dates and outcomes of required pre-submittal meetings with the planning department in your jurisdiction:**

A Development Review Team (DRT) meeting was held on December 18, 2012 which included representatives from the following City of Englewood Departments: Parks, Community Development, Engineering, Traffic, Fire, Building, Utilities, and Wastewater Treatment. The project was approved.

**Describe how the project will be designed, constructed and managed for sustainability:**

Duncan Park will be designed, constructed and maintained for sustainability through disconnected impervious areas and the use of sand-set pavers. This design trait will allow for greater water infiltration into the soil. Proposed lighting for the park will all be low-energy LED. The restrooms are designed with clearstory windows allowing natural light during the day and will have self-locking doors to reduce graffiti and vandalism. Site furnishings will have some recycled content whenever possible. The irrigation system was designed as a low water use system with bubblers and low capacity irrigation heads while using real time weather-based data for irrigation scheduling. The athletic field was designed so that it can be rotated to provide less wear on the turf. Existing concrete will be recycled and existing amenities in the park will either be reused or recycled. Concrete pavers, steel structures, site furnishings and recycled rubberized play surfaces are all rated for years of use and minimal maintenance.

**Discuss contingency plans. On the budget page include a contingency line item in both the revenue section and expense section (both assigned to the applicant).**

For this project contingency funds exceed the 10% minimum requirement. We are budgeting 19% contingency because we are unsure how bids for construction will come in and because this project will be phased. We believe additional funds will be necessary to cover the expense of a phased approach to this project. Certain areas of the project will be torn up twice as both phases are constructed, thus we are allowing for repairs to irrigation, concrete, electrical, sod, mobilization and construction administration.

**Describe how the project improves connectivity to local or regional trails, natural resources and/or community resources:**

The Duncan Park project will serve as a neighborhood destination and resource for bicyclists using the City's neighborhood bicycle routes. The City's neighborhood bicycle routes were laid out in a pattern designed to connect to all of the active City parks and schools. Duncan Park is connected into this system through a neighborhood bicycle feeder route that connects east-west between the Clarkson regional route, and the Big Dry Creek Trail and Windermere regional route, via Layton Avenue/Pennsylvania Street/Chenango Avenue. Facilities at Duncan Park that will serve bicycle riders include restrooms and water fountains, seating areas for eating or resting, and play areas for children.

**Discuss the need and urgency for this project, and why it is a priority:**

The 2006 Englewood Parks and Recreation Master Plan noted Duncan Park as being located in a part of the City underserved by park land. The Master Plan specifically recommends replacing aging playground amenities and adding picnic facilities and additional updated park facilities (Master Plan, page 30). The existing playground equipment was installed in the early 1980's and is not acceptable due to age and wear and tear.

Throughout the planning process preparing for the ACOS grant has been seen as an opportunity to gain funding to begin the development of Duncan Park. The Department will be applying in the spring of 2013 for a Great Outdoors Colorado (GOCO) grant for additional funding. Currently, Conservation Trust Funds and ACOS Share Back Funds have been reserved to complete the funding of the park project.

The City of Englewood, like most municipalities, has been hit hard by the recession. The Parks and Recreation operating budget has been reduced by more than 10% over the past five years and all City Capital Projects Fund dollars have been eliminated within the Department. We are fortunate to receive Arapahoe County Open Space Shareback Funds and Conservation Trust Funds for our capital maintenance needs and new development opportunities. If this project was not able to be undertaken within the next year, the park will lose priority status among construction projects within the City of Englewood and may not be completed for several years. Matching funds may be diverted to other projects. This will create the need to conduct additional needs assessments, planning and updated construction documents.

**Describe any historic values within the site – historic trails, buildings, landscapes, etc.:**

Duncan Park is a small urban/suburban park environment situated on 3.3 acres. Originally, rustic homes built in the early 1900's were located on this site. By the 1950's, growth of our community required additional elementary schools and this site was developed. Duncan School was named after Elsie Duncan, a long time elementary school teacher in Englewood from 1928-1954. It was often said that she taught many children and years later taught their children as well. Educational signage will be added to the site describing the history and use of Duncan Park for a new generation of children and their families.

Duncan Park is also the home for two very large American Elm trees, the only two in our park system. Flower gardens and shrubs provide food sources for many animals and insect species. Interpretive signage will be installed to help tie these environmental and educational opportunities to an outdoor laboratory like Duncan Park for the nearby All Souls School as well as the entire Englewood Schools District.

Identify the native ecosystems, in general, underlying the project site (e.g. short grass prairie, wetlands, etc.): Do any portions of the native systems remain intact? If so, are they being preserved or restored?

A representative from the Colorado Parks and Wildlife inspected the park in August of 2012 and provided an environmental impact report for the project. The results of the environmental impacts are as follows: The park was not designed with native ecosystems, nor are there any native ecosystems intact or being preserved. Colorado Parks and Wildlife (CPW) would not expect to find any threatened or endangered species inhabiting Duncan Park in Englewood. CPW would expect to find a variety of small mammals and birds utilizing Duncan Park. Migratory birds and their active nests are protected by state and federal laws. CPW recommends inspecting trees and shrubs for active nests prior to the commencement of development and/or postponing tree removal until after the nesting season. Duncan Park is composed of non-native grasses and a mixture of native and non-native trees and shrubs. The habitat value at Duncan Park would be categorized as low. Native and non-native trees may be removed from the park as a result of the development. The loss of vegetation would result in the loss of potential cover and food for a variety of species. CPW recommends planting native trees and shrubs in place of any trees and shrubs removed. Native plantings would offer food and/or cover for a variety of species. Replacing non-native vegetation with native trees and shrubs would provide food and/or cover for wildlife.

Describe specific natural resources including scenic and water resources. List predominant wildlife species and vegetation on site. Discuss impacts, positive and negative, to these resources to result from your project. Highlight any species on state or federal lists. (For birds please group species – i.e. songbirds, raptors, etc.):

Duncan Park is a typical urban/suburban park. There are no scenic or natural water resources in the park. There is no known plant or wildlife species of concern on the proposed project site. The predominant wildlife species consist of typical suburban bird species (crow, magpie, sparrow, robin, finch), while animal species consist of squirrel, fox, coyote and raccoon. The area of Duncan Park is irrigated bluegrass turf with some park amenities. The area around the site is developed residential. Duncan Park is used for active community recreation programs. The facilities are replacement or development of existing facilities. The site is not a critical habitat for a particular species, or an area with high value for nesting, feeding or calving. The project will not change the impacts on wildlife as it replaces or enhances existing facilities. There is no substantial impact to species that rest, feed, or use the area for reproductive cycles. There is no loss or reduction of habitat areas. There is no intrusion into areas with little existing human impacts. The area is an urban-like neighborhood park setting that has extensive use by youths and adults participating in active and passive outdoor recreational activities. Because the impact is non-existent, there is no need to establish a mitigation plan for adversely affected species. There is no need to screen, protect, fence, or create wildlife buffers for this project, other than during the construction process. This project has no positive benefit on wildlife and the adverse effect is minimal. The components are within active recreation areas already in existence.

Estimate the number of end-users monthly that will benefit from this project:

Duncan Park presently accommodates a fair number of park users, despite its lack of park amenities and their advanced age. It is estimated that there is an average of 1,800 park patrons that visit Duncan Park monthly.

Describe how this project addresses specific objectives of County Open Space Resolution #030381/#110637:

The Duncan Park Development project specifically addresses the following objective of the County Open Space Resolution #030381/#110637.

- Provide, maintain and improve neighborhood parks, open space, sports fields, picnic facilities, and

biking, walking and multi-use trails;

The development of Duncan Park fills the fundamental basic need of providing park and open space. For years Duncan Park has provided some green space for neighbors and school participants but this location was limited due to the school building and its placement in the center of the site. With the removal of the building and new design of the park, more open space will be made available along with overall better use of the entire site. This project will allow the youth sport associations access to additional field space as well as provide improved recreational space for neighbors, families and community youth. From young families just starting out to older residents, all want to experience the laughter and joy from playing in their neighborhood park. Improvements and added amenities will only enhance this outdoor experience while encouraging youth and their families to spend more time outdoors in their community.

**List the elements of the Arapahoe County Open Space Master Plan that apply to this project:**

This Open Space Master Plan provides a 100-year vision, 25-year master plan and 5-year action plan for implementing the purpose and goals of the program. The vision states that the County will be forward thinking, understand and embrace the open space, park and trail needs of current residents, and define a harmonious relationship between people and nature in the County for future generations. The vision for the Program is summarized as: Healthy Lands, Healthy Communities, and Healthy People.

The Duncan Park Development project defines the mission of the Arapahoe County Open Space Plan.

- Acquire, conserve and protect open space – ACOS grant and Shareback funds were used in the purchase of this site and saved this location from being developed into housing.
- Build county open space parks and trails – With the purchase of this site completed in 2010, the location was preserved as a permanent park to provide green space for this underserved neighborhood of residents in Arapahoe County.
- Cooperative partnership work – Through the purchase of this property many partnerships were developed or enhanced. Partnerships between GOCO, ACOS, Englewood School District, City of Englewood, Englewood Unleashed, All Souls Catholic Church and School, Englewood Soccer Association, Englewood Youth Sports Association and Neighbors of Duncan Park have bound together with the goal of savings and further developing this space.
- Leverage funding for open space, parks and trails – This Duncan Park project has leveraged a number of funding sources including ACOS Grant Funds, Shareback Funds, GOCO Grant Funds, Conservation Trust Funds and City of Englewood General Funds were used to purchase and further develop this site.

**Discuss the community benefits and enhancement to quality of life to result from the completion of this project (both for the immediate community and the wider public in the surrounding region):**

The 2006 Englewood Park and Recreation Master Plan notes the lack of adequate numbers of soccer fields (page 31). The addition of a soccer/multi-use athletic field (currently there exists a practice area) will substantially help Englewood Soccer Association meet the needs of the youth soccer program. The Englewood Soccer Association reports they have 325 players ages 4-18. It is anticipated that the athletic field area will be multi-use and would also accommodate the Englewood Youth Sports Association's (EYSA) football program. Currently, EYSA has four youth football teams under 12 and serves 70 football players.

All Souls Catholic School, located one block south from Duncan Park, would also benefit from this project. The School and Parish would access the park and utilize the outdoor space for educational and recreational purposes. The School serves early learning through eighth grade and has 440 total students.

Neighborhood drop-in use will continue and is expected to increase following the completion of the development project. It is estimated that 22,000 park guests visit Duncan Park annually; these estimates are based upon a 2011 usage study conducted by the Parks and Recreation Department. With the proposed park development, it is anticipated that new park amenities (i.e. picnic pavilion, soccer/multi-use athletic field and state of the art playgrounds) will increase park visits by 60%. Phase I of this project (Pavilion and Restrooms) is estimated to increase usage by 25%.

There is also a community-wide need for picnic pavilion areas with nearby playground facilities. Currently, the department's picnic shelters are reserved over 90% of the desirable dates. Each year the City must turn away many individuals and groups hoping to reserve picnic pavilions. Duncan Park neighbors as well as residents living in the southeast section of Englewood must use other parks for these activities as opposed to their own neighborhood park.

**Describe relationship of the project to any local, regional, state or system wide master plan. Give the name of each plan and list related element(s) within the plan – DO NOT attach any plan beyond a one-page rendering:**

The Englewood Parks and Recreation Master Plan was approved in 2006 and funded in part by Conservation Trust Funds. The Master Plan was then adopted by ordinance into the City of Englewood Comprehensive Plan. Conceptual Park Plans were developed for neighborhood and community parks, including Duncan Park. It is important to note that at the time (2005/2006) of the Master Planning process, it was unknown that the Englewood School District would be divesting itself of surplus school properties due to budget reductions and that the City would end up acquiring Duncan Park. As a result, the public planning process related to Duncan was of a smaller scope assuming that the School District would maintain property ownership and the small school building would remain (Master Plan Site Plan, page 16).

When it became apparent that the Englewood School District intended to sell the Duncan Park property, a grass roots citizen effort to keep the site a public park was established. Many meetings were held with Englewood Schools, Englewood Parks and Recreation Commission, City Council and community groups including Duncan Park Neighbors and Englewood Soccer Association relative to Duncan Park acquisition and grant funding opportunities. Although specific park site planning was not discussed in detail, the City explained that if the property was acquired, the opportunity to raze the school building and completely develop the site would be available.

With the City's acquisition of the site secure, the Parks and Recreation Commission and City Council elevated Duncan Park development to its top park improvement priority. In 2010, GOCO provided a planning grant that funded the planning process. In conclusion of the planning process neighborhood users, the Parks and Recreation Commission and City Council have developed a consensus of the desired park amenities as well as further established the project at a top priority.

**Describe the steps taken to date to make this project ready for implementation, and how, if funded your agency will complete the project within one to two years after the receipt of funds:**

The City understands the shovel ready requirements of the ACOS grant process. City Council has committed to completing the project within two years of the ACOS grant award/IGA. A two year project completion is also the time requirement of our other intended partner grant application (Great Outdoors Colorado). As our timeline indicates, in 2013, the City will immediately begin the bidding and Phase I construction process. During the spring of 2012, a final concept design was completed and construction

documents have been finalized. This grant application is requesting funding for Phase I of the project. Phase I will include a 20'x20' pavilion with 4 tables, men's and women's restroom and a portion of the exterior and interior concrete sidewalk.

**List any permits that will need to be obtained for implementation of the project and existing status of obtaining those permits. (Clean Water, Federal 404, County Planning or Public Works, City Planning or Public Works). On the budget page, itemize expected costs for permits, government fees and consultants:**

The Englewood Building and Safety Department requires a building permit for the picnic pavilion and restroom. All other park features do not require any permitting. Englewood Public Works Department requires a concrete and excavation permit for all work performed in the right-of-ways (exterior sidewalks).

**Does the present zoning of the site permit the suggested use? If not, what changes will need to be accomplished? What is the timeline to accomplish any required changes?**

The current zoning for the area is R-1-B (Single Unit Residential District). The current zoning allows for parkland uses. No zoning changes will be necessary for this project.

**Discuss any efforts to obtain public input, disseminate public information, develop partnerships for cash funding or in-kind contributions, and garner community support specifically related to this project:**

The Duncan Park planning project began in the summer of 2011. The design firm toured the Duncan Park site with representatives from the City of Englewood. The design team recorded the current conditions, maintenance practices and concerns regarding potential improvements at the park.

The design team then made Duncan Park neighbors aware of the opportunities to provide feedback on the Park during the master planning process. These opportunities included information cards (which were hand delivered, door-to-door, to over 800 neighbors in a half mile radius of the park), project information point signage in the Park and on-line and paper surveys. The information cards and information point signs provided the locations, dates and times for the public open houses and Park Info Point meetings. The info point signs in the park also included a QR code that linked back to the City of Englewood's website and an online survey and had a survey drop box where paper surveys could be picked up and dropped off. The on-line and paper surveys were available for three weeks and over 50 responses were received.

The City of Englewood and the design team held two Park Info Point meetings. The Park Info Point meetings were an informal opportunity to connect with park users in their space, allowing them to share their perspectives on the project and express ideas and concerns regarding the potential improvements. Following the initial outreach, the design team compiled the feedback from the community and used this information with the site analysis to develop a series of project goals and three preliminary plan options for the Park.

Three open houses were held and over 100 Duncan Park neighbors attended. At the first open house, attendees were asked to select their preferred design option. The comments, feedback and votes were tallied and used to develop a primary final design to be presented at the second open house. During the second open house, feedback and direction regarding the final design, material/detail and playground elements were gathered. Using the information gathered at the second open house, the City of Englewood and the design team created a final plan for Duncan park which included the associated costs and potential phasing. The final open house consisted of revisions to the final design. The final playground design was also displayed for comments. Most of the questions were centered on the ground

breaking and expected completion date. Overall, the feedback was overwhelmingly positive.

The City of Englewood places a strong value on the importance of public outreach and consensus-building, and crafted a process for interacting with the Duncan Park neighborhood that was both responsive and engaging. Reaching out to stakeholders, surrounding neighbors, the public and City of Englewood representatives was the foundation of this process. Through extensive outreach and participation, the final Master Plan was refined and adjusted to reflect the needs and perspectives of the Englewood community. During this process, All Souls School, Englewood Unleashed and Englewood Soccer Association all have committed resources as well as a financial contribution total of \$2,800.

**Describe ownership or legal access to the site, including right of access without trespassing on adjacent property. If the agency does not have fee simple ownership of the site, attach letter with Part F below, from property owner(s) granting access and support for this project.**

The property is owned by the City of Englewood and is a dedicated City park. There are 2 houses which border the southern portion of the park. The park is bordered by a fence located at the property boundary that eliminates right of access and trespassing onto private property.

**Describe long-term maintenance of project / site. Attach with Part F below, a letter of commitment or evidence of agreement from the management/maintenance agency addressing long-term maintenance / funding for completed project:**

The City of Englewood owns the property and the Parks and Recreation Department will be responsible for the long-term maintenance of the park, project improvements and signage for the project. The City of Englewood annually allocates funding in the Parks and Recreation Department budget for personnel, commodities and capital for regular repair and maintenance for all park infrastructures, amenities and facilities. The Parks Department currently maintains approximately 250 acres of parkland, open space and green space. Over \$136,000 is allocated annually in the Parks Department budget for repair and maintenance of trails and other infrastructure. Please see attached letter of commitment from Parks and Recreation Director Jarrell Black affirming our long-term maintenance commitment, page 29.

**Describe how this project addresses inclusivity per the Americans with Disabilities Act guidelines: Duncan Park development will be constructed using the 2010 ADA Standards for Accessible Design. The following elements have incorporated into the design throughout the park and comply with a fully accessible ADA park.**

- Remove all barriers to access
- Provide an accessible route of travel and accessible route of travel to the play equipment
- Provide a range of accessible equipment and play equipment
- Provide an accessible surface beneath all accessible equipment
- Half of all elevated play components on a play structure will be accessible by route and/or transfer point.

The development of Duncan Park will provide the following park amenities: an under 10 athletic field accessible by exterior sidewalks, 74'x42' concrete basketball/sport court accessible by concrete sidewalks, 2 to 5 and 5 to 12 age range playgrounds meeting ADA standards with poured in place surfacing providing accessibility, 4 seat benches located off new concrete sidewalks, and 8 foot wide exterior and interior concrete sidewalk all ADA compliant. Phase I of this project will include 20'x20' pavilion with 4 tables with accessible seating, men's and women's restroom ADA compliant and a portion of the ADA exterior and interior concrete sidewalk.

**If successful in obtaining this grant, how will the agency use this project to inform citizens about the value of the Arapahoe County Open Space sale tax? Address public outreach plan, signage plan, celebration, etc.**

Temporary signage announcing the construction project will be installed at the corner of Layton Street and Pennsylvania Avenue. The signage will identify all funding partners for the project and list the project timeline. Permanent signage identifying ACOS support and funding will be installed at the main entrance to the park once the project has been completed.

Information will also be added to the City of Englewood's web site identifying the project and funding sources during and following construction. The Englewood Herald will run information and a news story related to the project as construction commences and before the ribbon cutting ceremony. Social Media such as Facebook and Twitter will be used to provide project updates, recognize accomplishments and promote funding partners.

A ribbon cutting celebration will be scheduled at the completion of this project as a way to recognize the partnerships, funding agents, citizens, county and local dignitaries that helped make this project happen.



City of Englewood, Colorado  
2012 Arapahoe County  
Open Space, Parks, and Trails  
Grant Application

**Duncan Park:  
 Park Development Project**

**Plan Map**

December, 2012



**Not to Scale**



*City of Englewood, Colorado*  
**2013 Arapahoe County**  
**Open Space, Parks, and Trails**  
**Grant Application**

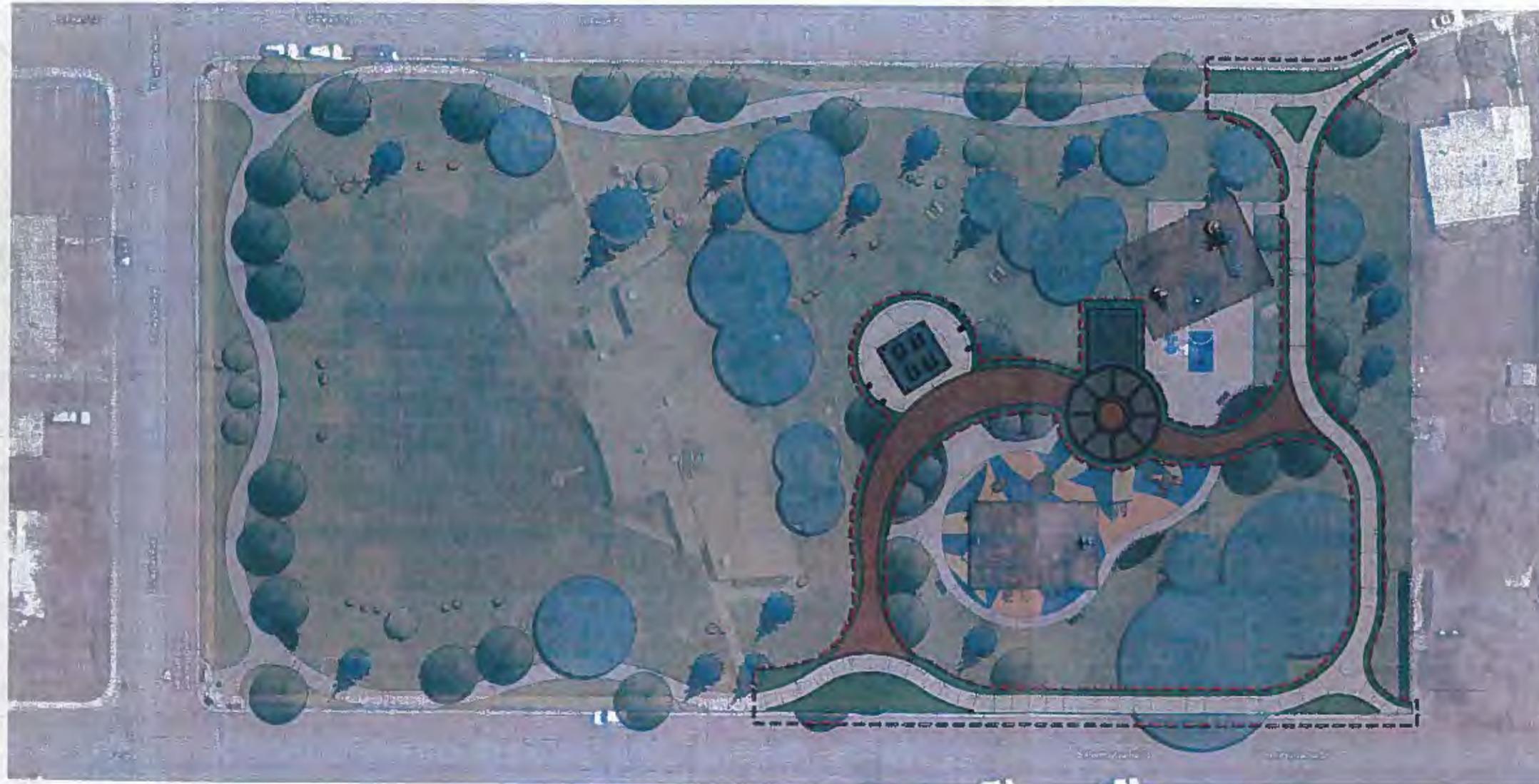
***Duncan Park:***  
***Park Development Project***

***Plan Map***

December, 2012



***Not to Scale***



*City of Englewood, Colorado*  
*2013 Arapahoe County*  
*Open Space, Parks, and Trails*  
*Grant Application*

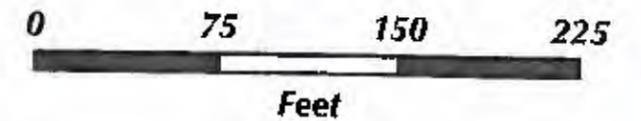
*Duncan Park:*  
*Park Development Project*

*Site Map*

**LEGEND**

-  Duncan Park Boundary
-  School Building
-  Basketball Court
-  Playground
-  Topographical Contour Lines

November, 2012



**PART D – Photos**



**Existing basketball court, facing northeast**



Existing field area on east end of park, facing west



**Existing playground with approximately 25 year old play equipment, facing west**

**PART E – Project Timeline Duncan Park Development**

<b>Task</b>	<b>Estimated Hours and/or Date to Complete</b>	<b>Responsible Person/Group</b>	<b>Measurable Objective/Deliverable</b>
Grant Notification	June 2013	Englewood	Grant Award Notification
Governing Body Approval	July 2013	Englewood	City Council Ordinance
Complete Bid Specifications	August 2013	Englewood	Prepare Documents for Bidding
Solicit Bids for Project	September 2013	Englewood	Bid Award for Construction
Commence Construction	October 2013	Englewood	Contractor Begins Project Construction
Project Completion	September 2014	Englewood	Finalize Project Construction
Grand Opening Celebration	September 2014	Englewood	Community Celebration Event and Recognition
Estimated TOTAL Hours and/or Final Date of Completion	September 2014		

**PART F – Resolution and Letters of Commitment**

RESOLUTION NO. 6  
SERIES OF 2013

**A RESOLUTION AUTHORIZING THE APPLICATION FOR A 2013 GRANT OF ARAPAHOE COUNTY OPEN SPACE PROGRAM FUNDS FOR DUNCAN PARK.**

WHEREAS, the City Council of the City of Englewood authorized an Intergovernmental Agreement for the lease of Duncan School/property for park and recreational purposes between Englewood Schools and the City by the passage of Ordinance No. 35, Series 1978; and

WHEREAS, the Englewood City Council authorized a Contract for Deed for the purchase of Duncan Park between Englewood Schools and the City by the passage of ordinance No. 41, Series 2007; and

WHEREAS, the Englewood City Council authorized an Intergovernmental Agreement regarding the 2007 ACOS Grant between Arapahoe County and the City for Duncan Park Acquisition by the passage of Ordinance No. 52, Series 2007; and

WHEREAS, the passage of Ordinance No. 8, Series 2008 authorized an Intergovernmental Agreement regarding the 2007 Grant from Great Outdoors Colorado between Great Outdoors Colorado Trust Fund and the City of Englewood for Duncan Park Acquisition; and

WHEREAS, the passage of Ordinance No. 50, Series of 2009 supported the City's Great Outdoors Colorado (GOCO) Grant application for design and development of Duncan Park; and

WHEREAS, the passage of Resolution No. 2, Series of 2010 supported the City's Arapahoe County Open Space (ACOS) Grant application for design and development of Duncan Park; and

WHEREAS, the passage of Ordinance No. 20, Series of 2011 supported the City's GOCO Grant award for the Duncan Park Planning; and

WHEREAS, the passage of Resolution No. 74, Series of 2012 supported the City's GOCO Grant application for redevelopment of Duncan Park; and

WHEREAS, the passage of this Resolution authorizes the City of Englewood to make application for Arapahoe County Open Space Grant for the redevelopment of Duncan Park; and

WHEREAS, Duncan Park Redevelopment located at 4800 South Pennsylvania Street consisting of 3.3 acre former school site that was purchased from Englewood Schools using Great Outdoors Colorado (GOCO) Grant funds, Arapahoe County Open Space (ACOS) Grant funds as well as share back funds with the intention to develop the property into a neighborhood park in the southeast corner of the City; and

WHEREAS, it is anticipated that the developed park amenities will include a pavilion, a multi-use sport field, a basketball court, playgrounds, restrooms, landscaping and an internal trail; and

WHEREAS, there are no federal funds being used for the development of the Duncan Park.

