Agenda for the

Regular Meeting of the

Englewood City Council

Monday, August 5, 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 15, 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.)

   a. Justin Motzer, member of a local Neighborhood Watch program, will be present to discuss nuisance abatement.

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. An email from Catherine Townley announcing her resignation from Keep Englewood Beautiful.

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

9. Consent Agenda Items.

a. Approval of Ordinances on First Reading.

i. Council Bill No. 33 — Recommendation from the Police Department to adopt a bill for an ordinance authorizing the application for, and acceptance of, a grant award from the Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) Program. **Staff Source: Deputy Chief Jeff Sanchez.**

ii. Council Bill No. 36 – Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing the execution of two Intergovernmental Subgrantee Agreements with Arapahoe County for the 2013 Community Development Block Grant (CDBG). **Staff Source: Harold Stitt, Senior Planner and Janet Grimmett, Housing Finance Specialist.**

iii. Council Bill No. 38 — Recommendation from the Finance and Administrative Services Department to adopt a bill for an ordinance authorizing changes to 4-4-2 of the Englewood Municipal Code (Building Use Taxes). **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**

iv. Council Bill No. 39 — Recommendation from the Finance and Administrative Services Department to adopt a bill for an ordinance eliminating Title 5, Chapter 17, Going Out of Business and Damaged Goods Sales and adding a new Section 10 to Chapter 1 of the Englewood Municipal Code. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**

v. Council Bill No. 40 — Recommendation from the Finance and Administrative Services Department to adopt a bill for an ordinance amending Title 5, Chapter 6 (Adult Entertainment Establishments) of the Englewood Municipal Code to reflect actual practices and procedures. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**

vi. Council Bill No. 42 – Recommendation from the Community Development Department to adopt a bill for an ordinance vacating utilities easements at 5001 South Broadway and 5084 South Acoma Street. **Staff Source: Audra Kirk, Planner I.**

b. Approval of Ordinances on Second Reading.

i. Emergency Council Bill No. 27 — Authorizing the issuance of Golf Course Bonds.

ii. Council Bill No. 28 – 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.

iii. Council Bill No. 29 – 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

iv. Council Bill No. 30 — Approving an intergovernmental agreement with Urban Drainage and Flood Control District to support funding of a study of Big Dry Creek Drainageway.

v. Council Bill No. 31 — Approving an intergovernmental agreement accepting grant funds from Great Outdoors Colorado (GOCO) for the Duncan Park development.

vi. Council Bill No. 32 —Approving an intergovernmental agreement accepting grant funds from Arapahoe County Open Space (ACOS) for the Duncan Park development.

c. Resolutions and Motions.

i. Recommendation from the Finance and Administrative Services Department to approve a resolution setting the license fees for the Purchaser of Valuable Articles licenses. **Staff Source: Frank Gryglewicz, Director of Finance and Administrative Services.**

10. Public Hearing Items. (None Scheduled)

11. Ordinances, Resolutions and Motions

a. Approval of Ordinances on First Reading.

i. Council Bill No. 34 – Recommendation from the Littleton/Englewood Wastewater Treatment Plant Supervisory Committee to adopt a bill for an ordinance approving a lease agreement for the Byers Biosolids Farm. **Staff Sources: Stewart H. Fonda, Utilities Director and Jim Tallent, Treatment Division Manager, Littleton/Englewood Wastewater Treatment Plant**

ii. Council Bill No. 35 – Recommendation from the City Manager's Office to consider a bill for an ordinance approving the sale of the Historic Englewood Depot to Tom and Patti Parson. **Staff Source: Michael Flaherty, Deputy City Manager.**

iii. Council Bill No. 37 — Recommendation from the Community Development Department to adopt a bill for an ordinance authorizing amendments to Title 16: Unified Development Code regarding distilleries, breweries and wineries. Staff further recommends City Council set August 19, 2013 as the date for the Public Hearing on this matter. **Staff Source: Chris Neubecker, Senior Planner.**

b. Approval of Ordinances on Second Reading

c. Resolutions and Motions

i. Recommendation from the Parks and Recreation Department to authorize by motion, a contract for the construction of Northwest Greenbelt Playground Project to the lowest acceptable bidder, Richdell Construction, Inc in the amount of $227,995. **Staff Source: Dave Lee, Manager of Open Space**.

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

ii. Recommendation from the Littleton/Englewood Wastewater Treatment Plant Supervisory Committee to authorize by motion, a construction contract for the Plant Gates Repair and Replacement Project located at the Littleton/Englewood Wastewater Treatment Plant. Staff recommends awarding the contract to the lowest acceptable bidder, Stanek Constructors Inc., in the amount of $ 421,000. **Staff Sources: Stewart H. Fonda, Utilities Director and Dennis Stowe, Littleton/Englewood Wastewater Treatment Plant Manager.**

12. General Discussion.

    a. Mayor's Choice.

    b. Council Members' Choice.

13. City Manager's Report.

14. City Attorney's Report.

15. Adjournment.

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

Lindsay Von Colditz

Subject: FW: KEB - Cate Townley

From: cate townley
Sent: Wednesday, July 31, 2013 3:03 PM
To: Audra Kirk
Subject: KEB - Cate Townley

Hi Audra,

Sorry I forget to send this earlier.

Unfortunately, I need to resign my appointment on Keep Englewood Beautiful.
MY personal and professional responsibilities have grown and I needed to make some decisions to cut back in my volunteer hours. I have enjoyed my time on KEB and I hope to participate in KEB events in the future.

Thank you,
Cate Townley

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	9 a i	Application and Acceptance of the Edward Byrne Memorial Justice Assistance Grant (JAG) - FY 2013 Local Solicitation

Initiated By:	Staff Source:
Police Department	Deputy Chief Jeff Sanchez

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

For the past several years, the Englewood Police Department has received Edward Byrne Memorial Justice Assistance Grants. These grants help fund police-related equipment purchases.

RECOMMENDED ACTION

The Police Department is recommending that City Council adopt an Ordinance authorizing the Englewood Police Department to apply for and accept a grant award from the Bureau of Justice Assistance Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood Police Department was notified that we were awarded $14,465 from the Bureau of Justice Assistance (BJA). The award is based upon a congressionally mandated JAG formula which is based on the state's share of violent crime and population. The City of Englewood receives an amount based on our proportion of the state's three-year violent crime average.

The Police Department is required to submit an application to the BJA outlining how this allocation will be spent. The BJA requires that an official review by City Council be conducted prior to the submission of the application, if possible.

This funding will be used to purchase new Personal Protective Equipment (PPE) and communications equipment for the SWAT team.

FINANCIAL IMPACT

The funding ($14,465) will be used to purchase new Personal Protective Equipment for the officers ($11,832) and communications equipment for the SWAT team ($2,633).

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 33
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE APPLICATION FOR AND ACCEPTANCE OF AN EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FY 2013 LOCAL SOLICITATION.

WHEREAS, the Englewood City Council previously authorized the application for and acceptance of Justice Assistance Grants (JAG) with the passage of Ordinance #49, Series of 2008; Ordinance #12, Series 2009; and Ordinance #27, Series of 2009; Ordinance #16, Series of 2010; Ordinance #33, Series of 2011; and Ordinance No. 24, Series of 2012; and

WHEREAS, the award is based upon a congressionally mandated JAG formula which is based on the State's share of violent crime and population and Englewood receives an amount based on the City's proportion of the State's three-year violent crime average; and

WHEREAS, the Justice Assistance Grant is a non-matching grant for 2013, awarding the City of Englewood Fourteen Thousand, Four Hundred and Sixty-Five Dollars, ($14,465.00); and

WHEREAS, the JAG funding will be used to purchase new Personal Protective Equipment (PPE) for the Englewood Police Department and communications equipment for the Englewood SWAT team; and

WHEREAS, the Justice Assistance Grant incorporates funds from the U.S. Department of Justice.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the City to apply for and accept the Justice Assistance Grant from Edward Byrne Justice Assistance Grant Program, attached hereto as Exhibit A.

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

Section 3. The Justice Assistance Grant incorporates federal funds from the U.S. Department of Justice.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Loucrishia A. Ellis

EXHIBIT A

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

OMB No. 1121-0329

The U.S. Department of Justice (DOJ), Office of Justice Programs' (OJP) Bureau of Justice Assistance (BJA) is seeking applications for funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2013 Local Solicitation

Eligibility

Applicants are limited to units of local government appearing on the FY 2013 JAG Allocations List. To view this list, go to www.bja.gov/programs/jag/13jagallocations.html. For JAG Program purposes, a unit of local government is: a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribe that performs law enforcement functions (as determined by the Secretary of the Interior). Otherwise a unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes. In Louisiana, a unit of local government means a district attorney or parish sheriff. In the District of Columbia or any U.S. Trust Territory, a unit of local government is any agency of the District of Columbia or federal government performing law enforcement functions for the District of Columbia or U.S. Trust Territory.

Deadline

Applicants must register in OJP's Grants Management System (GMS) prior to submitting an application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. (See "How to Apply," page 19.) All registrations and applications are due by 8:00 p.m. eastern time on July 9, 2013. (See "Deadlines: Registration and Application," page 4.)

Contact Information

For technical assistance with submitting the application, contact the Grants Management System Support Hotline at 1–888–549–9901, option 3, or via e-mail to

Note: The GMS Support Hotline hours of operation are Monday–Friday from 6:00 a.m. to 12 midnight eastern time, except federal holidays.

For assistance with any other requirement of this solicitation, contact the BJA Justice Information Center at 1–877–927–5657, via e-mail to or by live web chat. The BJA Justice Information Center hours of operation are 8:30 a.m. to 5:00 p.m. eastern time, and 8:30 a.m. to 8:00 p.m. eastern time, Monday through Friday, on the solicitation close date. You may also contact your State Policy Advisor: www.bja.gov/About/Contacts/ProgramsOffice.html.

Funding opportunity number assigned to announcement: BJA-2013-3599

Release date: May 30, 2013

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- Information to Complete the Application for Federal Assistance (SF-424) (**Required**)
- Abstract and Project Identifiers (**Required**)
- Program Narrative (**Required**)
- Budget and Budget Narrative (**Required**)
- Review Narrative (**Required**)
- Tribal Authorizing Resolution (if applicable)
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Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Local Solicitation CFDA #16.738

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. The JAG Program provides states and units of local governments with critical funding necessary to support a range of program areas including law enforcement, prosecution and court programs, prevention and education programs, corrections and community corrections, drug treatment and enforcement, crime victim and witness initiatives, and planning, evaluation, and technology improvement programs.

Deadlines: Registration and Application

Applicants must register in GMS prior to submitting application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. The deadline to register in GMS and the deadline to apply for funding under this announcement is 8:00 p.m. eastern time on July 9, 2013. See "How To Apply" on page 19 for details.

Eligibility

Refer to the title page for eligibility under this program.

Program-Specific Information

Program Areas

JAG funds may be used for state and local initiatives, technical assistance, strategic planning, research and evaluation (including forensics), data collection, training, personnel, equipment, forensic laboratories, supplies, contractual support, and criminal justice information systems that will improve or enhance such areas as:

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

Award Recipient Responsibilities: The Chief Executive Officer (CEO) of an eligible unit of local government or other officer designated by the CEO must submit the application for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including: distributing the funds; monitoring the award; submitting

quarterly financial status (SF-425) and performance metrics reports and annual programmatic reports; and providing ongoing oversight and assistance to any subrecipients of the funds.

Governing Body Review: No fewer than 30 days prior to application submission, the applicant agency (fiscal agent in disparate situations) must make the grant application available for review by the governing body (or to the organization designated by the governing body. **See the Review Narrative section on page 15 for additional information.**

Public Comment: At the time of application submission, the applicant agency (the fiscal agent in disparate situations) must provide an assurance that the application was made public and an opportunity to comment was provided to citizens and neighborhood or community organizations to the extent the applicable law or established procedure makes such an opportunity available. **See the Review Narrative section on page 15 for additional information.**

Prohibited Uses: No JAG funds may be expended outside of JAG program areas. Even within these program areas, however, JAG funds cannot be used directly or indirectly for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Additionally, **JAG funds may not be used directly or indirectly to provide for any of the following matters unless the BJA Director certifies that extraordinary and exigent circumstances exist**; making them essential to the maintenance of public safety and good order:

- *Vehicles, vessels, or aircraft.
- **Unmanned aerial vehicles/unmanned aircraft, aircraft system, or aerial vehicles (UA/UAS/UAV).
- Luxury items.
- Real estate.
- Construction projects (other than penal or correctional institutions).
- Any similar matters.

***Police cruisers, police boats, and police helicopters are allowable vehicles under JAG and do not require BJA certification.**

****Unmanned Aircraft, Aircraft System, or Aerial Vehicles (UA/UAS/UAV):** No JAG funds may be expended on these items unless the BJA Director certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order. Also, any grant award using funds for this purpose may be subject to additional reporting criteria, which will be spelled out in a customized special condition attached to the grant award.

For information related to requesting a waiver to obtain BJA certification for any prohibited item, or for examples of allowable vehicles that do not require BJA certification, refer to the JAG FAQs on BJA's JAG web page.

Evidence-Based Programs or Practices

OJP places a strong emphasis on the use of data and evidence in policy making and program development in criminal justice. OJP is committed to:

- improving the quantity and quality of evidence OJP generates;

- integrating evidence into program, practice, and policy decisions within OJP and the field; and
- improving the translation of evidence into practice.

OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence, generally obtained through one or more outcome evaluations. Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based.

OJP's CrimeSolutions.gov web site is one resource that applicants may use to find information about evidence-based programs in criminal justice, juvenile justice, and crime victim services. Additionally, when considering evidence-based programs and practices specific to reentry, it is recommended that jurisdictions review the What Works in Reentry Clearinghouse for important research on the effectiveness of a wide variety of reentry programs and practices. The Clearinghouse provides a one-stop shop for practitioners and service providers seeking guidance on evidence-based reentry interventions.

Amount and Length of Awards

Eligible award amounts under JAG are posted annually on BJA's JAG web page: www.bja.gov/ProgramDetails.aspx?Program_ID=59.

Awards of at least $25,000 or more are 4 years in length with an award period of October 1, 2012 through September 30, 2016. Extensions beyond a 4-year period may be made on a case-by-case basis at the discretion of BJA and must be requested via the Grants Management System (GMS) **no less than 30 days prior to the grant end date.**

Awards that are less than $25,000 are 2 years in length with an award period of October 1, 2012 through September 30, 2014. Requests for up to two additional years to complete performance of the award will be granted automatically, pursuant to 42 U.S.C. § 3751(f). Extensions beyond a 4-year period may be made on a case-by-case basis at the discretion of BJA and must be requested via the Grants Management System (GMS) **no less than 30 days prior to the grant end date.**

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.

Budget Information

Applicants must submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. **See the budget narrative description under "What an Application Should Include" on page xx for more information.**

Formula: Once each fiscal year's overall JAG Program funding level is determined, BJA partners with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process which consists of:

1. Computing an initial JAG allocation for each state and territory, based on their share of violent crime and population (weighted equally).

2. Reviewing the initial JAG allocation amount to determine if the state or territory allocation is less than the minimum ("de minimus") award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state or territory is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on their share of violent crime and population.

3. Dividing each state's final award amount (except for the territories and District of Columbia) between state and local governments at a rate of 60 and 40 percent, respectively.

4. Determining local unit of government award allocations, which are based on their proportion of the state's 3-year violent crime average. If a local eligible award amount is less than $10,000, the funds are returned to the state to be awarded to these local units of government through the state agency. If the eligible award amount is $10,000 or more, then the local government is eligible to apply for a JAG award directly from BJA.

Administrative Funds: A unit of local government may use up to 10 percent of the award, including interest, for costs associated with administering JAG funds.

Supplanting: Supplanting is prohibited under JAG. Applicants cannot replace or supplant non-federal funds that have been appropriated for the same purpose. See the JAG FAQs on BJA's JAG web page for examples of supplanting.

Leveraging of Grant Funds: Although supplanting is prohibited, the leveraging of federal funding is encouraged. For example, a city may utilize JAG and Homeland Security Grant Program (HSGP) money to fund different portions of a fusion center project. In instances where leveraging occurs, all federal grant funds must be tracked and reported on separately and may not be used to fund the same line items. Additionally, federal funds cannot be used as match for other federal awards.

Disparate Certification: A disparate allocation occurs when a city or municipality is allocated one-and-one-half times (150 percent) more than the county, while the county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crimes. A disparate allocation also occurs when multiple cities or municipalities are collectively allocated four times (400 percent) more than the county, and the county bears more than 50 percent of the collective costs associated with prosecution or incarceration of each municipality's Part 1 violent crimes.

- ★ Jurisdictions certified as disparate must identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG

application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds must be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to www.bja.gov/Funding/JAGMOU.pdf.

Trust Fund: Award recipients may draw down JAG funds in advance. To do so, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds. This trust fund requirement does not apply to direct JAG award recipients or subrecipients that draw-down on a reimbursement basis rather than in advance.

Limitation on Use of Award Funds for Employee Compensation; Waiver: With respect to any award of more than $250,000 made under this solicitation, recipients may not use federal funds to pay total cash compensation (salary plus cash bonuses) to any employee of the award recipient at a rate that exceeds 110 percent of the maximum annual salary payable to a member of the Federal Government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. The 2013 salary table for SES employees is available at www.opm.gov/oca/13tables/indexSES.asp. Note: A recipient may compensate an employee at a greater rate, provided the amount in excess of this compensation limitation is paid with non-federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The Assistant Attorney General (AAG) for OJP may exercise discretion to waive, on an individual basis, the limitation on compensation rates allowable under an award. An applicant requesting a waiver should include a detailed justification in the budget narrative of the application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit the budget.

The justification should include the particular qualifications and expertise of the individual, the uniqueness of the service the individual will provide, the individual's specific knowledge of the program or project being undertaken with award funds, and a statement explaining that the individual's salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work to be done.

Minimization of Conference Costs: OJP encourages applicants to review the OJP guidance on conference approval, planning, and reporting that is available on the OJP web site at www.ojp.gov/funding/confcost.htm. This guidance sets out the current OJP policy, which requires all funding recipients that propose to hold or sponsor conferences (including meetings, trainings, and other similar events) to minimize costs, requires OJP review and prior written approval of most conference costs for cooperative agreement recipients (and certain costs for grant recipients), and generally prohibits the use of OJP funding to provide food and beverages at conferences. The guidance also sets upper limits on many conference costs, including facility space, audio/visual services, logistical planning services, programmatic planning services, and food and beverages (in the rare cases where food and beverage costs are permitted at all).

Prior review and approval of conference costs can take time (see the guidance for specific deadlines), and applicants should take this into account when submitting proposals. Applicants

also should understand that conference cost limits may change and that they should check the guidance for updates before incurring such costs.

Note on food and beverages: OJP may make exceptions to the general prohibition on using OJP funding for food and beverages, but will do so only in rare cases where food and beverages are not otherwise available (e.g., in extremely remote areas); the size of the event and capacity of nearby food and beverage vendors would make it impractical to not provide food and beverages; or a special presentation at a conference requires a plenary address where conference participants have no other time to obtain food and beverages. Any such exception requires OJP's prior written approval. The restriction on food and beverages does not apply to water provided at no cost, but does apply to any and all other refreshments, regardless of the size or nature of the meeting. Additionally, this restriction does not affect direct payment of per diem amounts to individuals in a travel status under your organization's travel policy.

Costs Associated with Language Assistance (if applicable): If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits for individuals with limited English proficiency may be allowable. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services where appropriate.

For additional information, see the "Civil Rights Compliance" section of the OJP "Other Requirements for OJP Applications" web page at www.ojp.usdoj.gov/funding/other_requirements.htm.

Match Requirement: While match is not required under the JAG Program, match is an effective strategy to expand justice funds and build buy-in for local criminal justice initiatives. Matching funds become part of the overall award amount, and as such are subject to audit and must be expended or deobligated prior to closeout.

Other JAG Requirements

Body Armor Certification

- Ballistic-resistant and stab-resistant body armor can be funded through two BJA-administered programs: the JAG Program and the Bulletproof Vest Partnership (BVP) Program.

- The BVP Program is designed to provide a critical resource to state and local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. A jurisdiction is able to request up to 50 percent of the cost of a vest with BVP funds. For more information on the BVP Program, including eligibility and application, refer to the BVP web page.

- JAG funds may also be used to purchase vests for an agency, but they may not be used to pay for that portion of the ballistic-resistant vest (50 percent) that is not covered by BVP funds. Unlike BVP, JAG funds used to purchase vests do not require a 50 percent match.

- Vests purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the vests have been tested and found to comply with the latest applicable National Institute of Justice ballistic or stab standards. In addition, vests purchased must be American-made. Information on the latest National Institute of

justice (NIJ) standards can be found at: www.nij.gov/topics/technology/body-armor/safety-initiative.htm.

- As is the case in BVP, grantees who wish to purchase vests with JAG funds must certify that law enforcement agencies receiving vests have a written "mandatory wear" policy in effect. FAQs related to the mandatory wear policy and certifications can be found at www.bja.gov/Funding/JAGFAQ.pdf. This policy must be in place for at least all uniformed officers before any FY 2013 funding can be used by the agency for vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. The certification **must** be signed by the certifying official and **must** be attached to the application. If the grantee proposes to change project activities to utilize JAG funds to purchase bulletproof vests after the application period (during the project period), then the grantee must submit the signed certification to BJA at that time. A mandatory wear concept and issues paper and a model policy are available by contacting the BVP Customer Support Center or toll free at 1–877–758–3787.

- A copy of the certification related to the mandatory wear can be found at: www.bja.gov/Funding/13JAGBVPCert.pdf.

Interoperable Communications

- Grantees (including subgrantees) that are using FY 2013 JAG Program funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission (FCC) Waiver Order) must ensure:

  - Compliance with the *FY 2013 SAFECOM Guidance for Emergency Communication Grants* (including provisions on technical standards that ensure and enhance interoperable communications).

  - Adherence to the technical standards set forth in the FCC Waiver Order, or any succeeding FCC orders, rules, or regulations pertaining to broadband operations in the 700 MHz public safety band.

  - Projects support the Statewide Communication Interoperability Plan (SCIP) and are fully coordinated with the full-time Statewide Interoperability Coordinator (SWIC) in the state of the project. As the central coordination point for their state's interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of the SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the 56 states and territories. Contact

  - All communications equipment purchased with grant award funding (plus the quantity purchased of each item) is identified during quarterly performance metrics reporting.

DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database

If JAG program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA

database operated by the Federal Bureau of Investigation (FBI)), by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ FY 2013 DNA Backlog Reduction Program, available at www.ncjrs.gov/pdffiles1/nij/sl001062.pdf. In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not accepted for entry into CODIS.

Reporting Requirements, Performance Measures, and JAG Showcase

Submission of performance measures data is not required for the application. Instead, applicants should discuss in their application their proposed methods for collecting data for performance measures. Refer to the section "What an Application Should Include" on page 15 for additional information.

Award recipients will be required to submit quarterly financial status (SF-425) and annual programmatic reports through GMS, quarterly performance metrics reports (see Performance Measures section below) through BJA's Performance Measurement Tool (PMT), and Federal Funding Accountability and Transparency Act (FFATA) reports through the FFATA Sub-award Reporting System (FSRS) as necessary (see FFATA section below).

Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act of 1993 (GPRA), P.L. 103-62, and the GPRA Modernization Act of 2010, Public Law 111–352, applicants who receive funding under this solicitation must provide data that measures the results of their work done under this solicitation. **Quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) web site, available at www.bjaperformancetools.org. The performance measures can be found at: www.bjaperformancetools.org/help/JAGMeasuresQuestionnaire.pdf.**

Note on Project Evaluations
Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to generalizable knowledge) may constitute "research" for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP's performance measure data reporting requirements likely do not constitute "research." Applicants should provide sufficient information for OJP to determine whether the particular project they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research.

Research, for the purposes of human subjects protections for OJP-funded programs, is defined as, "a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge" 28 C.F.R. § 46.102(d). For additional information on determining whether a proposed activity would constitute research, see the decision tree to assist applicants on the "Research and the Protection of Human Subjects" section of the OJP "Other Requirements for OJP Applications" Web page (www.ojp.usdoj.gov/funding/other_requirements.htm). Applicants whose proposals may involve

a research or statistical component also should review the "Confidentiality" section on that Web page.

Notice of Post-Award FFATA Reporting Requirement

Applicants should anticipate that OJP will require all recipients (other than individuals) of awards of $25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), to report award information on any first-tier subawards totaling $25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding. Reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS), found at www.fsrs.gov.

Note also that applicants should anticipate that no subaward of an award made under this solicitation may be made to a subrecipient (other than an individual) unless the potential subrecipient acquires and provides a Data Universal Numbering System (DUNS) number.

JAG Showcase

This JAG Showcase was designed to identify and highlight JAG projects that have demonstrated success or have shown promise in reducing crime, positively impacting communities, etc. Because the JAG program provides state, tribal, and local jurisdictions with flexibility to tailor the programs to fit their needs, a wide variety of programs have been funded across the country. Each year, new methods to reduce and prevent crime, violence, and drug abuse; and, to improve the functioning of the criminal justice system are being discovered. BJA strives to increase awareness of JAG funds invested in innovation, evidence-based programs and program evaluations. This page is intended to serve as a resource for criminal justice professionals in the field who seek to stay informed of some the most interesting, innovative, results oriented projects that have been funded with JAG money in the last several years.

JAG success stories success stories should include the: name and location of program/project; point of contact with phone and e-mail; amount of JAG funding received and in which fiscal year; and a brief summary describing the program/project and its impact. **BJA strongly encourages and appreciates annual (or more frequent) submissions at or via the online form.**

Priorities

BJA recognizes that the downturn in the economy has resulted in significant pressures on state and local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. In light of this, it is important to make SAAs and local JAG recipients aware of several areas of priority that may be of help in maximizing the effectiveness of JAG funding at the state and local level.

In addition to our longstanding and unwavering commitment to keeping violent crime at its lowest level in decades, the following priorities represent key areas where BJA will be focusing nationally and invite each state and local JAG recipient to join us in addressing these challenges as a part of our JAG partnership.

Reducing Gun Violence

In the aftermath of the Sandy Hook Elementary School tragedy and mass shootings in Aurora, Oak Creek, and Tucson, BJA encourages states and localities to invest valuable JAG funds in programs to reduce gun violence, enforce existing firearms laws, and enhance reporting to the FBI's National Instant Criminal Background Check System. Other important priorities include strengthening school safety, improving criminal justice/mental health collaborations, and supporting joint first responder critical incident training.