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

Section 1. The City Council of the City of Englewood, Colorado hereby supports the application for the Arapahoe County Open Space Grant 2013 for the development of Duncan Park, attached hereto as Exhibit A.

Section 2. The Director of Parks and Recreation is authorized to execute and the City Clerk to attest and seal the Application for a 2013 Grant of Arapahoe County Open Space Program Funds Project Name: Duncan Park Development on behalf of the City of Englewood, Colorado.

ADOPTED AND APPROVED this 22nd day of January, 2013.

ATTEST:

J. P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. 4, Series of 2013.

Loucrishia A. Ellis, City Clerk



CITY OF ENGLEWOOD  
DEPARTMENT OF PARKS AND RECREATION

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December 11, 2012

Arapahoe County Open Space  
6934 S. Lima St. Unit A  
Centennial, CO 80112

Dear Board Members,

On behalf of the City of Englewood Parks and Recreation Commission, I am writing this letter in support of the City of Englewood's grant application for the development of Duncan Park.

With ACOS grant support, the City was able to purchase the Duncan Park property from Englewood Schools, who were disposing of surplus property to offset budget reductions. We were able to save the site as parkland and now we have razed the small school building and completed design and construction documents for the park redevelopment.

In May of 2006, the Parks and Recreation Commission adopted a Parks and Recreation Master Plan which identified the southeast residential area of the City as presently being underserved, with a relatively low parkland level of service.

The Parks and Recreation Commission has identified the redevelopment of Duncan Park as its highest park development priority. We appreciate the opportunity to be considered for ACOS grant dollars for this very important project.

Sincerely,

Austin Gomes, Chairperson  
Parks and Recreation Commission  
City of Englewood

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1155 W. Oxford Avenue Englewood, Colorado 80110 Phone 303-762-2680 Fax 303-762-2688  
[www.engagewood.gov](http://www.engagewood.gov)

## Duncan Park Neighbors

Englewood, Colorado

December 10, 2012

Arapahoe County Open Space  
6934 South Lima Street  
Centennial, CO 80112

Dear ACOS Board Members:

We are a group of over 100 homeowners and neighbors living around Duncan Park in Englewood, CO who have greatly appreciated grant money you previously awarded for the design upgrades of our cherished neighborhood park.

As we've shared in the past, this popular park is the only neighborhood park to meet the needs of this corner of Englewood — an area that represents approximately 20 percent of the town's population. The makeup of this neighborhood has changed dramatically in the last 5 years to now have many young families with children that play in the park.

Recently we learned that you would consider this park for a development grant. With this money, our City told us we would be able to move forward with the improvements to our park. This little park has been in great need of redevelopment and improvements. As much as we have enjoyed this park for years, we look forward to the planned improvements that will provide for more outdoor activities, and make this park the jewel of our neighborhood.

The City plans to work with our group as it takes the necessary steps to renew our park. We know a grant from you would give us all the resources we need to do so. We respectfully request that you consider Duncan Park in your process, and help our neighborhood realize the dreams we have for Duncan Park.

Sincerely, —

John Riggs  
4890 S Pennsylvania St  
Englewood, CO 80113  
Representing Duncan Park Neighbors



## ALL SOULS CATHOLIC CHURCH

December 12, 2012

Arapahoe County Grant program  
6934 S. Lima St. Unit A  
Centennial, Colorado 80112

Dear Arapahoe County Open Spaces,

All Souls Catholic School is pleased to write this letter of support for the City of Englewood's ACOS grant application for the development of Duncan Park.

All Souls Catholic School and the City of Englewood Department of Parks and Recreation have had a long standing relationship. As the school property changed hands from Englewood Schools to the City of Englewood, All Souls was allowed to remain in the old school building while our new preschool facility was being built. Now that the old school building has been demolished, we are looking forward to the redevelopment of Duncan Park.

With Duncan Park in close proximity to our school, there will be multiple opportunities for our school to utilize the park. We will have the ability to use the park as an outdoor classroom, gym and on field days. We would also be able to enhance our sports programs on the standardized field that will be included in the redevelopment.

Overall, a redeveloped Duncan Park would offer many new and educational opportunities to the children and staff at All Souls. We are in support of the development grant and we wish to support the development effort of Duncan Park with a \$2,000.00 donation.

It is our hope that you will consider the City of Englewood in their grant application for funding the development of Duncan Park.

Sincerely,

Rev. Robert D. Fisher,  
Pastor  
All Souls Catholic Church & School  
4950 S. Logan St.  
Englewood, CO 80113

4950 South Logan Street - Englewood, Colorado 80113-6847 Phone (303) 799-0001 Fax (303) 833-0271



Arapahoe County Open Space  
6934 S. Lima Street  
Centennial, CO 80112

December 14, 2012

Dear Arapahoe County Open Space Board:

Englewood Unleashed is a non-profit organization which was formed to support off-leash dog privileges at designated parks within the City of Englewood. Duncan Park is one of four neighborhood parks in the City with off-leash privileges and the only park in southeast Englewood.

EU works with, aids and assists the City of Englewood by raising funds and providing volunteer support to improve and better maintain the off-leash parks in Englewood in order to provide dogs a place to exercise without leash restraint in a clean, healthy and safe environment. We are writing in support of the development grant which Englewood is applying for and we wish to support their development effort of Duncan Park through a \$500 donation.

EU cultivates community spirit and neighborhood relations through various outreach efforts. We believe that Duncan Park is one of these valuable assets and hope that you will view the project as worthy of your funding dollars.

Sincerely,

Barb Chumley, President  
Englewood Unleashed

Englewood Soccer Association  
P.O. Box 2254  
Englewood, Colorado 80154



Arapahoe County Grant program  
6934 S. Lima St. Unit A  
Centennial, Colorado 80112

RE: Englewood Duncan Park Grant Application

December 7, 2012

Dear Board Members,

I am writing this letter on behalf of Englewood Soccer Association. Englewood Soccer was part of the effort, in conjunction with the City of Englewood, to save Duncan Park from residential development in 2010 and continue to support the park's redevelopment.

Currently we are looking forward to the next phase in the development of the park. Now that the planning has been completed, we look forward to a larger formal athletic field and additional park amenities that will not only benefit our youth, the surrounding neighborhood and the City of Englewood as a whole. There is a shortage of multi-use athletic fields in Englewood, with the southeast quadrant of Englewood at the top of the list. Over the past years, our ten and under youth in the Duncan Park area have only had an informal half field to practice soccer. The new formal athletic field will certainly be utilized to the fullest.

Englewood Soccer Association is a youth soccer program for children ages 4-18, with over 325 youth players. Since its inception in 1983, Englewood Soccer has utilized Duncan Park for its youth soccer programs and we support this project with a \$250 donation.

We hope that you will favorably consider the City of Englewood in their grant application for funding the development of Duncan Park.

Sincerely,  
Misha Rasmussen

Englewood Soccer Association



CITY OF ENGLEWOOD  
DEPARTMENT OF PARKS AND RECREATION

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Arapahoe County Open Space and Trails Advisory Board  
6934 South Lima Street, Unit A  
Centennial, CO 80112

December 6, 2012

Re: Long-Term Park Maintenance

Dear Open Space Advisory Board,

The City of Englewood Parks and Recreation Department is committed to the long-term maintenance and management of all Englewood parks and park infrastructure within the city. The City of Englewood allocates funds for the long-term maintenance, repair and replacement of park infrastructure. Ongoing maintenance functions include: trash pickup, graffiti removal, periodic playground equipment inspection and repairs, restroom and picnic pavilion cleaning, turf maintenance and mowing, trail and sidewalk maintenance, tree, shrub and landscaping maintenance, lighting and plumbing maintenance and repair and athletic field maintenance and prep.

The Parks and Recreation Department is funded annually through the City of Englewood's General Fund as part of the core services provided to the citizens of the City of Englewood. Duncan Park is currently included in all long-term maintenance programs and activities and will continue to be a part of all such activities into the future.

Sincerely,

Jerrell Black  
Parks and Recreation Director

**PART G - Budget**

Name of Project: Duncan Park Development

Name of City / District: City of Englewood

Sources of Funds	Date	County Grant Request	Cash Match	In-Kind Match	Total Project Funds
Arapahoe County Open Space	6/2013	\$250,000	n/a	n/a	\$250,000
City of Englewood	1/2013	n/a	\$104,300		\$104,300
Neighborhood Support Groups	6/2013		\$2,800		\$2,800
Other funding source					\$ other cash/in-kind
Contingency (=10% of total project)	1/2013	- not from County grant -	\$67,900		\$67,900
<b>Totals - Sources of Funds</b>		<b>\$250,000</b>	<b>\$175,000</b>	<b>\$ Other match</b>	<b>\$425,000</b>
Uses of Funds - Expenditures	Projected Date	From County Grant	Cash Match	In-Kind Match	Total Project Costs
Site Work	10/13 - 9/14	\$32,300	\$107,100		\$139,400
Landscape	10/13 - 9/14	\$7,500			\$7,500
Structures	10/13 - 9/14	\$190,000			\$190,000
Site furnishings	10/13 - 9/14	\$10,600			\$10,600
Irrigation	10/13 - 9/14	\$7,500			\$7,500
Site Lighting	10/13 - 9/14	\$1,700			\$1,700
Required signage acknowledging grant from Arapahoe County	10/2014	minimum \$400 required budget expense line item			\$400 required budget expense
<b>Subtotal - Project Costs</b>		<b>\$250,000</b>	<b>\$107,100</b>		<b>\$357,100</b>
Contingency (=10% of total project)	10/2014	- not charged to County -	\$67,900		\$67,900
<b>Totals - Cost plus contingency</b>		<b>\$250,000</b>	<b>\$175,000</b>	<b>\$ total in-kind</b>	<b>\$425,000</b>

**GRAND TOTALS IN FAR RIGHT COLUMN (Must equal grant request + cash match + in-kind match (= subtotal) + contingency) \$425,000**

Authorized Signature: \_\_\_\_\_

Date: 12-18-12

Print Name: Jerrell Black

Title: Director of Parks and Recreation, City of Englewood

**Duncan Park Improvements**  
**City of Englewood**

Opinion of Probable Cost - Arapahoe County Open Space Grant Application

Prepared by Britina Design Group  
 December 14, 2012

Site Work  
 Description

	Quantity	UNIT	Unit Price	Extension	Quantity	UNIT	Unit Price	Extension
Mobilization	1	LS	\$ 20,000.00	\$ 20,000.00	1	LS	\$ 10,000.00	\$ 10,000.00
Erosion Control - 54" Fence	1,321	LF	\$ 2.00	\$ 2,642.00	0	LF	\$ 2.00	\$ -
Erosion Control - Concrete Washout Area	1	LS	\$ 1,000.00	\$ 1,000.00	0	LS	\$ 1,000.00	\$ -
Erosion Control - Vehicle Tracking Control	1	LS	\$ 1,000.00	\$ 1,000.00	0	LS	\$ 1,000.00	\$ -
Erosion Control - Material Storage Area	2	LS	\$ 1,000.00	\$ 2,000.00	0	LS	\$ 1,000.00	\$ -
Erosion Control - Inlet Protection including Curb Sinks	1	EA	\$ 100.00	\$ 100.00	0	EA	\$ 100.00	\$ -
Erosion Control (ACOS Grant)	0	LS	\$ -	\$ -	0	LS	\$ -	\$ -
Tree Protection and Removal	1	LS	\$ 15,000.00	\$ 15,000.00	1	LS	\$ 2,500.00	\$ 2,500.00
Cleaning and Grubbing	5.63	ACHF	\$ 7,000.00	\$ 39,500.00	1.25	ACHF	\$ 7,000.00	\$ 8,750.00
Removals - Concrete Paving	245	SF	\$ 10.00	\$ 2,450.00	0	SF	\$ 10.00	\$ -
Removals - Concrete Durb and Garage	250	LF	\$ 3.00	\$ 750.00	0	LF	\$ 3.00	\$ -
Removals - Fencing (Chain Link)	555	LF	\$ 4.00	\$ 2,220.00	0	LF	\$ 4.00	\$ -
Removals - Playground Surfacing (Sand)	290	SV	\$ 2.25	\$ 652.50	0	SV	\$ 2.25	\$ -
Removals - Playground Edge (Wooded Ties)	220	LF	\$ 2.50	\$ 550.00	0	LF	\$ 2.50	\$ -
Removals - Playground Equipment	1	LS	\$ 2,500.00	\$ 2,500.00	0	LS	\$ 2,500.00	\$ -
Removals - Furnishings	3	LS	\$ 3,000.00	\$ 9,000.00	0	LS	\$ 3,000.00	\$ -
Removals - Utilities (Water Line, Sanitaries, Pole, Light Fixtures, Etc)	3	LS	\$ 5,000.00	\$ 15,000.00	0	LS	\$ 5,000.00	\$ -
Remove/Reset Signs	3	LS	\$ 1,500.00	\$ 4,500.00	0	LS	\$ 1,500.00	\$ -
Removals (ACOS Grant)	0	LS	\$ -	\$ -	0	LS	\$ -	\$ -
Earthwork - Rough Grading (Est 596 CY, Est 1,055 CV, Net 2,259 CV)	1	LS	\$ 15,000.00	\$ 15,000.00	0	LS	\$ 15,000.00	\$ -
Earthwork - Final Grading	15,972	SV	\$ 1.00	\$ 15,972.00	0	SV	\$ 1.00	\$ -
Earthwork (ACOS Grant)	0	LS	\$ -	\$ -	0	LS	\$ -	\$ -
Sanitary Sewer - 4" PVC SD4 35 PVC	128	LF	\$ 20.00	\$ 2,560.00	138	LF	\$ 20.00	\$ 2,760.00
Sanitary Sewer - Cleanout	1	EA	\$ 500.00	\$ 500.00	1	EA	\$ 500.00	\$ 500.00
Sanitary Sewer - Connection	1	LS	\$ 5,000.00	\$ 5,000.00	1	LS	\$ 5,000.00	\$ 5,000.00
Water Line - 3" Ductile Iron Pipe	154	LF	\$ 20.00	\$ 3,080.00	154	LF	\$ 20.00	\$ 3,080.00
Water Line - Connection	1	LS	\$ 2,500.00	\$ 2,500.00	1	LS	\$ 2,500.00	\$ 2,500.00
Trench Drain and Grate (10' Wide)	2	LS	\$ 200.00	\$ 400.00	0	LS	\$ 200.00	\$ -
Concrete Paving (6" Thick, Standard Color, Broom Finish)	19043	SF	\$ 4.00	\$ 76,172.00	7,500	SF	\$ 4.00	\$ 30,000.00
Restroom Place Paving (6" Thick, Color, Broom Finish)	1,345	SF	\$ 8.00	\$ 10,760.00	1,345	SF	\$ 8.00	\$ 10,760.00
Promenade Concrete Paving Band (6" Thick, Color, Broom Finish)	620	SF	\$ 8.00	\$ 4,960.00	620	SF	\$ 8.00	\$ 4,960.00
Promenade Concrete Paving (Herringbone Pattern)	3,175	SF	\$ 10.00	\$ 31,750.00	3,175	SF	\$ 10.00	\$ 31,750.00
Concrete Curb and Gutter (Standard Gray Color)	280	LF	\$ 11.00	\$ 3,080.00	280	LF	\$ 11.00	\$ 3,080.00
Concrete Curb Ramps (Standard Gray Color, Reflectable Placing)	3	EA	\$ 1,500.00	\$ 4,500.00	0	EA	\$ 1,500.00	\$ -
Asphalt Paving Patchback	550	SF	\$ 2.00	\$ 1,100.00	150	SF	\$ 2.00	\$ 300.00
Concrete Edging (6" Wide, Standard Gray Color)	435	LF	\$ 8.50	\$ 3,697.50	0	LF	\$ 8.50	\$ -
Seat Walls (Block Faced, Red Sandstone Cap)	206	LF	\$ 200.00	\$ 41,200.00	50	LF	\$ 200.00	\$ 10,000.00
Concrete Plaster Curb (Color)	125	LF	\$ 15.00	\$ 1,875.00	0	LF	\$ 15.00	\$ -
Park Entry Sign (Fabricate and install)	2	EA	\$ 2,500.00	\$ 5,000.00	0	EA	\$ 2,500.00	\$ -
Educational/Historical Signage (ACOS Grant)	0	LS	\$ -	\$ -	1	LS	\$ 5,000.00	\$ 5,000.00

Miscellaneous Site Work

1	LS	\$	15,000.00	\$	15,000.00
<b>Subtotal Site Work</b>				<b>\$</b>	<b>15,000.00</b>

0	LS	\$	15,000.00	\$	
<b>Subtotal Site Work</b>				<b>\$</b>	<b>15,000.00</b>

Landscape

Description

- Deciduous Shade Tree - 3 1/2" Cal.
- Deciduous Shade Tree (Memorial Tree Install Only)
- Ornamental Tree - 3" Cal. / 8' Clump
- Evergreen Tree - 10" H
- Deciduous and Evergreen Shrubs
- Ornamental Grasses
- Ferns/Plants
- Landscape Boulder Type A (5' x 4' x 3')
- Landscape Boulder Type B (4' x 3' x 3')
- Landscape Boulder Type C (3' x 3' x 3')
- Landscape Boulder Type D (2' x 2' x 2')
- Mulch and Weed Barrier
- Turf Soil (incl. soil prep.)
- Miscellaneous Landscape Items
- Landscape - Adjustments and Remarks (A/C/S Grant)

Quantity	Unit	Unit Price	Extension	
32	EA	\$ 575.00	\$ 18,400.00	
1	EA	\$ 100.00	\$ 100.00	
32	EA	\$ 500.00	\$ 16,000.00	
14	EA	\$ 525.00	\$ 7,350.00	
109	EA	\$ 25.00	\$ 2,725.00	
167	EA	\$ 10.00	\$ 1,670.00	
28	EA	\$ 8.00	\$ 224.00	
11	EA	\$ 550.00	\$ 6,050.00	
9	EA	\$ 350.00	\$ 3,150.00	
6	EA	\$ 275.00	\$ 1,650.00	
3	EA	\$ 200.00	\$ 600.00	
4,325	SF	\$ 0.65	\$ 2,811.25	
118,780	SF	\$ 0.45	\$ 53,451.00	
1	LS	\$ 10,000.00	\$ 10,000.00	
0	LS	\$	\$	
<b>Subtotal Landscape</b>				<b>\$ 112,661.25</b>

Quantity	Unit	Unit Price	Extension	
0	EA	\$ 575.00	\$	
0	EA	\$ 300.00	\$	
0	EA	\$ 500.00	\$	
0	EA	\$ 525.00	\$	
0	EA	\$ 25.00	\$	
0	EA	\$ 10.00	\$	
0	EA	\$ 8.00	\$	
0	EA	\$ 550.00	\$	
0	EA	\$ 350.00	\$	
0	EA	\$ 275.00	\$	
0	EA	\$ 200.00	\$	
0	SF	\$ 0.65	\$	
0	SF	\$ 0.45	\$	
0	LS	\$ 10,000.00	\$	
1	LS	\$ 7,500.00	\$ 7,500.00	
<b>Subtotal Landscape</b>				<b>\$ 7,500.00</b>

Play Facilities

Description

- Play Equipment (including installation)
- P.I.P. Rubber Surfacing (including 4" concrete sub-slab)
- Sport Courts - Slab (post-tension concrete)
- Sport Courts - Surfacing and Striping
- Basketball Goals (newest)
- Horseshoe Pit
- Miscellaneous Play Facilities

Quantity	Unit	Unit Price	Extension	
1	LS	\$ 150,000.00	\$ 150,000.00	
5,000	SF	\$ 23.75	\$ 118,750.00	
1	LS	\$ 22,000.00	\$ 22,000.00	
1	LS	\$ 5,500.00	\$ 5,500.00	
2	EA	\$ 500.00	\$ 1,000.00	
1	LS	\$ 3,500.00	\$ 3,500.00	
1	LS	\$ 15,000.00	\$ 15,000.00	
<b>Subtotal Play Facilities</b>				<b>\$ 209,500.00</b>

Quantity	Unit	Unit Price	Extension	
0	LS	\$ 150,000.00	\$	
0	SF	\$ 23.75	\$	
0	LS	\$ 22,000.00	\$	
0	LS	\$ 5,500.00	\$	
0	EA	\$ 500.00	\$	
0	LS	\$ 3,500.00	\$	
0	LS	\$ 15,000.00	\$	
<b>Subtotal Play Facilities</b>				<b>\$ 0.00</b>

**Structures**  
Description

Restroom Building (including lighting)  
Shelter (including lighting)  
Miscellaneous Structures

Quantity	Unit	Unit Price	Extension
1	LS	\$ 140,000.00	\$ 140,000.00
1	LS	\$ 50,000.00	\$ 50,000.00
1	LS	\$ 5,000.00	\$ 5,000.00
<b>Subtotal Structures</b>			<b>\$195,000.00</b>

Quantity	Unit	Unit Price	Extension
1	LS	\$ 140,000.00	\$ 140,000.00
1	LS	\$ 50,000.00	\$ 50,000.00
0	LS	\$ 3,000.00	\$ -
<b>Subtotal Structures</b>			<b>\$190,000.00</b>