Recidivism Reduction and Justice System Realignment

In this time of fiscal austerity and smaller state and local budgets, reducing unnecessary incarceration in a manner that promotes public safety is a paramount goal. Effective community supervision coupled with evidence-based program interventions can result in significant reductions in recidivism. A priority funding area is the implementation of effective pretrial services programs and innovative programs and approaches in probation and parole supervision that improve services to offenders and increase collaborative efforts among community supervision agencies with law enforcement and the courts. Currently 17 states and local governments are working to control spiraling incarceration costs through justice system reforms and realignment under the Justice Reinvestment Initiative (JRI). Strategic investment of JAG funds to implement JRI legislation and policy changes in those states and localities can augment federal funds and achieve greater cost savings and reinvestments in programs to promise public safety.

Indigent Defense

Another key priority area in the criminal justice system is support for indigent defense. BJA continues to encourage states and SAAs to use JAG funds to support the vital needs of the indigent defense community. Attorney General Holder has consistently stressed that the crisis in indigent defense reform is a serious concern which must be addressed if true justice is to be achieved in our nation. In 2002, the American Bar Association (ABA) published Ten Principles of a Public Defense Delivery System which represent fundamental building blocks for implementing quality legal representation for indigent defendants. (See ABA Ten Principles.)

Evidence-Based "Smart" Programs

As a result of the current fiscal crisis, many police departments are experiencing unprecedented budget cuts, layoffs, and reductions in force. These challenges must be met by making wider use of advancements in the law enforcement field in the last several decades which rely on use of data, crime analysis, crime mapping and other analytic tools, cutting edge technology, and research and evaluations regarding effective policing strategies and programs. BJA offers a number of program models designed to effectively implement evidence based strategies including Smart Policing and Smart Probation. A useful matrix of evidence-based policing programs and strategies is available through the Center for Evidence-Based Policy at George Mason University and provides valuable information on policing strategies and programs that work. BJA encourages states to use JAG funds to support these "smart policing" strategies, including a focus on real time crime analysis centers (CACs), and effective partnerships with universities and research partners and with non-traditional criminal justice partners. Counterterrorism continues to be the number one priority for DOJ. At the state and local level,

high functioning, evidence-based, data-driven public safety agencies are a critical component of our nation's "all crimes" strategy. In addition, the JAG Program has long supported effective and collaborative multi-jurisdictional task forces and justice information sharing programs, which continue as a priority in order to maintain our nation's historic reductions in violent crime.

What an Application Should Include

Applicants should anticipate that if they fail to submit an application that contains all of the specified elements, it may negatively affect the review of their application; and, should a decision be made to make an award, it may result in the inclusion of special conditions that preclude the recipient from accessing or using award funds pending satisfaction of the conditions.

Refer to the BJA Grant Writing and Management Academy and OJP's Grants 101 for an overview of what should be included in each application requirement. These trainings can be found at bja.ncjrs.gov/gwma/index.html and www.ojp.gov/grants101/.

OJP strongly recommends use of appropriately descriptive file names (e.g., "Program Narrative," "Budget Narrative," "Memoranda of Understanding," etc.) for all attachments.

1. **Information to Complete the Application for Federal Assistance (SF-424)**
   The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. GMS takes information from the applicant's profile to populate the fields on this form.

2. **Abstract**
   Applicants **must** provide an abstract that includes the applicant's name, title of the project, goals of the project, and a description of the strategies to be used. In addition, above or below the abstract narrative, applicants **must identify up to 5 project identifiers** that would be associated with proposed project activities. The list of all identifiers can be found at www.bja.gov/Funding/JAGIdentifiers.pdf. The abstract **should not** exceed a half-page, or 400-500 words.

   Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

3. **Program Narrative**
   Applicants **must** submit a program narrative that generally describes the proposed program activities for the two or four year grant period. The narrative must outline the type of programs to be funded by the JAG award and provide a brief analysis of the need for the programs. Narratives must also identify anticipated coordination efforts involving JAG and related justice funds. Certified disparate jurisdictions submitting a **joint application** must specify the funding distribution to each disparate unit of local government and the purposes for which the funds will be used.

   Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

4. **Budget and Budget Narrative**
Applicants **must** submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. This narrative should include a full breakdown of administrative costs, as well as an overview of how funds will be allocated across approved JAG purpose areas. Applicants should utilize the following approved budget categories to label the requested administrative and/or sub-grant expenditures: Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, and an Other category. For informational purposes only, a sample budget form may be found at www.ojp.usdoj.gov/funding/forms/budget_detail.pdf.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

5. **Review Narrative**
Applicants **must** submit information documenting that the date the JAG application was made available for review by the governing body, or to an organization designated by that governing body, not less than 30 days before the application was submitted to BJA. The attachment must also specify that an opportunity to comment was provided to citizens prior to application submission to the extent applicable law or established procedures make such opportunity available.

Below are notification language templates that can be utilized in completing this section of the application.

The (**provide name of State/Territory**) made its Fiscal Year 2013 JAG application available to the (**provide name of governing body**) for its review and comment on (**provide date**); or intends to do so on (**provide date**).

The (**provide name of City/County for Local JAG and name of State for State JAG**) made its Fiscal Year 2013 JAG application available to citizens for comment prior to application submission by (**provide means of notification**); or the application has not yet been made available for public review/comment.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

6. **Tribal Authorizing Resolution (if applicable)**
Tribes, tribal organizations, or third parties proposing to provide direct services or assistance to residents on tribal lands should include in their applications a resolution, a letter, affidavit, or other documentation, as appropriate, that certifies that the applicant has the legal authority from the tribe(s) to implement the proposed project on tribal lands. In those instances when an organization or consortium of tribes applies for a grant on behalf of a tribe or multiple specific tribes, then the application should include appropriate legal documentation, as described above, from all tribes that would receive services/assistance under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (i.e., without an authorizing resolution or comparable legal documentation from each tribal governing body) may submit, instead, a copy of its consortium bylaws with the application.

Applicants that are unable to submit with the application a fully-executed (i.e., signed) copy of appropriate legal documentation, as described above, consistent with the applicable tribe's governance structure, should, at minimum, submit an unsigned, draft version of such legal documentation as part of its application (except in cases where, with respect to a tribal consortium applicant, consortium bylaws allow action without the support of all consortium member tribes). If selected for funding, use of and access to funds will be contingent on receipt of the fully-executed legal documentation.

7. **Additional Attachments**
   Jurisdictions certified as disparate **must** identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application **must** determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds **must** be completed and signed by the Authorized Representative for each participating jurisdiction. The signed MOU **must** be attached to the application. For a sample MOU, go to www.bja.gov/Funding/JAGMOU.pdf.

   Failure to submit this required information will result in an application being change requested in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding special condition at the time of award if time does not permit for a change request process.

8. **Applicant Disclosure of Pending Applications**
   Applicants are to disclose whether they have pending applications for federally funded assistance that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation. The disclosure should include both direct applications for federal funding (e.g., applications to federal agencies) and indirect applications for such funding (e.g., applications to State agencies that will be subawarding federal funds).

   OJP seeks this information to help avoid any inappropriate duplication of funding. Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

   Applicants that have pending applications as described above are to provide the following information about pending applications submitted within the last 12 months:
   - the federal or state funding agency
   - the solicitation name/project name
   - the point of contact information at the applicable funding agency

Federal or State Funding Agency	Solicitation Name/Project Name	Name/Phone/E-mail for Point of Contact at Funding Agency
DOJ/COPS	COPS Hiring Program	Jane Doe, 202/000-0000; j
HHS/ Substance Abuse & Mental Health Services Administration	Drug Free Communities Mentoring Program/ North County Youth Mentoring Program	John Doe, 202/000-0000;

SAMPLE

Applicants should include the table as a separate attachment, with the file name "Disclosure of Pending Applications," to their application. Applicants that do not have pending applications as described above are to include a statement to this effect in the separate attachment page. (e.g., "[Applicant Name] does not have pending applications submitted within the last 12 months for federally funded assistance that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation.")

9. **Other Standard Forms**
   Additional forms that may be required in connection with an award are available on OJP's funding page at www.ojp.usdoj.gov/funding/forms.htm. For successful applicants, receipt of funds may be contingent upon submission of all necessary forms. Note in particular the following forms:

   a. Standard Assurances*
      Applicants must read, certify, and submit this form in GMS prior to the receipt of any award funds.

   b. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements*
      Applicants must read, certify and submit in GMS prior to the receipt of any award funds.

   c. Accounting System and Financial Capability Questionnaire
      Any applicant (other than an individual) that is a non-governmental entity and that has not received any award from OJP within the past 3 years must download, complete, and submit this form.

   *These OJP Standard Assurances and Certifications are forms which applicants accept in GMS. They are not additional forms to be uploaded at the time of application submission.

Review Process

OJP is committed to ensuring a fair and open process for awarding grants. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. Applications for formula awards will be reviewed to ensure statutory requirements have been met.

Absent explicit statutory authorization or written delegation of authority to the contrary, all final grant award decisions will be made by the Assistant Attorney General will make all final award decisions.

Additional Requirements

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. OJP encourages applicants to review the information pertaining to these additional requirements prior to submitting an application. Additional information for each requirement can be found at www.ojp.usdoj.gov/funding/other_requirements.htm.

- Civil Rights Compliance
- Civil Rights Compliance Specific to State Administering Agencies
- Faith-Based and Other Community Organizations
- Confidentiality
- Research and the Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA)
- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Non-Supplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with Office of Justice Programs Financial Guide
- Suspension or Termination of Funding
- Nonprofit Organizations
- For-profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act of 2006 (FFATA)

- Awards in Excess of $5,000,000 – Federal Taxes Certification Requirement
- Policy and Guidance for Conference Approval, Planning, and Reporting
- OJP Training Guiding Principles for Grantees and Subgrantees

How To Apply

Applicants must submit applications through the Grants Management System (GMS), which provides cradle to grave support for the application, award, and management of awards at OJP. Applicants **must register in GMS for each specific funding opportunity.** Although the registration and submission deadlines are the same, OJP urges applicants to **register immediately**, especially if this is their first time using the system. Complete instructions on how to register and submit an application in GMS can be found at www.ojp.usdoj.gov/gmscbt/. Applicants that experience technical difficulties during this process should e-mail or call 888-549-9901 (option 3), Monday – Friday from 6:00 a.m. to midnight eastern time, except federal holidays. OJP recommends that applicants **register immediately** to prevent delays in submitting an application package by the deadline.

All applicants should complete the following steps:

1. **Acquire a Data Universal Numbering System (DUNS) number.** In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or a supplement to an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and differentiating entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Call Dun and Bradstreet at 866-705-5711 to obtain a DUNS number or apply online at www.dnb.com. A DUNS number is usually received within 1-2 business days.

2. **Acquire registration with the System for Award Management (SAM). SAM replaces the Central Contractor Registration (CCR) database** as the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the SAM database. Applicants must **update or renew their SAM registration annually** to maintain an active status.

   Applicants that were previously registered in the CCR database must, at a minimum:

   - Create a SAM account;
   - Log in to SAM and migrate permissions to the SAM account (all the entity registrations and records should already have been migrated).

   Information about SAM registration procedures can be accessed at www.sam.gov.

3. **Acquire a GMS username and password.** New users must create a GMS profile by selecting the "First Time User" link under the sign-in box of the GMS home page. For more information on how to register in GMS, go to www.ojp.usdoj.gov/gmscbt/.

4. **Verify the SAM registration in GMS, formerly CCR registration.** OJP requests that all applicants verify their SAM registration in GMS. Once logged into GMS, click the "CCR Claim" link on the left side of the default screen. Click the submit button to verify the SAM (formerly CCR) registration.

5. **Search for the funding opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the "Funding Opportunities" link on the left side of the page. Select "Bureau of Justice Assistance" and the "Edward Byrne Memorial Justice Assistance Grant (JAG) Program–Local Solicitation."

6. **Register by selecting the "Apply Online" button associated with the solicitation title.** The search results from step 5 will display the solicitation title along with the registration and application deadlines for this funding opportunity. Select the "Apply Online" button in the "Action" column to register for this solicitation and create an application in the system.

7. **Complete the Disclosure of Lobbying Activities, if applicable.** Any applicant that expends any funds for lobbying activities must provide the detailed information requested on the form, *Disclosure of Lobbying Activities* (SF-LLL).

8. **Follow the directions in GMS to submit an application consistent with this solicitation.** Once submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, applicants must wait for GMS approval before they can submit an application. OJP urges applicants to submit the application **at least 72 hours prior** to the due date of the application.

Note: GMS does not accept executable file types as application attachments. These disallowed file types include, but are not limited to, the following extensions: ".com," ".bat," ".exe," ".vbs," ".cfg," ".dat," ".db," ".dbf," ".dll," ".ini," ".log," ".ora," ".sys," and ".zip."

Note: Duplicate Applications
If an applicant submits multiple versions of an application, BJA will review the most recent version submitted.

Experiencing Unforeseen GMS Technical Issues

Applicants that experience unforeseen GMS technical issues beyond their control that prevent them from submitting their application by the deadline, must e-mail the BJA Programs Office staff **within 24 hours after the application deadline** and request approval to submit their application. The e-mail must describe the technical difficulties and include a timeline of the applicant's submission efforts, the complete grant application, the applicant's DUNS number, and any GMS Help Desk or SAM tracking number(s). **Note: BJA does not automatically approve requests.** After the program office reviews the submission, and contacts the GMS Help Desk to validate the reported technical issues, OJP will inform the applicant whether the request to submit a late application has been approved or denied. If the technical issues reported cannot be validated, the application will be rejected as untimely.

The following conditions are not valid reasons to permit late submissions: (1) failure to register in sufficient time, (2) failure to follow GMS instructions on how to register and apply as posted

on its Web site, (3) failure to follow each instruction in the OJP solicitation, and (4) technical issues with the applicant's computer or information technology environment, including firewalls.

Notifications regarding known technical problems with GMS, if any, are posted at the top of the OJP funding Web page at www.ojp.usdoj.gov/funding/solicitations.htm.

Provide Feedback to OJP on This Solicitation

To assist OJP in improving its application and award processes, we encourage applicants to provide feedback on this solicitation, the application submission process, and/or the application review/peer review process. Feedback may be provided to

IMPORTANT: This email is for feedback and suggestions only. Replies are **not** sent from this mailbox. If you have specific questions on any program or technical aspect of the solicitation, **you must** directly contact the appropriate number or email listed on the front of this solicitation document. These contacts are provided to help ensure that you can directly reach an individual who can address your specific questions in a timely manner.

If you are interested in being a reviewer for other OJP grant applications, please email your resume to . The OJP Solicitation Feedback email account will not forward your resume. **Note:** Neither you nor anyone else from your organization can be a peer reviewer in a competition in which you or your organization have submitted an application.

Application Checklist

Edward Byrne Memorial Justice Assistance Grant (JAG) Program
FY 2013 Local Solicitation

The application checklist has been created to assist in developing an application.

Eligibility Requirement:

_____ Jurisdiction listed as the legal name on the application corresponds with the eligible jurisdiction listed on BJA's JAG web page

_____ Federal amount requested is within the allowable limit of the FY 2013 JAG Allocations List as listed on BJA's JAG web page

What an Application Should Include:

_____ Application for Federal Assistance (SF-424) (see page 14)
_____ Abstract (see page 15)
_____ Program Narrative (see page 14)
_____ Budget and Budget Narrative (see page 15)
_____ Review Narrative (see page 15)
_____ Applicant Disclosure of Pending Applications (see page 16)
_____ Other Standard Forms, if applicable (see page 17)
_____ DUNS Number (see page 19)
_____ SAM Registration (see page 19)
_____ Disclosure of Lobbying Activities, if applicable (SF-LLL) (see page 20)

COUNCIL COMMUNICATION

Date August 5, 2013	Agenda Item 9 a ii	Subject: Intergovernmental Agreements between the City and Arapahoe County
INITIATED BY: Community Development Department	**STAFF SOURCE:** Harold Stitt, Senior Planner Janet Grimmett, Housing Finance Specialist	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council passed Ordinance No. 25, Series of 2012 relating to the participation in the Urban County Entitlement Program for CDBG and HOME funds for fiscal years 2013 through 2015; and also passed Resolution No. 82, Series of 2012 supporting the submission of applications for 2013 CDBG funding.

RECOMMENDED ACTION

Approve a Bill for an Ordinance authorizing the execution of two Intergovernmental Subgrantee Agreements for the 2013 Arapahoe County Community Development Block Grant Program between the Arapahoe Board of County Commissioners and the City of Englewood.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

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

For FY2013, funds were approved to support the following projects:

$100,000 for the Energy Efficient Englewood (E3) project to provide matching grants to twelve low to moderate income homeowners for energy efficiency interior and exterior home improvements; and,

$ 27,500 for the Housing Rehabilitation project to provide low interest loans and/or grants to three income eligible homeowners for health and safety related home improvements.

An additional $22,500 of the City's allocation of CDBG funds was approved by Arapahoe County to support the House of Hope Staffing project. It was requested that Arapahoe County contract directly with Family Tree for the administration of the project.

FINANCIAL IMPACT

The existing employees in Community Development are available to administer the projects and their salaries and benefits are part of the City's contribution. The City will utilize a portion of the CDBG funding from both projects (est. $4,000) to partially offset the costs of those salaries and benefits.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance.

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 36
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF TWO INTERGOVERNMENTAL SUBGRANTEE AGREEMENTS FOR 2013 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) BETWEEN THE ARAPAHOE BOARD OF COUNTY COMMISSIONERS AND THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the City Council of the City of Englewood approved the execution of an Intergovernmental Agreement between the City of Englewood and Arapahoe County by passage of Ordinance No. 25, Series of 2012, covering the City's participation in the Arapahoe County CDBG Entitlement Program for funding years 2013 through 2015; and

WHEREAS, the Englewood City Council passed Resolution 82, Series of 2012, supporting Housing and Community Development that authorized submitting an application for 2013 CDBG funding; and

WHEREAS, the Energy Efficient Englewood Project has been categorized as a housing rehabilitation activity; and

WHEREAS, the Housing Rehabilitation Project has been categorized as a housing rehabilitation activity.

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

Section 1. The Subgrantee Agreement for Arapahoe County Community Development Block Grant Funds – Subgrantee: City of Englewood, Project Name: Energy Efficient Englewood (E3) Project Number: ENHS 1315, attached hereto as Exhibit A, is hereby accepted and approved by the Englewood City Council.

Section 2. The Subgrantee Agreement for Arapahoe County Community Development Block Grant Funds – Subgrantee: City of Englewood, Project Name: Housing Rehabilitation Project Number: ENHS1313, attached hereto as Exhibit B, is hereby accepted and approved by the Englewood City Council.

Section 3 Community Development Block Grant (CDBG) funds are Federal Housing and Urban Development funds which are administered through Arapahoe County, Colorado.

Section 4. The Mayor is hereby authorized to sign said Agreements for and on behalf of the City of Englewood, Colorado.

Section 5. The City Manager shall be authorized to further extend the subgrantee agreements for Project Number EN HS 1315 and Project Number EN HS 1313 attached hereto for the Arapahoe County Community Development Block Grant Program as needed.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Loucrishia A. Ellis

CSHC134516

EXHIBIT A

SUBGRANTEE AGREEMENT FOR ARAPAHOE COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

SUBGRANTEE: City of Englewood
PROJECT NAME: Energy Efficient Englewood (E3)
PROJECT NUMBER: ENHS 1315

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

I. PURPOSE

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

The project by the SubGrantee known as **Energy Efficient Englewood (E3)** (Project) will be carried out in accordance with the Scope of Services, attached to, and incorporated herein as Exhibit A.

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

II. WORK TO BE COMPLETED BY THE SUBGRANTEE

The grant funds are to be used only to provide services to Arapahoe County residents, excluding residents of the city of Aurora, per County CDBG guidelines.

A. Payment

It is expressly agreed and understood that the total amount to be paid by the County under this contract shall not exceed $100,000. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in the Project Budget and in accordance with performance criteria established in Exhibit A Scope of Services. The parties expressly recognize that the SubGrantee is to be paid with CDBG funds received from the federal government, and that the obligation of the County to make payment to SubGrantee is contingent upon receipt of such funds. In the event that said funds, or any part thereof, are, or become, unavailable, then the County may immediately terminate or, amend this agreement. To the extent C.R.S. § 29-1-110 is applicable, any financial obligation of the County to the SubGrantee

beyond the current fiscal year is also contingent upon adequate funds being appropriated, budgeted and otherwise available.

Upon expiration of this Agreement, as identified by the Agreement Date and Project Deadline (Deadline) in Exhibit A, the SubGrantee shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. These transferred funds shall revert to the County and be utilized for other purposes.

B. Timeline

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

C. Performance Criteria

In accordance with the funding application submitted by the SubGrantee for the Project, the criteria listed below are to be met during the execution of the Project as identified in Exhibit A Scope of Services.

1. Quantifiable Goals
2. Community Impact
3. Monthly Performance Standards

D. Reporting Requirements

1. Project reports will be due within twenty (20) days following the end of each reporting period as specified in Exhibit A Scope of Services until the Project is completed.
2. The official annual audit and/or Financial Statements for the SubGrantee in which both revenues and expenditures for the CDBG Projects described herein are detailed are due annually. The last completed official annual audit report and/or Financial Statements shall be due on May 31, and for four (4) years thereafter on May 31.
3. Non-profit organizations that expend $500,000 or more annually in federal funds shall comply with the Single Audit Act of 1984, as amended, as implemented in OMB Circular A-133, and other applicable federal regulations.

III. RESPONSIBILITIES OF THE SUBGRANTEE

A. Federal Compliance

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

1. 24 CFR Part 570;
2. 24 CFR Parts 84 and 85 as applicable per 24 CFR 570.502;
3. Title VI of the Civil Rights Act of 1964;
4. Title VIII of the Civil Rights Act of 1968;
5. Sections 104(b) and 109 of the Housing and Community Development Act of 1974;
6. Fair housing regulations established in the Fair Housing Act, Public Law 90-284, and Executive Order 11063;
7. Section 504 of the Rehabilitation Act of 1973;
8. Asbestos guidelines established in CPD Notice 90-44;
9. The Energy Policy and Conservation Act (Public Law 94-163) and 24 CFR Part 39;
10. Non-discrimination in employment, established by Executive Order 11246;
11. Equal employment opportunity and minority business enterprise regulations established in 24 CFR part 570.904;
12. Section 3 of the Housing and Urban Development Act of 1968;
    The purpose of section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.
13. Federal procurement rules when purchasing services, supplies, materials, or equipment. The applicable federal regulations are contained in: 24 CFR Part 85 or through 24 CFR Part 84, as applicable;
14. Lead Based Paint regulations established in 24 CFR Parts 35 and 570.608;
15. Audit requirements established in OMB Circular A-133; and

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

a) *Applicability.*

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

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

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

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

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

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

i. A disclosure of the nature of the conflict, accompanied by an assurance that there has been

public disclosure of the conflict and a description of how the public disclosure was made; and

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

(2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the County has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the County's program or project, taking into account the following factors, as applicable:

i. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

ii. Whether an opportunity was provided for open competitive bidding or negotiation;

iii. Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

iv. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

v. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

vi. Whether undue hardship will result either to the County or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

vii. Any other relevant considerations.

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

19. **Labor Standards (Davis-Bacon)**

Except for the rehabilitation of residential property that contains less than eight (8) units, the SubGrantee, and its

contractor and all subcontractors shall comply with the Davis-Bacon Act, 40 U.S.C. 276a to 276a-7, and applicable regulations of the Department of Labor under 29 C.F.R. Part 5, requiring the payment of wages at rates of not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor, when the project costs total $2,000 or more and the work is financed in whole or in part with assistance provided under this Agreement. The applicable Davis-Bacon wage rate schedule must be included in all bid and contract documents, as well as the "Federal Labor Standards Provisions", Form HUD-4010.

20. **Lead Based Paint Regulations**

If the Project involves acquisition, construction, demolition, rehabilitation, or any other activity related to residential housing, and the building was built prior to 1978, Lead Based Paint Laws and Regulations apply, as established in 24 CFR Parts 35 and 24 CFR 570.608. Further, all applicable federal and state laws relating to lead-based paint must be followed, including such regulations promulgated by the U.S. Environmental Protection Agency and the State Department of Public Health and Environment, including regulations for non-housing buildings. If the SubGrantee does not follow and document lead based paint laws and regulation compliance, the SubGrantee will not be eligible for reimbursement.

21. Environmental Review

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

21. Uniform Relocation Act (URA)

The Project is subject to the relocation and acquisition requirements of the Uniform Relocation Act of 1970, as amended, and implemented at 49 CFR Part 24; Section 104(d) of the Housing & Community Development Act, as amended, and implemented at 24 CFR Part 42; and Displacement, Relocation, Acquisition, and Replacement of Housing implemented at 24 CFR 570.606. The SubGrantee must comply with the County's Anti Displacement and Relocation Assistance Plan on file.

B. Non-Appropriations Clause

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

C. Expenditure Restrictions

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

D. Agreement Changes

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

E. Direct Project Supervision and Administration

The SubGrantee shall be responsible for the direct supervision and administration of its respective projects or activities. This task shall be accomplished through the use of the SubGrantee's staff, agency and employees. The SubGrantee shall be responsible for any injury to persons or damage to property resulting from the negligent acts or errors and omissions of its staff, agents and employees. Because the SubGrantee is responsible for the direct supervision and administration of its

projects or activities, the County shall not be liable or responsible for cost overruns by the SubGrantee on any projects or activities. The County shall have no duty or obligation to provide any additional funding to the SubGrantee if its projects or activities cannot be completed with the funds allocated by the County to the SubGrantee. Any cost overruns shall be the sole responsibility of the SubGrantee.

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

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

F. Indemnity

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

G. Bonding and Insurance

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

1. Comprehensive General Liability: In the amount of not less than $1,000,000 combined single limit. Coverage to include:
    a. Premises Operations
    b. Products/Completed Operations
    c. Broad Form Contractual Liability
    d. Independent Contractors
    e. Broad Form Property Damage
    f. Employees as Additional Insured
    g. Personal Injury
    h. Arapahoe County and the SubGrantee as Additional Named Insured
    i. Waiver of Subrogation

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

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

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

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

6. Notwithstanding the provisions contained in this paragraph (H) set forth hereinabove, the County reserves the right to modify or waive said provisions for projects or activities for which these provisions would prove prohibitive. The SubGrantee understands, however, that the decision to waive or modify those provisions is fully within the discretion of the County.

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

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

H. Records

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

I. Reporting

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

J. Timeliness

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

K. Reimbursement for Expenses

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

approval of the request, the County will distribute the requested funds to the SubGrantee as soon as possible.

L. Program Income

All program income directly derived from the Arapahoe County Community Development Block Grant Program received by the SubGrantee will be returned to the County unless authorized in Exhibit A Scope of Services to be retained by the SubGrantee and dispersed for its approved CDBG Project activities. If the retention and re-use of Program Income is Authorized, it must be dispersed for its approved CDBG Project activities before additional CDBG funds are requested from the County. Following completion of the SubGrantee's Arapahoe County CDBG Projects, all program income directly generated from the use of CDBG funds will be remitted to the County.