**Site Furnishings**  
Description

Bench  
Trash Receptacle  
Picnic Tables  
Furniture  
Miscellaneous Furnishings

Quantity	Unit	Unit Price	Extension
8	EA	\$ 1,700.00	\$ 13,600.00
8	EA	\$ 1,650.00	\$ 13,200.00
4	EA	\$ 1,500.00	\$ 6,000.00
2	EA	\$ 1,300.00	\$ 2,600.00
1	LS	\$ 5,000.00	\$ 5,000.00
<b>Subtotal Site Furnishings</b>			<b>\$39,400.00</b>

Quantity	Unit	Unit Price	Extension
0	EA	\$ 1,700.00	\$ -
2	EA	\$ 1,650.00	\$ 3,300.00
4	EA	\$ 1,500.00	\$ 6,000.00
2	EA	\$ 650.00	\$ 1,300.00
0	LS	\$ 5,000.00	\$ -
<b>Subtotal Site Furnishings</b>			<b>\$10,600.00</b>

**Site Irrigation**  
Description

Backflow Assembly 7"  
Booster Pump Assembly-51/2 Mounted, 7.5 HP  
Type K Copper Fitting - 2"  
Master Valve Assembly  
Flow Sensor Assembly  
Irrigation Controller - John Deere GreenTech RainMaster Central Control  
Class 200 PVC Pipe - Mainline 3" RT  
Class 200 PVC Pipe - Mainline 4" RT  
Class 200 PVC Pipe - Lateral 1"  
Class 200 PVC Pipe - Lateral 1-1/4"  
Class 200 PVC Pipe - Lateral 1-1/2"  
Class 200 PVC Pipe - Lateral 2"  
Class 200 PVC Pipe - Lateral 2-1/2"  
Class 200 PVC Pipe - Lateral 3" RT  
Class 200 PVC Sleeve - 2"  
Class 200 PVC Sleeve - 2-1/2"  
Class 200 PVC Sleeve - 3"  
Class 200 PVC Sleeve - 4"  
Class 200 PVC Sleeve - 6"  
Quick Coupler Assembly  
Gate Valve Assembly 3"  
Remote Control Turf Valve Assembly 1"  
Remote Control Turf Valve Assembly 1-1/2"  
Remote Control Turf Valve Assembly 2"  
Remote Control Rubber Valve Assembly 1"  
Pop-up Spray Sprinklers  
Pop-up Rotor Sprinklers  
Pop-up Bubble  
Irrigation Controller - 14 AWG  
Miscellaneous Irrigation

Quantity	Unit	Unit Price	Extension
1	EA	\$ 1,500.00	\$ 1,500.00
1	EA	\$ 15,000.00	\$ 15,000.00
1	EA	\$ 24.00	\$ 24.00
1	EA	\$ 450.00	\$ 450.00
1	EA	\$ 350.00	\$ 350.00
1	EA	\$ 7,500.00	\$ 7,500.00
1,750	LF	\$ 5.00	\$ 8,750.00
50	LF	\$ 7.50	\$ 375.00
10,000	LF	\$ 2.00	\$ 20,000.00
5,900	LF	\$ 2.25	\$ 13,275.00
7,500	LF	\$ 2.75	\$ 20,625.00
4,500	LF	\$ 3.50	\$ 15,750.00
2,000	LF	\$ 4.25	\$ 8,500.00
750	LF	\$ 5.00	\$ 3,750.00
200	LF	\$ 2.00	\$ 400.00
100	LF	\$ 3.00	\$ 300.00
200	LF	\$ 4.00	\$ 800.00
204	LF	\$ 5.00	\$ 1,020.00
150	LF	\$ 6.00	\$ 900.00
12	EA	\$ 350.00	\$ 4,200.00
4	EA	\$ 750.00	\$ 3,000.00
4	EA	\$ 275.00	\$ 1,100.00
4	EA	\$ 325.00	\$ 1,300.00
14	EA	\$ 375.00	\$ 5,250.00
5	EA	\$ 275.00	\$ 1,375.00
110	EA	\$ 15.00	\$ 1,650.00
90	EA	\$ 55.00	\$ 4,950.00
51	EA	\$ 15.00	\$ 765.00
25,000	LF	\$ 0.13	\$ 3,250.00
1	LS	\$ 5,000.00	\$ 5,000.00

Quantity	Unit	Unit Price	Extension
0	EA	\$ 1,500.00	\$ -
0	EA	\$ 15,000.00	\$ -
0	EA	\$ 24.00	\$ -
0	EA	\$ 450.00	\$ -
0	EA	\$ 350.00	\$ -
0	EA	\$ 7,500.00	\$ -
0	LF	\$ 5.00	\$ -
0	LF	\$ 7.50	\$ -
0	LF	\$ 2.00	\$ -
0	LF	\$ 2.25	\$ -
0	LF	\$ 2.75	\$ -
0	LF	\$ 3.50	\$ -
0	LF	\$ 4.25	\$ -
0	LF	\$ 5.00	\$ -
0	LF	\$ 2.00	\$ -
0	LF	\$ 3.00	\$ -
0	LF	\$ 4.00	\$ -
0	LF	\$ 5.00	\$ -
0	LF	\$ 6.00	\$ -
0	EA	\$ 350.00	\$ -
0	EA	\$ 750.00	\$ -
0	EA	\$ 275.00	\$ -
0	EA	\$ 325.00	\$ -
0	EA	\$ 375.00	\$ -
0	EA	\$ 275.00	\$ -
0	EA	\$ 15.00	\$ -
0	EA	\$ 55.00	\$ -
0	EA	\$ 15.00	\$ -
0	LF	\$ 0.13	\$ -
0	LS	\$ 5,000.00	\$ -

Irrigation: Slewing Adjustments and Reels (AGCS Grant)

QTY	LS	\$	\$
<b>Subtotal Irrigation</b>			<b>\$162,839.00</b>

**Site Lighting**  
Description

- Lighting - Low Wall Light Fixtures
- Lighting - Tree and Sign Uplight Fixtures
- Miscellaneous Lighting and Electrical System
- Lighting - Slewing (AGCS Grant)

Quantity	Unit	Unit Price	Extension
17	CA	\$ 1,000.00	\$ 17,000.00
14	CA	\$ 4,000.00	\$ 56,000.00
1	LS	\$ 19,000.00	\$ 19,000.00
2	LS	\$	\$
<b>Subtotal Site Lighting</b>			<b>\$ 92,000.00</b>
<b>SUBTOTAL BASE BID</b>			<b>\$ 2,176,824.25</b>

**Bid Alternate 01**  
Description

- Removal of overhead electrical lines to new (2) lighting poles at southeast corner of park site

Quantity	Unit	Unit Price	Extension
1	LS	\$ 5,500.00	\$ 5,500.00
<b>SUBTOTAL BID ALTERNATE 01</b>			<b>\$ 5,500.00</b>

QTY	LS	\$	\$
<b>Subtotal Irrigation</b>			<b>\$7,800.00</b>

Arapahoe County Open Space Grant Application			
Quantity	Unit	Unit Price	Extension
2	FA	\$ 1,000.00	\$
2	FA	\$ 1,000.00	\$
2	IT	\$ 15,000.00	\$
1	IT	\$ 1,500.00	\$ 1,500.00
<b>Subtotal Site Lighting</b>			<b>\$ 1,500.00</b>
<b>SUBTOTAL BASE BID</b>			<b>\$ 163,600.00</b>

Arapahoe County Open Space Grant Application			
Quantity	Unit	Unit Price	Extension
0	LS	\$ 5,500.00	\$
<b>SUBTOTAL BID ALTERNATE 01</b>			<b>\$</b>

ADDS GRANT APPLICATION SUPPORT	\$ 353,600.00
20% CONTINGENCY	\$ 20,712.60
ADDS GRANT APPLICATION TOTAL	\$ 424,312.60
ANTICIPATED ADDITIONAL AND MATCHING CITY OF DENVER/COO COMBINED BUDGET	\$ 425,000.00

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013 \_\_\_\_\_

COUNCIL BILL NO. 22  
INTRODUCED BY COUNCIL  
MEMBER WOODWARD

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL WASTEWATER CONNECTOR'S AGREEMENT BETWEEN SHERIDAN SANITATION DISTRICT NO. 1 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 Sheridan Sanitation District No. 1 desires to utilize the L/E WWTP for treatment of the District's sewage; and

WHEREAS, the Sheridan Sanitation District No. 1 has approximately 300 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 Sheridan Sanitation District No. 1 and gathered by the District's sanitary sewage system; and

WHEREAS, Sheridan Sanitation District No. 1 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 Sheridan Sanitation District No. 1 Wastewater Connector's Agreement at the May 14, 2013 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 Sheridan Sanitation District No. 1 entitled "Wastewater Connector's Agreement For Districts" 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 1st day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 3<sup>rd</sup> day of July, 2013 for thirty (30) days.

Read by title and passed on final reading on the 15th day of July, 2013.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2013, on the 19th day of July, 2013.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of July, 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2013.

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Loucrishia A. Ellis

4/19/2012  
Revision

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 SHERIDAN SANITATION DISTRICT NO. 1, 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 continue to monitor zoning changes within its area to estimate its tap requirements and provide the City with notice of tap requirement for the next five (5) year period which time shall be given to the City on each anniversary date of this Agreement in a form satisfactory to the City.

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

The City shall bill 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.

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

7. Subject to the terms of the Taxpayer's Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time 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; any 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. Any violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, the Department of Health, or other law, rule, permit or applicable regulation.
13. Continued breach of this Agreement by 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, as amended shall govern the percentage of liability of any district on a common sewer line in the event the City seeks to impose liability based upon negligence or fault.
15. This Contract shall not be used as a legal defense or prohibition to the mandatory consolidation of facilities by either party as may be required by the laws of the State of Colorado of all existing sewer collection systems and facilities to a governmental entity created to assume responsibility for sewer service in the area in which both the City and State are a part under statutory or constitutional authority.

CITY OF ENGLEWOOD, COLORADO

\_\_\_\_\_  
, Mayor

ATTEST:

\_\_\_\_\_  
, City Clerk

SHERIDAN SANITATION DISTRICT NO. 1

Aileen F. Marple Chairman

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF Osage            )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of March,  
2013, by Aileen F. Marple.

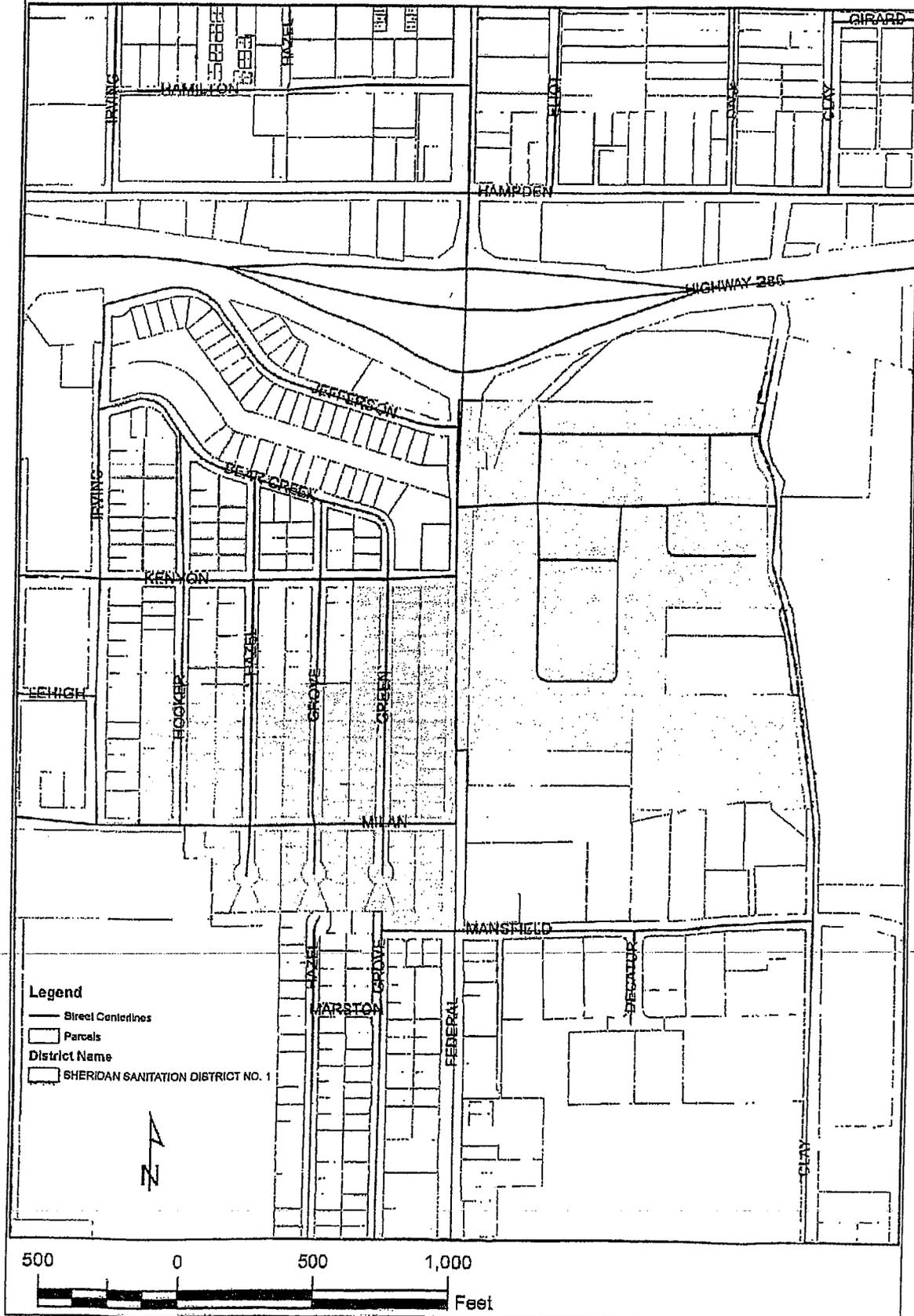
Witness my hand and official seal.

My Commission expires: 9-5-2013

CRYSTAL D. SCHENCK  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 9/5/2013

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

# Sheridan Sanitation District #1



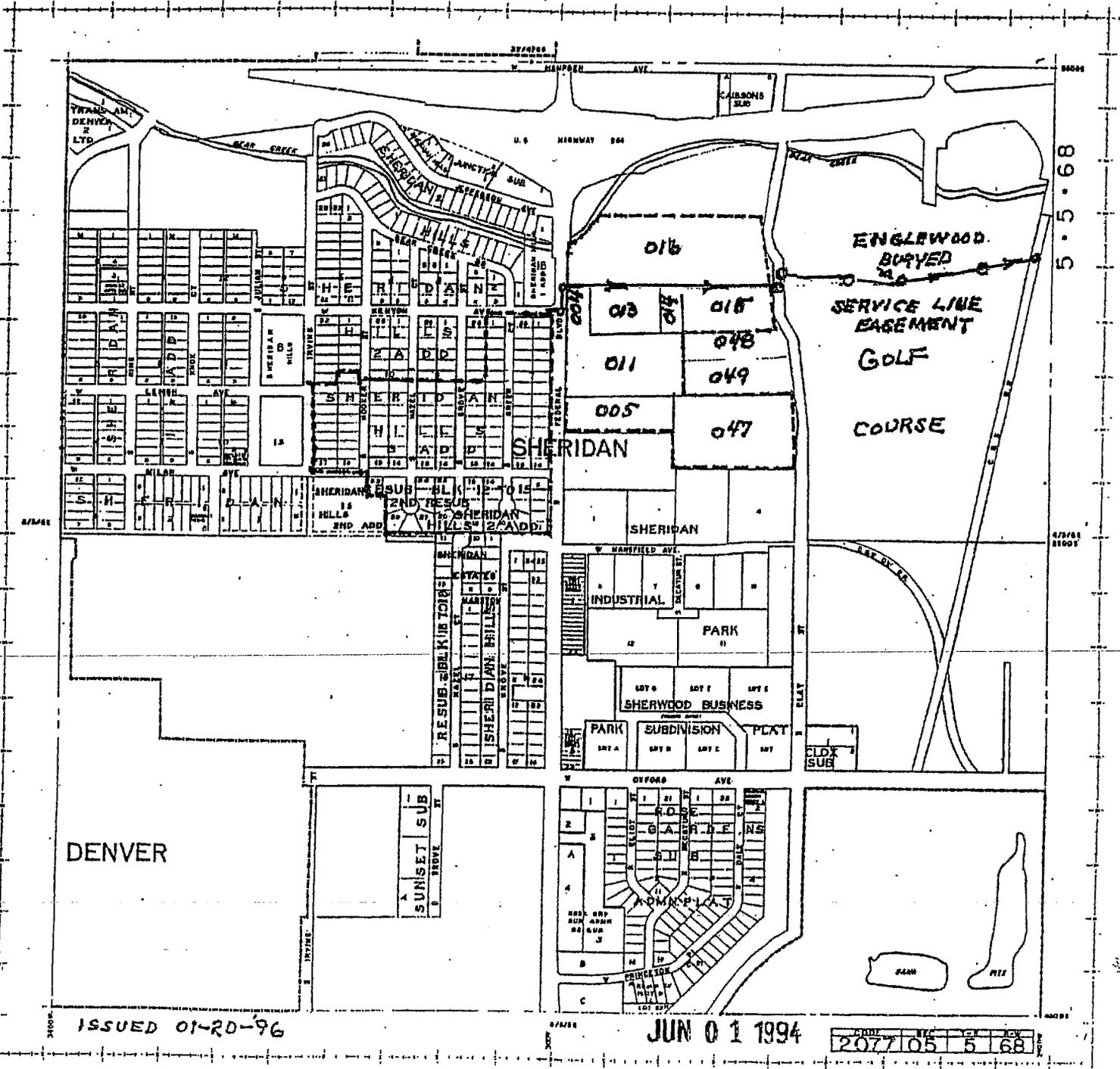
**SHERIDAN SANITATION DISTRICT No.1**  
 3757 South Hooker Street  
 Englewood (Sheridan) CO 80110-3226

SHERIDAN SANITATION DISTRICT No.1 described lands situate, lying and being in the County of Arapahoe, State of Colorado, to wit:

ALL OF BLOCK 7, lots 1 thru 28, BLOCK 8, lots 1 thru 22, BLOCK 9, lots 7 thru 22, BLOCK 10, lots 7 thru 22, BLOCK 11, lots 7 thru 25, SHERIDAN HILLS SECOND ADDITION;

Lots 1 thru 33, second resubdivision of BLOCKS 12, 13, 14, and 15, SHERIDAN HILLS SECOND ADDITION.

All of South Park, Mobile Home Park, included Parcels, 016, 015, 014, 013, 011, 004. Bonsai Nursery Parcel 005, Carousel Co., A Discount Storage, Parsel 047.



ISSUED 01-20-96

JUN 01 1994

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BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 23  
INTRODUCED BY COUNCIL  
MEMBER WOODWARD

AN ORDINANCE APPROVING SUPPLEMENT NO. 170 TO THE SOUTHGATE  
SANITATION DISTRICT CONNECTOR'S AGREEMENT FOR THE INCLUSION OF LAND  
WITHIN THE DISTRICT BOUNDARIES.

WHEREAS, Southgate Sanitation District recommends the inclusion of approximately 1.1 acres  
into the District for residential use; and

WHEREAS, said inclusion is located on the North side of East Garden Avenue, East of  
Colorado Boulevard in Greenwood Village; and

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

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

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

WHEREAS, the Englewood Water and Sewer Board recommended approval of this Agreement  
at its May 14, 2013 meeting;

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

Section 1. The Agreement between the City of Englewood and Southgate Sanitation District  
entitled "Supplement No. 170, to Connector's Agreement", which includes 1.1 acres located on the  
North side of East Garden Avenue, East of Colorado Boulevard in Greenwood Village, is hereby  
accepted and approved by the Englewood City Council. A copy of said Agreement is attached  
hereto as "Attachment 1" and incorporated herein by reference.

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

Introduced, read in full, and passed on first reading on the 1st day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5<sup>th</sup> day of  
July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of July, 2013 for thirty (30) days.

Read by title and passed on final reading on the 15th day of July, 2013.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2013, on the 19th day of July, 2013.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of July, 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2013.

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Loucrishia A. Ellis

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**SUPPLEMENT NO. 170 TO CONNECTOR'S AGREEMENT**

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

**WITNESSETH:**

**WHEREAS**, on the 20th day of June, 1961, the City and the District entered into an Agreement in which the City agreed to treat sewage originating from the District's sanitary sewer system within the area served by the District, which Agreement was renewed by Connector's Agreement dated November 16, 1988 and Amended April 20, 2009; and

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

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

1. The City hereby consents to the inclusion of certain additional area located in Arapahoe County, Colorado, owned by Howard Bellowe and more fully described on Exhibit A attached hereto and incorporated herein by reference, into Southgate Sanitation District. The City agrees that said additional area may be served with the sewer facilities of the District, and that the City will treat the sewage discharged into the City's trunk line from said additional area, all in accordance with the Connector's Agreement dated November 16, 1988 and Amended April 20, 2009. Accordingly, Exhibit A referred to in Paragraph 1 of the Connector's Agreement dated November 16, 1988 and Amended April 20, 2009, is hereby amended to include such additional area.

2. Each and every other provision of the said Connector's Agreement dated November 16, 1988 and Amended April 20, 2009, shall remain unchanged.

**IN WITNESS WHEREOF**, the parties have set their hands and seals this \_\_\_\_ day of \_\_\_\_\_, 2013.

**CITY OF ENGLEWOOD**

By: \_\_\_\_\_  
**MAYOR**

ATTEST:

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

**SOUTHGATE SANITATION DISTRICT,  
ARAPAHOE AND DOUGLAS COUNTIES,  
COLORADO**

By: \_\_\_\_\_  
**PRESIDENT**

ATTEST: 11

**SECRETARY**  
(SEAL)

**NOTICE OF PETITION FOR INCLUSION OF  
REAL PROPERTY**

Notice is hereby given that on February 12, 2013 a Petition was filed with the Board of Directors of Southgate Sanitation District, Arapahoe and Douglas Counties, Colorado, requesting the inclusion of certain real property into the District. The names and addresses of the Petitioners and the legal description of the property sought to be included in the District are as follows:

Name and Address of  
Petitioners:

Howard & Jacqueline Bellowe  
5400 S. Colorado Blvd.  
Greenwood Village, Colorado 80121

Property Description:

Lot 3, Village Hill,  
County of Arapahoe,  
State of Colorado

Notice is further given that a hearing will be held on said Petition at a public meeting of the Board of Directors of Southgate Sanitation District, Arapahoe and Douglas Counties, Colorado, on March 12, 2013 at 4:00 p.m., at the office of the District, 3722 East Orchard Road, Littleton, Colorado, and that interested persons may appear at such time and place and show cause in writing, if any they have, why said Petition should not be granted.

A full copy of this notice is available for review at the Southgate Offices, (address above), during normal business hours.

BY ORDER of the Board of Directors of Southgate Sanitation District, Arapahoe and Douglas Counties, Colorado.

SOUTHGATE SANITATION DISTRICT  
Arapahoe and Douglas Counties,  
Colorado

By: /s/ Paul Wiethorn  
Secretary,  
Southgate Water District



BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 24  
INTRODUCED BY COUNCIL  
MEMBER WOODWARD

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA)  
BETWEEN THE COLORADO GOVERNOR'S OFFICE OF INFORMATION TECHNOLOGY  
AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, this Memorandum of Understanding defines the framework for allowing the State and the Receiving Agency (City of Englewood) to benefit from State supported and planned upgrades and updates of public safety statewide digital trunked radio (DTR) system software, and will specifically address the upgrade of system software from SR 7.5 to SR 7.14; and

WHEREAS, the passage of this Ordinance will permit the City of Englewood to functionally connect their respective radio systems and this Memorandum of Understanding documents the sharing of resources to the mutual benefit of all Parties; and

WHEREAS, the Parties through cooperation in the DTR system, provide a public safety communications capability serving state agencies and participating local, regional, Tribal and Federal government entities; and

WHEREAS, the sharing of communications resources are actions that may substantially reduce costs and enhance interoperable communications for local, county, state, tribal and federal public safety providers.

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 "Memorandum of Understanding Between Governor's Office of Information Technology, (OIT) Communication Services and the City of Englewood- Police and Fire Departments, a copy of which is attached hereto as Exhibit A.