M. Real Property

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

N. State and County Law Compliance

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

O. Subcontracts

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

P. Suspension or Termination

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

Q. Urban County Designation

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

R. Certification

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

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

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

S. Disallowance

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

T. Reversion of Assets

Upon expiration of this Agreement, the SubGrantee shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the SubGrantee's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the SubGrantee in the form of a loan) in excess of $25,000 is either:

(i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement, or for such

longer period of time as determined to be appropriate by the County and specified in Exhibit A Scope of Services; or

(ii) Not used in accordance with national objectives in §570.208 (formerly §570.901), in which event the SubGrantee shall pay to the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

IV. RESPONSIBILITIES OF THE COUNTY

A. Administrative Control

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

B. Performance and Compliance Monitoring

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

C. Reporting to HUD

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

V. EXTENT OF THE AGREEMENT

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

void and/or unenforceable, it is the intent of the parties that the remaining portions of this agreement shall be of full force and effect.

VI. NOTICES

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

To the County: Arapahoe County Attorney
5334 S. Prince Street
Littleton, CO 80120-1136

and

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

To the SubGrantee: City of Englewood
ATTN: Janet Grimmett
1000 Englewood Pkwy
Englewood, CO 80110

In Witness Whereof, the Parties have caused this Agreement to be duly executed this _____ day of _____, 2013.

SubGrantee:

_____

Signature - Randy P. Penn

_____

Title- Mayor

Board of County Commissioners
Arapahoe County, Colorado

_____

Don Klemme on behalf of the Board of County Commissioners
Pursuant to Resolution #130152

EXHIBIT A

SCOPE OF SERVICES
FOR CDBG REHAB

Program Name: Englewood—Energy Efficient Englewood (E3)
CFDA #: CDBG 14.218
Project #: ENHS 1315

AGREEMENT AMOUNT: $ 100,000
AGREEMENT END DATE AND PROJECT DEADLINE: 4/30/2014

INTRODUCTION

This Scope of Services is attached to and incorporated into the SubGrantee Agreement between the Board of County Commissioners of the County of Arapahoe, State of Colorado and the City of Englewood (SubGrantee) as referenced in the Agreement. The purpose of this Scope of Services is to further describe the project requirements referenced in Section II. C. - Performance Criteria of the SubGrantee Agreement.

1. FEDERAL REGULATORY INFORMATION

CDBG National Objective[1]: Benefit to low- and moderate- income (LMI) housing

HUD Matrix Code: 14A Single Unit Residential Proposed Number of beneficiaries*: 12

*Beneficiaries are to be counted by the number of total number of ☐ PEOPLE or ☒ HOUSEHOLDS who will benefit from the project (including all members of a household).

The Project will be carried out under the:
☐ CDBG Area Benefit definition ☒ CDBG Limited Clientele definition

For Limited Clientele Activities: Select which method of income verification will be used:
☐ Self-Certification ☒ Verification with supporting income documentation

If income will be verified[2], select the method that will be used to determine annual household income:
☐ N/A ☒ Part 5 Section 8 ☐ Census Long Form ☐ IRS Form 1040 Long Form

2. ACTIVITY DESCRIPTION/PERFORMANCE GOALS

[1] Change to appropriate National Objective if necessary.
[2] For descriptions of each income verification method and required documentation, go to:
http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/calculator.cfm
This website provides an on-line income calculator for each of the three verification methods. The use of the calculator is required and a print-out of the completed calculator for each household assisted must be maintained on file.

a. **Purpose (short description of program purpose)**
The E3 project is available within the City of Englewood to assist low and moderate income families with incentives to encourage conservation and energy efficiency upgrades.

b. **Goals and Community Impact**
To provide loan and/or grants to 12 single family homeowners within Englewood.

c. **Project Address-throughout Arapahoe County**
Sites within Englewood addresses unknown at this time.

d. **Name of Organization Carrying out the Activity –City of Englewood**
Organization is: ☒Another unit of local gov't; ☐Another public agency; ☐CBDO only; ☐ Subrecipient only; ☐CBDO designated as subrecipient

e. **Local Jurisdictions rules and regulations/ADA**
SubGrantee agrees that it has read and understands the local jurisdiction's rules and regulations and local codes pertaining to the work and that all work will be permitted with the municipality and completed according to its rules and regulations. SubGrantee will perform the work in accordance with the Americans with Disabilities Act (ADA).

f. **Detailed Program Requirements**
The responsibilities of the City of Englewood for implementation of the program will include:

- Market the program;
- Accept all applications;
- Determine applicants' eligibility and approve or deny grants;
- Maintain a list of approved contractors;
- Complete a Site Specific Environmental Review;
- Contact Arapahoe County Weatherization, if eligible refer client;
- Determine needs and develop comprehensive work specifications based on Energy Audit;
- Prepare client documentation;
- Monitor rehab activity;
- Comply with lead-based paint regulations and ensure that tenants, owners and contractors are aware of their rights, responsibilities and options;
- Maintain program activity records and produce reports as set forth in this contract;
- Homeowner selects company/individual to conduct work or purchase materials. Company name and/or individual name is matched against the Federal Excluded Party List System by City to insure eligibility to receive federal funds. This is completed before any work begins. Once cleared the homeowner is instructed to proceed and to ensure appropriate permits are obtained, if required, by the Englewood Building and Safety Division.
- Ensure that costs are reasonable:
    - Does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost;
    - Is consistent with sound business practices; and

- Is consistent with market prices for similar goods and services;
- Payment may be made either directly to homeowner, upon receipt of paid invoices, or paid directly to company/individual. Reimbursement is 80% of the total invoice when a 20% match is required. Copies of checks and invoices are placed in file;
- Items will meet or exceed energy standards set forth at www.energystar.gov; and
- Homeowner sign-off on the job being completed as stated in the description of work.

g. Program Income

Program income is the gross income received by the SubGrantee directly generated from the use of CDBG funds under this Agreement. Program income includes:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds until five years after the termination of this Agreement;
- Proceeds from the sale or lease of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired, constructed or improved by the SubGrantee less costs incidental to the generation of income;
- Payments of principal and interest on loans made by the SubGrantee using CDBG funds;
- Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- Interest earned on program income pending its disposition (NOTE: interest earned on CDBG funds held in revolving loan funds is not program income and must be remitted to the U.S. Treasury at least annually); and
- Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.

The County ☐ authorizes ☒ does not authorize the SubGrantee to retain Program Income to be used for eligible CDBG activities. If authorized, Program income may be used for the following purposes: n/a

Reporting program income: Monthly, the SubGrantee must report to the County on the amount of Program Income received, less costs incidental to the generation of Program Income. Any Program Income in excess of the amount of CDBG funds identified in Section i. Budget must be repaid to the County.

i. Budget

ITEM	TOTAL BUDGET	AMT. PD BY COUNTY
Admin- Personnel Costs	$29,375	$1,600
Admin-Lead Based Paint Testing	$2,400	$2,400
Grants for Energy Efficiency	$96,000	$96,000
TOTAL	$127,775	$100,000

The amounts in each budget line item may be adjusted with the written approval of the County; provided, however, that the total amount of the award does not change.

Retainage: Up to 5% of each draw may be retained to ensure that the work is completed satisfactorily. Retainage withheld will be paid within 60 days upon the completion and satisfactory inspection of the work.

3. DRAW REQUESTS

Draw requests are due for each calendar month by the 20th day of the following month. Draw requests must include:

a. Draw cover sheet showing itemized list of expenditures (HCDS form)
b. Supporting documentation (check all that apply):

- ☒ Third-party invoices or receipts
- ☒ Check copies showing payment cashment (cancelled checks)
- ☐ Lien Waivers
- ☐ Davis-Bacon Certified Payrolls
- ☒ Federal Accountability and Transparency Act form (Attachment 1)*

  **Per the Federal Accountability and Transparency Act of 2006 as amended, compensation data for certain officials must be reported. The report form is attached herein as Attachment 1. This form must be submitted with the first draw request and updated if there are changes*
- ☒ Site Specific Environmental Review checklists

Note: Payments on draws submitted after May 20 may be delayed due to end-of-year HUD reporting

4. REPORTING

Data collection must be completed demonstrating income eligibility and achievements met towards meeting the objectives described in Section 2 Activity Description. The disbursement of funds is contingent upon the receipt of the required information.

Reports are due for each calendar month by the 20th day of the following month. Reports must include:

- No. of beneficiaries served during the reporting period
- Demographic information* for ☐ the individual served, or ☒ each household
- Household income* (if applicable)
- Brief narrative report on activities contained in Section 2
- Program Income

*HCDS will provide a form for the collection of beneficiary income and demographic information; however, the SubGrantee may use its own form, or a form used for another fund source for the same program, provided that the following information is collected:

- Unique identifier: Name and address
- Whether the head of household is female and/or disabled
- Whether the head of household is aged 62 years or older
- Total number of household members
- Total income of all household members
- Ethnicity: Hispanic or Latino OR Not Hispanic or Latino of each household member
- The race of each household member:
  - White
  - Black or African American

Asian
American Indian or Alaska Native
Native Hawaiian or Other pacific Islander
American Indian or Alaska Native and White
Asian and White
Black or African American and White
American Indian or Alaska Native and Black or African American
Other Multi-Racial
NOTE: Both ethnicity AND race category must be selected for each household member

- Signature attesting to the accuracy of the information submitted.

5. RECORD-KEEPING AND MONITORING

SubGrantee shall retain on file the following documents for a period of five years beyond the final close-out of this grant. Files shall be made available to Arapahoe County, the Department of Housing and Urban Development, the Office of Inspector General, the General Accounting Office, or any other federal regulatory agency, upon request for monitoring purposes.

1. Agreement between County and SubRecipient
2. Draw Requests and supporting documentation (see Section 3 Draw Requests)
3. Annual audits

Each property file must contain:

4. Homeowner application for assistance
5. Source documents used to determine income eligibility and income verification calculator print-out (if HUD income calculator is used)
6. Agreement between the SubRecipient and homeowner
7. Promissory Note and Deed of Trust, including any addenda, if applicable
8. Title check or copy of deed, documenting ownership of property
9. Site Specific environmental reviews approved by the County
10. EPLS check on contractor and subcontractors used
11. Copy of Flood Insurance Certificate or Policy, if property is located in a FEMA 100-year flood plan
12. Work write-up/scope of work
13. Documentation that the work was conducted per the approved rehab standards and the local jurisdiction's housing codes
14. Copies of initial and final inspections and check-lists, performed by a licensed contractor
15. Lien waivers obtained for progress payments and final payment from all contractors and subcontractors
16. Beneficiary Data (see Section 4 Reporting)

FOR COUNTY USE ONLY – FEDERAL IDIS REPORTING

1. Performance Goal: ☐Create suitable living environments; ☒Provide decent affordable housing; ☐Create economic opportunities
2. Performance Outcome: ☐ Availability/Accessibility; ☐ Affordability; ☒ Sustainability
3. Check box if project address is to be marked as confidential ☐
4. Activity Purpose: ☐Prevent Homelessness; ☐Help the Homeless; ☐Help those with HIV/AIDS; ☐Help persons with disabilities
5. ☐Accomplishments to be reported at another activity: IDIS #_____
6. Activity being carried out by Grantee? ☐yes; ☐no If yes, activity is being carried out through: ☐Employees; ☐ Contractors; ☐ Both

7. If Agreement is with another County department, the activity will be carried out by: ☐County employees; ☐Contractors; ☐Both
8. Area Type: ☐CDFO Area; ☐Local Target Area; ☐Strategy Area
9. Special Characteristics: ☐Presidentially Declared major Disaster Area; ☐Historic Preservation Area; ☐Brownfield Redevelopment Area – indicate number of acres remediated: _____
10. Activity Information: ☐One-for-One Replacement; ☐Displacement; ☐Favored Activity; ☐Special Assessment; ☐Revolving Fund; ☐Float Funded

Attachment 1

Federal Funding Accountability and Transparency Act (FFATA)

In accordance with Federal Acquisition Regulation Clause 52.204-10, reporting is required for awards of $25,000 or more.

Information Field Definitions can be found on the reverse of this form.	**Response**
1. Agency or Jurisdiction DUNS number:	Arapahoe County
2. Subrecipient name Receiving Award:	City of Englewood
3. Subrecipient Parent DUNS number: **(report if different from agency number above)**	
4. Location of Entity Receiving Award: **(full street address)**	
5. Primary location of Performance of the Award: **(City, State and Congressional District)**	
	Answer True or False (below)
6. In the preceding fiscal year, Contractor received: a.) $25,000,000 or more in annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or subawards subject to the Transparency Act.	
b.) 80% or more of its annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or subawards subject to the Transparency Act.	
c.) The public does not have access to information about the compensation of its five most highly compensated Executives through periodic reports filed through the Securities Exchange Act of 1934 or the IRS.	

An answer to question 7 is required ONLY when all answers to questions 6 are true.

7. Names and total compensation of the five (5) most highly compensated Executives for the preceding fiscal year:

Print Name	Compensation Amount
_____	_____
_____	_____
_____	_____

By signing below, I certify the information contained in this report is complete and accurate to the best of my knowledge.

Signature of Responsible Administrator and Title

Date

Definitions

1. The DUNS Number of the agency receiving the award, which is used as the unique entity identifier.
DUNS Number - Dun and Bradstreet (D&B) – This commercial entity maintains a repository of unique identifiers (D-U-N-S Numbers), which are nine-digit sequences recognized as the universal standard for identifying business entities and corporate hierarchies. Any organization that has a Federal contract or grant must have a DUNS Number.

2. The name of the entity receiving the award; Sub-Grantee, Sub-Recipient, Sub-Awardee.

3. The DUNS Number of the agency receiving the award (if different than Sub-Recipient in box #1), which is used as the unique entity identifier. **DUNS Number - Dun and Bradstreet (D&B)** – This commercial entity maintains a repository of unique identifiers (DUNS Numbers), which are nine-digit sequences recognized as the universal standard for identifying business entities and corporate hierarchies. Any organization that has a Federal contract or grant must have a DUNS Number.

4. The business office location of the entity receiving the award under the award including the city, state, congressional district, and country.

5. The primary location of performance under the award including the city, state, congressional district, and country.

6. The names and total compensation of the five highest-paid officers of an entity if, in the preceding fiscal year, that entity received: 80% or more of its annual gross revenues in Federal awards, $25,000,000 or more in annual gross revenues from Federal awards, and the public does not already have access to data on executive compensation through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, or section 6104 of the Internal Revenue Code of 1986.

CSHC134514

EXHIBIT B

SUBGRANTEE AGREEMENT FOR ARAPAHOE COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

SUBGRANTEE: City of Englewood
PROJECT NAME: Housing Rehabilitation
PROJECT NUMBER: ENHS 1313

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

I. PURPOSE

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

The project by the SubGrantee known as **Housing Rehabilitation** (Project) will be carried out in accordance with the Scope of Services, attached to, and incorporated herein as Exhibit A.

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

II. WORK TO BE COMPLETED BY THE SUBGRANTEE

The grant funds are to be used only to provide services to Arapahoe County residents, excluding residents of the city of Aurora, per County CDBG guidelines.

A. Payment

It is expressly agreed and understood that the total amount to be paid by the County under this contract shall not exceed $27,500. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in the Project Budget and in accordance with performance criteria established in Exhibit A Scope of Services. The parties expressly recognize that the SubGrantee is to be paid with CDBG funds received from the federal government, and that the obligation of the County to make payment to SubGrantee is contingent upon receipt of such funds. In the event that said funds, or any part thereof, are, or become, unavailable, then the County may immediately terminate or, amend this agreement. To the extent C.R.S. § 29-1-110 is applicable, any financial obligation of the County to the SubGrantee

beyond the current fiscal year is also contingent upon adequate funds being appropriated, budgeted and otherwise available.

Upon expiration of this Agreement, as identified by the Agreement Date and Project Deadline (Deadline) in Exhibit A, the SubGrantee shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. These transferred funds shall revert to the County and be utilized for other purposes.

B. Timeline

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

C. Performance Criteria

In accordance with the funding application submitted by the SubGrantee for the Project, the criteria listed below are to be met during the execution of the Project as identified in Exhibit A Scope of Services.

1. Quantifiable Goals
2. Community Impact
3. Monthly Performance Standards

D. Reporting Requirements

1. Project reports will be due within twenty (20) days following the end of each reporting period as specified in Exhibit A Scope of Services until the Project is completed.
2. The official annual audit and/or Financial Statements for the SubGrantee in which both revenues and expenditures for the CDBG Projects described herein are detailed are due annually. The last completed official annual audit report and/or Financial Statements shall be due on May 31, and for four (4) years thereafter on May 31.
3. Non-profit organizations that expend $500,000 or more annually in federal funds shall comply with the Single Audit Act of 1984, as amended, as implemented in OMB Circular A-133, and other applicable federal regulations.

III. RESPONSIBILITIES OF THE SUBGRANTEE

A. Federal Compliance

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

1. 24 CFR Part 570;
2. 24 CFR Parts 84 and 85 as applicable per 24 CFR 570.502;
3. Title VI of the Civil Rights Act of 1964;
4. Title VIII of the Civil Rights Act of 1968;
5. Sections 104(b) and 109 of the Housing and Community Development Act of 1974;
6. Fair housing regulations established in the Fair Housing Act, Public Law 90-284, and Executive Order 11063;
7. Section 504 of the Rehabilitation Act of 1973;
8. Asbestos guidelines established in CPD Notice 90-44;
9. The Energy Policy and Conservation Act (Public Law 94-163) and 24 CFR Part 39;
10. Non-discrimination in employment, established by Executive Order 11246;
11. Equal employment opportunity and minority business enterprise regulations established in 24 CFR part 570.904;
12. Section 3 of the Housing and Urban Development Act of 1968;
    The purpose of section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.
13. Federal procurement rules when purchasing services, supplies, materials, or equipment. The applicable federal regulations are contained in: 24 CFR Part 85 or through 24 CFR Part 84, as applicable;
14. Lead Based Paint regulations established in 24 CFR Parts 35 and 570.608;
15. Audit requirements established in OMB Circular A-133; and

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

a) *Applicability.*

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

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

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

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

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

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

i. A disclosure of the nature of the conflict, accompanied by an assurance that there has been

public disclosure of the conflict and a description of how the public disclosure was made; and

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

(2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the County has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the County's program or project, taking into account the following factors, as applicable:

i. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

ii. Whether an opportunity was provided for open competitive bidding or negotiation;

iii. Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

iv. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

v. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

vi. Whether undue hardship will result either to the County or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

vii. Any other relevant considerations.

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

19. **Labor Standards (Davis-Bacon)**

Except for the rehabilitation of residential property that contains less than eight (8) units, the SubGrantee, and its

contractor and all subcontractors shall comply with the Davis-Bacon Act, 40 U.S.C. 276a to 276a-7, and applicable regulations of the Department of Labor under 29 C.F.R. Part 5, requiring the payment of wages at rates of not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor, when the project costs total $2,000 or more and the work is financed in whole or in part with assistance provided under this Agreement. The applicable Davis-Bacon wage rate schedule must be included in all bid and contract documents, as well as the "Federal Labor Standards Provisions", Form HUD-4010.

20. **Lead Based Paint Regulations**

If the Project involves acquisition, construction, demolition, rehabilitation, or any other activity related to residential housing, and the building was built prior to 1978, Lead Based Paint Laws and Regulations apply, as established in 24 CFR Parts 35 and 24 CFR 570.608. Further, all applicable federal and state laws relating to lead-based paint must be followed, including such regulations promulgated by the U.S. Environmental Protection Agency and the State Department of Public Health and Environment, including regulations for non-housing buildings. If the SubGrantee does not follow and document lead based paint laws and regulation compliance, the SubGrantee will not be eligible for reimbursement.

21. Environmental Review

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

21. Uniform Relocation Act (URA)

The Project is subject to the relocation and acquisition requirements of the Uniform Relocation Act of 1970, as amended, and implemented at 49 CFR Part 24; Section 104(d) of the Housing & Community Development Act, as amended, and implemented at 24 CFR Part 42; and Displacement, Relocation, Acquisition, and Replacement of Housing implemented at 24 CFR 570.606. The SubGrantee must comply with the County's Anti Displacement and Relocation Assistance Plan on file.

B. Non-Appropriations Clause

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

C. Expenditure Restrictions

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

D. Agreement Changes

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

E. Direct Project Supervision and Administration

The SubGrantee shall be responsible for the direct supervision and administration of its respective projects or activities. This task shall be accomplished through the use of the SubGrantee's staff, agency and employees. The SubGrantee shall be responsible for any injury to persons or damage to property resulting from the negligent acts or errors and omissions of its staff, agents and employees. Because the SubGrantee is responsible for the direct supervision and administration of its

projects or activities, the County shall not be liable or responsible for cost overruns by the SubGrantee on any projects or activities. The County shall have no duty or obligation to provide any additional funding to the SubGrantee if its projects or activities cannot be completed with the funds allocated by the County to the SubGrantee. Any cost overruns shall be the sole responsibility of the SubGrantee.

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

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

F. Indemnity

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

G. Bonding and Insurance

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

1. Comprehensive General Liability: In the amount of not less than $1,000,000 combined single limit. Coverage to include:
    a. Premises Operations
    b. Products/Completed Operations
    c. Broad Form Contractual Liability
    d. Independent Contractors
    e. Broad Form Property Damage
    f. Employees as Additional Insured
    g. Personal Injury
    h. Arapahoe County and the SubGrantee as Additional Named Insured
    i. Waiver of Subrogation

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

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

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

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

6. Notwithstanding the provisions contained in this paragraph (H) set forth hereinabove, the County reserves the right to modify or waive said provisions for projects or activities for which these provisions would prove prohibitive. The SubGrantee understands, however, that the decision to waive or modify those provisions is fully within the discretion of the County.

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

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

H. Records

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

I. Reporting

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

J. Timeliness

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

K. Reimbursement for Expenses

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

approval of the request, the County will distribute the requested funds to the SubGrantee as soon as possible.

L. Program Income

All program income directly derived from the Arapahoe County Community Development Block Grant Program received by the SubGrantee will be returned to the County unless authorized in Exhibit A Scope of Services to be retained by the SubGrantee and dispersed for its approved CDBG Project activities. If the retention and re-use of Program Income is Authorized, it must be dispersed for its approved CDBG Project activities before additional CDBG funds are requested from the County. Following completion of the SubGrantee's Arapahoe County CDBG Projects, all program income directly generated from the use of CDBG funds will be remitted to the County.

M. Real Property

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

N. State and County Law Compliance

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

O. Subcontracts

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

P. Suspension or Termination

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

Q. Urban County Designation

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

R. Certification

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

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

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

S. Disallowance

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

T. Reversion of Assets

Upon expiration of this Agreement, the SubGrantee shall transfer to the County any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the SubGrantee's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the SubGrantee in the form of a loan) in excess of $25,000 is either:

(i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement, or for such

longer period of time as determined to be appropriate by the County and specified in Exhibit A Scope of Services; or

(ii) Not used in accordance with national objectives in §570.208 (formerly §570.901), in which event the SubGrantee shall pay to the County an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

IV. RESPONSIBILITIES OF THE COUNTY

A. Administrative Control

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

B. Performance and Compliance Monitoring

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

C. Reporting to HUD

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

V. EXTENT OF THE AGREEMENT

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

void and/or unenforceable, it is the intent of the parties that the remaining portions of this agreement shall be of full force and effect.

VI. NOTICES

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

To the County:

Arapahoe County Attorney
5334 S. Prince Street
Littleton, CO 80120-1136

and

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

To the SubGrantee:

City of Englewood
ATTN: Janet Grimmett
1000 Englewood Pkwy
Englewood, CO 80110

In Witness Whereof, the Parties have caused this Agreement to be duly executed this _____ day of _____, 2013.

SubGrantee:

_____

Signature – Randy P. Penn

_____

Title – Mayor

Board of County Commissioners
Arapahoe County, Colorado

_____

Don Klemme on behalf of the Board of County Commissioners
Pursuant to Resolution #130152

EXHIBIT A

SCOPE OF SERVICES
FOR CDBG REHAB

Program Name: Englewood--Housing Rehabilitation
CFDA #: CDBG 14.218
Project #: ENHS 1313

AGREEMENT AMOUNT: $ 27,500
AGREEMENT END DATE AND PROJECT DEADLINE: 4/30/2014

INTRODUCTION

This Scope of Services is attached to and incorporated into the SubGrantee Agreement between the Board of County Commissioners of the County of Arapahoe, State of Colorado and the City of Englewood (SubGrantee) as referenced in the Agreement. The purpose of this Scope of Services is to further describe the project requirements referenced in Section II. C. - Performance Criteria of the SubGrantee Agreement.

1. FEDERAL REGULATORY INFORMATION

CDBG National Objective[1]: Benefit to low- and moderate- income (LMI) housing

HUD Matrix Code: 14A Single Unit Residential Proposed Number of beneficiaries*: 3

*Beneficiaries are to be counted by the number of total number of ☐ PEOPLE or ☒ HOUSEHOLDS who will benefit from the project (including all members of a household).

The Project will be carried out under the:
☐ CDBG Area Benefit definition ☒ CDBG Limited Clientele definition

For Limited Clientele Activities: Select which method of income verification will be used:
☐ Self-Certification ☒ Verification with supporting income documentation

If income will be verified[2], select the method that will be used to determine annual household income:
☐ N/A ☒ Part 5 Section 8 ☐ Census Long Form ☐ IRS Form 1040 Long Form

2. ACTIVITY DESCRIPTION/PERFORMANCE GOALS

---

[1] Change to appropriate National Objective if necessary.
[2] For descriptions of each income verification method and required documentation, go to:
http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/calculator.cfm
This website provides an on-line income calculator for each of the three verification methods. The use of the calculator is required and a print-out of the completed calculator for each household assisted must be maintained on file.

a. **Purpose (short description of program purpose)**
The Housing Rehabilitation Project is available within the City of Englewood to assist low and moderate income families with the financing of their major household repairs.

b. **Goals and Community Impact**
To provide loan and/or grants to 3 single family homeowners within Englewood.

c. **Project Address-throughout Arapahoe County**
Sites within Englewood addresses unknown at this time.

d. **Name of Organization Carrying out the Activity –City of Englewood**
Organization is: ☒Another unit of local gov't; ☐Another public agency; ☐CBDO only; ☐ Subrecipient only; ☐CBDO designated as subrecipient

e. **Local Jurisdictions rules and regulations/ADA**
SubGrantee agrees that it has read and understands the local jurisdiction's rules and regulations and local codes pertaining to the work and that all work will be permitted with the municipality and completed according to its rules and regulations. SubGrantee will perform the work in accordance with the Americans with Disabilities Act (ADA).

f. **Detailed Program Requirements**
The responsibilities of the City of Englewood for implementation of the program will include:

- Market the program;
- Accept all applications;
- Determine applicants' eligibility and approve or deny grants/loans.
- Maintain a list of approved contractors;
- Complete a Site Specific Environmental Review;
- Determine rehab needs and develop comprehensive work specifications;
- Structure contractor bidding process;
- Prepare contractor and client documentation;
- Monitor rehab activity;
- Comply with lead-based paint regulations and ensure that tenants, owners and contractors are aware of their rights, responsibilities and options;
- Maintain program activity records and produce reports as set forth in this contract;
- Inspect each rehab once completed with the contractor, and sign-off on the job being completed as stated in the description of work; and
- Ensure that all City permitting and local standards are met.

g. **Program Income**
Program income is the gross income received by the SubGrantee directly generated from the use of CDBG funds under this Agreement. Program income includes:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds until five years after the termination of this Agreement;
- Proceeds from the sale or lease of equipment purchased with CDBG funds;

- Gross income from the use or rental of real or personal property acquired, constructed or improved by the SubGrantee less costs incidental to the generation of income;
- Payments of principal and interest on loans made by the SubGrantee using CDBG funds;
- Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- Interest earned on program income pending its disposition (NOTE: interest earned on CDBG funds held in revolving loan funds is not program income and must be remitted to the U.S. Treasury at least annually); and
- Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.

The County ☒authorizes ☐does not authorize the SubGrantee to retain Program Income to be used for eligible CDBG activities. If authorized, Program income may be used for the following purposes: The Englewood Housing Rehabilitation Program

Reporting program income: Monthly, the SubGrantee must report to the County on the amount of Program Income received, less costs incidental to the generation of Program Income. Any Program Income in excess of the amount of CDBG funds identified in Section i. Budget must be repaid to the County.

i. Budget

ITEM	TOTAL BUDGET	AMT. PD BY COUNTY	AMT PD BY Englewood
Admin- Personnel Costs	$56,000	$2,500	$53,500
Project Rehab Costs	$25,000	$25,000	
TOTAL	$81,000	$27,500	$53,500

The amounts in each budget line item may be adjusted with the written approval of the County; provided, however, that the total amount of the award does not change.

Retainage: Up to 5% of each draw may be retained to ensure that the work is completed satisfactorily. Retainage withheld will be paid within 60 days upon the completion and satisfactory inspection of the work.

3. DRAW REQUESTS

Draw requests are due for each calendar month by the 20th day of the following month. Draw requests must include:

a. Draw cover sheet showing itemized list of expenditures (HCDS form)
b. Supporting documentation (check all that apply):

☒ Third-party invoices or receipts
☒ Check copies showing payment cashment (cancelled checks)
☐ Lien Waivers
☐ Davis-Bacon Certified Payrolls—the one unit is considered a group home and therefore exempt from Davis Bacon
☒ Federal Accountability and Transparency Act form (Attachment 1)*
**Per the Federal Accountability and Transparency Act of 2006 as amended, compensation data for certain officials must be reported. The report form is attached herein as Attachment 1. This form must be submitted with the first draw request and updated if there are changes*
☒ Site Specific Environmental Review checklists

Note: Payments on draws submitted after May 20 may be delayed due to end-of-year HUD reporting

4. REPORTING

Data collection must be completed demonstrating income eligibility and achievements met towards meeting the objectives described in Section 2 Activity Description. The disbursement of funds is contingent upon the receipt of the required information.

Reports are due for each calendar month by the 20th day of the following month. Reports must include:

- No. of beneficiaries served during the reporting period
- Demographic information* for ☐ the individual served, or ☒ each household
- Household income* (if applicable)
- Brief narrative report on activities contained in Section 2
- Program Income

*HCDS will provide a form for the collection of beneficiary income and demographic information; however, the SubGrantee may use its own form, or a form used for another fund source for the same program, provided that the following information is collected:

- Unique identifier: Name and address
- Whether the head of household is female and/or disabled
- Whether the head of household is aged 62 years or older
- Total number of household members
- Total income of all household members
- Ethnicity: Hispanic or Latino OR Not Hispanic or Latino of each household member
- The race of each household member:
  - White
  - Black or African American
  - Asian
  - American Indian or Alaska Native
  - Native Hawaiian or Other pacific Islander
  - American Indian or Alaska Native and White
  - Asian and White
  - Black or African American and White
  - American Indian or Alaska Native and Black or African American
  - Other Multi-Racial
  - *NOTE: Both ethnicity AND race category must be selected for each household member*
- Signature attesting to the accuracy of the information submitted.

5. RECORD-KEEPING AND MONITORING

SubGrantee shall retain on file the following documents for a period of five years beyond the final close-out of this grant. Files shall be made available to Arapahoe County, the Department of Housing and Urban Development, the Office of Inspector General, the General Accounting Office, or any other federal regulatory agency, upon request for monitoring purposes.

At minimum, files must contain:

1. Agreement between County and SubRecipient
2. Draw Requests and supporting documentation (see Section 3 Draw Requests)
3. Annual audits

Each property file must contain:

4. Homeowner application for assistance
5. Source documents used to determine income eligibility and income verification calculator print-out (if HUD income calculator is used)
6. Agreement between the SubRecipient and homeowner
7. Promissory Note and Deed of Trust, including any addenda, if applicable
8. Title check or copy of deed, documenting ownership of property
9. Site Specific environmental reviews approved by the County
10. EPLS check on contractor and subcontractors used
11. Copy of Flood Insurance Certificate or Policy, if property is located in a FEMA 100-year flood plan
12. Work write-up/scope of work
13. Documentation that the work was conducted per the approved rehab standards and the local jurisdiction's housing codes
14. Copies of initial and final inspections and check-lists, performed by a licensed contractor
15. Lien waivers obtained for progress payments and final payment from all contractors and subcontractors
16. Beneficiary Data (see Section 4 Reporting)

FOR COUNTY USE ONLY – FEDERAL IDIS REPORTING

1. Performance Goal: ☐Create suitable living environments; ☒Provide decent affordable housing; ☐Create economic opportunities
2. Performance Outcome: ☐ Availability/Accessibility; ☐ Affordability; ☒ Sustainability
3. Check box if project address is to be marked as confidential ☐
4. Activity Purpose: ☐Prevent Homelessness; ☐Help the Homeless; ☐Help those with HIV/AIDS; ☐Help persons with disabilities
5. ☐Accomplishments to be reported at another activity: IDIS #_____
6. Activity being carried out by Grantee? ☐yes; ☐no If yes, activity is being carried out through: ☐Employees; ☐ Contractors; ☐ Both
7. If Agreement is with another County department, the activity will be carried out by: ☐County employees; ☐Contractors; ☐Both
8. Area Type: ☐CDFO Area; ☐Local Target Area; ☐Strategy Area
9. Special Characteristics: ☐Presidentially Declared major Disaster Area; ☐Historic Preservation Area; ☐Brownfield Redevelopment Area – indicate number of acres remediated: _____
10. Activity Information: ☐One-for-One Replacement; ☐Displacement; ☐Favored Activity; ☐Special Assessment; ☐Revolving Fund; ☐Float Funded

Attachment 1

Federal Funding Accountability and Transparency Act (FFATA)

In accordance with Federal Acquisition Regulation Clause 52.204-10, reporting is required for awards of $25,000 or more.

Information Field Definitions can be found on the reverse of this form.	**Response**
1. Agency or Jurisdiction DUNS number:	Arapahoe County
2. Subrecipient name Receiving Award:	City of Englewood
3. Subrecipient Parent DUNS number: **(report if different from agency number above)**	
4. Location of Entity Receiving Award: **(full street address)**	
5. Primary location of Performance of the Award: **(City, State and Congressional District)**	
	Answer True or False (below)
6. In the preceding fiscal year, Contractor received: a.) $25,000,000 or more in annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or subawards subject to the Transparency Act.	
b.) 80% or more of its annual gross revenues from federal procurement contracts/subcontracts and/or federal financial assistance awards or subawards subject to the Transparency Act.	
c.) The public does not have access to information about the compensation of its five most highly compensated Executives through periodic reports filed through the Securities Exchange Act of 1934 or the IRS.	

An answer to question 7 is required ONLY when all answers to questions 6 are true.

7. Names and total compensation of the five (5) most highly compensated Executives for the preceding fiscal year:

Print Name	Compensation Amount

By signing below, I certify the information contained in this report is complete and accurate to the best of my knowledge.

Signature of Responsible Administrator and Title

Date

Definitions

1. The DUNS Number of the agency receiving the award, which is used as the unique entity identifier.
DUNS Number - Dun and Bradstreet (D&B) – This commercial entity maintains a repository of unique identifiers (D-U-N-S Numbers), which are nine-digit sequences recognized as the universal standard for identifying business entities and corporate hierarchies. Any organization that has a Federal contract or grant must have a DUNS Number.

2. The name of the entity receiving the award; Sub-Grantee, Sub-Recipient, Sub-Awardee.

3. The DUNS Number of the agency receiving the award (if different than Sub-Recipient in box #1), which is used as the unique entity identifier. **DUNS Number - Dun and Bradstreet (D&B)** – This commercial entity maintains a repository of unique identifiers (DUNS Numbers), which are nine-digit sequences recognized as the universal standard for identifying business entities and corporate hierarchies. Any organization that has a Federal contract or grant must have a DUNS Number.

4. The business office location of the entity receiving the award under the award including the city, state, congressional district, and country.

5. The primary location of performance under the award including the city, state, congressional district, and country.

6. The names and total compensation of the five highest-paid officers of an entity if, in the preceding fiscal year, that entity received: 80% or more of its annual gross revenues in Federal awards, $25,000,000 or more in annual gross revenues from Federal awards, and the public does not already have access to data on executive compensation through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, or section 6104 of the Internal Revenue Code of 1986.

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	9 a iii	A Bill for an Ordinance Making Changes to 4-4-2 of the Englewood Municipal Code (Building Use Taxes)

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

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed this issue with staff at the study session on July 1, 2013. Council requested staff prepare a bill for an ordinance making changes that will clarify language, add a definition for "Real Estate" in the Code, as well as update language regarding the minimum amount a project must be to before being allowed to make payments.

RECOMMENDED ACTION

Staff recommends Council approve the attached bill for an ordinance making changes to 4-4-2 of the Englewood Municipal Code as noted in the following section.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Generally, a contractor issued a permit for work in the City of Englewood is subject to building use tax on half the contract price times 3.5 percent. Under the current Code, a contractor can make payments if the project is over $200,000. This amount may have been relevant when the language was written but is far too low, as even small projects easily exceed $200,000.

Current Code language is vague regarding what is subject to the building use tax. All building materials used in the "footprint" of the building as well as "site work." Site work includes construction materials but also landscaping, utility installation, curb and gutter, parking lot materials, etc.

The proposed changes are shown below:

4-4-2: - Definitions.

Realty: Includes land and anything fixed, immovable, or permanently attached to it such as buildings, walls, fixtures, improvements, roads, trees, shrubs, fences, sewers, structures, and utility systems.

4-4-5-3-B-2 ***Building/Construction Materials and Supplies:*** Any person ~~who does not maintain a permanent place of business within the boundaries of the City and~~ who shall build, construct or improve any building, dwelling or other structure or improvement to realty whatsoever **(including but not limited to structures, and site work such as landscaping, utility infrastructure, curb/gutter**

installation, parking lot resurfacing, etc.) within the City shall, upon application for a ~~building~~ permit **for improvement to realty**, pay as a deposit for payment of the tax levied by Section 4-4-5-1 an amount equal to three and one-half percent (3.5%) of fifty percent (50%) **of the estimated cost or total contract price of the structure improvement or three and one-half percent (3.5%) of forty percent (40%) of the estimated cost of the improvement other than to the structure.**~~; provided, however, that~~ **If** the **estimated cost or the total contract price of the improvement to realty is in excess of** ~~two hundred thousand dollars~~ ($~~200,000.00~~) **three million dollars ($3,000,000.00) or as set by City Council Resolution, the City Manager or designee, at his/her** discretion and upon application to it, may authorize a waiver of said deposit and accept the payment of said tax on a monthly, quarterly or other basis, based upon actual purchases of materials, supplies and equipment for which such tax may be due, subject to such rules and regulations as the said City may adopt. In all cases where the deposit required by the provisions of this Section is made, if it is determined at the time of the completion of the building, dwelling or other structure of improvement from the invoices and statements reflecting the purchase therefor, that the deposit made as herein required, together with the actual payments to the City as a sales tax, is in excess of the actual tax due therefor, the person making said deposit or paying said tax may make application to the City for refund of any amount paid in excess of the actual taxes due, in which event it shall be the duty of the person making such application to furnish all necessary bills and invoices evidencing over-payment of the tax, and, if the said City is satisfied that there has been such overpayment, it shall refund such overpayment to the taxpayer.

FINANCIAL IMPACT

These changes to the Code will better inform contractors of the materials they use that are subject to the Building Use Tax. Revenues could increase in the future as collection of taxes will be made on all materials used for a project including the building footprint and any work on the site.

Increasing the amount that a project must exceed before being allowed to go on a payment plan will insure the City of Englewood collects more Building Use Tax when the building permit is issued instead of collecting taxes over a period of time.

LIST OF ATTACHMENTS

Proposed bill for an ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 38
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 4, CHAPTER 4, SECTION 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000 RELATING TO BUILDING USE TAXES

WHEREAS, the code provisions allowing periodic payments of building use tax has not been amended since the 1985 code; and

WHEREAS, the Englewood Municipal Code requires a deposit for building use taxes for small projects and allows larger projects to pay building use taxes on a periodic basis; and

WHEREAS, the current threshold is $200,000 (two hundred thousand dollars) which was reasonable in 1985 but is low today because most projects easily exceed that amount and so those projects valued at $200,000 (two hundred thousand dollars) or below should be treated as other smaller projects; and

WHEREAS, the changes clarify current code language in describing what is subject to the building use tax; and

WHEREAS, the Director of Finance and Administrative Services met with the Englewood City Council to discuss this matter at the July 1, 2013 Study Session.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 4, Chapter 4, Section 2, entitled "*Definitions*" of the Englewood Municipal Code 2000, by inserting the following terms in alphabetical order, to read as follows:

4-4-2: Definitions.
When used in this Chapter, the following words and phrases shall have the following meanings, unless from the context it clearly appears that a different meaning is indicated:

Realty: Includes land and anything fixed, immovable, or permanently attached to it such as buildings, walls, fixtures, improvements, roads, trees, shrubs, fences, sewers, structures, and utility systems.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 4, Chapter 4, Section 5 Subsection 3, of the Englewood Municipal Code 2000, entitled Payment and Collection of Use Tax to read as follows:

4-4-5-3: Payment and Collection of Use Tax.

[EDITORS NOTE: 4-4-5-3(A) contains no changes and is therefore not included here.]

B. Payment and Collection on Specific Items: The following special provision shall apply to the payment of any use tax due on the use, consumption or storage of the following items:

2. *Building and Construction Materials and Supplies*: Any person ~~who does not maintain a permanent place of business within the boundaries of the City and~~ who shall build, construct or improve any building, dwelling or other structure or improvement to realty whatsoever (including but not limited to structures, and site work such as landscaping, utility infrastructure, curb/gutter installation, parking lot resurfacing, etc.) within the City shall, upon application for a ~~building~~ permit for improvement to realty, pay as a deposit for payment of the tax levied by Section 4-4-5-1 an amount equal to three and one-half percent (3.5%) of fifty percent (50%) of the estimated cost or total contract price of the structure improvement or three and one-half (3.5%) of forty percent (40%) of the estimated cost of the improvement other than to the structure.; ~~provided, however, that~~ If the estimated cost or the total contract price of the improvement to realty is in excess of ~~two hundred thousand dollars ($200,000.00)~~ three million dollars ($3,000,000.00) or as set by City Council Resolution, the City Manager or designee, at his/her discretion and upon application to it, may authorize a waiver of said deposit and accept the payment of said tax on a monthly, quarterly or other basis, based upon actual purchases of materials, supplies and equipment for such tax may be due, subject to such rules and regulations as the said City may adopt. In all cases where the deposit required by the provisions of this Section is made, if it is determined at the time of the completion of the building, dwelling or other structure of improvement from the invoices and statements reflecting the purchase therefor, that the deposit made as herein required, together with the actual payments to the City as a sales tax, is in excess of the actual tax due therefor, the person making said deposit or paying said tax may make application to the City for refund of any amount paid in excess of the actual taxes due, in which event it shall be the duty of the person making such application to furnish all necessary bills and invoices evidencing over-payment of the tax, and, if the said City is satisfied that there has been such overpayment, it shall refund such overpayment to the taxpayer.

Section 3. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or it application to other persons or circumstances.

Section 5. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 6. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 7. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

_____
Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	9 a iv	A Bill for an Ordinance Deleting Chapter 17 of Title 5 and adding language to Chapter 5, Title 1 of the Englewood Municipal Code (Business and License Regulations)

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

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed this issue with staff at the study session on July 1, 2013. Council requested staff prepare a bill for an ordinance deleting Title 5, Chapter 17, Going Out of Business and Damaged Goods Sales and adding a new Section 10 to Chapter 1. A bill for an ordinance was prepared and place on the August 5, 2013 Regular Agenda to delete Chapter 17 of Title 5.

RECOMMENDED ACTION

Staff recommends Council approve the attached bill for an ordinance deleting Chapter 17 of Title 5 in its entirety and adding additional language to Chapter 1 as follows:

5-1-10: - Special Conditions of the License.

License holders shall not employ any untrue, deceptive or misleading advertising and shall conduct sales in strict conformity with representations made in advertising.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Title 5 of the Englewood Municipal Code was completely rewritten in the 1990s. At that time City staff believed a license was necessary to address false and misleading "going out of business sales" because a few violators held perpetual going out of business sales. Since that time few, if any of the licenses have been issued and staff believes the license can be deleted from Code if new language is added requiring license holders not to use "untrue, deceptive or misleading advertising." Also, the new language requires the license holder to "conduct sales in strict conformity with representations made in advertising" to insure customers are not mislead that sales are as represented.

FINANCIAL IMPACT

These changes to the Code are revenue neutral.

LIST OF ATTACHMENTS

Proposed bill for an ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 39
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE ADDING SECTION 10 TO TITLE 5, CHAPTER 1, ENTITLED "SPECIAL CONDITIONS OF THE LICENSE"; AND DELETING TITLE 5, CHAPTER 17, ENTITLED "GOING OUT OF BUSINESS AND DAMAGED GOODS SALES", OF THE ENGLEWOOD MUNICIPAL CODE 2000.

WHEREAS, Title 5 of the Englewood Municipal Code was rewritten in the 1990's; and

WHEREAS, in the 1990's the City believed a license was necessary to address false and misleading "going out of business sales", because a few violators held perpetual going out of business sales; and

WHEREAS, since the 1990's few if any of the licenses have been issued so that such license can be eliminated from the Englewood Municipal Code by adding new language to the Code requiring license holders not to use "untrue, deceptive or misleading advertising"; and

WHEREAS, the passage of this proposed ordinance will add new language requiring the license holder to "conduct sales in strict conformity with representations made in advertising" to insure that customers are not mislead and that sales are as advertised or represented; and

WHEREAS, Title 5, Chapter 7 of the Englewood Municipal Code 2000 is outdated; and

WHEREAS, misleading advertising and conducting sales in conformity with representations made in advertising is being inserted into Title 5, Chapter 1 of the Englewood Municipal Code requiring license holders not to employ misleading advertising and requiring them to conduct sales in conformity with representations made in advertising; and

WHEREAS, the Director of Finance and Administrative Services met with the Englewood City Council to discuss these matters at the July 2013 Study Sessions.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 1, by the addition of a new Section 10, entitled "*Special Conditions of the License*" of the Englewood Municipal Code 2000, to read as follows:

5-1-10: Special Conditions of the License.

License holders shall not employ any untrue, deceptive or misleading advertising and shall conduct sales in strict conformity with representations made in advertising.

Section 2. The City Council of the City of Englewood, Colorado hereby repeals Title 5, Chapter 17, "Going Out of Business and Damaged Goods Sales", of the Englewood Municipal Code 2000, in its entirety and reserves Chapter 17 for future legislation.

~~**5-17: Going Out of Business and Damaged Goods Sales**~~

~~**5-17-1: Definitions.**~~

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

~~*Damaged Goods:* A sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged by fire, smoke, water, or other reason.~~

~~*Going Out of Business Sale:* A sale held out in such a manner as to reasonably cause the public to believe that, upon the disposal of the stock of goods on hand, the business will cease and will be discontinued, including but not limited to the following sales: adjuster's, adjustment, alteration, assignee's, bankrupt, benefit of administrator's, benefit of creditor's, benefit of trustee's, building coming down, closing, creditors' committee, creditors' end, executor's, final days, forced out, forced out of business, insolvents, last days, lease expires, liquidation, loss of lease, mortgage sales, receiver's, trustee's, quitting business.~~

~~*Goods:* Is meant to include any goods, wares, merchandise or other property capable of being the object of a sale regulated by this Chapter.~~

~~**5-17-2: License Required.**~~

~~It shall be unlawful to conduct a going out of business and/or damaged goods sales prior to obtaining a license from the Licensing Officer except for the following:~~

~~A. Persons acting pursuant to an order or process of a court of competent jurisdiction, persons acting in accordance with their powers and duties as public officials, and any publisher of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this Chapter have not been complied with.~~

~~5-17-3: Application for License.~~

~~A. The application for a going out of business and/or damaged goods sale license shall be made in accordance with the provisions of Title 5, Chapter 1.~~

~~B. In addition the applicant shall be required to provide the following:~~

~~1. Proof of sales tax deposit.~~

~~2. Copy of complete inventory.~~

~~5-17-4: Special Conditions and Restrictions of the License.~~

~~In addition to licensing conditions set forth in Chapter 1 of this Title, the following special provisions shall apply:~~

~~A. *Sales Tax Deposit Required.* In addition to all applicable license fees, the applicant shall deposit with the License Officer an amount equal to three and one half percent (3.5%) of the retail value of the goods to be sold during the first week of the sale. The License Officer shall establish the deposit based upon prior sales tax reports filed with the License Officer by the license holder. After the sale, the applicant shall deposit with the License Officer an amount equal to three and one half percent (3.5%) of the retail value of the goods sold in the prior week of the sale. The deposit may be in the form of cash or a bond acceptable to the License Officer. The records and transactions of the applicant shall be subject to weekly review by the License Officer during the period of the sale. License holders failing to comply with the sales tax filing and payment provisions of Title 4, Chapter 4, of this Code shall forfeit their deposit and the License Officer shall pursue the proper collection of all amounts properly due to the City.~~

~~After the payment of all taxes due, and a verification is provided by an appropriate City audit, the City shall return to the license holder any funds deposited by the license holder.~~

~~B. *Term of License.* The license shall authorize the sale described in the application for a period of not more than sixty (60) consecutive days. A one time license renewal may be allowed. The renewal shall not exceed thirty (30) consecutive days. After the license expires, all business activities shall cease, and not resume under the same direct or indirect ownership for a period of two (2) years.~~

~~C. *Duties of License Holders.* In addition to requirements of Chapter 1 of this title, the following duties are required of license holders under this chapter:~~

~~1. No additions to inventory may be made during the period of the licensed sale to the stock of goods set forth in the inventory attached to the application for license.~~

~~2. License holders shall keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicates to inspecting officials upon request. Each license holder shall further keep available for inspecting officials his stock records or other records of his business relating to said sale or his application for a license.~~

~~3. License holders shall not employ any untrue, deceptive or misleading advertising.~~

~~4. License holders shall conduct the licensed sale in strict conformity with any representations made in advertising.~~

~~5. License holders shall keep any goods separate and apart from the goods listed in the filed inventories as being object of sale, and make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale, apprising the public of the status of all such goods.~~

~~D. *Removal of Goods.* If any goods described in the inventory are removed from the place of sale authorized by the license, those goods shall lose their identity as the stock of any of the "sales" defined by the license. No license will be issued under this chapter for conducting a sale of those goods removed from the sale that identifies them with the original license.~~

Section 3. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or it application to other persons or circumstances.

Section 5. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 6. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which

shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 7. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	9 a v	A Bill for an Ordinance Making Changes to Title 5, Chapter 6 of the Englewood Municipal Code (Adult Entertainment Establishments)

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

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council discussed this issue with staff at the study session on July 1, 2013. Council requested staff prepare a bill for an ordinance deleting current language and adding new language to reflect actual practices and procedures followed by City staff to implement and enforce the various licenses issued under Title 5, Chapter 6 of the Englewood Municipal Code.

RECOMMENDED ACTION

Staff recommends Council approve the attached bill for an ordinance deleting and adding language in Title 5, Chapter 6 to reflect current, actual procedures.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Title 5 of the Englewood Municipal Code was completely rewritten in the 1990s and continues to be refined as new information is obtained and feedback from the actual procedures or issues are obtained from City staff. Changing "must" to "may" reflect current, actual practices followed by City staff. Currently, staff only inspects the premises of establishments if deemed necessary or a complaint received.

FINANCIAL IMPACT

This change to the Code is revenue neutral.

LIST OF ATTACHMENTS

Proposed bill for an ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 40
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 5, CHAPTER 6, SECTION 4, SUBSECTION A, OF THE ENGLEWOOD MUNICIPAL CODE 2000 RELATING TO SPECIAL LICENSE APPLICATION FOR ADULT ENTERTAINMENT ESTABLISHMENTS.

WHEREAS, the current code language is outdated and does not reflect actual practices and procedures followed by the City to implement and enforce the various licenses issued under Title 5, Chapter 6 of the Englewood Municipal Code; and

WHEREAS, the Director of Finance and Administrative Services met with the Englewood City Council to discuss these matters at the July 1, 2013 Study Session.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 6, Section 4, Subsection A, entitled "*Special License Application*" of the Englewood Municipal Code 2000, to read as follows:

5-6-4: Special License Application.

A. For all adult entertainment establishments in addition to the license application requirements, in Chapter 1 of this Title, the applicant must comply with the following special application requirements:

1. Diagram requirement:

   i. The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business and designating the use of each room or other area of the premises.

   ii. The diagram shall designate all areas of the premises where patrons are not permitted.

iii. The diagram need not be professionally prepared, but must be drawn to a designated scale, or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6″).

iv. The diagram shall designate the place at which the license will be conspicuously posted.

v. No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the Licensing Officer.

vi. The Licensing Officer may waive the diagram requirement for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared and that the use of any area or room in the premises has not changed.

vii. The applicant must be qualified according to the provisions of this chapter and the premises ~~must~~ may be inspected by the City ~~and found to be in~~ to insure compliance with the law.

2. No license granted by this chapter shall be transferred. The license holder shall have a copy of the diagram on the licensed premises for inspection at any time.

3. Self-inspection of licensed premises. The licensee, or his designated representative, shall make sanitary inspections of the licensed premises at least once per month, and shall record the findings on a form supplied by the Licensing Officer. Each licensed premises shall post and maintain in a readily accessible place, a schedule for maintaining the sanitation of the premises.