Section 4. The Mayor is hereby authorized to sign said Intergovernmental Agreement for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 1st day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 3<sup>rd</sup> day of July, 2013 for thirty (30) days.

Read by title and passed on final reading on the 15th day of July, 2013.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2013, on the 19th day of July, 2013.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of July, 2013 for thirty (30) days.

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Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2013.

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Loucrishia A. Ellis

**MEMORANDUM OF UNDERSTANDING**  
Between  
**Governor's Office of Information Technology, (OIT)**  
**Communication Services**  
  
And the  
**City of Englewood – Police and Fire**

**1. Memorandum of Understanding (MOU)**

This Memorandum of Understanding (MOU) is entered into by and among the City of Englewood - Police and Fire, 3615 South Elati Street, Englewood, Colorado 80110, hereinafter referred to as the "Receiving Agency" and the State Of Colorado, Governor's Office of Information Technology, Communication Services, 601 East 18<sup>th</sup> Avenue, Denver, CO 80203, hereinafter referred to as the "State ", and jointly referred to as the "Parties".

**2. Purpose:**

This MOU shall define the framework for allowing the State and the Receiving Agency to benefit from State supported and planned upgrades and updates of public safety statewide digital trunked radio (DTR) system **software**. This MOU shall specifically address the upgrade of system software from SR 7.5 to SR 7.14.

The Parties have functionally connected their respective Radio Systems and this MOU documents the sharing of resources to the mutual benefit of all Parties.

**3. Statement of Mutual Interests and Benefits:**

The Parties, through cooperation in the DTR system, provide a public safety communications capability serving state agencies and participating local, regional, Tribal and Federal government entities. It is in the best interest and for the greater benefit of all users of the DTR system to improve public safety communications by State, Local, Regional, Tribal and Federal Governments sharing resources and capabilities.

The sharing of communications resources are actions that may substantially reduce costs and enhance interoperable communications for local, county, state, tribal and federal public safety providers.

DTR system upgrades and enhancements performed in concert and across the system provide the greatest benefit and advantage to all DTR system users. As part of its participation in the DTR system, the State is seeking to improve public safety communications across the state by providing a system wide upgrade to the shared resources and capabilities.

Maintaining DTR system consistency and stability are critical to the reliable performance of the system statewide. In order to maintain system software consistency, routine MOTOPATCH software patches and system security updates provided by Motorola, and downloaded to the State's Master Zone, will be pushed to all connected DTR system components by the State engineering staff.

#### 4. Cooperators Agree:

- 4.1 The installation of DTR system **software** upgrades on Receiving Agency owned computer equipment at their dispatch center in no way changes Receiving Agency ownership or otherwise alters control of Receiving Agency owned equipment. Receiving Agency reserves the right to refuse the installation of DTR system **software** upgrades on Receiving Agency owned equipment at their dispatch center. It is understood that by refusing installation of DTR system **software** upgrades Receiving Agency risks the loss of public safety communications interoperability, and in some cases operability, capabilities currently offered by the DTR system. Receiving Agency fully and completely understands that all integrated components of the DTR system must operate on the same System Release software version. Refusal of the installation of this software upgrade will make any component **not** receiving the software upgrade/s incompatible with the DTR system. Receiving Agency DTR system components identified as incompatible with the DTR system will require disconnection from the Master Zone.
- 4.2 Unless specifically authorized in this MOU, neither Party, nor their representative shall adjust, maintain or otherwise touch equipment owned by another without written agreement to do so prior to adjustment, maintenance or other action taking place.
  - 4.2.1 Receiving Agency is fully and completely responsible for ensuring its hardware meets Motorola specifications to remain operational with the new System Release software. Equipment malfunctions due to **software** upgrades provided by the State for this system wide upgrade shall be reported to the Receiving Agency's authorized Motorola Dealer for service or repair. The Service Level Agreement (SLA) located in the CCNC Policy and Procedure Manual (<http://www.ccncinc.org>) shall be considered the standard for service and repair of defective or malfunctioning equipment or **software**.
- 4.3 Parties agree to establish and maintain safety and security guidelines for site user representatives to follow when accessing the sites.
- 4.4 State shall work in concert with Receiving Agency to plan and schedule installation of **software** updates. Every effort will be made to give ample time and opportunity for Receiving Agency to prepare for the State installation, testing and monitoring of the new **software** and equipment.

Receiving Agency understands and expects there will be limited disruption in service during the installation of **software** updates on dispatch console equipment. State and its agents and contractors will make every effort to limit the disruption in service to the shortest duration possible.

- 4.5 Receiving Agency grants permission to the State and its authorized employees, agents, and contractors to enter its associated buildings, easements and rights-of-way to install, test, and operate the **software** provided for in Exhibit A to this MOU; provided that proper advance arrangements are made with the Receiving Agency owning such buildings, easements and rights-of-way.
- 4.6 For purposes of this MOU, the State agrees to purchase and provide for the installation, testing, and monitoring of the DTR system **software** updates/upgrades from SR 7.5 to SR 7.14 as defined in Exhibit A.
- 4.7 Receiving Agency agrees that acceptance of the DTR system **software** upgrades obligates the Receiving Agency to remain an active, connected, and integral partner of the DTR system for a minimum period of five (5) years from the beginning of this upgrade on July 1, 2013 and expiring on June 30, 2018.
  - 4.7.1 Should the Receiving Agency elect to disconnect or otherwise cease participation with the DTR system prior to the agreed upon term, Receiving Agency shall be responsible for reimbursement to the State for an apportioned cost of the DTR system upgrade cost incurred by the State during this system-wide upgrade.
    - 4.7.1.1 State investment in this upgrade specifically provided to Receiving Agency is: \$ 39,135.00. Apportioned cost shall be divided into sixty (60) equal monthly amounts \$ 652.25
  - 4.7.2 State reserves the right to evaluate Receiving Agency concerns with regards to the obligations defined in this MOU on a case-by-case basis.
- 4.8 *In some isolated cases, Motorola MCC7500 console hardware upgrades may be required in order to operate on the new system software platform. It is the full responsibility, and at the sole expense, of the Receiving Agency to upgrade their console hardware to be compatible with the new system software prior to the system wide software upgrade.*

## **5. Insurance:**

Each Party shall at its sole cost and expense, obtain insurance or self insure, its inventory, equipment, and all other property associated with this equipment against loss resulting from fire or other casualty.

## **6. Control and Possession of Systems:**

Each Party shall remain in exclusive control and possession of its own telecommunications system and equipment and this MOU shall not be construed to grant any Party any rights of ownership, control, or possession of the other Party's systems or equipment, other than those which may be specifically set forth herein or in exhibits hereto.

## **7. Nondedication of Equipment:**

The Parties do not intend to dedicate, and nothing in this MOU shall be construed as constituting a dedication by any Party of its rights, or equipment, or any part thereof, to the other Parties or any customer or member of the other Party.

## **8. Uncontrollable Forces:**

No Party shall be considered to be in default in performance of any of its obligations under this MOU when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" means any cause beyond the control of the Party affected including, but not restricted to, failure or threat of failure of facilities, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority or action or non-action by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it is involved. Any Party rendered unable to fulfill any obligation under this MOU by reason of uncontrollable force shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

## **9. Notices.**

Any notice, demand or request pursuant to this MOU herein shall be in writing and shall be considered properly given when delivered in person, sent by either registered or certified mail, acknowledged by an email with a delivery and/or read receipt attached, or sent by national overnight delivery service, postage prepaid addressed to the other Party's principal offices.

9.1 Notices to the State shall be sent to: State of Colorado, Governor's Office of Information Technology, Communication Services, 601 East 18<sup>th</sup> Avenue, Suite 250, Denver, CO 80203

9.2 Notices to Receiving Agency shall be sent to: City of Englewood-Police and Fire, 3615 South Elati Street, Englewood, Colorado 80110

## **10. Binding Obligations.**

All of the obligations set forth in this MOU shall bind the Parties and their successors and assigns, and such obligations shall run with the Parties' rights, titles, interests, and with all of the interests of each Party to this MOU.

## **11. Fund Availability**

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

## **12. Future Obligations.**

Receiving Agency shall not plan for, or otherwise expect the State to provide future system wide **software** upgrades beyond the **software** upgrade defined in this MOU. State is not obligated in any way to provide future **software** upgrades to Receiving Agency DTR system components.

**THE PARTIES HERETO HAVE EXECUTED THIS MOU**

\* Persons signing for the Parties hereby swear and affirm that they are authorized to act on their behalf and acknowledge that the Parties are relying on their representations to that effect.

<p><b>CITY OF ENGLEWOOD POLICE AND FIRE</b> By: Randy P. Penn Title: Mayor</p> <hr/> <p>*Signature</p> <p>Date: _____</p>	<p><b>GOVERNOR'S OFFICE OF INFORMATION TECHNOLOGY</b> Kristin Russell, Secretary of Technology and State Chief Information Officer</p> <hr/> <p>By: Brenda Berlin – Chief Financial Officer</p> <p>Date: _____</p>
	<p><b>LEGAL REVIEW</b> John W. Suthers, Attorney General</p> <p>By: _____</p> <p>Signature - Assistant Attorney General</p> <p>Date: _____</p>

Exhibit A

**RECEIVING AGENCY DISPATCH CENTER**

At the Receiving Agency dispatch center the Receiving Agency shall:

1. Assist in coordination with the State Public Safety Communications Network (PSCN) engineers and technical staff and their associates for the installation of DTR system **software** upgrades at Receiving Agency facility.
2. Authorize State PSCN technical staff and their agents and/or associates required access to Receiving Agency dispatch center for the purpose of installation, testing and monitoring of **software**.
3. Receiving Agency remains responsible for locally owned equipment.
4. Receiving Agency agrees to the below cost table.

<b>DTR 7.5-7.14 Upgrade Quote for Sale Pricing Breakdown for Englewood</b>			
<b>Description</b>	<b>Qty</b>	<b>Price per Site/ Channel/ Position</b>	<b>Totals</b>
MCC 7500 Console Operator Positions	3	\$13,045	\$39,135
<b>TOTAL</b>			<b>\$39,135</b>

At the Receiving Agency dispatch center the State shall:

1. Make every effort to schedule and make ample notification to Receiving Agency of the date/s and time/s State and their agents may be expected to be on site to perform the necessary work to effect the upgrade of the Receiving Agency components of the DTR system.
2. Purchase and provision for all necessary personnel and equipment required for installation, testing and monitoring of DTR system **software** upgrades from SR 7.5 to SR 7.14.
3. In order to maintain system software consistency, the State remains wholly responsible for all software maintenance, including the authorization to push software patches and security updates to all DTR system components.

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 25  
INTRODUCED BY COUNCIL  
MEMBER WOODWARD

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE BOARD OF COMMISSIONERS OF ARAPAHOE COUNTY, COLORADO, BY AND THROUGH THE ARAPAHOE COUNTY CLERK AND RECORDER, AND THE CITY OF ENGLEWOOD, COLORADO, TO CONDUCT A COORDINATED ELECTION ON NOVEMBER 5, 2013.

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) as amended, governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, the City of Englewood has participated with Arapahoe County in conducting coordinated elections since 1993; and

WHEREAS, Arapahoe County and the City of Englewood have determined that it is in the best interest of the taxpayers and the electors to conduct a Coordinated Election on November 5, 2013; and

WHEREAS, Arapahoe County and the City of Englewood desire to set forth their respective responsibilities for the Coordinated Election pursuant to the Intergovernmental Agreement.

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

Section 1. The Intergovernmental Agreement for Coordinated Election is attached hereto as "Exhibit A". The Intergovernmental Agreement for Coordinated Election is hereby accepted and approved by the Englewood City Council.

Section 2. The Mayor is authorized to sign said Agreement for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 1st day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of July, 2013 for thirty (30) days.

Read by title and passed on final reading on the 15th day of July, 2013.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2013, on the 19th day of July, 2013.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of July, 2013 for thirty (30) days.

---

Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2013.

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Loucrishia A. Ellis

INTERGOVERNMENTAL AGREEMENT  
FOR COORDINATED ELECTION  
ARAPAHOE COUNTY  
NOVEMBER 5, 2013  
(Election)

This Intergovernmental Agreement is entered into by and between the Board of County Commissioners of the County of Arapahoe, State of Colorado and the Arapahoe County Clerk and Recorder (hereinafter jointly referred to as the "County") and the

City of Englewood (hereinafter referred to as the "Political Subdivision" and/or "jurisdiction").

WHEREAS, pursuant to the Uniform Election Code of 1992, (Articles 1 to 13 of Title 1, C.R.S.) as amended, governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, the County and the Political Subdivision have determined that it is in the best interest of the taxpayers and the electors to conduct a Coordinated Election on November 5, 2013; and

WHEREAS, the Colorado Constitution, Article X, Section 20, ("TABOR") requires the production of a mailed notice ("TABOR Notice") concerning certain ballot issues and/or ballot questions that will be submitted to the electors of the County and the Political Subdivision; and

WHEREAS, the County and the Political Subdivision have determined that it is in the best interest of the taxpayers and the electors for the County to print the TABOR Notice for the November 5, 2013 election; and

WHEREAS, the TABOR Notices of several jurisdictions are to be sent as a package where jurisdictions overlap; and

WHEREAS, when appropriate there should be county-wide coordination of the production and mailing of the TABOR Notice package to effectuate the purposes of said constitutional section; and

WHEREAS, the County and the Political Subdivision desire to set forth their respective responsibilities for the Coordinated Election pursuant to this Intergovernmental Agreement.

NOW, THEREFORE, IT IS AGREED by the County and the Political Subdivision as follows:

1. The November 5, 2013 election shall be conducted as a Coordinated Election in accordance with the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.) as may be amended and the Voter Access and Modernized Elections Act (HB 13-1303). The election participants shall be required to execute agreements with Arapahoe County for this purpose and may include municipalities, school districts and special districts within the Arapahoe County limits and the State of Colorado.
2. The November 5, 2013 election shall be conducted by the County as a mail ballot election.
3. The Arapahoe County Clerk and Recorder shall be designated as the Coordinated Election Official and the Political Subdivision hereby identifies Loucrishia A. Ellis, City Clerk as its Designated Election Official.
4. The County shall perform the following tasks in relation to the Coordinated Election, to wit:
  - a. Negotiate an agreement for the printing of the official ballots.

- b. Provide a copy of the ballot layout and the text of the official ballot to the Designated Election Official for proofreading before authorization to begin printing of all ballots.
- c. Provide a copy of the Political Subdivisions' legal boundaries as defined in the Arapahoe County Street List Locator no later than August 2, 2013.
- d. Certify the complete, "as of" number of registered electors within the Arapahoe County portion of the Political Subdivision no later than October 07, 2013.
- e. Deliver a proposed election plan to the Secretary of State no later than 90 days prior to the coordinated election.
- f. Provide mail ballots, affidavits, certificates, envelopes, instruction cards, replacement ballots, and other necessary supplies to eligible voters.
- g. Appoint, compensate, instruct and oversee the board of canvassers.
- h. Appoint, compensate, instruct and oversee the judges of the election, including counting judges.
- i. Publish and post the required legal notice pursuant to C.R.S. §1-7.5-107(2.5)(a)(I) no later than 20 days before the coordinated election.
- j. Publish and post the required legal notice pursuant to C.R.S. §1-5-205 that is published no later than 10 days prior to the election for the jurisdiction's ballot issues, ballot questions and/or candidates.
- k. Provide support on the date of the election by telephone and in person should the need arise until counting of the ballots is completed.
- l. Supervise delivery of ballots to judges, distribution, handling and counting of ballots and the survey of returns.
- m. Provide unofficial results of the election via arapahoevotes.com.
- n. Prior to tabulation of voted ballots, provide the participating jurisdiction test ballots of the jurisdiction's ballot style(s) to allow for testing of electronic vote-counting equipment.
- o. Provide and operate the County's electronic voting machines and vote-counting equipment. There will be no charge for the pre-election preventative maintenance on the electronic vote-counting equipment for this election cycle.
- p. Maintain a list of names and precinct numbers of eligible electors together with the date on which the mail ballot was sent and the date on which the mail ballot was returned or cast.
- q. Maintain a list of actual voters from the November 5, 2013 election, and upon request, generate a printed list of the persons who voted following the election. The cost will be \$0.05 (1/2-cent) per name.
- r. Store all voted ballots for a minimum of 25 months, and all other materials required by law to be saved, in such a manner that they may be accessed by the participating jurisdiction, if necessary, to resolve any challenge or other legal questions that might arise regarding the election.
- s. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County's administration of the election for the jurisdiction. The participating jurisdiction's proportional share of actual costs shall be based on County expenditures relative to the November 5, 2013 election.

5. The Political Subdivision shall perform the following tasks in relation to the Coordinated Election, to wit:
  - a. Certify the candidates, if applicable, and the list of ballot issues and/or ballot questions on a portable data storage device or by email (with receipt confirmed by the County Election Department) in Microsoft Word format along with a paper copy no later than 4:00 p.m. on September 6, 2013. The ballot content must be certified in the order in which it will appear on the ballot. The jurisdiction shall be solely responsible for the accuracy of the information contained in the certificate. The certified list of candidates, ballot issues and/or ballot questions shall be final and the County will not be responsible for making any changes after certification.
  - b. Within one day of receipt, proofread the layout and the text of the jurisdiction's portion of the official ballots before authorizing the printing of all ballots.
  - c. Publish and post any required legal notices for the jurisdiction's candidates, ballot issues and/or ballot questions, other than the notice required by C.R.S. §§ 1-5-205 and 1-7.5-107(2.5)(a)(I) that is published no later than 10 days prior to the election. A copy of such published legal notice shall be submitted to the County for its records.
  - d. Prepare, hand-count and deliver to the County Clerk, the required test deck of ballots for testing the electronic vote counting equipment. Participate in logic and accuracy test, date to be determined.
  - e. Remit payment directly to Arapahoe County within 60 days of billing for its prorated share of ALL COSTS relating to the printing and mailing of ballots and all other election expenses described in Section 4.
  - f. Comply with the provisions of the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.), and the time guidelines schedule as attached hereto as these relate to the November 5, 2013 election. The Political Subdivision shall notify the County of any exception no later than 29 days prior to the election.
  - g. The Political Subdivision shall defend and resolve at its sole expense all challenges relative to the candidates, ballot issues and/or ballot questions as certified to the County for inclusion in the November 5, 2013 Coordinated Election.
  - h. Submit to the County a map identifying the participating jurisdiction's boundaries no later than July 25, 2013.
  - i. Certify to the County, no later than August 19, 2013, the Political Subdivision's legal boundaries from the Street List Locator provided to the Political Subdivision on July 29, 2013.
  - j. Obtain and deliver a certified copy of the property owners' list for the Political Subdivision, (if deemed applicable), that has been reviewed against the voter registration records in the office of the Arapahoe County Clerk and Recorder.
6. If the Coordinated Election includes a ballot question and/or issue governed by Colorado Constitution, Article X, Section 20, ("TABOR"), the County shall perform the following tasks in relation to the TABOR Notice:
  - a. Certify the complete number of registered electors and/or household addresses with one or more active registered voters, within the Arapahoe County portion of the Political Subdivision no later than October 07, 2013.
  - b. Determine the "least cost" method for mailing the TABOR Notice package. Nothing herein shall preclude the County from sending the TABOR Notice or Notice package to persons other than electors of the Political Subdivision if such transmittal arises from the County's efforts to mail the TABOR Notice package at the "least cost."

c. Include the text, and provide a proof as written and in the order submitted, in accordance with the TABOR requirements for the TABOR Notice. Coordinate and mail the TABOR Notice package in the time frame as required by law.

d. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County's TABOR Notice services for the Political Subdivision. The Political Subdivision's proportional share of actual costs shall be based on the County's total expenditures relative to the 2013 TABOR Notice.

7. If the Coordinated Election includes a ballot question and/or issue governed by Colorado Constitution, Article X, Section 20, ("TABOR"), the Political Subdivision shall perform the following tasks in relation to the TABOR Notice:

a. Publish all required legal notices for the jurisdiction's ballot questions/ballot issues, other than the notice that is required by C.R.S. §1-5-205 that is published no later than 10 days before the election, which covers all pertinent information required by statute. A copy of such published legal notice shall be submitted to the County for its records.

b. Comply with the provisions of the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.), and the time guidelines schedule, as these relate to the November 5, 2013 election in the Political Subdivision, unless superseded by other legal authority.

c. Receive petition representative's written summary of comments relating to ballot issues/ballot questions.

d. The Political Subdivision shall certify a final and exact text and summary of comments concerning its ballot issues and/or ballot questions, along with the required fiscal information to the County, on portable data storage device or email (with receipt confirmed by the Election Department) in Microsoft Word and with a paper copy, no later than 4:00 p.m. on September 20, 2013 for inclusion in the TABOR Notice mailing as required by Section 20 of Article X of the Colorado Constitution. The process of receiving written comments relating to ballot issues/ballot questions and summarizing such comments as required by Section 20 of Article X of the Colorado Constitution is the sole responsibility of the Political Subdivision. The certified text, summary of comments and fiscal information shall be final and the County will not be responsible for making any changes after the certification.

The Political Subdivision shall defend and resolve, at its sole expense, all challenges relative to the TABOR Notices certified to the County for inclusion in the TABOR Notice package or its November 5, 2013 Coordinated Election.

e. Remit payment to the County within 60 days of billing for the prorated cost relating to the printing and mailing of the TABOR Notice package and all other expenses described in Section 6.

8. The Political Subdivision avers that it has sufficient funds available in its approved budget to pay its prorated election expenses for the November 5, 2013 Coordinated Election.

9. Unless otherwise agreed in writing, this Intergovernmental Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado.

10. Should any provision of this Intergovernmental Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the parties hereto that the remaining provisions of this Intergovernmental Agreement shall be of full force and effect.

11. Notices to be provided under this Intergovernmental Agreement shall be given in writing either by hand delivery or deposit in the United States mail, certified mail, return receipt requested, with sufficient postage, to the following persons:



+Coordinating Jurisdiction Calendar for November 5, 2013 Coordinated Election

Date	Event	Reference
25-Jul	Jurisdiction to provide copy of legal boundaries to County Clerk	IGA Agreement
26-Jul	Last day to notify county clerk of intent to participate in the coordinated election (100 days prior)	1-7-116(5); 1-1-106(5); IGA Agreement
2-Aug	County Clerk to provide copy of legal boundaries to jurisdiction	IGA Agreement
7-Aug	Earliest day for School District Candidates to circulate nominating petitions (90 days prior)	1-4-803(1)(b)
7-Aug	Last day for County to provide mail ballot plan to Secretary of State	1-7.5-105(1)
19-Aug	Jurisdiction to certify legal boundaries to County Clerk	IGA Agreement
27-Aug	Last day to sign IGA (70 days prior)	1-7-116(2)
30-Aug	Last day for school director candidates to file petition (67 days prior)	1-4-803(2)
3-Sep	Last day for write in candidate for non-partisan election to file intent (64 days prior)	1-4-1102(2) 1-1-106(4)
3-Sep	Deadline to cancel participation in a coordinated election (63 days prior)	1-5-208(1.5) <i>(Amended)</i>
6-Sep	Coordinating jurisdictions to certify ballot content (60 days prior)	1-5-203(3) 1-1-106(5)
20-Sep	Deadline for filing Tabor pro/con statements with DEO (Friday before the 45 <sup>th</sup> day before the election)	Art X, Sec. 20(3)(b)(v); 1-7-901(4)
21-Sep	UOCAVA ballot mailing deadline (45 days prior)	1-8.3-110(1)
23-Sep	Candidate audio files for voting machines must be complete	<i>(Amended)</i>
24-Sep	Tabor notices filed with County Clerk (42 days prior)	1-7-904

1-Oct	Public Test @ 9:00am	<i>(Amended)</i>
4-Oct	Ballots in custody of County Clerk (32 days prior)	1-5-403(1)
4-Oct	Last day to mail Tabor notices (30 days prior)	Article X, Sec. 20(3)(b)
7-Oct	Clerk to provide registration list to coordinating jurisdictions (1 <sup>st</sup> list by 30 <sup>th</sup> day prior)	1-5-303(1); 1-5-304; 1-7.5-107(2)(a)
15-Oct	Last day to submit a paper registration application by mail, through a VRD, at an agency, or at the DMV	1-2-201(3)(b)
15-Oct	County drop-off locations & service centers open for business	
15-Oct	First day to mail ballots (22 days prior)	1-7.5-107(3)(a); 1-8-111(1) 1-1-106(4)
17-Oct	Clerk and Assessor provide supplemental lists (20 days prior)	1-5-303(1),(2); 1-5-304(1),(2); 1-7.5-107(2)(b)
26-Oct	Notice of election to be posted (10 days prior 2 days after)	1-5-205(1),(1.3); 1-1-106(5)
28-Oct	Last day to register to vote online	1-2-201(3)(b)(III)
29-Oct	Last day to apply for mail in ballot if mailed (7 days prior)	1-8-104(3)
2-Nov	Saturday mail ballot drop-off	1-5-102.9(4)(b)(I)(B) <i>(Amended)</i>
5-Nov	<b><i>Election Day</i></b>	Art.X, Sec. 20(3)(a); 1-1-104(6.5); 1-7-101; 1-41-102(1)
22-Nov	Deadline for Canvass Board and official abstract (17 days after)	1-10-102(1)

## BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
 SERIES OF 2013

COUNCIL BILL NO. 26  
 INTRODUCED BY COUNCIL  
 MEMBER JEFFERSON

AN ORDINANCE FOR THE DISSOLUTION OF THE SOUTH BROADWAY ENGLEWOOD  
 BUSINESS IMPROVEMENT DISTRICT.