4. Sealing for unsanitary or unsafe conditions. A licensed premises, or any part thereof, may be sealed by order of the Licensing Officer upon his finding of a violation of this chapter resulting in an unsanitary or unsafe condition. Prior to sealing, the Licensing Officer shall serve on the licensee, by personal service on him or by posting in a conspicuous place on the licensed premises, a notice of the violation and an order to correct it within twenty-four (24) hours after service. If the violation is not corrected, the Licensing Officer may physically seal the portion of the licensed premises in violation to discontinue use. This shall be in effect until the violation has been corrected and the seal removed by the Licensing Officer. The Licensing Officer shall affix to premises a conspicuous sign labeled "unclean" or "unsafe," as the case may be.

5. All activities, materials, devices, and novelties shall be performed or displayed in such manner that they cannot be seen by anyone other than the customers who have entered the licensed adult entertainment establishment.

6. No person, merchant, employee or agent shall, in the course of selling, renting, or offering for sale or rental, a tangible or intangible product, service or goods, expose "a specified anatomical area" or carry on a "specified sexual activity."

7. It shall be unlawful for any employee of an adult entertainment establishment to receive tips from patrons except as follows:

   i. A licensee that desires to provide for tips from its patrons shall provide one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the adult entertainment establishment into the tip box.

   ii. An adult entertainment establishment that provides tip boxes for its patrons as provided in this section shall post one or more signs to be conspicuously visible to the patrons on the premises in letters at least one inch (1″) high to read as follows: "all tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and entertainer is strictly prohibited."

[EDITORS NOTE: 5-6-4 Subsections (B) through (E), contain no changes and are therefore not included here]

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

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

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

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

as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

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

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

_____
Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	9 a vi	Ordinance Vacating Utilities Easements at 5001 South Broadway and 5084 South Acoma Street

Initiated By:	Staff Source:
Community Development	Audra L. Kirk, Planner I

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has discussed the proposed development at previous Study Sessions and Council Meetings.

RECOMMENDED ACTION

Staff recommends adoption of the Council Bill vacating the utilities easements at 5001 South Broadway and 5084 South Acoma Street.

PLANNING COMMISSION ACTION

There has been no previous action.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Representatives of Cadence Development approached City staff several months ago about the potential development of the former Larry Miller Nissan property. The new development would include a specialty grocery store, an auto parts retail store and other components yet to be determined. The proposed project has gone through the Development Review Team on two separate occasions. Community Development, Public Works, Utilities, Fire, Police and Building and Safety staff have been involved in meetings concerning this issue and are working with the developer to resolve issues brought up in the DRT meetings.

One of the issues brought up was the existing utilities easements throughout the properties. These easements are located in vacated City of Englewood rights of way that were to be Grand Avenue, from Broadway to Acoma and an alley running north and south on the property. Grand Avenue was vacated by Ordinance No. 25 Series of 1969. The alley was also vacated by Ordinance No. 25 Series of 1969. Potential utility easement users identified were Xcel Energy, Qwest Corporation d/b/a as CenturyLink, and City of Englewood Utilities. Excel Energy and CenturyLink have no objection to vacating the easements. Documents to verify this are attached.

Representatives from Cadence Development attended the July 9, 2013 Water and Sewer Board meeting and asked that the City of Englewood vacate any easements that they have on this property. The Water and Sewer Board did approve to release all City of Englewood easements.

While there were easements for utilities on the property, the utilities were never put in place. The applicant is requesting to vacate the easements as they appear on paper.

FINANCIAL IMPACT

There are no direct costs the City will incur by vacating the easements. Vacation of the easements will allow development to proceed on the former Larry Miller Nissan property. At build out the project is estimated to generate nearly $360,000 in sale tax revenue annually. Annual property tax collected by the city is estimated at $25,000. One time use tax revenues are estimated at $136,000.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 42
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE VACATING THE UTILITY EASEMENTS LOCATED AT 5001 SOUTH BROADWAY AND 5084 SOUTH ACOMA STREET, IN THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, representatives of Cadence Development approached the City regarding potential development of the former Larry Miller Nissan property; and

WHEREAS, there are existing Utility Easements throughout the properties; and

WHEREAS, these Utility Easements are located in the vacated City of Englewood Right-of-Way Grand Avenue, from Broadway to Acoma and in an alley running North and South on the property; and

WHEREAS, the Englewood City Council approved the vacation of Grand Avenue by the passage of Ordinance No. 25, Series of 1969; and

WHEREAS, potential Utility Easement users identified were Xcel Energy, Qwest Corporation d/b/a CenturyLink and the City of Englewood Utilities Department; and

WHEREAS, Xcel Energy and CenturyLink have no objection to vacation the easements

WHEREAS, the Englewood Water and Sewer Board approved the vacation of the Utility Easements at the July 9, 2013 meeting.

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 vacation of the Utility Easement at 5001 South Broadway and 5084 South Acoma as shown on Exhibits 1A 1B, in the City of Englewood attached hereto.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

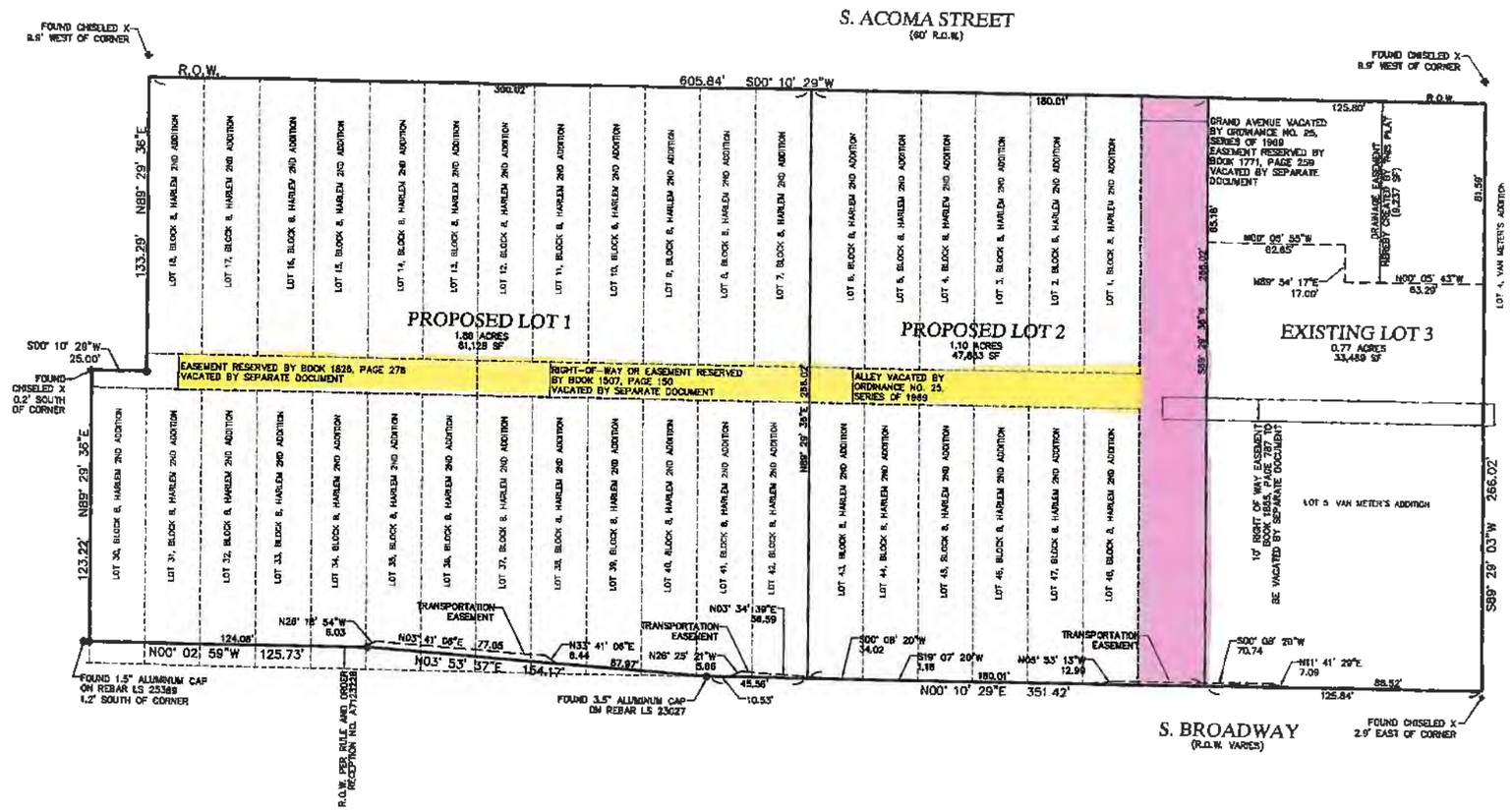
Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Loucrishia A. Ellis



LEGEND

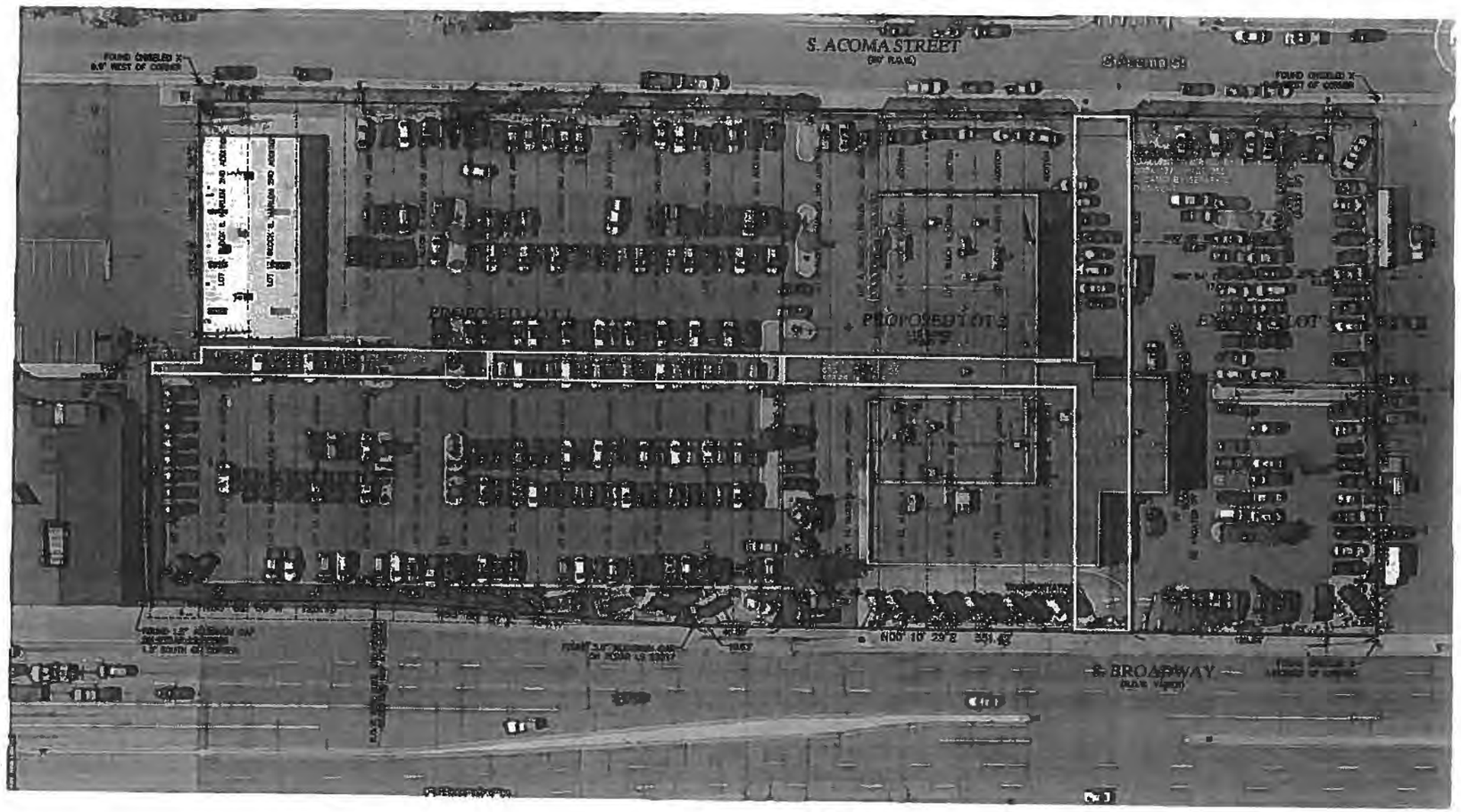
- FOUND MONUMENT AS NOTED
- SET #5 REBAR WITH ALUMINUM CAP LS #38344
- PLAT BOUNDARY
- EXISTING LOT LINE
- RIGHT-OF-WAY
- EXISTING EASEMENT

30 15 0 30 60

SCALE: 1" = 30'

5001 S. BROADWAY

RIGHT-OF-WAY EASEMENT VACATION EXHIBIT 1A 7/23/13



LEGEND

- FOUND MONUMENT AS NOTED
- SET #5 REBAR WITH ALUMINUM CAP LS #38344
- PLAT BOUNDARY
- EXISTING LOT LINE
- RIGHT-OF-WAY
- EXISTING EASEMENT

N

30 15 0 30 60

SCALE: 1" = 30'

5001 S. BROADWAY

RIGHT-OF-WAY EASEMENT VACATION EXHIBIT 1B 7/23/13

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 27
INTRODUCED BY COUNCIL
MEMBER WOODWARD

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 lease 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 froth 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 executed 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 15th day of July, 2013.

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

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

Read by title and passed on final reading as an emergency ordinance on the 5th day of August, 2013.

Published by title as an emergency ordinance in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 9th day of August, 2013.

Published by title as an emergency ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

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

_____
Loucrishia A. Ellis

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

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 28
INTRODUCED BY COUNCIL
MEMBER WOODWARD

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 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.

Read by title and passed on final reading on the 5th day of August, 2013.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 9th day of August, 2013.

Published by title on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

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

_____
Loucrishia A. Ellis

EXHIBIT A

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
_X__ 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.

_____
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
Total		

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

***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

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 29
INTRODUCED BY COUNCIL
MEMBER WOODWARD

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 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.

Read by title and passed on final reading on the 5th day of August, 2013.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 9th day of August, 2013.

Published by title on the City's official website beginning on the 7th day of August, 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 the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2013.

Loucrishia A. Ellis

EXHIBIT A

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: s

Proposed Use of Funds
_X__ 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	$	$
Total		

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*	$	$
Total $	**$1700.00**	**$1700.00**

***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

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 30
INTRODUCED BY COUNCIL
MEMBER WOODWARD

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 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.

Read by title and passed on final reading on the 5th day of August, 2013.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 9th day of August, 2013.

Published by title on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

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

Loucrishia A. Ellis

EXHIBIT A

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:

	Master Plan Percentage Share	Maximum Contribution	FHAD Contribution
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)

By_____
Randy P. Penn

ATTEST:

Title Mayor

Date_____

_____

Loucrishia A. Ellis, City Clerk

APPROVED:

_____

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

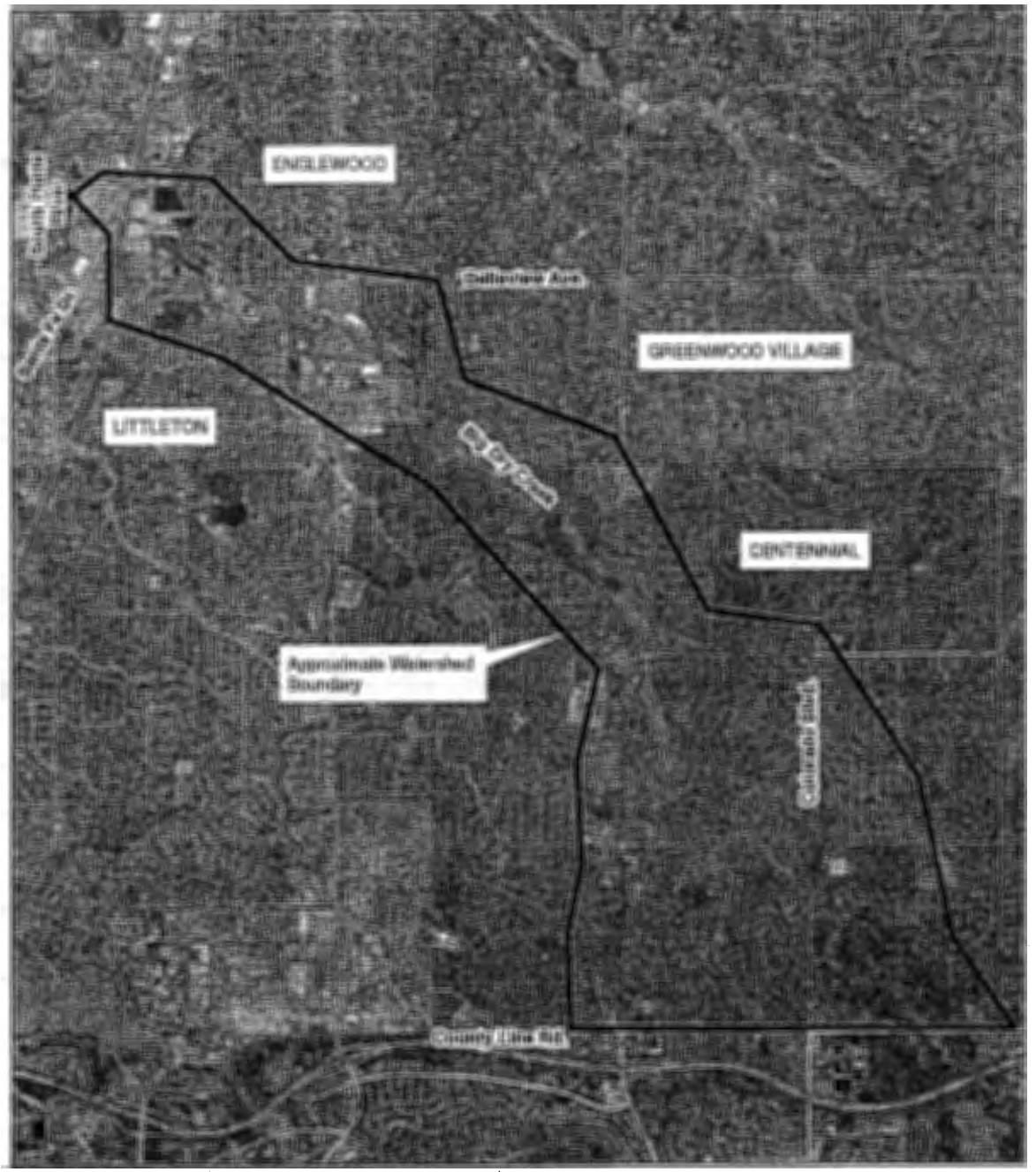
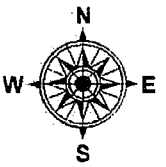


EXHIBIT A
Big Dry Creek MDP & FHAD
Approximate Watershed Limits
April 2013



BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 31
INTRODUCED BY COUNCIL
MEMBER WOODWARD

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 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.

Read by title and passed on final reading on the 5th day of August, 2013.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 9th day of August, 2013.

Published by title on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

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

Loucrishia A. Ellis

EXHIBIT A

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 17th 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 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 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: _____	By: _____
Lise Aangeenbrug	Name: Randy P. Penn
Executive Director	Title: Mayor

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 32
INTRODUCED BY COUNCIL
MEMBER WOODWARD_

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.

Read by title and passed on final reading on the 5th day of August, 2013.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 9th day of August, 2013.

Published by title on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

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

_____
Loucrishia A. Ellis

EXHIBIT 1

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

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.

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

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

Exhibit A

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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ARAPAHOE COUNTY
OPEN SPACES

Standard Grant Application

Open Space Grants Program
2013 Standard Grant Application Form

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): **303-762-2687** 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 (ACOS) 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, arohr@allsouls55.org
Englewood Unleashed	Barb Chumley, President 303-419-6692, chumley838@aol.com
Englewood Soccer Association	Misha Rasmussen, (720) 971-7980, misharoland@yahoo.com

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.

	Date:
[signature]	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 (ie: 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 900 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 Jerrell 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 of 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.

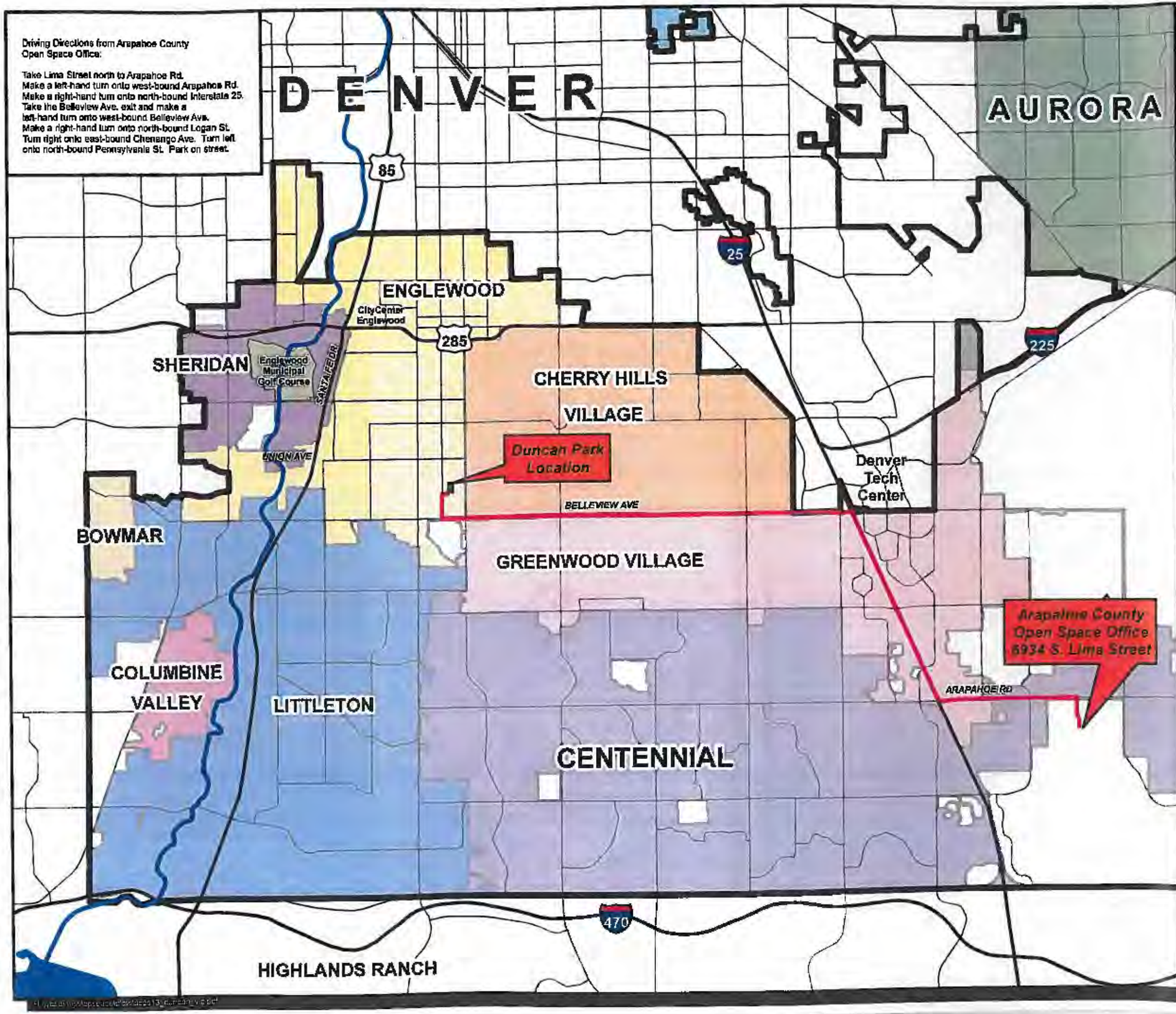
Temporary signage announcing the construction project will be installed at the corner of Layton Street and Pennsylvania Avenue. The signage will identify all funding partners for the project and list the project timeline. Permanent signage identifying ACOS support and funding will be installed at the 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.

Driving Directions from Arapahoe County Open Space Office:

Take Lima Street north to Arapahoe Rd.
Make a left-hand turn onto west-bound Arapahoe Rd.
Make a right-hand turn onto north-bound Interstate 25.
Take the Belleview Ave. exit and make a left-hand turn onto west-bound Belleview Ave.
Make a right-hand turn onto north-bound Logan St.
Turn right onto east-bound Chenango Ave. Turn left onto north-bound Pennsylvania St. Park on street.



City of Englewood, Colorado

2013 Arapahoe County Open Space, Parks, and Trails Grant Application

Duncan Park: Park Development Project

Vicinity Map with Driving Route

LEGEND

- Driving Route
- Duncan Park Boundary
- South Platte River
- Arapahoe County Boundary
- Major Highways
- Arterial and Collector Streets

November, 2012

0 1 2 3
Miles

City of Englewood, Colorado

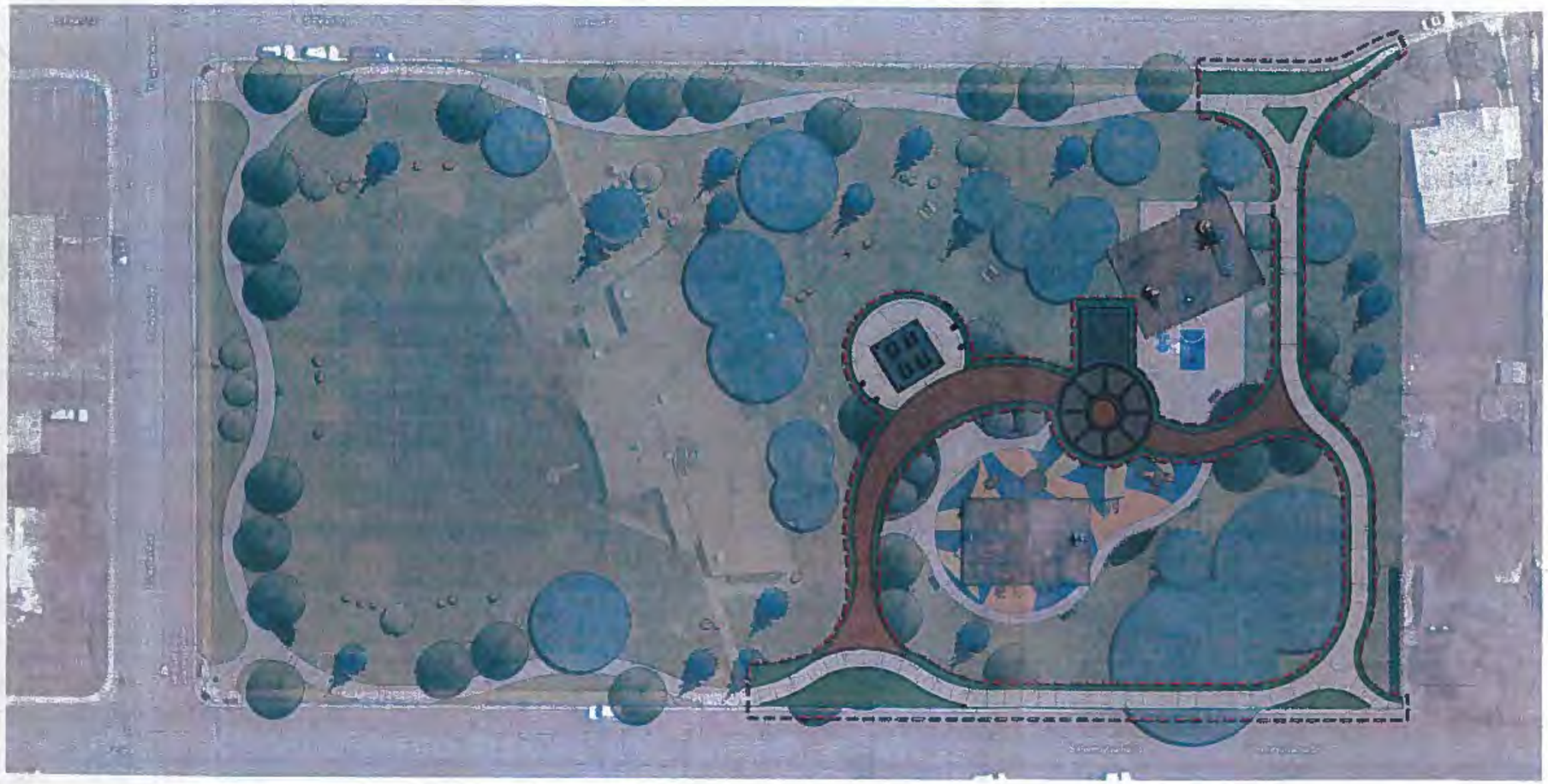
2012 Arapahoe County Open Space, Parks, and Trails Grant Application

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

N

0 75 150 225

Feet

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			
Task	**Estimated Hours and/or Date to Complete**	**Responsible Person/Group**	**Measurable Objective/Deliverable**
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		

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:

Randy P. Penn, Mayor

Lourrishia A. Ellis, City Clerk

I, Lourrishia A. Ellis, City Clerk for the City of Englewood, Colorado, hereby certify the above is a true copy of Resolution No. 6, Ser

CITY OF ENGLEWOOD

DEPARTMENT OF PARKS AND RECREATION

December 11, 2012

Arapahoe County Open Space
6934 S. Uma 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

1155 W. Oxford Avenue Englewood, Colorado 80110 Phone 303 762 2680 Fax 303-762-2688
www.englewoodgov.org

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 E 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) 789-1003 · Fax (303) 8[illegible]

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 Churnley, President
Englewood Unleashed

Englewood Soccer Association
P.O. Box 2064
Englewood, Colorado 80151

ENGLEWOOD SOCCER

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 parks 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

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
Totals - Sources of Funds		*$250,000*	*$175,000*	*$ Other match*	***$425,000***
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
Subtotal – Project Costs		**$250,000**	**$107,100**		**$357,100**
Contingency (≈10% of total project)	10/2014	- not charged to County -	$67,900		$67,900
Totals – Cost plus contingency		***$250,000***	***$175,000***	***$ total in-kind***	***$425,000***

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

Authorized Signature: [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 Brilina 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 - Silt Fence	1,533	LF	$ 2.00	$ 3,063.00	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	$ 3,000.00	$ 3,000.00	0	LS	$ 1,000.00	$ -
Erosion Control - Material Storage Area	1	LS	$ 1,000.00	$ 1,000.00	0	LS	$ 1,000.00	$ -
Erosion Control - Inlet Protection Including Curb Sacks	1	EA	$ 100.00	$ 100.00	0	EA	$ 100.00	$ -
Erosion Control (ACOS Grant)	0	LS	$ -	$ -	1	LS	$ 2,500.00	$ 2,500.00
Tree Protection and Removal	1	LS	$ 15,000.00	$ 15,000.00	1	LS	$ 3,500.00	$ 3,500.00
Clearing and Grubbing	5.63	ACRE	$ 2,000.00	$ 7,260.00	1.25	ACRE	$ 2,000.00	$ 2,500.00
Demolition - Concrete Paving	945	SY	$ 10.00	$ 9,450.00	0	SY	$ 10.00	$ -
Removals - Concrete Curb and Gutter	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	SY	$ 2.25	$ 652.50	0	SY	$ 2.25	$ -
Removals - Playground Edge (Railroad Ties)	220	LF	$ 2.50	$ 525.00	0	LF	$ 2.50	$ -
Removals - Playground Equipment	1	LS	$ 2,500.00	$ 2,500.00	0	LS	$ 2,500.00	$ -
Removals - Furnishings	1	LS	$ 3,000.00	$ 3,000.00	0	LS	$ 3,000.00	$ -
Removals - Utilities (Water Line, Backflows, Pole, Light Fixtures, Etc.)	1	LS	$ 5,000.00	$ 5,000.00	0	LS	$ 5,000.00	$ -
Remove/Reset Signs	1	LS	$ 1,500.00	$ 1,500.00	0	LS	$ 1,500.00	$ -
Removals (ACOS Grant)	0	LS	$ -	$ -	1	LS	$ 7,500.00	$ 7,500.00
Earthwork - Rough Grading (Cut 596 CY, Fill 1,855 CY, Net 1,259 CY)	1	LS	$ 15,000.00	$ 15,000.00	0	LS	$ 15,000.00	$ -
Earthwork - Fine Grading	15,972	SY	$ 1.00	$ 15,972.00	0	SY	$ 1.00	$ -
Earthwork (ACOS Grant)	0	LS	$ -	$ -	1	LS	$ 2,500.00	$ 2,500.00
Sanitary Sewer - 4" PVC SDR 35 PVC	128	LF	$ 20.00	$ 2,560.00	128	LF	$ 20.00	$ 2,560.00
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	$ 200.00	0	LS	$ 200.00	$ -
Concrete Paving (6" Thick, Standard Color, Broom Finish)	19043	SF	$ 4.00	$ 76,180.00	7,500	SF	$ 4.00	$ 30,000.00
Restroom Plaza 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 Pavers (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)	250	LF	$ 11.00	$ 2,750.00	150	LF	$ 11.00	$ 1,650.00
Concrete Curb Ramps (Standard Gray Color, Detectable Pavers)	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 (Brick Faced, Red Sandstone Cap)	205	LF	$ 200.00	$ 41,000.00	50	LF	$ 200.00	$ 10,000.00
Concrete Planter 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

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Miscellaneous Site Work	1	LS	$ 15,000.00	$ 15,000.00	0	LS	$ 15,000.00	$ -
Subtotal Site Work				$ 317,404.00	Subtotal Site Work			$ 136,560.00

Landscape

Description	Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
Deciduous Shade Tree - 3 1/2" Cal.	32	EA	$ 575.00	$ 18,400.00	0	EA	$ 575.00	$ -
Deciduous Shade Tree (Memorial Tree Install Only)	1	EA	$ 100.00	$ 100.00	0	EA	$ 100.00	$ -
Ornamental Tree - 3" Cal. / 8' Clump	12	EA	$ 500.00	$ 6,000.00	0	EA	$ 500.00	$ -
Evergreen Tree - 10' Ht	14	EA	$ 525.00	$ 7,350.00	0	EA	$ 525.00	$ -
Deciduous and Evergreen Shrubs	105	EA	$ 25.00	$ 2,625.00	0	EA	$ 25.00	$ -
Ornamental Grasses	167	EA	$ 10.00	$ 1,670.00	0	EA	$ 10.00	$ -
Perennials	28	EA	$ 8.00	$ 224.00	0	EA	$ 8.00	$ -
Landscape Boulder Type A (5' x 4' x 3')	11	EA	$ 550.00	$ 6,050.00	0	EA	$ 550.00	$ -
Landscape Boulder Type B (4' x 3' x 3')	5	EA	$ 350.00	$ 1,750.00	0	EA	$ 350.00	$ -
Landscape Boulder Type C (3' x 3' x 3')	6	EA	$ 275.00	$ 1,650.00	0	EA	$ 275.00	$ -
Landscape Boulder Type D (3' x 2' x 2')	3	EA	$ 200.00	$ 600.00	0	EA	$ 200.00	$ -
Mulch and Weed Barrier	4,335	SF	$ 0.65	$ 2,817.75	0	SF	$ 0.65	$ -
Turf Sod (incl. soil prep.)	118,780	SF	$ 0.45	$ 53,451.00	0	SF	$ 0.45	$ -
Miscellaneous Landscape Items	1	LS	$ 10,000.00	$ 10,000.00	0	LS	$ 10,000.00	$ -
Landscape - Adjustments and Remains (AECOS Grant)	0	LS	$ -	$ -	1	LS	$ 7,500.00	$ 7,500.00
Subtotal Landscape				$ 112,661.21	Subtotal Landscape			$ 7,500.00

Play Facilities

Description	Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
Play Equipment (including installation)	1	LS	$ 150,000.00	$ 150,000.00	0	LS	$ 150,000.00	$ -
9 1/2" Rubber Surfacing (including 4" concrete sub-slab)	5,000	SF	$ 18.75	$ 112,500.00	0	SF	$ 18.75	$ -
Sport Court - Slab (post-tension concrete)	1	LS	$ 22,000.00	$ 22,000.00	0	LS	$ 22,000.00	$ -
Sport Court - Surfacing and Striping	1	LS	$ 5,500.00	$ 5,500.00	0	LS	$ 5,500.00	$ -
Basketball Goals (reused)	2	EA	$ 500.00	$ 1,000.00	0	EA	$ 500.00	$ -
Horseshoe Pit	1	LS	$ 3,500.00	$ 3,500.00	0	LS	$ 3,500.00	$ -
Miscellaneous Play Facilities	1	LS	$ 15,000.00	$ 15,000.00	0	LS	$ 15,000.00	$ -
Subtotal Play Facilities				$209,500.00	Subtotal Play Facilities			$0.00

Structures

Description	Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
Restroom Building (Including lighting)	1	LS	$ 140,000.00	$ 140,000.00	1	LS	$ 140,000.00	$ 140,000.00
Shelter (including lighting)	1	LS	$ 50,000.00	$ 50,000.00	1	LS	$ 50,000.00	$ 50,000.00
Miscellaneous Structures	1	LS	$ 5,000.00	$ 5,000.00	0	LS	$ 3,000.00	$ -
Subtotal Structures				$195,000.00	Subtotal Structures			$190,000.00

Site Furnishings

Description	Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
Bench	8	EA	$ 1,700.00	$ 13,600.00	0	EA	$ 1,700.00	$ -
Trash Receptacle	8	EA	$ 1,650.00	$ 13,200.00	2	EA	$ 1,650.00	$ 3,300.00
Picnic Tables	4	EA	$ 1,500.00	$ 6,000.00	4	EA	$ 1,500.00	$ 6,000.00
Grills	2	EA	$ 650.00	$ 1,300.00	2	EA	$ 650.00	$ 1,300.00
Miscellaneous Furnishings	1	LS	$ 5,000.00	$ 5,000.00	0	LS	$ 5,000.00	$ -
Subtotal Site Furnishings				$39,100.00	Subtotal Site Furnishings			$10,600.00

Site Irrigation

Description	Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
Backflow Assembly - 2"	1	EA	$ 1,500.00	$ 1,500.00	0	EA	$ 1,500.00	$ -
Booster Pump Assembly- Skid Mounted, 7.5 HP	1	EA	$ 15,000.00	$ 15,000.00	0	EA	$ 15,000.00	$ -
Type K Copper Tubing - 2"	1	EA	$ 24.00	$ 24.00	0	EA	$ 24.00	$ -
Master Valve Assembly	1	EA	$ 450.00	$ 450.00	0	EA	$ 450.00	$ -
Flow Sensor Assembly	1	EA	$ 350.00	$ 350.00	0	EA	$ 350.00	$ -
Irrigation Controller - John Deere Greenstech Rainmaster Central Control	1	EA	$ 7,500.00	$ 7,500.00	0	EA	$ 7,500.00	$ -
Class 200 PVC Pipe - Mainline 3" RT	1,750	LF	$ 5.00	$ 8,750.00	0	LF	$ 5.00	$ -
Class 200 PVC Pipe - Mainline 4" RT	50	LF	$ 7.50	$ 375.00	0	LF	$ 7.50	$ -
Class 200 PVC Pipe - Lateral 1"	10,000	LF	$ 2.00	$ 20,000.00	0	LF	$ 2.00	$ -
Class 200 PVC Pipe - Lateral 1-1/4"	9,900	LF	$ 2.25	$ 22,275.00	0	LF	$ 2.25	$ -
Class 200 PVC Pipe - Lateral 1-1/2"	7,500	LF	$ 2.75	$ 20,625.00	0	LF	$ 2.75	$ -
Class 200 PVC Pipe - Lateral 2"	4,500	LF	$ 3.50	$ 15,750.00	0	LF	$ 3.50	$ -
Class 200 PVC Pipe - Lateral 2-1/2"	2,000	LF	$ 4.25	$ 8,500.00	0	LF	$ 4.25	$ -
Class 200 PVC Pipe - Lateral 3" RT	750	LF	$ 5.00	$ 3,750.00	0	LF	$ 5.00	$ -
Class 200 PVC Sleeve - 2"	200	LF	$ 2.00	$ 400.00	0	LF	$ 2.00	$ -
Class 200 PVC Sleeve - 2-1/2"	200	LF	$ 3.00	$ 600.00	0	LF	$ 3.00	$ -
Class 200 PVC Sleeve - 3"	200	LF	$ 4.00	$ 800.00	0	LF	$ 4.00	$ -
Class 200 PVC Sleeve - 4"	200	LF	$ 5.00	$ 1,000.00	0	LF	$ 5.00	$ -
Class 200 PVC Sleeve - 6"	150	LF	$ 6.00	$ 900.00	0	LF	$ 6.00	$ -
Quick Coupler Assembly	12	EA	$ 350.00	$ 4,200.00	0	EA	$ 350.00	$ -
Gate Valve Assembly 3"	4	EA	$ 750.00	$ 3,000.00	0	EA	$ 750.00	$ -
Remote Control Turf Valve Assembly 1"	4	EA	$ 275.00	$ 1,100.00	0	EA	$ 275.00	$ -
Remote Control Turf Valve Assembly 1-1/2"	4	EA	$ 325.00	$ 1,300.00	0	EA	$ 325.00	$ -
Remote Control Turf Valve Assembly 2"	14	EA	$ 375.00	$ 5,250.00	0	EA	$ 375.00	$ -
Remote Control Bubbler Valve Assembly 3"	5	EA	$ 275.00	$ 825.00	0	EA	$ 275.00	$ -
Pop-up Spray Sprinklers	330	EA	$ 15.00	$ 4,950.00	0	EA	$ 15.00	$ -
Pop-up Rotor sprinklers	90	EA	$ 55.00	$ 4,950.00	0	EA	$ 55.00	$ -
Pop-up Bubbler	51	EA	$ 15.00	$ 765.00	0	EA	$ 15.00	$ -
Irrigation Control wire - 10 AWG	25,000	LF	$ 0.13	$ 3,250.00	0	LF	$ 0.13	$ -
Miscellaneous Irrigation	1	LS	$ 5,000.00	$ 5,000.00	0	LS	$ 5,000.00	$ -

Irrigation - Sleeving Adjustments and Repairs (ACOS Grant)	1	LS	$	$	0	LS	$ 4,500.00	$ 7,500.00
Subtotal Irrigation				$161,939.00	Subtotal Irrigation			$7,500.00

Site Lighting
Description

Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
Lighting - Sport Court Light Fixtures	12	EA	$ 1,000.00	$ 12,000.00	0	EA	$ 1,000.00	$
Lighting - Tree and Sign Uplight Fixtures	14	EA	$ 1,000.00	$ 14,000.00	0	EA	$ 1,000.00	$
Miscellaneous Lighting and Electrical System	1	LS	$ 15,000.00	$ 15,000.00	0	LS	$ 15,000.00	$
Lighting - Sleeving (ACOS Grant)	1	LS	$	$	1	LS	$ 1,500.00	$ 1,500.00
Subtotal Site Lighting				$ 41,000.00	Subtotal Site Lighting			$ 1,500.00
SUBTOTAL BASE BID				$ 1,176,824.15	SUBTOTAL BASE BID			$ 153,600.00

Bid Alternate 01
Description

Install of overhead electrical lines to new (2) shade poles at southeast corner of park site

Quantity	Unit	Unit Price	Extension	Quantity	Unit	Unit Price	Extension
1	LS	$ 6,500.00	$ 6,500.00	0	LS	$ 6,500.00	$
SUBTOTAL BID ALTERNATE 01			$ 6,500.00	SUBTOTAL BID ALTERNATE 01			$ -

ACOS GRANT APPLICATION SUBTOTAL	$ 353,600.00
20% CONTINGENCY	$ 70,720.00
ACOS GRANT APPLICATION TOTAL	$ 424,320.00
ANTICIPATED ACOS GRANT AND MATCHING CITY OF ENGLEWOOD COMBINED BUDGET	$ 425,000.00

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	9 c i	A Resolution Setting License Fees For Purchasers of Valuable Articles

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

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

The Council discussed miscellaneous licenses, fees, and changes to Building Use Taxes at the July 1, 2013 Session. City Council directed staff to prepare a resolution to establish the license fees for Purchaser of Valuable Items license holders. The City has charged the fees for this license since the license was created by ordinance but the fees have never been set by resolution.

RECOMMENDED ACTION

Staff recommends City Council approve the attached resolution setting the license fees for the Purchaser of Valuable Articles licenses. Staff requests Council approve the following fees:

License Application Fee (non-refundable):	$15.00
Annual License Fee	$250.00
Fee for Each Single Item Transaction (Transaction Fee)	$.30

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

City staff reviews Title 5 of the Englewood Municipal Code and the associated fees continually to insure the language is current and relevant and the fees are comparable to those charged in the metropolitan area.

FINANCIAL IMPACT

The proposed fee increases will not increase or decrease revenues to the City of Englewood as the fees approved have been in place but never officially approved by resolution.

LIST OF ATTACHMENTS

Proposed resolution

RESOLUTION NO. _____
SERIES OF 2013

A RESOLUTION SETTING LICENSE FEES FOR PURCHASERS OF VALUABLE ARTICLES.

WHEREAS, Title 5, Chapter 1, of the Englewood Municipal Code establishes that the City Council sets license fees by resolution; and

WHEREAS, the City of Englewood City Council discussed miscellaneous licenses, fees, and changes to Building Use Taxes in July, 2013; and

WHEREAS, the Englewood City Council determined the fees for Purchaser of Valuable Articles license needed to be established; and

WHEREAS, the passage of this proposed resolution will establish license fees for Purchasers of Valuable Articles.

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 authorizes the following License Fees for Purchasers of Valuable Articles as follows:

License Application Fee (non-refundable)	$ 15.00
Annual License Fee	$250.00
Fee for Each Single Item Transaction (Transaction Fee)	$ .30

ADOPTED AND APPROVED this 5th day of August, 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

Date August 5, 2013	Agenda Item 11 a i	Subject Farm Lease Renewal Agreement L/E WWTP Beneficial Use Farms
INITIATED BY Littleton/Englewood Wastewater Treatment Plant – Supervisory Committee	**STAFF SOURCE** Stewart H. Fonda, Director of Utilities Jim Tallent, Operations Division Manager	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Various farmers perform farm management services on City owned properties near Byers, CO. The Byers farm is used to apply stabilized domestic wastewater biosolids in a beneficial use program. In 2011 Council approved 5-year lease agreements with these farmers. One property not included in this action was purchased in 2008 which included a farm management lease through the original land purchase - this agreement has expired.

RECOMMENDED ACTION

The recommended action is to approve, by Ordinance, a new 2-year cash-lease agreement for:

1. Gary and Nancy Meier and Jason Meier

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Based on criteria established by regulatory requirements, the Littleton/Englewood WWTP was granted approval by the Cities of Englewood and Littleton (1995, 1996 and 2008) to purchase dryland farm property (Byers farm). This property is used for long-term application of domestic wastewater biosolids generated by the facility. While plant staff operates and maintains the biosolids application program, farming services are contracted via cash-lease and provided through local farmers. Gary and Nancy Meier and Jason Meier conduct farm management activities for a portion of the Byers farm.

At the May 16, 2013 L/E WWTP Supervisory Committee meeting discussion was held and action recommended and approved to renew the current $8.00/acre cash-lease for two years. This shorter term will bring all farm lease agreements to be renewed at the same time and can be acted upon with one ordinance action. Cash-lease places all direct farming costs with Gary Meier, consistent with our other leases. Not sharing farming cost with the Cities will result in reduced budgetary expenditures for L/E WWTP.

A new 2-year lease document, based on existing previously approved $8/acre cash-lease, was prepared by Hill and Robbins. The lease document was reviewed and approved by both Englewood and Littleton City Attorneys.

FINANCIAL IMPACT

With recommended cash-lease pricing of $8.00/acre, firm revenue of $10,016 will be generated each year, regardless of commodity/economy trends.

LIST OF ATTACHMENTS

Littleton/Englewood WWTP - Gary and Nancy Meier and Jason Meier Cash-Lease Agreement

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 34
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AUTHORIZING A FARM LEASE AGREEMENT FOR A FARM IN THE LITTLETON/ENGLEWOOD WASTEWATER TREATMENT PLANT BIOSOLIDS MANAGEMENT PROGRAM.

WHEREAS, the Cities of Littleton and Englewood jointly own properties near Byers, Colorado and Bennett, Colorado which are used for the Littleton/Englewood Wastewater Treatment Plant (L/E WWTP) Biosolids Management Program; and

WHEREAS, this Program uses dryland farm property for long-term applications of domestic wastewater biosolids generated by the (L/E WWTP); and

WHEREAS, the Englewood City Council approved the purchase and 5 year lease back of farmland to Meier in Byers by the passage of Ordinance No. 55, Series of 2007; and

WHEREAS, there is an ongoing biosolids application covered by an existing lease on the Meyer farm which runs through 2013; and

WHEREAS, the Meier's lease begins on July 6, 2013 for a term of one (1) year, renewable for one (1) additional year.

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

Section 1. The City Council of the City of Englewood hereby authorizes a "Farm Lease" between Gary Meier and Nancy Meier and the cities of Littleton and Englewood commencing on July 6, 2013, for a term of one (1) year, and renewable for one (1) year; attached hereto as Exhibit A.

Section 2. The Mayor is hereby authorized to sign the Meier Farm Lease Agreement for and on behalf of the City of Englewood.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

Randy P. Penn, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Loucrishia A. Ellis

EXHIBIT A

FARM LEASE

THIS LEASE is dated as of 7-6, 2013, and is made and entered into by and between the Cities of Littleton and Englewood, collectively referred to hereinafter as "Lessor", and **Gary and Nancy Meier and Jason Meier**, referred to hereinafter as "Lessees". On this date, Lessor has leased to the Lessees the following described premises situated in the Counties of Adams and Arapahoe, State of Colorado, to wit:

[See Exhibit A attached hereto and made a part hereof]

together with all buildings and improvements on the premises (hereinafter referred to as the "Leased Property") in accordance with the following terms:

1. This lease replaces and supersedes in its entirety, any prior lease agreement between the parties. This lease shall be for the term of one (1) year, renewable annually for one (1) additional year commencing on January 1, 2013, at the rent of $8.00 (Eight dollars) per acre per year on farmable acres on the Leased Property (1,252 acres) for a total annual lease payment of $10,016.00.

2. The lease payment is to be made payable to the order of:

Littleton/Englewood WWTP

and delivered to:

Littleton/Englewood WWTP
c/o Treatment Division Manager
2900 South Platte River Drive
Englewood, CO 80110

by December 31 (following the harvest) of each year that this lease is in effect.

3. Lessees shall thoroughly plow, cultivate and farm in accordance with good farming practices, all lands comprising the Leased Property that are not in grass, fallowed by mutual agreement of the parties, or otherwise unfarmable.

4. Lessees shall use the Leased Property as a dryland farm and for no other purpose whatsoever, and especially will not let or permit the Leased Property to be used for any other business or purpose whatsoever.

5. Lessees shall be responsible for all costs and expenses associated with use of the Leased Property as a dryland farm, except that Lessor, at its own cost and expense, shall be responsible for furnishing, transporting, and applying all fertilizer, in the form of biosolids, to the Leased Property.

6. All fertilizer to be used on the Leased Property shall be transported, furnished, and applied by Lessor at such times and at agronomic rates as determined by Lessor. Lessees shall

not apply any fertilizer on the Leased Property without the prior written consent of Lessor. Lessor may use a portion of the Leased Property for staging areas for biosolids application. Staging area size and location will be as determined by Lessor.

7. Lessees shall not assign this lease, sublet, or relinquish the Leased Property, under the penalty of a forfeiture of all the rights of the Lessees under or by virtue of this lease, at the election of the Lessor.

8. Lessees shall protect the Leased Property, including buildings, gates, fences, shrubbery, and improvements thereon from all damages and shall keep the same in the same condition as they are now in, or may be at any time placed in by the Lessor, subject to normal wear and tear. Lessees shall do no act whereby any insurance on buildings may be invalidated and shall not remove, or allow any other person to remove, from the Leased Property any of the buildings, gates, fences, shrubbery, and improvements of any kind.

9. Lessees shall not run furrows so as to cause ditches to wash the Leased Property, unless first having a written consent of the Lessor. Lessees shall clean out and maintain in good repair, during the operation of this Lease, all ditches belonging or appertaining to the Leased Property.

10. Lessees shall well and seasonably put in and tend to the crops grown on the Leased Property, shall have all small grain harvested and threshed by October 1 of each year; and if not harvested and threshed as stated, the Lessor may proceed to do so after ten (10) days notice to the Lessee, and take enough of the Lessee's grain to pay expense of such harvesting or threshing.

11. Lessees shall accept the fences upon said Leased Property as they are now existing.

12. Lessees shall, at the expiration of this Lease, or upon a breach by the Lessees of any of the covenants herein contained, without further notice of any kind, quit and surrender the possession and occupancy of Leased Property in as good condition as careful use and natural wear and tear thereof will permit.

13. All goods and chattels, or any other property used or kept on the Leased Property, shall be held for the rent or damages under this Lease, whether exempt from execution or not, meaning or intending hereby to give the Lessor a valid and first lien upon any and all goods and chattels, crops and other property belonging to the Lessees.

14. Lessees shall cultivate around any structures or facilities constructed by Lessor and where applicable, and shall not impair or hinder, but shall cooperate with Lessor in the use of domestic wastewater biosolids application on the Leased Property.