WHEREAS, on May 15, 2006, the City Clerk received a petition ("Petition") requesting that the Englewood City Council establish a business improvement district to be known as the South Broadway Englewood Business Improvement District along South Broadway from the 2700 Block through the 3500 Block, in the City of Englewood, Colorado pursuant to 31-25-1201, et seq., C.R.S.; and

WHEREAS, the City Council of the City of Englewood, Colorado established the South Broadway Englewood Business Improvement District with the passage of Ordinance No. 29, Series of 2006; and

WHEREAS, on February 4, 2013, the City Clerk received a petition ("Petition") pursuant to C.R.S. 31-25-1255 (Dissolution Procedure) the Petition of persons who own real property in the South Broadway Englewood Business District; and

WHEREAS, the petitioners wishing to dissolve the South Broadway Englewood Business District obtained signatures equaling 58.2 percent of the acreage and 57.8 percent of the assessed value; and

WHEREAS, the City of Englewood held a Public Hearing on March 18, 2013 which was continued to June 17, 2013 at which time the petitioners and other interested parties gave testimony; and

WHEREAS, the evidence presented at the Public Hearings demonstrated that all conditions imposed by Colorado Statutes for the dissolution of a business improvement district were met.

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

Section 1. Based on the findings of the Public Hearing the City Council of the City of Englewood, Colorado hereby authorizes the dissolution of the South Broadway Englewood Improvement Business District.

Introduced, read in full, and passed on first reading on the 1<sup>st</sup> day of July, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5<sup>th</sup> day of July, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 3<sup>rd</sup> day of July, 2013 for thirty (30) days.

Read by title and passed on final reading on the 15th day of July, 2013.

Published by title in the City's official newspaper as Ordinance No. \_\_\_\_, Series of 2013, on the 19th day of July, 2013.

Published by title on the City's official website beginning on the 17<sup>th</sup> day of July, 2013 for thirty (30) days.

---

Randy P. Penn, Mayor

ATTEST:

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Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. \_\_\_\_, Series of 2013.

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Loucrishia A. Ellis

## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 9 c i	<b>Subject:</b> Resolution for a supplemental appropriation for the replacement and repair of the Englewood Recreation Center's boilers and handicap lift.
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Grylewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed this issue with staff at the July 8, 2013 Study Session. Council directed staff to draft a resolution for a supplemental appropriation to fund upgrades to the Englewood Recreation Center's boiler room and disabled patrons' lift.

### RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution for a supplemental appropriation to the 2013 Public Improvement Fund Budget for boiler room and disabled lift upgrades as follows:

### SOURCES AND USES OF FUNDS

#### PUBLIC IMPROVEMENT FUND:

#### SOURCE OF FUNDS:

Unassigned/Unrestricted Reserves	\$150,000
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#### USE OF FUNDS:

Recreation Center Lift Upgrade	\$30,000
Recreation Center Boiler Room Upgrades	<u>\$120,000</u>
Total Use of Funds	<u>\$150,000</u>

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

This supplemental appropriation to the 2013 Public Improvement Budget is presented for Council's consideration at this time because the Recreation Center's boilers are critical to operations and the current lift is unreliable, making it difficult if not impossible to for disabled persons to access the second floor.

### FINANCIAL IMPACT

The Public Improvement Fund's unassigned/unrestricted reserves will decrease \$150,000.

### LIST OF ATTACHMENTS

Proposed Resolution

RESOLUTION NO. \_\_\_\_\_  
SERIES OF 2013

A RESOLUTION APPROVING A SUPPLEMENTAL APPROPRIATION OF FUNDS TO THE 2013 PUBLIC IMPROVEMENT BUDGET FOR THE REPLACEMENT AND REPAIR OF THE ENGLEWOOD RECREATION CENTER'S BOILERS AND HANDICAP LIFT.

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

WHEREAS, the 2013 Budget was submitted and approved by the Englewood City Council on October 15, 2012; and

WHEREAS, the City Council of the City of Englewood has on the agenda the approval of the award of a Contract for a construction project titled "Englewood Recreation Center Boiler Room Upgrade" with the passage of a Motion at the July 15, 2013 Council Meeting.

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

Section 1. The Budget for the City of Englewood, Colorado, is hereby amended for the year 2013, as follows:

**2013 SUPPLEMENTAL APPROPRIATION**

**PUBLIC IMPROVEMENT FUND:**

**SOURCE OF FUNDS:**

Unassigned/Unrestricted Reserves	\$150,000
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**USE OF FUNDS:**

Recreation Center Lift Upgrade	\$ 30,000
Recreation Center Boiler Room Upgrades	<u>\$120,000</u>
Total Use of Funds	\$150,000

Section 2. The City Manager and the Director of Finance and Administrative Services are hereby authorized to make the above changes to the 2013 Budget for the City of Englewood.

ADOPTED AND APPROVED this 15th day of July, 2013.

ATTEST:

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

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

I, Loucrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. \_\_\_\_\_, Series of 2013.

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Loucrishia A. Ellis, City Clerk

## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 9 c ii	<b>Subject:</b> Award Contract for Recreation Center Boiler Room Upgrade
<b>Initiated By:</b> Public Works Department	<b>Staff Source:</b> Dave Henderson, Deputy Public Works Director	

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed the Recreation Center Boiler Room upgrade at the July 8, 2013 Study Session.

### RECOMMENDED ACTION

Staff recommends that City Council approve, by motion, a construction project titled "**Englewood Recreation Center Boiler Room Upgrade**". The total estimated construction cost is **\$116,000.00**, which includes a construction contract with **American Mechanical Services of Denver, LLC** in the amount of **\$110,875.00**, and a construction contingency in the amount of **\$5,125.00**. Staff recommends authorizing the Director of Public Works to execute the contract.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Englewood Recreation Center's heating system operates with three boilers located in a mechanical room on the second level. All three boilers are original equipment installed when the Recreation Center was constructed in 1984 and have exceeded their design life.

Staff has been able to extend the life of the original boilers with regular preventative maintenance and, on occasion, major repairs. In March, one of the boilers failed and is beyond repair. The system is designed with some redundancy and will operate during all but the coldest of times with two boilers. One of the remaining boilers is showing signs of an eventual failure. Staff is unable to say how long it may last. Should the second boiler fail completely, the Recreation Center will not be able to operate at full capacity (not enough hot water for showers). Staff recommends replacement of two boilers as soon as possible.

Staff retained the services of a mechanical engineer to design a new boiler system. BA Consultants, Inc. completed the design drawings and specifications on May 23<sup>rd</sup>. The base bid includes two new high efficiency boilers. The remaining existing boiler will be used as a backup. An alternate item was included to replace an existing expansion tank (1984 model). Staff recommends awarding the base bid and Alternate No. 1.

Staff contacted two mechanical contractors that have worked for Englewood recently, along with two local City of Englewood mechanical contractor companies and invited them to submit sealed bids. All four companies attended a pre-bid conference held at the Recreation Center on June 19<sup>th</sup>. Four bids were received on June 27<sup>th</sup> as detailed in the attached bid tabulation. The low bidder, American Mechanical Services (AMS), has extensive experience with the City. AMS was the primary mechanical subcontractor, working for Ameresco, on

our recent energy savings upgrade project. They are familiar with the operation of our boilers at the Recreation Center.

Pending City Council's award of the project, the contractor will order equipment and proceed with replacements as soon as possible. Lead time for equipment delivery is estimated at 4-6 weeks. We may be able to coordinate installation during our annual closure at the end of August. Should equipment delivery delay the schedule, the project can be completed without closing the facility. The contract requires all work to be complete no later than September 27, 2013.

## FINANCIAL IMPACT

Detailed below are the costs associated with the project:

Base bid (AMS)	\$108,735.00
Alternate No. 1 (AMS)	<u>2,140</u>
Sub-Total (AMS Contract)	<b>\$110,875.00</b>
Construction contingency	<u>5,125.00</u>
Total Estimated Project Cost	<b>\$116,000.00</b>

Design Services, in the amount of \$3,500, were funded by existing Professional Services appropriations in the General Fund (PW Operations).

Funding for the construction is proposed from a supplement appropriation.

## LIST OF ATTACHMENTS

Bid Tabulation Sheet  
Contract Form



## CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this **15<sup>th</sup> day of July, 2013**, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and **American Mechanical Services of Denver, LLC**, whose address is 6810 S. Tucson Way, Centennial, CO 80112, ("Contractor"), commencing on the 10<sup>th</sup> day of June, 2013, the City requested sealed proposals for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

**PROJECT: Englewood Recreation Center Boiler Room Upgrade**

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Public Works to the Mayor and City Council with a recommendation that a contract for work be awarded to the above named Contractor who was the lowest reliable and responsible bidder therefore, and

WHEREAS, pursuant to said recommendation, the Contract has been awarded to the above named Contractor by the Mayor and City Council and said Contractor is now willing and able to perform all of said work in accordance with said advertisement and his proposal.

NOW THEREFORE, in consideration of the compensation to be paid and the work to be performed under this contract, the parties mutually agree as follows:

- A. Contract Documents: It is agreed by the parties hereto that the following list of instruments, drawings and documents which are attached or incorporated by reference constitute and shall be referred to either as the Contract Documents or the Contract and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto and they are as fully a part of this agreement as if they were set out verbatim and in full:

Invitation to Bid  
Contract (this instrument)  
Insurance  
Performance Payment Maintenance Bond  
Drawings sheets M1.1, M1.2, M 2.1 prepared by BA Consultants, Inc.

- B. Scope of Work: The Contractor agrees to and shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete all the work described, drawn, set forth, shown and included in said Contract Documents.
- C. Terms of Performance: The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works and agrees to fully complete said work by September 27, 2013, plus such extension or extensions of time

as may be granted by the Director of Public Works in accordance with the provisions of the Contract Documents and Specifications.

- D. Indemnification: The city cannot and by this Agreement/Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity, for any purpose. The Contractor shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature including Worker's Compensation claims, in any way resulting from or arising out of this Agreement/Contract: provided, however, that the Contractor need not indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and Employees.
- E. Termination of Award for Convenience: The City may terminate the award at any time by giving written notice to the Contractor of such termination and specifying the effective date of such termination, at least thirty (30) days before the effective date of such termination. In that event all finished or unfinished service, reports, material (s) prepared or furnished by the Contractor after the award shall, at the option of the City, become its property. If the award is terminated by the City as provided herein, the Contractor will be paid that amount which bears the same ratio to the total compensation as the services actually performed or material furnished bear to the total services/materials the successful firm agreed to perform under this award, less payments of compensation previously made. If the award is terminated due to the fault of the Contractor the clause relating to termination of the award for cause shall apply.
- F. Termination of Award for Cause: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the covenants, agreements or stipulations of the award, the City shall have the right to terminate the award by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, all furnished or unfinished services, at the option of the City, become its property, and the Contractor shall be entitled to receive just, equitable compensation for any satisfactory work documents, prepared completed or materials as furnished.

Notwithstanding the above, the Contractor shall not be relieved of the liability to the City for damages sustained by the City by virtue of breach of the award by the Contractor and the City may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the City from the Contractor is determined.

- G. Terms of Payment: The City agrees to pay the Contractor for the performance of all the work required under this contract, and the Contractor agrees to accept as his full and only compensation therefore, such sum or sums of money as may be proper in accordance with the price or prices set forth in the Contractor's proposal attached and made a part hereof, the total estimated cost thereof being **One Hundred Ten Thousand Eight Hundred Seventy**

**Five and no cents (\$110,875.00).** A 10% retainage of the awarded project amount will be withheld until final inspection and acceptance by the Project Manager.

- H. Appropriation of Funds: At present, **\$110,875.00** has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, the parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement/Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated. The City shall immediately notify the Contractor or its assignee of such occurrence in the event of such termination.
- I. Liquidated Damages: The City and Contractor recognize that time is of the essence in this Agreement because of the public interest in health and safety, and that the City will suffer financial loss, and inconvenience, if the Work is not complete within the time specified in the bid documents, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense and difficulties involved in proving, in a legal proceeding, the actual loss suffered by the City if the Work is not complete on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay, but not as a penalty, Contractor shall pay the City **\$ 250.00** for each day that expires after the time specified for substantial completion until the Work is complete, and **\$250.00** for each day that expires after the time specified for final completion until the Work is finally complete.
- J. Assignment: Contractor shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of the City specifically including, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Any attempted assignment which is not in compliance with the terms hereof shall be null and void. Unless specifically stated to the contrary in any written consent to an Assignment, no Assignment will release or discharge the Assignor from any duty or responsibility under the Contract Documents.

- K. Contract Binding: It is agreed that this Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns, and successors.
- L. Contractors Guarantee: The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of one (1) years from all causes arising from defective workmanship and materials, and to make all repairs arising from said causes during such period without further compensation. The determination of the necessity for the repair or replacement of said project, and associated incidentals or any portion thereof, shall rest entirely with the Director of Public Works whose decision upon the matter shall be final and obligatory upon the Contractor.

**VERIFICATION OF COMPLIANCE WITH C.R.S. 8-17.5-101 ET.SEQ. REGARDING HIRING OF ILLEGAL ALIENS**

(a) **Employees, Contractors and Subcontractors**: Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor shall not contract with a subcontractor that fails to certify to the Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Contract. [CRS 8-17.5-102(2)(a)(I) & (II).]

(b) **Verification**: Contractor will participate in either the E-Verify program or the Department program, as defined in C.R.S. 8-17.5-101 (3.3) and 8-17.5-101 (3.7) respectively, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this public contract. Contractor is prohibited from using the E-Verify program or the Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

(c) **Duty to Terminate a Subcontract**: If Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall:

(1) notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

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

(d) **Duty to Comply with State Investigation**: Contractor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation by that the Department is undertaking pursuant to C.R.S. 8-17.5-102 (5).



## COUNCIL COMMUNICATION

<b>Date:</b> July 15, 2013	<b>Agenda Item:</b> 11 c i	<b>Subject:</b> An Emergency Bill for an Ordinance Authorizing The Issuance of Golf Course Enterprise Refunding Bonds Series 2013
<b>Initiated By:</b> Finance and Administrative Services Department		<b>Staff Source:</b> Frank Gryglewicz, Director

### COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has not taken formal action regarding the issuance of this refunding, but this matter was discussed at the study session on July 1, 2013. Council approved the issuance of the original Golf Course Revenue Bonds in 1994 and the refunding of the Bonds in 2002.

### RECOMMENDED ACTION

Staff recommends Council approve the attached bill for an ordinance authorizing the issuance of Golf Course Enterprise Refunding Bonds Series 2013.

City staff believes it is in the best interest of the Golf Course Enterprise Fund to issue new debt to retire the existing bonds and extend the debt service schedule not to exceed 2033. This will provide financial flexibility by lowering debt service during a period of increased uncertainty due to changes in weather conditions, demographics, and competition for golf player participation.

The following parameters of the new issue include:

- The aggregate principal amount of the 2013 Bonds will not exceed \$2.7 million; and
- The final maturity of the Bonds will not be later than December 1, 2033; and
- The net effective interest rate on the Bonds will not exceed 5.95 percent; and
- The maximum annual debt service due in any year on the Bonds shall not exceed \$.3 million annually; and
- The issuance of the Bonds shall achieve one or more of the purposes set forth in Section 11-56-104, C.R.S.

The funds received from the sale of these bonds will be used to refund the Golf Course Revenue Refunding Bonds, Series 2003.

### BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood issued \$4,045,000 in Golf Course Revenue Bonds in 1994 to fund Golf Course capital projects (9-hole expansion, clubhouse improvements, and an indoor teaching facility). The 1994 Series Bonds were refunded in 2003 to take advantage of lower interest rates.

Attached is the current Golf Course Revenue Refunding Bonds debt service schedule. Also, attached are three estimated debt service schedules with 10, 15, and 20 year repayment periods. With each increase in the term of the debt the total interest paid increases with principal staying constant. This bill for an ordinance is being passed by emergency ordinance so the bonds can be issued as quickly as possible to reduce the possibility of increased interest rates which may induce more investor interest in purchasing the bonds.

### **FINANCIAL IMPACT**

This action should not have a direct impact on the City's financial condition, as the debt service requirements are funded by revenues collected by the Golf Course Fund. Annual debt service will be reduced, resulting in more financial flexibility to weather variability in Golf Course revenues in the future.

### **LIST OF ATTACHMENTS**

Debt service schedules  
Proposed bill for an ordinance

CITY OF ENGLEWOOD, COLORADO

Schedules of Future Debt Service Requirements  
December 31, 2012

✓

**General Obligation Refunding Bonds, Series 2010**

Year	Rate	Principal	Interest	Total
2013	2.00	\$ 675,000	\$ 270,613	\$ 945,613
2014	2.00	835,000	257,113	1,092,113
2015	2.00	855,000	240,412	1,095,412
2016	2.00	870,000	223,312	1,093,312
2017	2.25	890,000	205,912	1,095,912
2018	2.75	905,000	185,888	1,090,888
2019	3.00	935,000	161,000	1,096,000
2020	3.00	965,000	132,950	1,097,950
2021	4.00	985,000	104,000	1,089,000
2022	4.00	1,025,000	64,600	1,089,600
2023	4.00	590,000	23,600	613,600
		<u>\$ 9,530,000</u>	<u>\$ 1,869,400</u>	<u>\$ 11,399,400</u>

✓

**Golf Course Revenue Refunding Bonds - 2003**

	Rate	Principal	Interest	Total
2013	5.00	\$ 70,000	\$ 146,663	\$ 216,663
2014	5.10	150,000	143,162	293,162
2015	5.75	155,000	135,512	290,512
2016	5.75	165,000	126,600	291,600
2017	5.75	175,000	117,112	292,112
2018	5.75	185,000	107,050	292,050
2019	5.75	195,000	96,413	291,413
2020	6.00	205,000	85,200	290,200
2021	6.00	220,000	72,900	292,900
2022	6.00	235,000	59,700	294,700
2023	6.00	245,000	45,600	290,600
2024	6.00	515,000	30,900	545,900
		<u>\$ 2,515,000</u>	<u>\$ 1,166,812</u>	<u>\$ 3,681,812</u>

**BOND DEBT SERVICE**

**City of Englewood  
Golf Course Enterprise Revenue Refunding Bonds, Series 2013**

Dated Date           09/05/2013  
Delivery Date       09/05/2013

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2013	45,000	2.000%	20,052.33	65,052.33	65,052.33
06/01/2014			41,520.00	41,520.00	
12/01/2014	180,000	2.000%	41,520.00	221,520.00	263,040.00
06/01/2015			39,720.00	39,720.00	
12/01/2015	185,000	2.000%	39,720.00	224,720.00	264,440.00
06/01/2016			37,870.00	37,870.00	
12/01/2016	185,000	2.000%	37,870.00	222,870.00	260,740.00
06/01/2017			36,020.00	36,020.00	
12/01/2017	190,000	2.350%	36,020.00	226,020.00	262,040.00
06/01/2018			33,787.50	33,787.50	
12/01/2018	195,000	2.750%	33,787.50	228,787.50	262,575.00
06/01/2019			31,106.25	31,106.25	
12/01/2019	200,000	3.250%	31,106.25	231,106.25	262,212.50
06/01/2020			27,856.25	27,856.25	
12/01/2020	205,000	3.500%	27,856.25	232,856.25	260,712.50
06/01/2021			24,268.75	24,268.75	
12/01/2021	215,000	3.750%	24,268.75	239,268.75	263,537.50
06/01/2022			20,237.50	20,237.50	
12/01/2022	225,000	4.000%	20,237.50	245,237.50	265,475.00
06/01/2023			15,737.50	15,737.50	
12/01/2023	230,000	4.000%	15,737.50	245,737.50	261,475.00
06/01/2024			11,137.50	11,137.50	
12/01/2024	495,000	4.500%	11,137.50	506,137.50	517,275.00
	<b>2,550,000</b>		<b>658,574.83</b>	<b>3,208,574.83</b>	<b>3,208,574.83</b>

**BOND DEBT SERVICE**

**City of Englewood  
Golf Course Enterprise Revenue Refunding Bonds, Series 2013**

Dated Date                   09/05/2013  
Delivery Date               09/05/2013

<b>Period Ending</b>	<b>Principal</b>	<b>Coupon</b>	<b>Interest</b>	<b>Debt Service</b>	<b>Annual Debt Service</b>
12/01/2013	30,000	2.000%	22,591.72	52,591.72	52,591.72
06/01/2014			46,985.00	46,985.00	
12/01/2014	135,000	2.000%	46,985.00	181,985.00	228,970.00
06/01/2015			45,635.00	45,635.00	
12/01/2015	140,000	2.000%	45,635.00	185,635.00	231,270.00
06/01/2016			44,235.00	44,235.00	
12/01/2016	140,000	2.000%	44,235.00	184,235.00	228,470.00
06/01/2017			42,835.00	42,835.00	
12/01/2017	145,000	2.350%	42,835.00	187,835.00	230,670.00
06/01/2018			41,131.25	41,131.25	
12/01/2018	145,000	2.750%	41,131.25	186,131.25	227,262.50
06/01/2019			39,137.50	39,137.50	
12/01/2019	150,000	3.250%	39,137.50	189,137.50	228,275.00
06/01/2020			36,700.00	36,700.00	
12/01/2020	155,000	3.500%	36,700.00	191,700.00	228,400.00
06/01/2021			33,987.50	33,987.50	
12/01/2021	160,000	3.750%	33,987.50	193,987.50	227,975.00
06/01/2022			30,987.50	30,987.50	
12/01/2022	165,000	4.000%	30,987.50	195,987.50	226,975.00
06/01/2023			27,687.50	27,687.50	
12/01/2023	175,000	4.000%	27,687.50	202,687.50	230,375.00
06/01/2024			24,187.50	24,187.50	
12/01/2024	180,000	4.500%	24,187.50	204,187.50	228,375.00
06/01/2025			20,137.50	20,137.50	
12/01/2025	190,000	4.750%	20,137.50	210,137.50	230,275.00
06/01/2026			15,625.00	15,625.00	
12/01/2026	200,000	5.000%	15,625.00	215,625.00	231,250.00
06/01/2027			10,625.00	10,625.00	
12/01/2027	205,000	5.000%	10,625.00	215,625.00	226,250.00
06/01/2028			5,500.00	5,500.00	
12/01/2028	220,000	5.000%	5,500.00	225,500.00	231,000.00
	<b>2,535,000</b>		<b>953,384.22</b>	<b>3,488,384.22</b>	<b>3,488,384.22</b>

**BOND DEBT SERVICE**

**City of Englewood  
Golf Course Enterprise Revenue Refunding Bonds, Series 2013**

Dated Date           09/05/2013  
Delivery Date       09/05/2013

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
12/01/2013	20,000	2.000%	25,888.39	45,888.39	45,888.39
06/01/2014			53,985.00	53,985.00	
12/01/2014	90,000	2.000%	53,985.00	143,985.00	197,970.00
06/01/2015			53,085.00	53,085.00	
12/01/2015	90,000	2.000%	53,085.00	143,085.00	196,170.00
06/01/2016			52,185.00	52,185.00	
12/01/2016	90,000	2.000%	52,185.00	142,185.00	194,370.00
06/01/2017			51,285.00	51,285.00	
12/01/2017	95,000	2.350%	51,285.00	146,285.00	197,570.00
06/01/2018			50,168.75	50,168.75	
12/01/2018	95,000	2.750%	50,168.75	145,168.75	195,337.50
06/01/2019			48,862.50	48,862.50	
12/01/2019	100,000	3.250%	48,862.50	148,862.50	197,725.00
06/01/2020			47,237.50	47,237.50	
12/01/2020	100,000	3.500%	47,237.50	147,237.50	194,475.00
06/01/2021			45,487.50	45,487.50	
12/01/2021	105,000	3.750%	45,487.50	150,487.50	195,975.00
06/01/2022			43,518.75	43,518.75	
12/01/2022	110,000	4.000%	43,518.75	153,518.75	197,037.50
06/01/2023			41,318.75	41,318.75	
12/01/2023	115,000	4.000%	41,318.75	156,318.75	197,637.50
06/01/2024			39,018.75	39,018.75	
12/01/2024	120,000	4.500%	39,018.75	159,018.75	198,037.50
06/01/2025			36,318.75	36,318.75	
12/01/2025	125,000	4.750%	36,318.75	161,318.75	197,637.50
06/01/2026			33,350.00	33,350.00	
12/01/2026	130,000	5.000%	33,350.00	163,350.00	196,700.00
06/01/2027			30,100.00	30,100.00	
12/01/2027	135,000	5.000%	30,100.00	165,100.00	195,200.00
06/01/2028			26,725.00	26,725.00	
12/01/2028	145,000	5.000%	26,725.00	171,725.00	198,450.00
06/01/2029			23,100.00	23,100.00	
12/01/2029	150,000	5.500%	23,100.00	173,100.00	196,200.00
06/01/2030			18,975.00	18,975.00	
12/01/2030	160,000	5.500%	18,975.00	178,975.00	197,950.00
06/01/2031			14,575.00	14,575.00	
12/01/2031	170,000	5.500%	14,575.00	184,575.00	199,150.00
06/01/2032			9,900.00	9,900.00	
12/01/2032	175,000	5.500%	9,900.00	184,900.00	194,800.00
06/01/2033			5,087.50	5,087.50	
12/01/2033	185,000	5.500%	5,087.50	190,087.50	195,175.00
	<b>2,505,000</b>		<b>1,474,455.89</b>	<b>3,979,455.89</b>	<b>3,979,455.89</b>

BY AUTHORITY

ORDINANCE NO. \_\_\_\_\_  
SERIES OF 2013

COUNCIL BILL NO. 27  
INTRODUCED BY COUNCIL  
MEMBER \_\_\_\_\_

A BILL FOR

AN EMERGENCY ORDINANCE OF THE CITY OF ENGLEWOOD, COLORADO, ACTING BY AND THROUGH ITS GOLF COURSE ENTERPRISE, AUTHORIZING THE ISSUANCE OF GOLF COURSE ENTERPRISE REVENUE REFUNDING BONDS, SERIES 2013, FOR THE PURPOSE OF REFUNDING THE CITY'S GOLF COURSE ENTERPRISE REVENUE REFUNDING BONDS, SERIES 2003; PRESCRIBING THE FORM OF THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS FROM THE OPERATION OF THE GOLF COURSE FACILITIES; AND PROVIDING OTHER DETAILS AND APPROVING DOCUMENTS IN CONNECTION WITH THE BONDS.

WHEREAS, the City of Englewood, Colorado is a municipal corporation duly organized and operating as a home rule city under Article XX of the Constitution of the State of Colorado and the Charter of the City (unless otherwise indicated, capitalized terms used in this preamble shall have the meanings set forth in Section 1 of this Ordinance); and

WHEREAS, the City has heretofore established, operated and maintained, through its Golf Course Enterprise, the Englewood Municipal Golf Course; and

WHEREAS, the Golf Course Enterprise, initially established pursuant to Ordinance No. 57, Series of 1993 of the City, constitutes a government owned business which is authorized to issue its own revenue bonds and which receives under 10% of annual revenue in grants from all Colorado state and local governments combined, and it is hereby determined that the Golf Course Enterprise is an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, City, acting by and through its Golf Course Enterprise, has duly authorized, sold, issued and delivered its Golf Course Revenue Refunding Bonds, Series 2003 in the original principal amount of \$2,935,000, of which \$2,515,000 in aggregate principal amount is currently outstanding; and

WHEREAS, the Series 2003 Bonds are subject to prior redemption on December 1, 2013, and on any interest payment date thereafter, at a price of par plus accrued interest to the date of redemption; and

WHEREAS, the principal of and interest on the Series 2003 Bonds are payable at UMB Bank, n.a. (as successor to The Bank of Cherry Creek, a Branch of Western National Bank) as paying agent; and

WHEREAS, pursuant to Section 106 of the Charter the City may issue refunding bonds by ordinance, without an election, for the purpose of paying outstanding bonds of the City; and

WHEREAS, Stifel, Nicolaus & Company, Incorporated has presented a proposal to the City to refund the Series 2003 Bonds on a current basis through the issuance of Golf Course Enterprise Revenue Refunding Bonds, Series 2013, and the Council has determined that the negotiated sale of the Bonds to said company is to the best advantage of the City; and

WHEREAS, the net proceeds derived from the sale of the Bonds, together with other legally available funds of the City, will be immediately applied to the payment of the Refunded Bonds on the Redemption Date or irrevocably deposited with the Bank and placed into a special fund and trust account for the purpose only of paying the principal of and interest due and payable on the Refunded Bonds on the Redemption Date; and

WHEREAS, the Series 2003 Bonds will be defeased upon the issuance of the Bonds and, on the date of issuance of the Bonds, no other bonds or financial obligations will have a first lien on the Net Revenue of the Golf Course Facilities; and

WHEREAS, the Council desires to authorize the issuance and sale of the Bonds and, as provided in Title 11, Article 57, Part 2, C.R.S., delegate the authority to the Sale Delegate to determine the Dated Date, interest rates and annual maturities for the Bonds, as well as the dates on which the Bonds may be redeemed and the existence of any capitalized interest, in accordance with the provisions of this Ordinance; therefore

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

**Section 1. Definitions.** As used herein, the following capitalized terms shall have the respective meanings set forth below, unless the context indicates otherwise.

*“Bank”* means UMB Bank, n.a.

*“Beneficial Owner”* means any person for which a Participant acquires an interest in the Bonds.

*“Bond Account”* means the “Golf Course Enterprise 2013 Bond Account,” established by the provisions hereof for the purpose of paying the principal of, premium if any, and interest on the Bonds, including the Interest Subaccount and the Principal Subaccount.

*“Bond Counsel”* means (a) as of the date of issuance of the Bonds, Kutak Rock LLP, and (b) as of any other date, Kutak Rock LLP or such other attorneys selected by the City with nationally recognized expertise in the issuance of municipal bonds.

*“Bond Purchase Agreement”* means the agreement between the City and the Purchaser concerning the purchase of the Bonds by the Purchaser and the delivery of the Bonds by the City.

*“Bond Registrar”* means the Bank, or its successor, which shall perform the function of registrar with respect to the Bonds.

*“Bonds”* means the Golf Course Enterprise Revenue Refunding Bonds, Series 2013, authorized by this Ordinance.

“*Business Day*” means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State are authorized or obligated by law or executive order to be closed for business.

“*Capital Improvements*” means the acquisition of land, easements, facilities and equipment (other than ordinary repairs and replacements), and the construction or reconstruction of improvements, betterments and extensions, for use by or in connection with the Golf Course Facilities which, under Generally Accepted Accounting Principles for governmental units as prescribed by the Governmental Account Standards Board, are properly chargeable as capital items.

“*Cede*” means Cede & Co., the nominee of DTC as record owner of the Bonds, or any successor nominee of DTC with respect to the Bonds.

“*Certified Public Accountant*” means an independent certified public accountant within the meaning of § 12-2-115, C.R.S., and any amendment thereto, licensed to practice in the State of Colorado.

“*Charter*” means the home rule Charter of the City.

“*City*” means the City of Englewood, Colorado, acting by and through its Golf Course Enterprise.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Combined Maximum Annual Principal and Interest Requirements*” means, with respect to the Bonds or an issue of Parity Lien Bonds for which such term is used, an amount equal to the maximum amount required to be paid in any single current or future calendar year as the principal of (including any mandatory sinking fund requirements) and interest on Outstanding Bonds or Parity Lien Bonds, respectively, excluding any such bonds which have been defeased pursuant to the terms of the authorizing documents. For purposes of calculating the Combined Maximum Annual Principal and Interest Requirements in any calendar year of final maturity of the Bonds or an issue of Parity Lien Bonds, respectively, there shall be subtracted from the final principal payment for said bonds any cash or the present value of any investments deposited in a reserve fund or account established pursuant to the authorizing documents which are properly allocable to said bonds. For purposes of calculating the Combined Maximum Annual Principal and Interest Requirements for any issue of securities bearing a variable, adjustable or other similar rate which is not fixed for the entire term thereof, it shall be assumed that any such securities Outstanding at the time of computation will bear interest during any period, if the interest rate for such period has not been determined, at a fixed rate equal to the highest rate borne during the preceding 36-month period or, if the securities have not been outstanding for a 36-month period, two-hundred basis points above the rate borne by said securities on their date of issuance.

“*Continuing Disclosure Undertaking*” means the Continuing Disclosure Undertaking of the City executed and delivered by the City in connection with the issuance of the Bonds to facilitate compliance with Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12).

“*Consulting Engineer*” means any qualified, registered or licensed professional engineer practicing under the laws of the State of Colorado, who is independent in fact and not an officer or employee of the City.

“*Council*” means the City Council of the City acting as the governing body of the Golf Course Enterprise.

“*C.R.S.*” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“*Dated Date*” means the dated date for the Bonds as established in the Sale Certificate.

“*Defeasance Securities*” means bills, certificates of indebtedness, notes, bonds or similar securities which are direct non callable obligations of the United States of America or which are fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America.

“*Depository*” means any securities depository as the City may provide and appoint, in accordance with the guidelines of the Securities and Exchange Commission, which shall act as securities depository for the Bonds.

“*DTC*” means the Depository Trust Company, New York, New York, and its successors and assigns.

“*DTC Letter of Representations*” means the DTC Letter of Representations from the City to DTC, dated December 29, 1998, to induce DTC to accept securities of the City as eligible for deposit at DTC.

“*Enabling Laws*” means the Charter; and Title 11, Article 57, Part 2, C.R.S.

“*Event of Default*” means any one or more of the events set forth in the Section hereof entitled “Events of Default.”

“*Escrow Account*” means, in connection with the Bonds, the account, if necessary, established for payment of the Refunded Bonds pursuant to the Escrow Agreement and the provisions hereof.

“*Escrow Agent*” means the Bank, or its successor, which shall perform the function of escrow agent under the Escrow Agreement.

“*Escrow Agreement*” means the Escrow Agreement between the City and the Escrow Agent relating to the administration of the Escrow Account, if any.

“*Federal Securities*” means direct obligations of (including obligations issued or held in book-entry form on the books of), or obligations the principal of and interest on which are guaranteed by, the United States of America.

“*Fiscal Year*” means the 12 months commencing January 1 of any year and ending December 31 of said year.

“*Golf Course Enterprise*” means the Golf Course Enterprise as established by City Ordinance No. 57, Series of 1993, as said ordinance may be amended from time to time.

“*Golf Course Enterprise Fund*” means the Golf Course Revenue Fund of the City which accounts for the financial activity of the Golf Course Enterprise Fund.

“*Golf Course Facilities*” means all of the City’s Golf Course Facilities including without limitation interests in real and personal property now owned or hereafter acquired whether situated within or without the City boundaries and all present or future improvements, extensions, enlargements, betterments, replacements and additions thereto.

“*Gross Revenue*” means all income and revenues directly or indirectly derived by the City from the operation and use of the Golf Course Enterprise, including without limitation, any rates, fees and charges for the services furnished by, or the use of, the Golf Course Enterprise, and all income attributable to any past or future dispositions of property or rights or related contracts, settlements or judgments held or obtained in connection with the Golf Course Enterprise or its operations, and including investment income accruing from moneys held to the credit of the Golf Course Enterprise Fund; provided however, that there shall be excluded from Gross Revenue any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account or similar account pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the Golf Course Facilities, services rendered thereby, the availability of any such service or the disposal of any commodities therefrom.

“*Interest Payment Date*” means the interest payment dates set forth in the Sale Certificate.

“*Interest Subaccount*” means a subaccount of the Bond Account reaffirmed by the provisions hereof for the purpose of paying the interest on the Bonds.

“*Municipal Code*” means the City of Englewood Municipal Code, as amended.

“*Net Revenue*” means the Gross Revenue after deducting the Operation and Maintenance Expenses.

“*Official Statement*” means the final version of the Preliminary Official Statement.

“*Operation and Maintenance Expenses*” means all reasonable and necessary current expenses of the City, paid or accrued, for operating, maintaining and repairing the Golf Course Facilities, including without limitation legal and overhead expenses of the City directly related to the administration of the Golf Course Enterprise, insurance premiums, audits, charges of

depository banks and paying agents, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, legal liabilities not based on contract, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations, and charges for the accumulation of reserves.

“*Ordinance*” means this ordinance which authorizes the issuance of the Bonds, including any amendments properly made hereto.

“*Outstanding*” means, as of any date, all Bonds and Parity Lien Bonds, except the following: (a) any Bond cancelled by the City or the Paying Agent, or otherwise on the City’s behalf, at or before such date; (b) any Bond held by or on behalf of the City; (c) any Bond for the payment or the redemption of which moneys or Defeasance Securities sufficient to meet all of the payment requirements of the principal of, interest on, and any premium due in connection with the redemption of such Bond to the date of maturity or any redemption date thereof, shall have theretofore been deposited in trust for such purpose in accordance with the section hereof entitled “*Defeasing*,” and (d) any lost, apparently destroyed, or wrongfully taken Bond in lieu of or in substitution for which another bond or other security shall have been executed and delivered.

“*Owner*” means the registered owner of any Bond, as shown by the registration books maintained by the Bond Registrar.

“*Parity Lien Bonds*” means one or more series of additional bonds, notes, interim securities or other obligations issued by the City pursuant to the Section hereof entitled “*Additional Bonds*,” having a lien on the Net Revenue which is on a parity with the lien of the Bonds.

“*Parity Reserve Amount*” means, as of any date on which it is calculated with respect to any issue of Parity Lien Bonds, the least of (a) 10% of the principal amount of said Parity Lien Bonds, (b) the maximum annual debt service in any calendar year on said Parity Lien Bonds or (c) 125% of the average annual debt service on said Parity Lien Bonds; provided, however, that the Parity Reserve Amount may be reduced if, in the opinion of Bond Counsel, the funding or maintenance of it at the level otherwise determined pursuant to this definition will cause the reserve account for such Parity Lien Bonds to exceed the amount permitted by the Code to be invested in higher yielding investments as a reasonably required reserve amount and replacement fund.

“*Participants*” means any broker dealer, bank or other financial institution from time to time for which DTC or another Depository holds the Bonds.

“*Paying Agent*” means the Bank with its principal office in Kansas City, Missouri, or its successor, which shall perform the function of paying agent with respect to the Bonds.

“*Paying Agent and Registrar Agreement*” means the agreement dated as of the Dated Date, between the City and the Paying Agent/Bond Registrar, concerning the registration, transfer, exchange and payment of the Bonds.

*“Permitted Investments”* means any lawful investment permitted for the investment of funds of the City by the Charter and the laws of the State.

*“Person”* means a corporation, firm, other body corporate, partnership, association or individual and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

*“Preliminary Official Statement”* means the Preliminary Official Statement concerning the Bonds and the City used in connection with the marketing of the Bonds.

*“Principal Payment Date”* means any maturity date for a Bond, as set forth in the Sale Certificate.

*“Principal Subaccount”* means a subaccount of the Bond Account reaffirmed by the provisions hereof for the purpose of paying the principal of and premium, if any, on the Bonds.

*“Pro Rata Portion”* means when used with respect to a required credit to the Principal Subaccount or the Interest Subaccount, the dollar amount derived by dividing the amount of principal or interest to come due on the next Principal Payment Date or Interest Payment Date by the number of monthly credits required to be made prior to such payment date.

*“Project”* means the capital improvements financed with the proceeds of the Refunded Bonds.

*“Purchaser”* means Stifel, Nicolaus & Company, Incorporated, the original purchaser of the Bonds.

*“Rating Agency”* means Fitch IBCA., Moody’s Investors Service, Inc. or Standard & Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc.

*“Record Date”* means either (a) the fifteenth day of the calendar month next preceding each Interest Payment Date, if such date is the first day of the month or (b) the first day of the calendar month if the Interest Payment date is the fifteenth day of the month.

*“Redemption Date”* means December 1, 2013.

*“Refunded Bonds”* or *“Series 2003 Bonds”* means the Golf Course Revenue Refunding Bonds, Series 2003, as authorized by the Refunded Bonds Ordinance.

*“Refunded Bonds Ordinance”* means the City’s Ordinance No. 89, Series 2003.

*“Refunded Bond Requirements”* means the sum of (a) all of the principal then outstanding on the Refunded Bonds on the Redemption Date and (b) all unpaid interest accrued on the Refunded Bonds to the Redemption Date.

*“Refunding Project”* means the current refunding of the Refunded Bonds and other purposes for which the proceeds of the Bonds may be expended under the Enabling Laws, including, but not limited to, making deposits to the Escrow Account, if necessary, and the Bond

Account pursuant to the Section hereof entitled "Initial Credit of Bond Proceeds" and paying the costs of issuance of the Bonds.

*"Required Reserve Amount"* means, as of any date on which it is calculated, the least of (a) 10% of the principal amount of the Outstanding Bonds, (b) the maximum annual debt service in any calendar year on the Outstanding Bonds or (c) 125% of the average annual debt service on the Outstanding Bonds; provided, however, that the Required Reserve Amount may be reduced if, in the opinion of Bond Counsel, the funding or maintenance of it at the level otherwise determined pursuant to this definition will cause the Reserve Account to exceed the amount permitted by the Code to be invested in higher yielding investments as a reasonably required reserve amount and replacement fund.

*"Reserve Account"* means a special account of the City designated as the "Golf Course Enterprise 2013 Bond Reserve Account," created by this Ordinance for the purpose of paying, if necessary, the principal of, premium if any, and interest on the Bonds.

*"Reserve Account Contract"* means a surety bond, insurance policy, letter of credit, investment agreement, investment contract or similar instrument.

*"Sale Certificate"* means the certificate executed by the Sale Delegate under the authority delegated pursuant to this Ordinance, including but not limited to the Sections hereof titled "Bond Details," "Delegations and Parameters" and "Approval of Official Statement and Miscellaneous Documents".

*"Sale Delegate"* means the Director of Financial Services of the City or the City Manager.

*"Special Record Date"* means the record date for determining Bond ownership for purposes of paying defaulted interest, as such date may be determined pursuant to this Ordinance.

*"State"* means the State of Colorado.

*"Subordinate Lien Bonds"* means one or more series of additional bonds, notes, interim securities or other obligations issued by the City pursuant to the Section hereof entitled "Additional Bonds," having a lien on the Net Revenue which is subordinate or junior to the lien of the Bonds.

*"Tax Compliance Certificate"* means the Tax Compliance Certificate, dated the date on which the Bonds are originally issued, and delivered to the City by Bond Counsel, as such instructions may be superseded or amended in accordance with their terms.

**Section 2. Authorization.** In accordance with the Constitution of the State; the Enabling Laws; and all other laws of the State thereunto enabling, there shall be issued by the City, acting by and through its Golf Course Enterprise, the "Golf Course Enterprise Revenue Refunding Bonds, Series 2013," in the aggregate principal amount of not to exceed \$2,700,000, for the purpose of paying the costs of the Refunding Project. The accomplishment of the

Refunding Project is hereby authorized, approved and ordered and it is hereby determined that the Bonds mature at such time not exceeding the estimated life of the Project.

### **Section 3. Bond Details.**

(a) ***Registered Form, Denominations, Original Dated Date and Numbering.*** The Bonds shall be issued as fully registered bonds, shall be dated as of the Dated Date, and shall be registered in the names of the Persons identified in the registration books maintained by the Paying Agent pursuant hereto. The Bonds shall be issued in denominations of \$5,000 in principal amount or any integral multiple thereof. The Bonds shall be consecutively numbered, beginning with the number one, preceded by the letter "R."

(b) ***Maturity Dates, Principal Amounts and Interest Rates.*** The Bonds shall mature on the Principal Payment Date in the years and in the principal amounts, and shall bear interest at the rates per annum (calculated based on a 360-day year of twelve 30-day months) set forth in the Sale Certificate.

(c) ***Accrual and Dates of Payment of Interest.*** Interest on the Bonds shall accrue at the rates set forth in the Sale Certificate, from the later of the Dated Date or the latest Interest Payment Date (or in the case of defaulted interest, the latest date) to which interest has been paid in full and shall be payable on each Interest Payment Date.

(d) ***Manner and Form of Payment.*** Principal of each Bond shall be payable to the Owner thereof upon presentation and surrender of such Bond at the principal office of the Paying Agent in the city identified in the definition of Paying Agent in the Section hereof entitled "Definitions" or at such other office of the Paying Agent designated by the Paying Agent for such purpose. Interest on each Bond shall be payable by check or draft of the Paying Agent mailed on each Interest Payment Date to the Owner thereof as of the close of business on the corresponding Record Date; provided however, any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Notice of the Special Record Date shall be given to the Owners of the Bonds not less than ten days prior thereto, by first-class mail to each such Owner, as shown on the registration books kept by the Registrar, on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. Interest payable to any Owner as provided in this paragraph may be paid by any other means agreed to by such Owner and the Paying Agent that does not require the City to make moneys available to the Paying Agent earlier than otherwise required hereunder or increase the costs borne by the City hereunder. All payments of the principal of and interest on the Bonds shall be made in lawful money of the United States of America.

(e) ***Book-Entry Registration.*** Notwithstanding any other provision hereof, the Bonds shall be delivered only in book-entry form registered in the name of Cede & Co., as nominee of DTC, acting as securities depository of the Bonds and principal of and

interest on the Bonds shall be paid by wire transfer to DTC; provided, however, if at any time the Paying Agent determines, and notifies the City of its determination, that DTC is no longer able to act as, or is no longer satisfactorily performing its duties as, securities depository for the Bonds, the Paying Agent may, at its discretion, either (i) designate a substitute securities depository for DTC and reregister the Bonds as directed by such substitute securities depository or (ii) terminate the book-entry registration system and reregister the Bonds in the names of the beneficial owners thereof provided to it by DTC. Neither the City nor the Paying Agent shall have any liability to DTC, Cede & Co., any substitute securities depository, any Person in whose name the Bonds are reregistered at the direction of any substitute securities depository, any beneficial owner of the Bonds or any other Person for (A) any determination made by the Paying Agent pursuant to the proviso at the end of the immediately preceding sentence or (B) any action taken to implement such determination and the procedures related thereto that is taken pursuant to any direction of or in reliance on any information provided by DTC, Cede & Co., any substitute securities depository or any Person in whose name the Bonds are reregistered.

(f) ***Final Determination of Bond Details.*** The authority to determine other details of the Bonds is delegated to the Sale Delegate in the Section hereof entitled "Delegation and Parameters."

#### **Section 4. Delegation and Parameters.**

(a) ***Delegation.*** The City Council hereby delegates to the Sale Delegate the authority to determine and set forth in the Sale Certificate: (i) the matters set forth in subsection (b) of this Section, subject to the applicable parameters set forth in subsection (c) of this Section; and (ii) any other matters that, in the judgment of the Sale Delegate, are necessary or convenient to be set forth in the Sale Certificate and are not inconsistent with the parameters set forth in subsection (c) of this Section.