15. The Lessor reserves the right to cancel the lease during its term for any of the following reasons: a) if the Lessees should take any action or fail to take any action that threatens the Lessor's interest in the Leased Property, including the violation of any environmental laws, rules, regulations or standards; b) if the Lessees should fail to abide by the Lessor's instructions concerning residual nitrogen levels in the soil and agronomic rates of

application of biosolids; c) if the Lessees are farming in a manner which limits the Lessor's ability to apply biosolids to the Leased Property; d) if the Lessees are not farming in a manner that constitutes good farming practices; e) if the Lessor determines that it will no longer utilize the Leased Property for the production of crops.

16. Lessor also reserves the right for itself, its agents and its designees, including other government officials, to enter and to have access, at all reasonable times during the term of this lease, to the Leased Property for the purpose of sampling, application, monitoring, testing, screening, mapping, plotting or doing any other procedure, task or function deemed necessary by Lessor in conjunction with its biosolids production and application operation and for any other purpose including, but not limited to, inspecting the Leased Property and to make such repairs, additions, or improvements as Lessor may deem necessary.

17. It is understood and agreed that the Lessor reserves the right to cancel this lease at its sole discretion. Should Lessor elect to exercise its right of cancellation, it must do so in writing, on or before October 1 prior to the anniversary date hereof, in which event this lease shall be terminated effective on the anniversary date and neither party shall be entitled to further payments or damages as the result of said termination except for any payments due and owing at the time of cancellation.

18. All payments from the Lessee shall become due and payable upon forfeiture of said Lease, or upon abandoning said Leased Property, and if it becomes necessary for the Lessor to bring action at law to recover possession, damage or rent, the Lessees agree to pay a reasonable attorney's fee therefore, and all costs attending the same.

19. Lessees shall indemnify, defend and hold harmless Lessor and its successors, assigns and representatives from and against any and all damages, claims, losses, costs, liabilities, and expenses of any kind whatsoever (including but not limited to reasonable attorney fees) which may be asserted against or suffered by Lessor or the Leased Property or any part thereof, as a result of, on account of or arising from (i) any breach of any covenant, representation; promise, warranty or agreement made by Lessee, or (ii) injuries or damages to person or property resulting or alleged to result from any fault or negligence of Lessee or his agents or employees, or from the possession, use, occupancy, or maintenance of the Leased Property by Lessees, their agents, employees, or affiliates.

20. This Lease shall not be sublet or assigned. Any purported sublease or assignment shall be void, and shall result in immediate termination of this lease.

21. Lessor reserves the right to sell, contract to sell, or grant easements or rights-of-way over, through, under, or on, the Leased Property at any time during the term of this lease, subject to the rights and interests of the Lessees hereunder.

22. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO LESSOR:	TO LESSEES:
Littleton/Englewood WWTP c/o Treatment Division Manager 2900 South Platte River Drive Englewood, CO 80110	Gary and Nancy Meier 3265 SCR 185 Byers, CO 80103

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

This lease shall be in effect as of the date first above written.

(Signatures follow on separate pages)

LESSOR:

CITY ENGLEWOOD

_____

By: Randy P. Penn, Mayor

CITY OF LITTLETON

_____

By: Debbie Brinkman, Mayor

LESSEES:

By: Gary Meier

By: M

Exhibit A

LEGAL DESCRIPTION

Parcel I:
The East 1/2 of Section 33, Township 3 South, Range 57 West of the 6th P.M., County of Adams, State of Colorado.

Parcel II:
The West 1/2 of Section 8, Township 4 South, Range 57 West of the 6th P.M., EXCEPT the West 40 feet for county road purposes as described in Quit Claim Deed recorded September 8, 1948, in Book 618, at Page 121, County of Arapahoe, State of Colorado.

Parcel III:
Section 17, Township 4 South, Range 57 West of the 6th P.M., EXCEPT the West 40 feet and the South 40 feet thereof as described in Quit Claim Deed recorded September 8, 1948, in Book 618, Page 128, County of Arapahoe, State of Colorado.

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	11 a ii	Ordinance approving the sale of the Englewood Depot.

Initiated By:	Staff Source:
City Council	Michael Flaherty, Deputy City Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council has discussed the sale of the Englewood Depot several times over the last two years. At the June 17, 2013 Study Session, Council discussed the findings of the panel that had been convened to review and make recommendations on the finalists' proposals for the sale of the depot. At that time, Council directed staff to prepare a resolution in support of the proposal for the property submitted by Tom and Patti Parson. During the July 1 City Council meeting, Council approved a resolution authorizing staff to negotiate the sale of the depot to Tom and Patti Parson. The matter was also discussed during an Executive Session on July 22, 2013.

RECOMMENDED ACTION

Staff is presenting for Council's consideration a bill for an ordinance approving a contract for the sale of the Englewood Depot and adjacent property to Tom and Patti Parson.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In November, 2011, the City of Englewood issued a Request for Proposals for the sale of the Englewood Depot property. One proposal was received, but was eventually withdrawn. In November, 2012, the City of Englewood issued a second Request for Proposals for the sale of the depot. Three proposals were received. After discussions with Council, the list was narrowed down to two finalists: the proposal submitted by Tom and Patti Parson for a Living Letterpress Museum and the Englewood Historic Preservation Society's proposal for an Englewood History Museum.

A selection panel was convened to review and make recommendations regarding the finalists' proposals. The panel was made of up three professionals with expertise in historic preservation and financing of historic structure preservation and two Englewood citizens appointed by City Council. After reviewing the proposals and interviewing the representatives from the finalist organizations, the panel unanimously recommended the proposal submitted by the Parsons.

Council discussed the recommendations during the June 17, 2013 Study Session and approved a resolution on July 1 authorizing staff to negotiate the sale of the property to the Parsons. Staff was instructed to negotiate the terms of the contract with the Parsons to include the following conditions:

- The buyer must secure a preservation easement within 180 days from the date of sale.
- The City of Englewood will have the right of first refusal in the event of a future sale of the property.

FINANCIAL IMPACT

The City will receive $30,000 from the sale of the property.

LIST OF ATTACHMENTS

Proposed bill for an ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 35
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AUTHORIZING THE SALE OF THE ENGLEWOOD DEPOT PROPERTY TO TOM AND PATTI PARSON.

WHEREAS, the Englewood Depot was built in the early 1900's and was located along the railroad tracks near what is now the intersection of Hampden Avenue and Santa Fe Drive; and

WHEREAS, as railroad freight and passenger traffic declined in the 1950's it was closed; and

WHEREAS, the Englewood Depot was moved to a vacant lot owned by the City; and

WHEREAS, late in 2012 the Englewood City Council made the decision to seek a buyer and sent out a request for proposal to restore the building and put it to use; and

WHEREAS, two proposals were received; and

WHEREAS, an Englewood Historic Preservation Society a proposal was to turn the Englewood Depot into a museum; and

WHEREAS the proposal by Parson would undertake historic restoration of the Englewood Depot and turn the inside into a letterpress operation and museum using their own resources and seeking historic restoration grants; and

WHEREAS, the Englewood City Council created a five-member committee to evaluate the two proposals for restoration and reuse of the Englewood Depot submitted as a result of the City's request for proposal; and

WHEREAS, the Evaluation Committee was made up of three professionals, with expertise related to historic preservation and financing of historic structures and two Englewood residents; and

WHEREAS, the Evaluation Committee recommended moving forward with the Parson proposal; and

WHEREAS, during the June 17, 2013 Study Session, Englewood City Council discussed the findings offered by the Evaluation Committee; and

WHEREAS, City Council approved Resolution No. 66, Series of 2013 authorizing the City Manager to negotiate a sale of the Englewood Depot to Tom and Patti Parson; and

WHEREAS, City staff can not find a record of the property being dedicated for park purposes; and

WHEREAS, the Parks and Recreation Master Plan of 2006 anticipates the transfer of the property to other, more economically productive uses.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the City Manager to sign a Sales Agreement containing the conditions listed in the City's Request for Proposal including a preservation easement through the Colorado Historical Foundation and a first right of refusal for this property in the event the Buyer sells the property in the future. The right of first refusal will not be triggered if the Buyer transfers the property to a limited liability company or non-profit owned and controlled by Tom and Patti Parson or if title is transferred to their son by inheritance.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes the Mayor to sign the Quit Claim Deed for the sale of the Englewood Depot property to Tom and Patti Parson.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

_____
Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
August 5, 2013	11 a iii	Ordinance Adopting Amendments to Title 16 Concerning Distilleries, Breweries and Wineries

Initiated By:	Staff Source:
Community Development Department	Chris Neubecker, Senior Planner

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

There has been no previous Council action concerning this matter. Council discussed the topic at the July 22, 2013 study session.

PREVIOUS PLANNING COMMISSION ACTION

The Planning and Zoning Commission conducted a public hearing on July 2, 2013 to consider the proposed amendments to Title 16: Unified Development Code establishing zoning for distilleries, breweries and wineries. Two members of the public were present, but elected not to testify. Following discussion, the Commission voted 9 to 0 in favor of forwarding to City Council proposed amendments to Chapter 5: Use Regulations, and Chapter 11: Use Classifications, as presented in the attached Bill for an Ordinance.

RECOMMENDED ACTION

The Community Development Department recommends adoption of a Bill for an Ordinance authorizing amendments to Title 16: Unified Development Code regarding distilleries, breweries and wineries on First Reading, and we recommend setting August 19, 2013 as the date for a Public Hearing to consider testimony on the proposed amendments.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In August 2012, the Planning and Zoning Commission heard requests for a new brewery and separately heard of plans for a new distillery. The brewery was eventually approved as a conditional use and recently opened as "Brews on Broadway". Distillation of alcohol, however, is currently prohibited (Sec. 16-11-1 G 2 c (2)). There was consensus from the Planning and Zoning Commission to research these industries and consider code amendments to facilitate new business development.

On July 2, 2013 the Planning and Zoning Commission reviewed the proposed code changes, held a public hearing, and recommended that City Council approve an ordinance to allow distilleries and clarify language on breweries and wineries. The proposed changes would allow distilleries, breweries and wineries as

Permitted Uses in I-1 and I-2 districts. The Commission also supported these businesses as Conditional Uses in the M-2, MU-B-1 and MU-B-2 districts as long as the businesses are limited in size and designed to encourage pedestrian traffic with such activities as tap rooms, retail sales, tours, etc.

Some of the key elements of this proposal include:

- Distilleries would no longer be prohibited.
- I-1 and I-2 districts: Distilleries, breweries and wineries would be "Permitted Uses"
- M-2, MU-B-1 and MU-B-2 districts: Distilleries, breweries and wineries would be "Conditional Uses" with a limit of 10,000 square feet of gross floor area.
- Within M-2, MU-B-1 and MU-B-2, distilleries, breweries and wineries would only be allowed in conjunction with a tap room or retail sales area, which would count toward the 10,000 square foot limit. These features would ensure that businesses in these highly visible mixed use districts generate foot traffic and street activity. (Within I-1 and I-2, tap rooms and retail sales areas would be allowed, but not required.)
- Definitions are proposed for "distillery", "brewery", "winery" and "tap room". The definitions are designed to align with the State of Colorado definitions.
- The definition of "Micro-brewery" is proposed for removal. Micro-breweries will fall under the definition of "brewery".

ANALYSIS

The distillation of alcohol is currently prohibited in Englewood. As a result, new distilleries are prohibited. The relatively recent but significant growth of the craft distilling industry in Colorado and the United States has a promising future, and one local resident proposes to open a small distillery in Englewood. Others are also considering small breweries. In order to facilitate businesses development, staff proposes these amendments to the Unified Development Code.

Contrary to many manufacturing businesses, distilleries, breweries and wineries do not generate significant noise, odor or traffic. Distilleries and breweries smell similar to bakeries, and truck deliveries may happen only a few times per month. As a result, smaller craft distillers, brewers and vintners can fit into mixed use business districts with relatively few impacts, provided their size is limited. Large manufacturing operations in mixed use districts, however, could negatively impact the streetscape and the pedestrian experience with large, blank walls facing the street. This is why a size limit of 10,000 sq. ft. is recommended. Production limits (gallons or barrels) were examined but were determined to be too cumbersome to monitor and not necessarily reflective of the character of the operation.

Distilleries, breweries and wineries can also attract visitors into the community. Especially small scale producers focusing on high quality, these businesses often include tours and "tap rooms" that generate pedestrian activity. (This is why these industries would be allowed in mixed use districts only if they include a tap room, retail store, or other elements that generate foot traffic and/or sales tax.) Tap rooms and tours are supported by the Comprehensive Plan, which envisions Broadway as a walkable and attractive destination with unique specialized products. New manufacturers without these foot traffic generators would need to locate in the industrial districts.

Licensing of distilleries, breweries and wineries is processed at the state level depending on the use. A Brewers Notice from the Bureau of Alcohol, Tobacco and Firearms is also required. Any business that wishes to manufacture and sell "malt, vinous or spirituous liquors" must obtain a Manufacturer's License and Wholesaler's license, respectively, from the State. There are no restrictions on volume of production

placed on these licenses. State licensing goes through a staff review process. There are no public hearings or other notices involved.

Currently, the only physical restrictions placed on obtaining these licenses are that the business must be (1) at least 500 feet from schools and (2) at least 500 feet from day labor businesses.

FINANCIAL IMPACT

There is no direct impact to the City as a result of this ordinance. There is currently one local investor that is actively working to open a distillery in the city, and a few others are investigating Englewood for new business locations. Indirectly, it is anticipated that this ordinance will have a positive financial impact on the community by encouraging craft distillers and brewers to locate in the City.

LIST OF ATTACHMENTS

Planning and Zoning Commission Staff Report – June 21, 2013
Planning and Zoning Commission Minutes – July 2, 2013
Planning and Zoning Commission Findings of Fact - Case No. 2012-05
Bill for an Ordinance

M E M O R A N D U M

TO: **Planning and Zoning Commission**

THRU: **Alan White, Community Development Director**

FROM: **Chris Neubecker, Senior Planner**

DATE: **June 21, 2013**

SUBJECT: **Case # 2012-05 Public Hearing**
Zoning for Distilleries, Breweries and Wineries

Recommendation:

The Community Development Department requests that the Planning and Zoning Commission review, take public testimony, and forward to City Council a recommendation for adoption as written proposed amendments to the Unified Development Code of the Englewood Municipal Code Title 16, Chapter 16, Use Regulations, and Title 16, Chapter 11, Use Classifications and Definitions of Terms, relating to Distilleries, Breweries and Wineries.

Background:

On June 4, 2013 the Planning and Zoning Commission discussed possible changes to the Unified Development Code (UDC) concerning distilleries, which are currently prohibited (Sec. 16-11-1 G 2 c (2)). At that meeting, the Commission supported moving forward with a change to the UDC to allow distilleries, breweries and wineries in I-1 and I-2 districts. The Commission also supported these businesses as Conditional Uses in the M-2, MU-B-1 and MU-B-2 districts, with a maximum size of 10,000 square feet.

The Commission asked staff to bring the proposed language back for a final review before starting the ordinance process with City Council. Attached for your review is the proposed code language. Some of the key elements of this proposal include:

- Alcohol distillation will no longer be prohibited
- I-1 and I-2 district: Distilleries, breweries and wineries would be "Permitted Uses"
- M-2, MU-B-1 and MU-B-2 districts: Distilleries, breweries and wineries would be "Conditional Uses" with a limit of 10,000 square feet of gross floor area.
- Definitions are proposed for "distillery", "brewery", "winery" and "tasting room". The definition of "microbrewery" is proposed to change to more closely follow the State of Colorado definition.

- Production volume limits have been removed from the definitions (except for brewery and microbrewery), since conditional uses would be regulated by building size, not production volume.
- Tasting rooms would be limited to 30% of gross floor area of manufacturing facility, or 1,000 square feet, whichever is greater.
- Within M-2, MU-B-1 and MU-B-2 all distilleries, breweries and wineries shall only be allowed in conjunction with a tasting room, retail sales area, tavern or restaurant.
- Definitions have been modified to conform to State of Colorado definitions

No additional design standards are proposed for these manufacturing facilities in the M-2, MU-B-1 or MU-B-2 districts.

Analysis

The distillation of alcohol is currently prohibited in Englewood. As a result, new distilleries are prohibited. The relatively recent but significant growth of the craft distilling industry in Colorado and the United States has a promising future, and one local resident has proposed to open such a business in Englewood. In order to allow the new distillery, and facilitate businesses development in Englewood, staff proposes some amendments to the Unified Development Code concerning distilleries, breweries and wineries.

Contrary to many manufacturing businesses, distilleries, breweries and wineries do generate significant traffic, noise or odor. Distilleries and breweries smell similar to bakeries, and deliveries may happen only a few times per month. As a result, smaller craft distillers, brewers and vintners can fit into traditional mixed use business districts with relatively few impacts, provided their size is limited. In industrial zones, the impacts of larger operations would be no greater than other traditional light or heavy industries.

Distilleries, breweries and wineries can also attract visitors in to the community. Especially small scale producers focusing on high quality, these businesses often include tours and "tasting rooms" that generate activity in business or industrial zones.

Recommendation:

Staff believes that the draft ordinance captures the intent and consensus of the Commission from the meeting of June 4th. We believe that these changes help support new business development but will also help protect community character and create active pedestrian environments in the M-2, MU-B-1 and MUB-2 districts.

A motion to recommend approval of the ordinance to City Council is needed.

Next Steps:

If the Planning & Zoning Commission recommends approval, we intend to move forward with first reading of an ordinance by City Council.

Attachments:

Amendments to Title 16 pertaining to Breweries, Distilleries and Wineries

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION
REGULAR MEETING
July 2, 2013

Minutes and audio are available at:
http://www.englewoodgov.org/Index.aspx?page=152

I. CALL TO ORDER

The regular meeting of the City Planning and Zoning Commission was called to order at 7:02 p.m. in the City Council Chambers of the Englewood Civic Center, Chair Brick presiding.

Present: Bleile, Roth, King, Welker, Knoth, Fish, Brick, Kinton, Townley
Freemire (alternate)

Absent: None

Staff: Alan White, Community Development Director
Chris Neubecker, Senior Planner
Dugan Comer, Prosecuting Attorney

II. APPROVAL OF MINUTES

June 4, 2013

Mr. Fish moved:
Mr. Knoth seconded: TO APPROVE THE JUNE 4, 2013 MINUTES

Chair Brick asked if there were any modifications or corrections. Mr. Brick requested one change on page 3, third paragraph. The word "using" be changed to "used".

AYES: Bleile, Roth, Welker, Knoth, Fish, King, Brick, Kinton
NAYS: None
ABSTAIN: Townley
ABSENT: None

Motion carried.

III. PUBLIC HEARING

Case #2012-05, Distilleries, Breweries and Wineries

Mr. Fish moved:
Mr. Bleile seconded: TO OPEN THE PUBLIC HEARING ON CASE #2012-05

AYES: Roth, Knoth, King, Brick, Bleile, Fish, Townley, Welker, Kinton
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

Mr. Neubecker, Senior Planner, was sworn in. He provided background information on the amendments. He noted several changes Staff is recommending to the amendments since the packet went out. He stated Staff approves of the modified amendments and recommends they be forwarded to City Council.

Discussion points included:

- Nuisance definition
- Remove microbrewery in its entirety. Microbrewery would be considered a brewery
- Noise, odor not significant
- Definitions for distillery, brewery, tasting room and winery
- Remove all from TSA district; take up later when TSA is discussed
- Remove language referring to production volume

Mr. Roth moved:
Mr. Bleile seconded: TO CLOSE THE PUBLIC HEARING ON CASE #2012-05

AYES: Roth, Knoth, King, Brick, Bleile, Fish, Townley, Welker, Kinton
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

Mr. Fish moved:
Mr. Bleile seconded: *CASE#2012-05, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO DISTILLERIES, BREWERIES AND WINERIES AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION WITH THE FOLLOWING CONDITIONS:*

1. Section 2, Brewery definition: strike "and the combined volume of fermented malt beverage and/or malt liquor production exceeds 12,000 barrels per year
2. In Section 2 remove the definition of Microbrewery
3. Section 3, in the Table of Allowed Uses, remove all reference to Microbrewery
4. Section 3, in the Table of Allowed Uses, remove Brewery from the Food and Beverage Service section
4. Section 4, remove 14. e. in its entirety

Mr. Fish stated he feels this issue fit well within the Comprehensive Plan, which promotes business in the city. It will enhance the City and is a great direction for the City to go.

Mr. Welker said he felt it is in substantial agreement with the way we treat other businesses in the districts.

Mr. Kinton felt the amendments were well thought out and is something that is needed as an update to the Comprehensive Plan.

AYES: Roth, Knoth, King, Brick, Bleile, Fish, Townley, Welker, Kinton
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

STUDY SESSION

UPDATE: LIGHT RAIL CORRIDOR PLAN

Mr. Voboril presented a slide show put together by the consultants, Crandall Arambula PC. The Commissioner's commented throughout the slide show.

This agenda item will go to Public Hearing on July 16th.

MULTI-YEAR CAPITAL PROJECT

Director White stated nothing has changed from the past few years; there is still a limited amount of money available for new projects. There will be approximately $1 million left for new projects.

He noted the City has received notification of funding availability for "Next Steps" following completion of the Light Rail Plan. Staff is proposing to submit an application for an additional $200,000 in funding to develop an alignment feasibility and alternatives analysis for the "Rail Trail" protected bikeways and the Floyd extension. The City must provide 20% in matching funds, or $40,000. Staff is recommending this be considered a priority.

The Commission discussed several items not on Staff's list.

Mr. Knoth moved:
Mr. King seconded: TO ACCEPT STAFF'S RECOMMENDATIONS AS WRITTEN

Mr. Welker offered a Friendly Amendment to consider the Old Hampden Corridor Streetscape a priority also. Mr. Knoth and Mr. King accepted his Friendly Amendment.

AYES: Roth, Knoth, King, Brick, Bleile, Fish, Townley, Welker, Kinton
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

IV. PUBLIC FORUM

There was no public present at this time.

V. ATTORNEY'S CHOICE

There was no attorney present at this time.

VI. STAFF'S CHOICE

Director White stated the next meeting will be on July 16th, which will be a public hearing on the Light Rail Corridor Plan. He asked that the Commission bring the Light Rail Corridor Plan booklet that was in tonight's packet to the hearing.

Director White informed the Commission that the Recording Secretary, Barbara Krecklow, will be retiring next week. Nancy Fenton will fill in as the Recording Secretary until Barbara's replacement is hired.

VII. COMMISSIONER'S CHOICE

Mr. Bleile asked if anyone knew how long Xcel and Denver Water are going to be working in the City.

Several members congratulated Barbara on her retirement.

Chair Brick thanked City Council for their courtesy and enthusiasm in the Comprehensive Plan discussion two weeks ago. He stated he thought they showed a real positive attitude.

Mr. Fish noted he has many fond memories of Flood Middle School and encouraged the members to stop by the school during the demolition process.

The meeting adjourned at 9:00 p.m.

_____

Nancy G. Fenton, Recording Secretary

CITY OF ENGLEWOOD PLANNING AND ZONING COMMISSION

IN THE MATTER OF CASE #2012-05, FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS RELATING TO THE UNIFIED DEVELOPMENT CODE DISTILLERIES, BREWERIES AND WINERIES AMENDMENTS	)	**FINDINGS OF FACT AND CONCLUSIONS OF THE CITY PLANNING AND ZONING COMMISSION**
INITIATED BY: **Community Development Department** **1000 Englewood Parkway** **Englewood, CO 80110**	)	

Commission Members Present: Bleile, Brick, King, Knoth, Roth, Fish, Welker, Townley, Kinton

Commission Members Absent: None

This matter was heard before the City Planning and Zoning Commission on July 2, 2013 in the City Council Chambers of the Englewood Civic Center.

Testimony was received from staff. The Commission received notice of Public Hearing, the Staff Report, and a copy of the proposed amendments to Title 16 Unified Development Code which were incorporated into and made a part of the record of the Public Hearing.

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

FINDINGS OF FACT

1. **THAT** the Public Hearing on the Unified Development Code (UDC) Distilleries, Breweries and Wineries Amendments were brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.

2. **THAT** notice of the Public Hearing was on the City of Englewood website from June 19, 2013 through July 2, 2013.

3. **THAT** the Staff report was made part of the record.

4. **THAT** in September 2012 a request was made to open a distillery in Englewood.

5. **THAT** a distillery is not listed as a permitted, limited or conditional use in any zone district within the Table of Uses in the UDC.

6. **THAT** the UDC expressly prohibits "alcoholic distillation" as a heavy manufacturing activity in those zone districts where heavy manufacturing is a permitted use (I-1 Light Industrial and I-2 Heavy Industrial).

7. **THAT** the proposed amendments are necessary in order for the City to help support new business development and attract visitors to Englewood.

8. **THAT** distilleries, breweries and wineries do not generate significant traffic, noise or odor.

9. **THAT** within the M-2, MU-B-1 or MU-B-2 districts, no distillery, brewery or winery shall exceed 10,000 square feet of gross floor area.

10. **THAT** within the M-2, MU-B-1 or MU-B-2 districts, any distillery, brewery or winery shall be permitted only in conjunction with a restaurant, tavern, retail sales or tasting room located on the same premises as the manufacturing of the beverage.

11. **THAT** distilleries, breweries and wineries may include an on-premises tasting room as part of the principle use as long as the floor area utilized for the tasting room is less than or equal to thirty percent (30%) of the total floor area of the facility or 1,000 square feet, whichever is greater, subject to state and federal regulations.

12. **THAT** distilleries, breweries and wineries may include the sale of food for consumption on the premises, subject to State Liquor Code, local health department requirements, and local zoning regulations.

CONCLUSIONS

1. **THAT** the Public Hearing on the Unified Development Code Distilleries, Breweries and Wineries Amendments was brought before the Planning Commission by the Department of Community Development, a department of the City of Englewood.

2. **THAT** notice of the Public Hearing was on the City of Englewood website from June 19, 2013 through July 2, 2013.

3. **THAT** the amendments will enhance the City and is a great direction for the City to go.

4. **THAT** the zoning change conforms to Roadmap Englewood: 2003 Englewood Comprehensive Plan Objective 1-2: Actively engage in attracting new businesses to the City.

5. **THAT** the previously discussed revised amendments be forwarded to City Council.

DECISION

THEREFORE, it is the decision of the City Planning and Zoning Commission that Case #2012-05 Unified Development Code Distilleries, Breweries, and Wineries Amendments should be referred to the City Council with a favorable recommendation.

The decision was reached upon a vote on a motion made at the meeting of the City Planning and Zoning Commission on July 2, 2013, by Mr. Fish, seconded by Mr. Bleile, which motion states:

> *CASE#2012-05, AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE RELATED TO DISTILLERIES, BREWERIES AND WINERIES AS STATED BE RECOMMENDED FOR APPROVAL TO CITY COUNCIL WITH A FAVORABLE RECOMMENDATION WITH THE FOLLOWING CONDITIONS:*
>
> 1. Section 2, Brewery definition: strike "and the combined volume of fermented malt beverage and/or malt liquor production exceeds 12,000 barrels per year"
> 2. In Section 2 remove the definition of Microbrewery
> 3. Section 3, in the Table of Allowed Uses, remove all reference to Microbrewery
> 4. Section 3, in the Table of Allowed Uses, remove Brewery from the Food and Beverage Service section
> 5. Section 4, remove 14. e. in its entirety

AYES: Bleile, Roth, King, Fish, Brick, Knoth, Welker, Townley, Kinton
NAYS: None
ABSTAIN: None
ABSENT: None

Motion carried.