(b) ***Sale Certificate.*** The Sale Certificate for the Bonds shall set forth the following matters and other matters permitted to be set forth therein pursuant to subsection (a) of this Section, but each such matter must fall within the applicable parameters set forth in subsection (c) of this Section:

- (i) the Dated Date of the Bonds;
- (ii) the Principal Payment Date;
- (iii) the Interest Payment Date;
- (iv) the aggregate principal amount of the Bonds;
- (v) the price at which the Bonds will be sold pursuant to the Bond Purchase Agreement;
- (vi) the amount of principal of the Bonds maturing in any particular year and the respective interest rates borne by the Bonds;

(vii) the Bonds which may be redeemed at the option of the City, the dates upon which such optional redemption may occur, and the prices at which such Bonds may be optionally redeemed; and

(viii) the principal amounts, if any, of Bonds subject to mandatory sinking fund redemption, and the years in which such Bonds will be subject to such redemption.

(c) **Parameters.** The authority delegated to the Sale Delegate by this Section shall be subject to the following parameters:

(i) in no event shall the Sale Delegate be authorized to execute the Bond Purchase Agreement and Sale Certificate after the date that is one (1) year after the date of final adoption of this Ordinance;

(ii) the aggregate principal amount of the Bonds shall not exceed \$2,700,000;

(iii) the final maturity of the Bonds shall be no later than December 1, 2033;

(iv) the net effective interest rate on the Bonds shall not exceed 5.95%;

(v) the maximum annual debt service due in any year on the Bonds shall not exceed \$300,000; and

(vi) the issuance of the Bonds shall achieve one or more of the purposes set forth in Section 11-56-104, C.R.S.

#### **Section 5. Prior Redemption.**

(a) **Optional Redemption.** The Bonds shall be subject to redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity on such dates as set forth in the Sale Certificate.

(b) **Mandatory Sinking Fund Redemption.** All or any principal amount of the Bonds may be subject to mandatory sinking fund redemption by lot on the dates and in the principal amounts specified in the Sale Certificate, at a redemption price equal to the principal amount thereof (with no redemption premium), plus accrued interest to the redemption date. At its option, to be exercised on or before the forty-fifth day next preceding each sinking fund redemption date, the City may (i) deliver to the Paying Agent for cancellation of any Bonds with the same maturity date as the Bonds subject to such sinking fund redemption and (ii) receive a credit in respect of its sinking fund redemption obligation for any Bonds with the same maturity date as the Bonds subject to such sinking fund redemption which prior to such date have been redeemed (otherwise than through the operation of the sinking fund) and cancelled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each

Bond so delivered or previously redeemed shall be credited by the Paying Agent at the principal amount thereof to the obligation of the City on such sinking fund redemption date, and the principal amount of Bonds to be redeemed by operation of such sinking fund on such date shall be accordingly reduced.

(c) **Redemption Procedures.** If less than all of the Bonds within a maturity are to be redeemed on any prior redemption date, the Bonds to be redeemed shall be selected by lot prior to the date fixed for redemption, in such manner as the Bond Registrar shall determine. The Bonds shall be redeemed only in integral multiples of \$5,000. In the event a Bond is of a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in the principal amount of \$5,000 or any integral multiple thereof. Such Bond shall be treated for the purpose of redemption as that number of Bonds which results from dividing the principal amount of such Bond by \$5,000. In the event a portion of any Bond is redeemed, the Bond Registrar shall, without charge to the Owner of such Bond, authenticate and deliver a replacement Bond or Bonds for the unredeemed portion thereof.

(d) **Redemption Notice.** Notice of any redemption of Bonds shall be given by the Paying Agent in the name of the City by sending a copy of such notice by first class, postage prepaid mail, not less than 30 days prior to the redemption date, to the Owner of each Bond being redeemed. Such notice shall specify the number or numbers of the Bonds so to be redeemed (if redemption shall be in part) and the redemption date. If any Bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in accordance with this Ordinance funds sufficient to pay the redemption price of such Bond on the redemption date, then such Bond shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Failure to deliver any redemption notice or any defect in any redemption notice shall not affect the validity of the proceeding for the redemption of Bonds with respect to which such failure or defect did not occur. Any Bond redeemed prior to its maturity by prior redemption or otherwise shall not be reissued and shall be cancelled.

**Section 6. Form of Bonds.** The Bonds shall be in substantially the form set forth in Appendix A hereto with such changes thereto, not inconsistent herewith, as may be necessary or desirable and approved by the officials of the City executing the same (whose manual or facsimile signatures thereon shall constitute conclusive evidence of such approval). All covenants, statements, representations and agreements contained in the Bonds are hereby approved and adopted as the covenants, statements, representations and agreements of the City. Although attached as and appendix for the convenience of the reader, Appendix A is an integral part of this Ordinance and is incorporated herein as if set forth in full in the body of this Ordinance.

**Section 7. Execution, Authentication and Delivery of Bonds.**

(a) **Execution.** The Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, shall bear a manual or facsimile of the seal of the City and shall be attested by the manual or facsimile signature

of the City Clerk both of whom are hereby authorized and directed to prepare and execute the Bonds in accordance with the requirements hereof. Should any officer whose manual or facsimile signature appears on the Bonds cease to be such officer before delivery of any Bond, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes.

(b) **Authentication.** When the Bonds have been duly executed, the officers of the City are authorized to, and shall, deliver the Bonds to the Paying Agent for authentication. No Bond shall be secured by or entitled to the benefit of this Ordinance, or shall be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent has been manually executed by an authorized signatory of the Paying Agent. The executed certificate of authentication of the Paying Agent upon any Bond shall be conclusive evidence, and the only competent evidence, that such Bond has been properly authenticated hereunder.

(c) **Delivery.** Upon the authentication of the Bonds, the Paying Agent shall deliver the same in accordance with the provisions of the DTC Letter of Representations and other procedures established with the consent of DTC and the Paying Agent. Upon receipt of the agreed purchase price of the Bonds in accordance with the Bond Purchase Agreement and issuance of the approving opinion of Bond Counsel, the Bonds shall be released by DTC and the Paying Agent for credit to the Participants and the Beneficial Owners.

#### **Section 8. Registration, Exchange and Transfer of Bonds; Persons Treated as Owners.**

(a) **Registration.** The Paying Agent shall maintain registration books in which the ownership, transfer and exchange of Bonds shall be recorded. The person in whose name any Bond shall be registered on such registration books shall be deemed to be the absolute owner thereof for all purposes and neither the City nor the Paying Agent shall be affected by any notice or other information to the contrary.

(b) **Transfer and Exchange.** The Bonds may be transferred or exchanged, at the principal office of the Paying Agent at the location identified in the definition of Paying Agent in the section hereof entitled "Definitions," for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity and interest rate, upon payment by the transferee of a transfer fee, any tax or governmental charge required to be paid with respect to such transfer or exchange and any cost of printing bonds in connection therewith. Upon surrender for transfer of any Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his or her attorney duly authorized in writing, the City shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee a new Bond.

(c) **Limitations on Transfer.** The City and Paying Agent shall not be required to issue or transfer any Bonds: (i) during a period beginning at the close of business on the Record Date and ending at the opening of business on the first Business Day following the ensuing interest payment date, or (ii) during the period beginning at

the opening of business on a date 45 days prior to the date of any redemption of Bonds and ending at the opening of business on the first Business Day following the day on which the applicable notice of redemption is mailed. The Paying Agent shall not be required to transfer any Bonds selected or called for redemption.

**Section 9. Replacement of Lost, Destroyed or Stolen Bonds.** If any Bond shall become lost, apparently destroyed, stolen or wrongfully taken, it may be replaced in the form and tenor of the lost, destroyed, stolen or taken bond and the City shall execute and the Paying Agent shall authenticate and deliver a replacement Bond upon the Owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent), (b) proof of loss, destruction or theft, (c) an indemnity to the City and the Paying Agent with respect to the Bond lost, destroyed or taken, and (d) payment of the cost of preparing and executing the new bond or bonds.

**Section 10. Tax Covenants.** For purposes of ensuring that the interest on the Bonds is and remains excluded from gross income for federal income tax purposes, the City hereby covenants and declares that:

(a) ***Prohibited Actions.*** The City will not use or permit the use of any proceeds of the Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code, or would otherwise cause the interest on any Bond to be includible in gross income for federal income tax purposes.

(b) ***Affirmative Actions.*** The City will at all times do and perform all acts permitted by law that are necessary in order to assure that interest paid by the City on the Bonds shall not be includible in gross income for federal income tax purposes under the Code or any other valid provision of law. In particular, but without limitation, the City represents, warrants and covenants to comply with the following rules unless it receives an opinion of Bond Counsel stating that such compliance is not necessary: (i) gross proceeds of the Bonds and the Project will not be used in a manner that will cause the Bonds to be considered "private activity bonds" within the meaning of the Code; (ii) the Bonds are not and will not become directly or indirectly "federally guaranteed"; and (iii) the City will timely file an Internal Revenue Service Form 8038-G with respect to the Bonds, which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(c) ***Tax Compliance Certificate.*** The City will comply with the Tax Compliance Certificate delivered to it on the date of issuance of the Bonds, including but not limited by the provisions of the Tax Compliance Certificate regarding the application and investment of Bond proceeds, the use of the Project, the calculations, the deposits, the disbursements, the investments and the retention of records described in the Tax Compliance Certificate; provided that, in the event the Tax Compliance Certificate are superseded or amended by new Tax Compliance Certificate drafted by, and accompanied by an opinion of, Bond Counsel stating that the use of the new Tax Compliance Certificate will not cause the interest on the Bonds to become includible in gross income

for federal income tax purposes, the City will thereafter comply with the new Tax Compliance Certificate.

(d) ***Designation of Bonds as Qualified Tax-Exempt Obligations.*** The City hereby designates the Bonds as qualified tax-exempt obligations within the meaning of Section 265(b)(3) of the Code. The City covenants that the aggregate face amount of all tax-exempt obligations issued by the City, together with governmental entities which derive their issuing authority from the City or are subject to substantial control by the City, shall not be more than \$10,000,000 during calendar year 2013. The City recognizes that such tax-exempt obligations include notes, leases, loans and warrants, as well as bonds. The City further recognizes that any bank, thrift institution or other financial institution that owns the Bonds will rely on the City's designation of the Bonds as qualified tax-exempt obligations for the purpose of avoiding the loss of 100% of any otherwise available interest deduction attributable to such institution's tax-exempt holdings.

**Section 11. Creation of Fund and Accounts.** There is hereby reaffirmed the Golf Course Enterprise Fund and there is hereby established the following accounts of the Golf Course Enterprise Fund, which shall be maintained by the City in accordance with the provisions of this Ordinance:

- (a) the Bond Account, within which there are established the Interest Subaccount and the Principal Subaccount; and
- (b) the Reserve Account.

**Section 12. Application of Bond Proceeds; Funding of Escrow Account.**

(a) ***Application of Bond Proceeds.*** Upon payment to the City of the purchase price of the Bonds in accordance with the Bond Purchase Agreement, the Bonds shall be delivered to or as directed by the Purchaser. The proceeds received by the City from the sale of the Bonds, following the cost of issuance of the Bonds, shall be applied as a supplemental appropriation by the City as follows:

- (i) to the Interest Subaccount, the accrued interest on the Bonds from the Dated Date to the date of issuance and capitalized interest on the Bonds, if any;
- (ii) to the Reserve Account the amount of the Required Reserve Amount;
- (iii) to the immediate payment and cancellation of the Refunded Bonds as acknowledged by the party receiving such payment or to the Escrow Account, proceeds of the Bonds which, when combined with other legally available moneys of the City, are sufficient to satisfy the Refunded Bond Requirements or to fund the Escrow Account in accordance with the report of a Certified Public Accountant as required by the provisions hereof.

(b) *Additional Funding of Escrow Account.* On or before the date of delivery of the Bonds, the City shall deposit to the Escrow Account, if necessary, such other legally available moneys of the City as may be necessary to fully fund the Escrow Account as provided in subsection (a) of this Section and in the Section entitled "Call and Payment of Refunded Bonds."

**Section 13. Security for Payment of the Bonds; Flow of Funds.**

(a) *Pledge of Net Revenue.* The Bonds shall constitute an irrevocable and first lien upon the Net Revenue, but not necessarily an exclusive such lien. The Net Revenue is hereby pledged to the payment of the Bonds.

(b) *Flow of Funds.* The City shall credit to the Golf Course Enterprise Fund all Gross Revenue immediately upon receipt. The City shall pay from the Golf Course Enterprise Fund all Operation and Maintenance Expenses as they become due and payable. After such payment or the allocation of Gross Revenue to such payment, the City shall apply the Net Revenue in the following order of priority:

FIRST, to the credit of the Interest Subaccount, the amounts required by the Section hereof entitled "Bond Account," and to the credit of any other bond account or subaccount hereafter established for the payment of interest on Parity Lien Bonds issued in accordance with the Section hereof entitled "Additional Bonds";

SECOND, to the credit of the Principal Subaccount, the amounts required by the Section hereof entitled "Bond Account," and to the credit of any other bond account or subaccount hereafter established for the payment of the principal of, and premium if any, on Parity Lien Bonds issued in accordance with the Section hereof entitled "Additional Bonds";

THIRD, to the credit of the Reserve Account, the amounts required by the Section hereof entitled "Reserve Account" and to the credit of any other account hereafter established as a reserve account for Parity Lien Bonds issued in accordance with the Section hereof entitled "Additional Bonds";

FOURTH, to the credit of any other fund or account hereafter established for the payment of the principal of, premium if any, and interest on Subordinate Lien Bonds, including any sinking fund, reserve fund or similar fund or account established therefor, the amounts required by the ordinance or other enactment authorizing issuance of the Subordinate Lien Bonds; and

FIFTH, to the credit of any other fund or account as may be designated by the City, to be used for any lawful purpose, any moneys remaining in the Golf Course Enterprise Fund after the payments and accumulations set forth in FIRST through FOURTH hereof.

(c) *Bonds Do Not Constitute a Debt.* All of the Bonds, together with the interest thereon and any premium due in connection therewith, shall be payable only out

of: (i) the Bond Account; or (ii) if necessary, the Reserve Account. The Owners may not look to any general or other fund of the City for the payment of the principal of, premium if any, and interest on the Bonds, except the funds and accounts pledged thereto by this Ordinance, and the Bonds shall not constitute a debt or an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be general obligations of the City.

#### **Section 14. Bond Account.**

(a) *Use of Moneys in Bond Account.* Moneys in the Bond Account shall be used solely for the purpose of paying the principal of, premium if any, and interest on the Bonds. On or before the last day of the month preceding each Interest Payment Date, there shall be deposited with the Paying Agent an amount from the Interest Subaccount which is sufficient to pay the interest on the Bonds due on such Interest Payment Date. On or before the last day of the month preceding each Principal Payment Date, there shall be deposited with the Paying Agent an amount from the Principal Subaccount which is sufficient to pay the principal of and premium, if any, due on the Bonds on such Principal Payment Date.

(b) *Interest Subaccount.* The Interest Subaccount shall be used to pay the interest on Bonds. Upon delivery of the Bonds, the City shall credit to the Interest Subaccount the amount required by the Section hereof entitled "Initial Credit of Bond Proceeds." On or before the last day of each month, commencing in the month next succeeding the date of issuance of the Bonds, the City shall credit to the Interest Subaccount, from the Net Revenue and any interest income to be credited to the Interest Subaccount pursuant to the terms hereof, an amount equal to the Pro Rata Portion of the interest to come due on the Bonds on the next succeeding Interest Payment Date.

(c) *Principal Subaccount.* The Principal Subaccount shall be used to pay the principal of and premium, if any, on the Bonds. On or before the last day of each month, commencing in the month next succeeding the date of issuance of the Bonds, the City shall credit to the Principal Subaccount, from the Net Revenue and any interest income to be credited to the Principal Subaccount pursuant to the terms hereof, an amount equal to the Pro Rata Portion of the principal coming due on the Bonds on the next succeeding Principal Payment Date.

#### **Section 15. Reserve Account.**

(a) *Use of Moneys in Reserve Account.* Moneys in the Reserve Account shall be used, if necessary, only to prevent a default in the payment of the principal of, premium if any, or interest on the Bonds, and the Reserve Account is hereby pledged to the payment of the Bonds. In the event the amounts credited to the Bond Account are insufficient to pay the principal of, premium if any, or interest on Bonds when due, the City shall transfer from the Reserve Account to the appropriate subaccount or subaccounts of the Bond Account an amount which, when combined with moneys in the subaccount or subaccounts, will be sufficient to make such payments when due.

(b) ***Funding and Maintenance of Required Reserve Amount.*** The City shall, upon delivery of the Bonds, credit to the Reserve Account the amount required by the Section hereof entitled "Initial Credit of Bond Proceeds." The Reserve Account shall be maintained in the amount of the Required Reserve Amount until such time as the amount credited thereto, when combined with moneys in the Bond Account, will be sufficient to pay the principal of, premium if any, and interest on all of the Bonds, at which time such moneys may be applied for such purpose. If at any time the amount of the Reserve Account is less than the Required Reserve Amount, then the City shall deposit to the Reserve Account from the Net Revenue, amounts sufficient to bring the amount credited to the Reserve Account to the Required Reserve Amount. Such deposits shall be made as soon as possible after such use, but in accordance with and subject to the limitations of the Section hereof entitled "Security for Payment of Bonds; Flow of Funds."

The Required Reserve Amount shall be funded and maintained by any one of or any combination of (i) cash; (ii) Permitted Investments; and (iii) a Reserve Account Contract which provides for payments when and as required for purposes of the Reserve Account and is issued by an obligor whose obligations such as the Reserve Account Contract are either (A) rated by a Rating Agency as investment grade or (B) if a rating has been obtained on the Bonds or any Parity Lien Bonds whose obligations are rated by each Rating Agency that then maintains a rating on the Bonds or any Parity Lien Bonds in a category (or comparable classification) equal to or higher than the category, if any, in which the Bonds or any Parity Lien Bonds are rated. A Reserve Account Contract shall satisfy the Required Reserve Amount by the amount payable to the City pursuant to such contract.

(c) ***Valuation and Interest Income.*** Moneys credited to the Reserve Account may be invested or deposited in securities or obligations which are Permitted Investments; however, such investments shall be valued at fair market value and marked to market at least once per year. Additionally, the investment of moneys credited to the Reserve Account shall be subject to the covenants and provisions of the Section hereof entitled "Disposition and Investment of Proceeds; Tax Covenants." Except to the extent otherwise required by such Section, so long as the amount of the Reserve Account is equal to the Required Reserve Amount, all interest income from the investment or reinvestment of moneys credited to the Reserve Account shall be credited to the Interest Subaccount and/or the Principal Subaccount, as may be determined by the City; provided that if the amount of the Reserve Account is less than the Required Reserve Amount, then such interest income shall be credited to the Reserve Account. The amount on deposit to the Reserve Account shall never exceed the amount of the Required Reserve Amount.

#### **Section 16. Escrow Account; Payment of Refunded Bonds.**

(a) ***Immediate Payment and Cancellation of Refunded Bonds.*** In the event that (i) the date of delivery of the Bonds occurs on a date which permits the irrevocable deposit of the gross amount necessary for the payment and cancellation of the Series 2003 Bonds on the Redemption Date into the bond account for the Series 2003 Bonds established with the Refunded Bonds Paying Agent and (ii) the Refunded Bonds Paying Agent reaffirms the amount which is necessary for the payment and cancellation of the

Series 2003 Bonds on the Redemption Date, the net proceeds of the Bonds shall be applied for such purpose.

(b) ***Establishment and Maintenance of Escrow Account.*** In the event that the net proceeds of the Bonds are not applied to the immediate payment and cancellation of the Refunded Bonds as set forth in paragraph (a) of this Section, there is hereby established a special account designated as the "Golf Course Revenue Refunding Bonds, Series 2013, Escrow Account," which shall be maintained in accordance with the provisions hereof and of the Escrow Agreement. The Escrow Account shall be maintained in an amount at the time of the initial deposits therein and at all times subsequently at least sufficient, together with the known minimum yield to be derived from the initial investment and any temporary reinvestment of the deposits therein or any part thereof in Defeasance Securities to pay the Refunded Bond Requirements for those Refunded Bonds to be paid from the Escrow Account. Except as may be otherwise provided in the Escrow Agreement, the City shall have no right or title to the moneys credited to or held in the Escrow Account, and such title shall be and is hereby transferred to the Bank in trust for the payment of the Refunded Bond Requirements for those Refunded Bonds to be paid from the Escrow Account pursuant to the Escrow Agreement. Moneys shall be withdrawn by the Bank from the Escrow Account on the Redemption Date to permit the payment without default of the Refunded Bond Requirements for those Refunded Bonds to be paid from the Escrow Account. If for any reason the amount in the Escrow Account shall at any time be insufficient for the purpose hereof, the City shall forthwith from the first moneys available therefor deposit in such account such additional moneys as shall be necessary to permit the payment in full of the Refunded Bond Requirements for those Refunded Bonds to be paid from the Escrow Account.

(c) ***Call of Refunded Bonds.*** Subject to the issuance of the Bonds, the Council does hereby declare its intent to exercise on behalf of and in the name of the City its option to redeem all of the Refunded Bonds on the Redemption Date. The City hereby authorizes and irrevocably instructs the Escrow Agent to give or cause to be given a notice of refunding, defeasance and redemption of the Refunded Bonds.

**Section 17. Various Findings, Determinations, Declarations and Covenants.** The Council, having been fully informed of and having considered all the pertinent facts and circumstances, hereby finds, determines, declares and covenants with the Owners of the Bonds that:

(a) the City has entered into a DTC Letter of Representations which will govern the book-entry registration system for the Bonds;

(b) it is in the best interest of the City and its residents that the Bonds be authorized, sold, issued and delivered at the time, in the manner and for the purposes provided in this Ordinance;

(c) the City elects to apply the provisions of the Part 2 of Article 57 of Title 11, C.R.S., as amended; and

(d) the issuance of the Bonds and all procedures undertaken incident thereto are in full compliance and conformity with all applicable requirements, provisions and limitations prescribed by the Constitution and laws of the State and the City, including the Charter, and all conditions and limitations of the Charter and other applicable law relating to the issuance of the Bonds have been satisfied.

**Section 18. Investments.** Moneys deposited in the Bond Account and the Reserve Account, and any moneys held by the Paying Agent with respect to the Bonds, shall be invested in Permitted Investments, provided that the investment of such moneys shall be subject to any applicable restrictions set forth in the Tax Compliance Certificate and in the "Tax Compliance Certificate" or similar certificate delivered by the City in connection with the issuance of the Bonds that describes the City's expectations regarding the use and investment of proceeds of the Bonds and other moneys and the use of the Project. Unless otherwise provided herein, all interest income from the investment or reinvestment of moneys credited to any account or subaccount established herein shall remain in and become part of such account or subaccount.

**Section 19. Maintenance of Rates and Coverage.** The City hereby covenants that it will establish, maintain, enforce and collect rates, fees and charges for services furnished by or the use of the Golf Course Facilities to create Gross Revenue each Fiscal Year sufficient to pay Operation and Maintenance Expenses and to create Net Revenue in an amount: (a) equal to not less than 135% of the amount necessary to pay when due the principal of and interest on the Bonds and any Parity Lien Bonds coming due during such Fiscal Year; and (b) to make up any deficiencies in the Reserve Account and any reserve account established for Parity Lien Bonds. In the event that the Gross Revenue at any time is not sufficient to make such payments, the City shall increase such rates, fees and charges to an extent which will ensure the payments and accumulations required by this Ordinance.

**Section 20. Additional Covenants and Agreements.** The City hereby further irrevocably covenants and agrees with each and every Owner that so long as any of the Bonds remain Outstanding:

(a) ***Competent Management.*** The City shall employ competent management personnel for the Golf Course Facilities and will continue to operate and manage the Golf Course Facilities in an efficient and economical manner in accordance with all applicable laws, rules and regulations.

(b) ***Maintenance of Records and Accounts.*** The City shall keep proper books of record and accounts showing complete and correct entries of all transactions relating to the funds and accounts referred to herein and in such manner that the Gross Revenue and the Net Revenue may at all times be readily and accurately determined.

(c) ***Alienation of Property.*** The City will not sell or alienate any of the property constituting any part or all of the Golf Course Facilities in any manner or to any extent as might reduce the security provided for the payment of the Bonds, but the City may sell any portion of such property which shall have been replaced by other similar property of at least equal value, or which shall cease to be necessary for the efficient

operation of the Golf Course Facilities; provided however, that the proceeds of any such sale of property shall be included as part of the Gross Revenue.

(d) ***Payment for Use and Services.*** The City will promptly render bills for services furnished by or the use of the Golf Course Facilities, shall use all legal means to assure prompt payment thereof, shall take such action as may be necessary to make delinquent rates, fees and charges of the Golf Course Facilities a lien upon the real property served. So long as an Event of Default has not occurred and is continuing hereunder, the City shall, in its discretion, be entitled to provide a reasonable level of complementary and free use of the Golf Course Facilities.

(e) ***Audits.*** At least once a year in the time and manner provided by law, the City will cause an audit to be performed of the records relating to the revenues and expenditures of the Golf Course Facilities. Such audit may be made part of and included within the general audit of the City, and made at the same time as the general audit. In addition, at least once a year in the time and manner provided by law, the City will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time and manner provided by law.

(f) ***Insurance.*** The City will carry such forms of insurance on insurable Golf Course Facilities property as would ordinarily be carried by utilities having similar properties of equal value, such insurance being in such amounts as will protect the Golf Course Facilities and its operation. In the event of any loss or damage to the Golf Course Facilities, or in the event part or all of the Golf Course Facilities is taken by the exercise of a power of eminent domain, the insurance proceeds or the condemnation award shall be used for restoring, replacing or repairing the property lost, damaged or taken, and the remainder thereof, if any, shall be considered as Gross Revenue; provided, however, that if the Council determines that the operation of the Golf Course Facilities and the security for the Bonds will not be adversely affected thereby, the Council may determine not to restore, replace or repair the property lost, damaged or taken and all of the insurance proceeds or condemnation award shall be considered as Gross Revenue.

(g) ***Surety Bonds.*** Each City official or other person having custody of any funds derived from the operation of the Golf Course Facilities, or responsible for the handling of such funds, shall be fully bonded at all times, which bond shall be conditioned upon the proper application of said funds.

(h) ***Enterprise Status.*** The City has established, and covenants to continue to maintain, the Golf Course Facilities as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution; provided, however, after calendar year 2013 the City may disqualify the Golf Course Facilities as an "enterprise" in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made pursuant to this Ordinance. In the event the Golf Course Facilities are disqualified as an enterprise and the enforceability of the covenants made pursuant to this Ordinance are materially, adversely affected, the City covenants to immediately take all actions necessary to (i) qualify the Golf Course Facilities as an enterprise within the

meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of the covenants made herein.

(i) **Protection of Security.** The City, its officers, agents and employees, shall not take any action in such manner or to such extent as might prejudice the security for the payment of the principal of and interest on the Bonds and any other securities payable from the Net Revenue according to the terms thereof. No contract shall be entered into nor any other action taken by which the rights of the Owners might be prejudicially and materially impaired or diminished.

#### **Section 21. Additional Bonds.**

(a) **No Superior Lien Bonds.** No bonds, notes, interim securities or other obligations shall be issued payable from the Net Revenue and having a lien thereon which is superior to the lien of the Bonds.

(b) **Parity Lien Bonds.** The City may issue Parity Lien Bonds if:

(i) As of the date of issuance of the Parity Lien Bonds the City is in substantial compliance with all of the covenants of this Ordinance;

(ii) As of the date of issuance of the Parity Lien Bonds the City is current in the accumulation of all amounts required to be then accumulated in the Bond Account and the Reserve Account;

(iii) For any 12-month period during the 18-month period immediately preceding the date of issuance of such Parity Lien Bonds, the Net Revenue is sufficient to pay an amount representing not less than 125% of the Combined Maximum Annual Principal and Interest Requirements for the Outstanding Bonds, Outstanding Parity Lien Bonds, if any, and the Parity Lien Bonds proposed to be issued. For purposes of such test, if there has been adopted a schedule of increases in rates, fees and charges during the preceding 18-month period, the Net Revenue may be increased for those months in which such increase was not in effect for the 12-month period in which such calculation is made by adding to the actual revenues for such period an estimated sum equal to 100% of the estimated increase in revenues which would have been realized during said period had such increase been in effect for the entire 12-month period (the requirement set forth in this subparagraph (iii) shall not apply to any Parity Lien Bonds issued for the purpose of refunding less than all of the Outstanding Bonds); and

(iv) The ordinance, indenture or other document providing for the issuance of the Parity Lien Bonds must provide for a reserve account, which is established in the amount of the Parity Reserve Amount, and a bond account for the Parity Lien Bonds; such accounts must be established and maintained on substantially the same terms and contain substantially the same provisions as set forth in this Ordinance for the Reserve Account and the Bond Account, respectively.

A written certificate by the Mayor (or other City official or employee designated in writing by the Mayor) that the conditions set forth in paragraphs (i) and (ii) above have been met, and a written certificate by a Certified Public Accountant or Consulting Engineer that the condition set forth in paragraph (iii) above has been met, shall conclusively determine that such conditions have been met in accordance with the terms hereof.

(c) **Subordinate Lien Bonds.** So long as no Event of Default shall have occurred and be continuing, nothing herein shall prevent the City from issuing Subordinate Lien Bonds.

**Section 22. Defeasance.** When all principal, interest and premiums, if any, in connection with a Bond has been duly paid, the pledge and lien and all obligations of the City hereunder shall thereby be discharged with respect to said Bond and the Bond shall no longer be deemed to be Outstanding. There shall be deemed to be such due payment when the City has placed in escrow and in trust with a commercial bank located within or without the State of Colorado, and exercising trust powers, an amount sufficient (including the known minimum yield from Defeasance Securities in which such amount may be initially invested) to meet all requirements of principal, interest and premiums, if any, as the same become due to their final maturities or upon designated prior redemption dates. The Defeasance Securities shall become due at or prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow, or the Defeasance Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. The sufficiency of the escrow shall be determined by a Certified Public Accountant.

**Section 23. Events of Default.** The occurrence or existence of any one or more of the following events shall be an Event of Default hereunder:

- (a) payment of the principal of or redemption premium on any Bond is not made by the City when due;
- (b) payment of the interest on any Bond is not made by the City when due;
- (c) the City defaults in the performance of any other of its covenants in this Ordinance, and such default continues for 30 days after written notice specifying such default and requiring the same to be remedied is given to the City by the Owners of 25% in aggregate principal amount of the Bonds then Outstanding; or
- (d) the City files a petition under the federal bankruptcy laws or other applicable bankruptcy laws seeking to adjust the obligations represented by the Bonds.

**Section 24. Remedies For Events of Default.** Upon the occurrence and continuance of an Event of Default, the Owner of any Bond, or a trustee therefor, may protect and enforce the rights of any Owner by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenants, injunctive relief or requiring the Council to act as if it were the trustee of an express trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit and protection of all Owners. Any receiver

appointed to protect the rights of Owners may take possession of and operate and maintain the Golf Course Facilities in the same manner as the City itself might do. The failure of any Owner to proceed does not relieve the City or any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right, and the exercise of any right by any Owner shall not be deemed a waiver of any other right.

**Section 25. Permitted Amendments to Bond Ordinance.** The City may, without the consent of or notice to the Owners, adopt amendments or supplements to this Ordinance, which amendments or supplements shall thereafter form a part hereof, for any one or more of the following purposes:

(a) to cure any ambiguity, to cure, correct or supplement any formal defect or omission or inconsistent provision contained in this Ordinance, to make any provision necessary or desirable due to a change in law, to make any provisions with respect to matters arising under this Ordinance, or to make any provisions for any other purpose, if such provisions are necessary or desirable and do not materially adversely affect the interests of the Owners of the Bonds;

(b) to subject to this Ordinance or pledge to the payment of the Bonds additional revenues, properties or collateral; and

(c) to grant or confer upon the Owners any additional rights, remedies, powers or authority that may be lawfully granted to or conferred upon the Owners.

**Section 26. Amendments Requiring Consent of Owners.** Except for amendatory or supplemental ordinances adopted pursuant to the Section hereof entitled "Permitted Amendments to Bond Ordinance," the Owners of not less than two thirds in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, to consent to and approve the adoption by the City of such ordinances amendatory or supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance; provided however, that without the consent of the Owners of all the Bonds affected thereby, nothing herein contained shall permit, or be construed as permitting:

(a) a change in the terms of the maturity of any Bond, in the principal amount of any Bond or the rate of interest thereon, or in the terms of prior redemption of any Bond;

(b) an impairment of the right of the Owners to institute suit for the enforcement of any payment of the principal of, premium if any, or interest on the Bonds when due;

(c) the creation of a lien upon the Net Revenue ranking prior to the lien of the Bonds;

(d) a privilege or priority of any Bond or any premium or interest payment over any other Bond or premium or interest payment; or

(e) a reduction in the percentage in principal amount of the Bonds the consent of whose Owners is required for any such amendatory or supplemental ordinance.

If at any time the City shall desire to adopt an amendatory or supplemental ordinance for any of the purposes of this Section, the City shall cause notice of the proposed adoption of such amendatory or supplemental ordinance to be given by mailing such notice by certified or registered first class mail to the Purchaser and to each Owner of a Bond to the address shown on the registration books of the Bond Registrar, at least 30 days prior to the proposed date of adoption of any such amendatory or supplemental ordinance. Such notice shall briefly set forth the nature of the proposed amendatory or supplemental ordinance and shall state that copies thereof are on file at the offices of the City or some other suitable location for inspection by all Owners. If, within 60 days or such longer period as shall be prescribed by the City following the giving of such notice, the Owners of not less than the required percentage in aggregate principal amount of the Bonds then Outstanding at the time of the execution of any such amendatory or supplemental ordinance shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the adoption and effectiveness thereof, or to enjoin or restrain the City from adopting the same or from taking any action pursuant to the provisions thereof.

**Section 27. Effect of Amendment.** Upon the execution of any amendatory or supplemental ordinance pursuant to this Ordinance, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the City, the Bond Registrar, the Paying Agent and all Owners of Bonds then Outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

**Section 28. Removal or Resignation of Bond Registrar or Paying Agent; Successors.** The Paying Agent and Bond Registrar may resign, or be removed by the City at any time with or without cause. In the event of the removal or resignation of the Bond Registrar or Paying Agent, the City shall appoint a successor as soon thereafter as may be practicable, and in such event, shall give written notice thereof to each Owner by mailing to the addresses shown on the registration books for the Bonds. Any successor Paying Agent shall: be a trust company or bank in good standing located in or incorporated under the laws of the State; be duly authorized to exercise trust powers; be subject to examination by a federal or state authority; and maintain a reported capital and surplus of not less than \$10,000,000.

**Section 29. Authorization To Execute Documents.** The Mayor (or other City official or employee designated in writing by the Mayor) shall, and is hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Ordinance, including, but not limited to, execution of such agreements, certificates and affidavits as may be reasonably required by the Purchaser. For a period of 60 days following the adoption of this Ordinance, the Sale Delegate is authorized to execute the Bond Purchase Agreement, which shall be in substantially the form presented to the City at this meeting and shall be completed in accordance with the terms of this Ordinance. The Mayor, the City Clerk and all other officers of the City are hereby authorized and directed to execute the Continuing Disclosure Undertaking, the Paying Agent Agreement, the Escrow Agreement, a "Tax Compliance Certificate" or similar certificate

describing the City's expectations regarding the use and investment of proceeds of the Bonds and other moneys, an Internal Revenue Service Form 8038-G with respect to the Bonds; and all other documents and certificates necessary or desirable to effectuate the issuance of the Bonds, the use and investment of proceeds of the Bonds and the other transactions contemplated hereby (together the "Financing Documents"). The execution by the Sale Delegate of the Bond Purchase Agreement and the execution by the Mayor (or the Mayor's designee) of the Financing Documents authorized herein shall be conclusive proof of the approval by the City of the terms thereof.

**Section 30. Official Statement.** The Preliminary Official Statement is hereby authorized and approved. The Preliminary Official Statement is hereby deemed by the Council to be final as of its date within the meaning of Rule 15c2-12(b)(1) of the U.S. Securities and Exchange Commission. The Council hereby authorizes the preparation and distribution of a final Official Statement in conjunction with an offer of the Bonds to the public. The Official Statement shall contain such corrections and additional or updated information so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. The Mayor is hereby authorized to execute copies of the Official Statement on behalf of the City.

**Section 31. Holidays.** If the date for making any payment or performing any action hereunder shall be a legal holiday or a day on which the principal office of the Paying Agent or Bond Registrar is authorized or required by law to remain closed, such payment may be made or act performed on the next succeeding day which is not a legal holiday or a day on which the principal office of the Paying Agent or Bond Registrar is authorized or required by law to remain closed.

**Section 32. Limitation of Actions.** In accordance with Section 11-57-212, C.R.S., no legal or equitable action can be brought with respect to any legislative acts or proceedings in connection with the authorization or issuance of the Bonds more than 30 days after the issuance or authorization of such securities, whichever occurs later.

**Section 33. Pledge of Revenues.** The creation, perfection, enforcement and priority of the pledge of revenues to secure or pay the Bonds shall be governed by § 11-57-208, C.R.S. and this Ordinance. The Pledged Revenue shall immediately be subject to the lien of such pledge without any physical delivery, filing or further act. The lien of such pledge on the Pledged Revenue shall be on a parity with all other Parity Lien Bonds, and shall have priority over any and all other obligations and liabilities of the City. The lien of such pledge shall be valid, binding and enforceable as against all persons having claims of any kind in tort, contract or otherwise against the City irrespective of whether such persons have notice of such liens.

**Section 34. No Recourse Against Officers and Agents.** Pursuant to § 11-57-209, C.R.S., if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer or agent for payment of the principal, interest or prior redemption premiums on the Bonds. Such recourse shall not be available either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the

Bonds and as a part of the consideration of their issuance, any person purchasing or selling such Bond specifically waives any such recourse.

**Section 35. Conclusive Recital.** Pursuant to § 11-57-210, C.R.S., the Bonds shall contain a recital that they are issued pursuant to certain provisions of the Part 2 of Article 57 of Title 11, C.R.S. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value.

**Section 36. Costs and Expenses.** All costs and expenses incurred in connection with the issuance and payment of the Bonds shall be paid from legally available moneys of the City, and such moneys are hereby appropriated for that purpose.

**Section 37. Ratification and Approval of Prior Actions.** All actions heretofore taken by the officers of the City and the members of the Council, not inconsistent with the provisions of this Ordinance, relating to the authorization, sale, issuance and delivery of the Bonds, are hereby ratified, approved and confirmed.

**Section 38. Ordinance Irrepealable.** After any of the Bonds have been issued, this Ordinance shall constitute a contract between the Owners and the City, and shall be and remain irrepealable until the Bonds and the interest accruing thereon shall have been fully paid, satisfied and discharged, as herein provided.

**Section 39. Repealer.** All orders, bylaws and ordinances of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

**Section 40. Severability.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

**Section 41. Emergency Declaration and Effective Date.** The Council has been advised that in order for the City to secure the low interest rates currently present in the market and avoid a possible increase in such rates, it is necessary to issue the Bonds as soon as possible. Therefore, for said reason, the Council declares that this ordinance is necessary for the immediate preservation of public property, health, peace, or safety and an emergency exists. This Ordinance shall be effective immediately upon final passage and be published within seven days after publication following final passage.

Introduced, read in full, and passed on first reading as an emergency ordinance on the 15<sup>th</sup> day of July, 2013.

Published by Title as an Emergency Bill for an Ordinance in the City's official newspaper on the 19<sup>th</sup> day of July, 2013.

Published as an Emergency Bill for an Ordinance on the City's official website beginning on the 17<sup>th</sup> day of July, 2013 for thirty (30) days.

( S E A L )

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Randy P. Penn, Mayor

ATTESTED:

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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 an Emergency Bill for an Ordinance, introduced, read in full, and passed on first reading on the 15<sup>th</sup> day of July, 2013.

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Loucrishia A. Ellis, City Clerk

**APPENDIX A  
[FORM OF BOND]**

[Front of Bond]

**UNITED STATES OF AMERICA  
STATE OF COLORADO**

No. R \_\_\_\_\_

\$ \_\_\_\_\_

**CITY OF ENGLEWOOD  
Acting By and Through Its  
GOLF COURSE ENTERPRISE  
GOLF COURSE ENTERPRISE REVENUE REFUNDING BOND  
SERIES 2013**

Interest Rate	Maturity Date	Dated Date	CUSIP
_____	_____	_____ 2013	_____

REGISTERED OWNER: Cede & Co.  
Tax Identification Number: 13 2555119

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

City of Englewood, Colorado, a duly organized and validly existing City and municipal corporation of the State of Colorado, acting by and through the Golf Course Enterprise (the "City") for value received, hereby promises to pay, solely out of the special accounts hereinafter designated but not otherwise, to the registered owner named above, or registered assigns, on the maturity date specified above or on the date of prior redemption, the principal amount specified above. In like manner the City promises to pay interest on such principal amount (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date specified above, at the interest rate per annum specified above, payable semiannually on \_\_\_\_\_ and \_\_\_\_\_ each year, commencing on \_\_\_\_\_, 2013, until the principal amount is paid at maturity or upon prior redemption. The principal of this Bond and premium, if any, are payable in lawful money of the United States of America to the registered owner hereof upon maturity or prior redemption and presentation at the principal office of UMB Bank, n.a. (the "Paying Agent"), or its successor, as Paying Agent.

Payment of each installment of interest shall be made to the registered owner hereof whose name shall appear on the registration books of the City maintained by or on behalf of the City by the Paying Agent, or its successor, as Bond Registrar, at the close of business on the fifteenth day of the calendar month next preceding each interest payment date (the "Record Date"), and shall be paid by check or draft of the Paying Agent mailed on or before the interest payment date to such registered owner at his address as it appears on such registration books. The Paying Agent may make payments of interest on any Bond by such alternative means as

may be mutually agreed to between the registered owner of such Bond and the Paying Agent, as provided in the ordinance authorizing the issuance of this Bond (the "Bond Ordinance"). Any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the registered owner hereof at the close of business on the Record Date and shall be payable to the person who is the registered owner hereof at the close of business on a special record date (the "Special Record Date") established for the payment of any defaulted interest. Notice of the Special Record Date and the date fixed for the payment of defaulted interest shall be given by first class mail to the registered owner hereof as shown on the registration books on a date selected by the Bond Registrar.

If the date for making any payment or performing any action shall be a legal holiday or a day on which the principal office of the Paying Agent or Bond Registrar is authorized or required by law to remain closed, such payment may be made or act performed on the next succeeding day which is not a legal holiday or a day on which the principal office of the Paying Agent or Bond Registrar is authorized or required by law to remain closed.

This Bond is one of a series aggregating \$ \_\_\_\_\_ par value, all of like date, tenor and effect except as to number, principal amount, interest rate and date of maturity, issued for the purpose of paying the costs of providing certain Golf Course Enterprise facilities and improvements, by virtue of and in full conformity with the Constitution of the State of Colorado; the City Charter; Title 11, Article 57, Part 2, C.R.S.; and all other laws of the State of Colorado thereunto enabling, and pursuant to the duly adopted Bond Ordinance. Pursuant to § 11-57-210, C.R.S., such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value. It is hereby recited, certified and warranted that all of the requirements of law have been fully complied with by the proper officers in issuing this Bond.

The principal of, premium if any, and interest on this Bond are payable only out of: (a) a special account designated as the "Golf Course Enterprise 2013 Bond Account," into which the City covenants and agrees to deposit, from the revenues derived from the operation of the golf course facilities comprising the Golf Course Enterprise after deduction of operations and maintenance costs (the "Net Revenue"), amounts sufficient to pay the principal of and interest on the Bonds when the same become due and payable; and (b) if necessary, a special account designated as the "Golf Course Enterprise 2013 Bond Reserve Account," all as more particularly set forth in the Bond Ordinance. The Bonds shall constitute an irrevocable and first lien upon the Net Revenue, but not necessarily an exclusive such lien. Subject to expressed conditions, obligations in addition to the Bonds of this issue may be issued and made payable from the Net Revenue having a lien thereon subordinate and junior to the lien of the Bonds of this issue or, subject to additional expressed conditions, having a lien on the Net Revenue on a parity with the lien of the Bonds of this issue, in accordance with the provisions of the Bond Ordinance.

It is hereby recited, certified and warranted that for the payment of this Bond, the City has created and will maintain the special accounts referred to above, and will deposit therein out of the Net Revenue the amounts specified in the Bond Ordinance, and out of such accounts, as an irrevocable charge thereon, will pay the principal of, premium if any, and interest on this Bond in the manner provided by the Bond Ordinance.

THIS BOND DOES NOT CONSTITUTE A DEBT OR INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION OR LIMITATION, AND SHALL NOT BE CONSIDERED OR HELD TO BE A GENERAL OBLIGATION OF THE CITY.

Reference is hereby made to the Bond Ordinance for an additional description of the nature and extent of the security for the Bonds, the funds and revenues pledged to the payment thereof, the rights and remedies of the registered owners of the Bonds, the manner in which the Bond Ordinance may be amended, and the other terms and conditions upon which the Bonds are issued, copies of which are on file for public inspection at the office of the City Clerk.

[The redemption provisions established in the Sale Certificate shall appear in this place.]

The Bonds will be redeemed only in integral multiples of \$5,000. In the event a Bond is of a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in the principal amount of \$5,000 or any integral multiple thereof. Such Bond will be treated for the purposes of redemption as that number of Bonds which results from dividing the principal amount of such Bond by \$5,000. In the event a portion of this Bond is redeemed, the Bond Registrar shall, without charge to the registered owner of this Bond, authenticate and deliver a replacement Bond or Bonds for the unredeemed portion.

Notice of prior redemption shall be given by mailing a copy of the redemption notice, not less than 30 days prior to the date fixed for redemption, to the registered owner of this Bond at the address shown on the registration books maintained by the Bond Registrar, in the manner set forth in the Bond Ordinance. All Bonds called for redemption will cease to bear interest after the specified redemption date, provided funds for their redemption are on deposit at the place of payment at that time.

The City and Bond Registrar shall not be required to issue or transfer any Bonds: (a) during a period beginning at the close of business on the Record Date and ending at the opening of business on the first business day following the ensuing interest payment date, or (b) during the period beginning at the opening of business on a date 45 days prior to the date of any redemption of Bonds and ending at the opening of business on the first business day following the day on which the applicable notice of redemption is mailed. The Bond Registrar shall not be required to transfer any Bonds selected or called for redemption, in whole or in part.

The City, the Paying Agent and the Bond Registrar may deem and treat the registered owner of this Bond as the absolute owner hereof for all purposes (whether or not this Bond shall be overdue), and any notice to the contrary shall not be binding upon the City, the Paying Agent or the Bond Registrar.

This Bond may be exchanged at the principal office of the Bond Registrar for a like aggregate principal amount of Bonds of the same maturity of other authorized denominations. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing, at the principal office of the Bond Registrar, but only in the manner, subject to the limitations, and upon payment of the charges provided in the Bond Ordinance and upon surrender and cancellation of this Bond. This Bond may be transferred upon the

registration books upon delivery to the Bond Registrar of this Bond, accompanied by a written instrument or instruments of transfer in form and with guaranty of signature satisfactory to the Bond Registrar, duly executed by the owner of this Bond or his attorney in fact or legal representative, containing written instructions as to the details of the transfer of the Bond, along with the social security number or federal employer identification number of such transferee. In the event of the transfer of this Bond, the Bond Registrar shall enter the transfer of ownership in the registration books and shall authenticate and deliver in the name of the transferee or transferees a new fully registered Bond or Bonds of authorized denominations of the same maturity and interest rate for the aggregate principal amount which the registered owner is entitled to receive at the earliest practicable time. The Bond Registrar shall charge the owner of this Bond for every such transfer or exchange an amount sufficient to reimburse it for its reasonable fees and for any tax or other governmental charge required to be paid with respect to such transfer or exchange.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the authorizing Bond Ordinance until the certificate of authentication hereon shall have been signed by the Bond Registrar.

IN TESTIMONY WHEREOF, the City Council of the City of Englewood has caused this Bond to be signed by the facsimile signature of the Mayor, sealed with a facsimile of the seal of the City, and attested by the facsimile signature of the Clerk thereof, all as of the Dated Date set forth at the beginning of this Bond.

[Facsimile Seal]

CITY OF ENGLEWOOD, COLORADO

By [Facsimile Signature] \_\_\_\_\_  
Mayor

Attested:

By [Facsimile Signature] \_\_\_\_\_  
City Clerk

#### CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Bond Ordinance.

Date of Registration  
and Authentication:

UMB BANK, N.A., as Bond Registrar

By \_\_\_\_\_  
Authorized Signatory