These Findings and Conclusions are effective as of the meeting on July 2, 2013.

BY ORDER OF THE CITY PLANNING & ZONING COMMISSION

_____

John Brick, Chair

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2013

COUNCIL BILL NO. 37
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 16, CHAPTERS 5 AND 11 PERMITTING DISTILLERIES, BREWERIES AND WINERIES IN THE CITY OF ENGLEWOOD.

WHEREAS, in 2012 the Englewood Planning and Zoning Commission heard requests for a new brewery and separately heard of plans for a new distillery, which was not allowed under the current Unified Development Code; and

WHEREAS, the State licenses and regulates these industries but the Englewood Planning and Zoning Commission, the Englewood Liquor Authority and the City Council hereby find that the State has not pre-empted the City of Englewood's Home Rule powers relating to the zoning of these industries; and

WHEREAS, there was consensus from the Englewood Planning and Zoning Commission to research these industries and consider Code amendments to facilitate new business development; and

WHEREAS, the Englewood Planning and Zoning Commission recommended that City Council approve an ordinance to allow distilleries and clarify language on breweries and wineries and allow distilleries, breweries and wineries as Permitted Uses in I-1 and I-2 districts and as Conditional Uses in the M-2, MU-B-1 and MU-B-2 Districts as long as the businesses are limited in size and designed to encourage pedestrian traffic with such activities as tap rooms, retail sales, tours, etc.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 1, Subsection C, entitled *Table of Allowed Uses* of the Englewood Municipal Code 2000, to read as follows:

16-5-1(C): *Table of Allowed Uses.*

TABLE 16-5-1.1: TABLE OF ALLOWED USES

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

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

Use Category	Use Type	Residential								Non-Residential							Additional Regulations
		R1A	R1B	R1C	R2A	R2B	MUR3A	MUR3B	MUR3C	M1	M2—MO2	MUB1	MUB2	TSA	I1	I2	

[EDITORS NOTE: 16-5-1.1 RESIDENTIAL USES contains no changes and is therefore not included here]

[EDITORS NOTE: 16-5-1.1 PUBLIC/INSTITUTIONAL USES contains no changes and is therefore not included here]

COMMERCIAL USES																	
Adult Use	All types as defined in Chapter 16-11												P		P		16-5-2.C.1
Agricultural Use	Greenhouse/ nursery, raising of plants, flowers, or nursery stock														P	P	16-5-2.C.2
Animal Sales and Service	Animal shelter														P	P	
	Kennel/day care												L		P	P	
	Pet store (live animal sale)										P	P	P	P	P	P	
	Small animal veterinary hospital or clinic										L	L	P	C	P	P	
Assembly	Assembly hall or auditorium, hall rental for meetings or social occasions										P	P	P	C	P	P	

	Membership organization (excluding adult use)										P	P	P	C	P	P	
Dependent Care	Dependent care center (less than 24-hour care, any age)	C	C	C	C	C	P	P	P	P	P	P	P	C			16-5-2.C.7
Entertainment/Amusement: Indoor	Amusement establishment										C	C	C	C	C	C	
	Hookah lounge										P	P	P		P	P	
	Physical fitness center/spa										P	P	P	P	P	P	
	Theater and performance/concert venue, not including adult entertainment											P	P	P	P	P	
Entertainment/ Amusement: Outdoor	General outdoor recreation												C		C	C	
Financial Institution	Check cashing facility										P		P		P	P	

	Financial institution, with drive-through service												L		P	P	
	Financial institution, without drive-through service										P	P	P	P	P	P	
Food and Beverage Service	Brew Pub										P	P	P	P	P	P	
	Caterer										P		P		P	P	
	~~Microbrewery~~													~~P~~	~~P~~	~~P~~	
	Restaurant, bar, tavern with or without outdoor operations										P	P	P	P	P	P	
	Restaurant, with drive-through service												L		P	P	
	Sales Room (associated with a Brewery, Distillery or										C	C	C		C	C	

	Winery																
	Take out and delivery only										P		P		P		
Medical/Scientific Service	Clinic							P	P	P	P	P	P	P	P	P	
	Hospital							P		P	P		P		P	P	
	Laboratory (dental, medical or optical)						P	P	P	P	P	P	P	P	P	P	
Medical Marijuana	Medical marijuana center										P	P	P		P	P	16-5-2.C.13 16-5-4.C.1.f
	Medical marijuana optional premises cultivation operation										A	A	A		P	P	16-5-2.C.13 16-5-4.C.1.f
	Medical marijuana infused products manufacturer										A	A	A		P	P	16-5-2.C.13 16-5-4.C.1.f

Office	Office, type 1 (general)							P	P	P	P	P	P	P	P	P	
	Office, type 2 (limited)						P	P	P	P	P	P	P	P	P	P	16-5-2.C.8
Retail Sales and Service (Personal Service)	Crematorium															C	
	Dry cleaner, drop-off site only										P	P	P	P	P	P	
	Instructional service										P		P	P	P	P	
	Massage therapy								P	P	P	P	P	P	P	P	
	Mortuary										P		P				
	Personal care										P	P	P	P	P	P	
	Service: photography studio and photo lab, upholstery, printer, locksmith, tailor										P	P	P	P	P	P	

	Tattoo and body-piercing establishment														P	P	
	Temporary employment business														C	C	16-5-2.C.11
Retail Sales and Service (Repair and Rental)	Equipment rental												L		P	P	
	Repair shop (not including auto)										P	P	P	P	P	P	
Retail Sales and Service (Sales)	Antique store										P	P	P	P	P	P	
	Art gallery										P	P	P	P	P	P	
	Auction house												P		P	P	
	Buy-back, second-hand, thrift, consignment stores, large										P		P		P	P	

	Buy-back, second-hand, thrift, consignment stores, small										P	P	P		P	P	
	Convenience store										P		P	P	P	P	
	Grocery/specialty food store										P	P	P	P	P	P	
	Internet sales location										P		P		P	P	
	Liquor store										P	P	P	P	P	P	
	Pawnbroker														P	P	16-5-2.C.10
	Retail sales, general merchandise										P	P	P	P/C	P	P	For TSA, P if ≤20,000 sq. ft., C if > 20,000 sq. ft. of gross leasable floor area
School	Trade or business school										P	P	P	C	P	P	16-5-2.C.12

Studio	Radio/television broadcasting studio, recording/film studio										P		P		P	P	
Vehicle and Equipment	Automobile pawnbroker												P		P	P	16-5-2.C.10
	Automotive sales, rental												L		P	P	16-5-2.C.3
	Automotive service and repair, including body or fender work														P	P	16-5-2.C.4
	Automotive service and repair, not including body or fender work												L		P	P	16-5-2.C.4
	Automotive service station (gasoline facility)												L		P	P	16-5-2.C.5
	Car wash, auto detailing												L		L	L	16-5-2.C.6 16-5-2.C.4
	Commercial storage of														P	P	16-5-2.C.3

	operable vehicles																
	Fuel dispensing												L		P	P	
	Parking facility, structure (operable vehicles), principal use						C	C		C	C	L	L	C	P	P	16-5-2.C.3 16-5-2.C.14
	Parking area, surface (operable vehicles), principal use						C	C		C	C	L	L	C	P	P	16-5-2.C.9 16-5-2.C.3
	Recreational vehicles and boats, sales or rental												L		P	P	
Visitor Accommodation	Bed and breakfast									P	P			P			
	Hotel									P	P		P	P	P		
	Hotel, extended stay									P	P				P		

Wholesale	Sales and distribution														P	P	
MANUFACTURING/INDUSTRIAL USES																	
Industrial Service	Industrial service, light													C	P	P	16-5-2.D.3 (TSA only)
	Industrial service, heavy															P	
Manufacturing, Including Processing, fabrication, or Assembly	Brewery										C	C	C		P	P	16-5-2.C.14
	Distillery										C	C	C		P	P	16-5-2.C.14
	Winery										C	C	C		P	P	16-5-1.C.14
	Manufacturing, light													C	P	P	16-5-2.D.4 (TSA only)
	Manufacturing, heavy															P	

Warehouse/ Storage	Fuel storage (principal use)															L	
	Mini-storage facility														P	P	
	Moving and storage														P	P	
	Outdoor storage														P	P	16-6-7.G
	Storage yard for vehicles, equipment, material, and/or supplies														P	P	16-5-2.D.6
	Warehousing and/or storage														P	P	
Waste/Salvage	Automobile wrecking/ salvage yard														C	P	16-5-2.D.1
	Commercial incinerator															C	
	Hazardous waste handling														C	C	16-5-2.D.2

	Recycling operation, all processing occurs within enclosed structure														P	P	16-5-2.D.5
	Recycling operation, some or all processing occurs outside an enclosed structure														C	C	16-5-2.D.5
	Sanitary service															C	
	Waste transfer station (not including hazardous waste)														C	C	

[EDITOR'S NOTE: 16-5-1.1 ACCESSORY USES contains no changes and is therefore not included here]

[EDITOR'S NOTE: 16-5-1.1 TEMPORARY USES contains no changes and is therefore not included here]

[EDITOR'S NOTE: 16-5-1.1 USES NOT MENTIONED contains no changes and is therefore not included here]

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 5, Section 2, Subsection C, by the addition of a new Paragraph 14 entitled "Breweries, Distilleries and Wineries," of the Englewood Municipal Code 2000, to read as follows:

[EDITORS NOTE: 16-5-2(C)(1) through (13) contains no changes and is therefore not included here]

16-5-2: Use-Specific Standards.

C. *Commercial Uses.*

14. *Breweries, Distilleries, Wineries and Vintner's Restaurants.*

a. Within the M-2, MU-B-1 and MU-B-2 districts, these uses shall be permitted only in conjunction with a restaurant, tavern, retail sales or sales room located on the same premises as the manufacturing of the beverage.

b. Within the M-2, MU-B-1 and MU-B-2 districts, these uses shall not exceed 10,000 square feet of gross floor area.

c. An on-premises sales room may be a part of the principle use as long as the floor area utilized for the sales room is less than or equal to thirty percent (30%) of the total floor area of the facility or one thousand square feet (1,000), whichever is greater, subject to State and Federal regulations.

d. These uses may include the sale of food for consumption on the premises, subject to State Liquor Code requirements.

e. These uses shall be designed and operated in such a manner so as not to create nuisance impacts on surrounding uses.

Section 3. . The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 1, Subsection F(9) of the Englewood Municipal Code 2000, to read as follows:

[EDITORS NOTE: 16-11-1(A) through (F)(8) contains no changes and is therefore not included here]

16-11-1: USE CLASSIFICATIONS.

F. *Commercial Uses.*

9. Food and Beverage Service.

a. *Characteristics.* This category includes establishments, for example, restaurants, cafes, coffee shops, bars, taverns, and any food/beverage sales establishments, which sell food for on- or off-premise consumption. Accessory uses may include

decks and patios for outdoor seating, drive-through facilities, customer and employee parking areas, and valet parking facilities.

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

(1) Caterer. A service consisting of preparation and delivery of food and beverages for off-site consumption, without provision for on-site pickup or consumption.

~~(2) Microbrewery. A facility for the production and packaging of beer fermented on the premises for distribution, retail, or wholesale on or off the premises. The volume of beer production of such facility shall not exceed 12,000 barrels of beer per year.~~

(~~3~~ 2) Restaurant, Bar, Tavern (with or without outdoor operations). A retail establishment where the principal business is the sale of food and beverages in a ready-to-consume state. This use type includes lunch counters and refreshment stands selling prepared food and drinks for immediate consumption. Operations may include outdoor seating areas or outdoor food service, subject to all applicable use and development standards set forth in this Title.

(~~4~~ 3) Restaurant, with Drive-Through Service. An eating/drinking establishment in which the principal business is the sale of foods or beverages to the customer in a ready-to-consume state and in which the design or method of operation of all or any portion of the business allows food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

(~~5~~ 4) Take Out and Delivery Only. An eating/drinking establishment, generally without patron seating, that provides food and/or beverages to be delivered or to be picked typically for consumption off the premises of such establishment.

(~~6~~ 5) Brew Pub. ~~A restaurant that included the brewing of beer as an accessory use. The volume of beer production of such facility shall not exceed two thousand four (2,400) barrels per year~~. A retail establishment that manufactures not more than seventy-four thousand (74,000) gallons (2,400 barrels) of malt liquor or fermented malt beverages on its licensed premises, each calendar year.

[EDITORS NOTE: 16-11-1(F)(10 through 19) contains no changes and is therefore not included here]

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 1, Subsection G(2)(b) and (c) of the Englewood Municipal Code 2000, to read as follows:

G. Manufacturing/Industrial Uses.

2. Manufacturing, Including Processing, Fabrication, or Assembly.

a. *Characteristics.* Industrial establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used in the manufacturing process. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Such uses may also include industries furnishing labor in the case of the refinishing of manufactured articles. Custom industry is included (e.g., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, they are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory activities may include limited retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

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

(1) *Brewery:* Any establishment, licensed by the appropriate State and Federal authorities, where malt liquors or fermented malt beverages are manufactured, except brew pubs as defined. Or, as this definition may be modified in C.R.S. 12-47-103.

(2) *Distillery*: Any establishment, licensed by the appropriate State and Federal authorities where spirituous liquors are manufactured. Or, as this definition may be modified in C.R.S. 12-47-103.

(3) *Sales Room*: An establishment, or portion of a manufacturing establishment, that allows customers to taste samples of wine, beer or spirituous liquors manufactured or produced by a single distillery, brewery or winery and licensed as a sales room pursuant to a State Manufacturer's License (C.R.S. 12-47-402) or a State Limited Winery License (C.R.S. 12-47-403). A sales room may include the sale of such products in addition to related items, marketing events, special events entertainment and/or food. Or, as this definition may be modified in C.R.S. 12-47-103 et. seq.

(4) *Vintner's Restaurant*: A retail establishment. licensed by the appropriate State and Federal authorities, that sells food for consumption on the premises and that manufactures not more than two hundred fifty thousand (250,000) gallons of wine on its premises each year.

(5) *Winery*: Any establishment licensed by the appropriate State and Federal authorities, where vinous liquors are manufactured, except that the term does not include a Vintner's Restaurant licensed pursuant to 12-47-420 C.R.S. Or as this definition may be modified in C.R.S. 12-47-103.

(~~1~~ 6) *Manufacturing, Light:* Manufacturing uses that do not involve the generation outside the property of noise, odor, vibration, dust, or hazard. Examples include, but are not limited to : assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly or artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

(~~2~~ 7) *Manufacturing, Heavy:* Manufacturing uses that may involve the generation outside the property of noise, odor, vibration, dust or hazard. Examples include, but are not limited to: refining or initial processing of raw materials, rolling, drawing, or extruding of metals; and log decking, storage, and ponding.

c. *Exceptions.* The manufacturing, processing, fabrication, or assembly of the following items is prohibited:

(1) Abrasives, basic manufacture;

~~(2) Alcoholic distillation~~;

(~~3~~ 2) Animal by-products, basic manufacture and processing;

(~~4~~ 3) Asphalt, manufacture and processing;

(~~5~~ 4) Automobile shredding, crushing, baling, compacting and similar operations;

(~~6~~ 5) Biological waste, processing;

(~~7~~ 6) Bone black, basic manufacture;

(~~8~~ 7) Carbon black or lamp black, basic manufacture;

(~~9~~ 8) Charcoal, basic manufacture;

(~~10~~ 9) Chemicals, heavy or industrial, basic manufacture or processing;

(~~11~~ 10) Cinder and cinder blocks, basic manufacture or processing;

(~~12~~ 11) Coal or coke, manufacture or processing;

(~~13~~ 12) Concrete and concrete products, manufacture or fabrication;

(~~14~~ 13) Detergents, soaps and by-products, using animal fat, basic manufacture;

~~(15)~~ ~~Fermented fruits and vegetable products, manufacture~~;

(~~16~~ 14) Fertilizers, manufacture or processing;

(~~17~~ 15) Fungicides, manufacture;

(~~18~~ 16) Gasses, other than nitrogen and oxygen, manufacture;

(~~19~~ 17) Glass manufacture;

(~~20~~ 18) Glue and size, manufacture;

(~~21~~ 19) Grain milling;

(~~22~~ 20) Graphite, manufacture;

(~~23~~ 21) Gypsum and other forms of plaster base, manufacture;

(~~24~~ 22) Insecticides, manufacture;

(~~25~~ 23) Insulations, flammable types, manufacture or fabrication;

(~~26~~ 24) Matches, manufacture;

(~~27~~ 25) Meat slaughtering;

(~~28~~ 26) Metal shredding and similar operations;

(~~29~~ 27) Metals, extraction or smelting;

(~~30~~ 28) Metals, ingots, pigs, sheets, or bars, manufacture;

(~~31~~ 29) Oils and fats, animal and vegetable, manufacture;

(~~32~~ 30) Paints, pigments, enamels, japans, lacquers, putty, varnishes, whiting, and wood fillers, manufacture or fabrication;

(~~33~~ 31) Paper pulp and cellulose, basic manufacture;

(~~34~~ 32) Paraffin, manufacture;

(~~35~~ 33) Petroleum and petroleum products, manufacture or processing;

(~~36~~ 34) Portland and similar cements, manufacture;

(~~37~~ 35) Rubber, manufacture, or reclaiming;

(~~38~~ 36) Sawmill or planing mills;

(~~39~~ 37) Serums, toxins, viruses, manufacture;

(~~40~~ 38) Sugars and starches, manufacture;

(~~41~~ 39) Tannery;

(~~42~~ 40) Turpentine, manufacture;

(~~43~~ 41) Wax and wax products, manufacture; and

(~~44~~ 42) Wood preserving by creosoting or other pressure impregnation of wood by preservatives.

Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 2, Subsection B(2), "*Definition of Words, Terms, and Phrases*", of the Englewood Municipal Code 2000, by inserting in alphabetical order to read as follows

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

B. Definition of Words, Terms, and Phrases.

Beer: An alcoholic beverage made by brewing and fermentation from cereals, usually malted barley, and flavored with hops and the like for a slightly bitter taste. Beer shall not contain greater than 6% alcohol by volume, otherwise it shall be classified as a "spirituous liquor". Or, as this definition may be modified in C.R.S. 12-47-103.

Brewery: Any establishment, licensed by the appropriate State and Federal authorities, where malt liquors or fermented malt beverages are manufactured, except brew pubs as defined. Or, as this definition may be modified in C.R.S. 12-47-103.

Distillery: An establishment, licensed by the appropriate State and Federal authorities, where spirituous liquors are manufactured. Or, as this definition may be modified in C.R.S. 12-47-103.

~~*Microbrewery*: A facility for the production and packaging of beer fermented on the premises for distribution, retail, or wholesale on or off the premises. The volume of beer production of such facility shall not exceed 12,000 barrels of beer per year. See definition of " Food and Beverage Service.~~

Sales Room: An establishment, or portion of a manufacturing establishment, that allows customers to taste samples of wine, beer or spirituous liquors manufactured or produced by a single distillery, brewery or winery and licensed as a sales room pursuant to a State Manufacturer's License (C.R.S. 12-47-402) or a State Limited Winery License (C.R.S. 12-47-403). A sales room may include the sale of such products in addition to related items, marketing events, special events entertainment and/or food. Or, as this definition may be modified in C.R.S. 12-47-103 et. seq.

Vintner's Restaurant: A retail establishment, licensed by the appropriate State and Federal authorities, that sells food for consumption on the premises and that manufactures not more than two hundred fifty thousand (250,000) gallons of wine on its premises each year.

Winery: Any establishment, licensed by the appropriate State and Federal authorities, where vinous liquors are manufactured, except that the term does not include a Vintner's Restaurant licensed pursuant to 12-47-420 C.R.S. Or as this definition may be modified in C.R.S. 12-47-103.

Section 5. Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance or it application to other persons or circumstances.

Section 7. Inconsistent Ordinances. All other Ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 8. Effect of repeal or modification. The repeal or modification of any provision of the Code of the City of Englewood by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purposes of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 9. Penalty. The Penalty Provision of Section 1-4-1 EMC shall apply to each and every violation of this Ordinance.

Introduced, read in full, and passed on first reading on the 5th day of August, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 9th day of August, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 7th day of August, 2013 for thirty (30) days.

_____
Randy P. Penn, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 5th day of August, 2013.

_____
Loucrishia A. Ellis

COUNCIL COMMUNICATIONS

Date	Agenda Item	Subject
August 5, 2013	11 c i	Northwest Greenbelt Playground

Initiated By	Staff Source
Department of Parks and Recreation	Dave Lee, Manager of Open Space

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council Goal: A City that provides diverse cultural, recreational and entertainment opportunities. Council has supported all previous grant applications from Arapahoe County Open Space.

City Council previously approved Resolution No. 42, Series of 2012 supporting the Arapahoe County Open Space grant application for Playground Renovation at Northwest Greenbelt.

RECOMMENDED ACTION

Staff recommends that City Council award, by motion, a contract to the lowest bidder, Richdell Construction, Inc. for the construction of Northwest Greenbelt Playground Project.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood will replace ten to twenty year old outdated/non-ADA compliant playground equipment at Northwest Greenbelt with modern, safe and ADA compliant playground modules. A new rubberized fall zone surface and ADA accessible walkway will be included in the project. Playground equipment will be age appropriate for 2 to 5 year old and 5 to 12 year old age ranges. The new playground facility will benefit the underserved northwest Englewood community. Currently there is only one park and a greenbelt serving the neighborhood. The neighborhood is largely surrounded by Light and General Use Industrial (I-1 & I-2) businesses.

Playground bid specifications required a certain number and theme-type of play events or equivalent in number and similar theme. The Richdell Construction base bid did not have the same number of play events that are ADA accessible as the originally specified playground equipment. Therefore, the Little Tykes playground equipment was selected at an additional price of $14,558 to ensure that every play event is ADA accessible. A product comparison sheet has been provided as a reference for ADA compatibility.

FINANCIAL IMPACT

Total project costs are estimated at $227,995. Sources of funding will be provided by the grant award of $156,600 from Arapahoe County Open Space and $113,700 budgeted from shareback funds in the City's 2013 Open Space Fund.

No Federal Funds are being used for the renovation of the playground at Northwest Greenbelt.

LIST OF ATTACHMENTS

Bid Tabulation Sheet
Playground Product Comparisons
Playground Apparatus
Playground Schematic
Contract

City of Englewood Bid Tabulation Sheet

Bid Opening: Thursday, June 20, 2013 2:00 PM MDT

ITEM: ITB-13-006 Northwest Greenbelt Playground Construction Project

Apparent Low Bidder

Contractor	Receipt of Addendums 1 & 2 Y/N	Bid Bond Y/N	SOQ Y/N	Total Bid	*Exceptions:*
Basset and Associates, Inc.					*Voluntary Add Alternate to go with Little Tikes
7076 S Alton Way, Bldg C					Commercial Play System, instead of the low
Centennial, CO 80112					playground subcontractor. Add $18,000
303-792-2132					*Voluntary Deductive Alternate to go with a local
John Bassett - President					synthetic surfacing manufacture and installer.
	Y	Y	Y	$244,047.00	EZ Play Surfaces, LLC Deduct $(-10,000)
Richdell Construction, Inc.					*Base Bid was Bid using "Playworld Systems" from
7001 Colorado Blvd					Childrens Playstructures & Recreation - See
Commerce City, CO 80022					Attached Drawings. *Add $14,558 to use "Little
303-252-0809					Tikes" from Recreation Plus, the original specified
Scott Riddell - President	Y	Y	Y	$213,437.00	Playground Equipment
Symmetry Builders, Inc.					
PO Box 20095					
Boulder, CO 80308-3095					
303-956-4023					
Henry Zurbrugg - President	Y	Y	Y	$299,416.00	
L & M Enterprises, Inc.					
735 E Colorado Hwy 56 PO Box W					
Berthoud, CO 80513					
303-442-7401					
Justus Bebo - CEO	Y	Y	Y	$275,423.34	
Arrow J Landscape & Design, Inc.					
909 E 68th Ave					
Denver, CO 80229					
303-289-4388 ext. 213					
Joe Mueller - Vice President	Y	Y	Y	$242,035.00	
Colorado Designscapes, Inc.					
15440 E Fremont Dr					
Centennial, CO 80112					
303-721-9003					
Philip E Steinhauer - President	Y	Y	Y	$229,050.00	

PRODUCT COMPARISONS BETWEEN LITTLE TIKES AND PLAYWORLD SYSTEMS
NORTHWEST GREENBELT PLAYGROUND RENOVATION

1. Accessibility

   Little Tikes GELEFISH structure is completely ADA accessible including the slides. The spiral staircase in the center leads to an 88" high single platform which is 17'7" across. There are 8 play events available for participants on this platform and all are ADA accessible. In addition, there are 6 on-ground play events including interactive panels and an overhead ladder.

   Playworld Systems has only 3 components that allow for ADA accessibility. 3 additional play events are based off of the 96" platform with no ADA access. There is no evident way for participants to access the upper platform without going to the outside of the structure and advancing up one of the climbers, which is an advanced move. The spiral slide is not accessible at all.

2. Roof/Shade

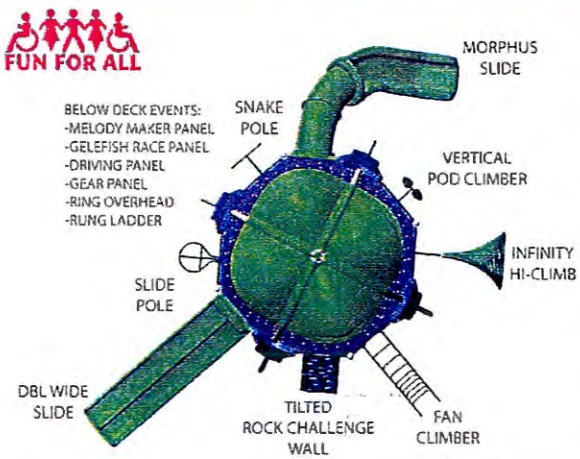
   Little Tikes has a 12'3" roof span protecting all ADA play events. Because of this expanse of the structure, it allows more room for children to play together in the shade.

   Playworld Systems roof line is 9'1", offering less shade to all participants.

3. Capacity

   The Little Tikes equipment can accommodate 134 children at one time, with all ADA accessible play events on the GELEFISH.

   The Playworld Systems equipment can accommodate 102 children at one time, including only 3 or 4 ADA accessible play events available.



MEMORIAL PARK - *HENDERSONVILLE, TENNESSEE*

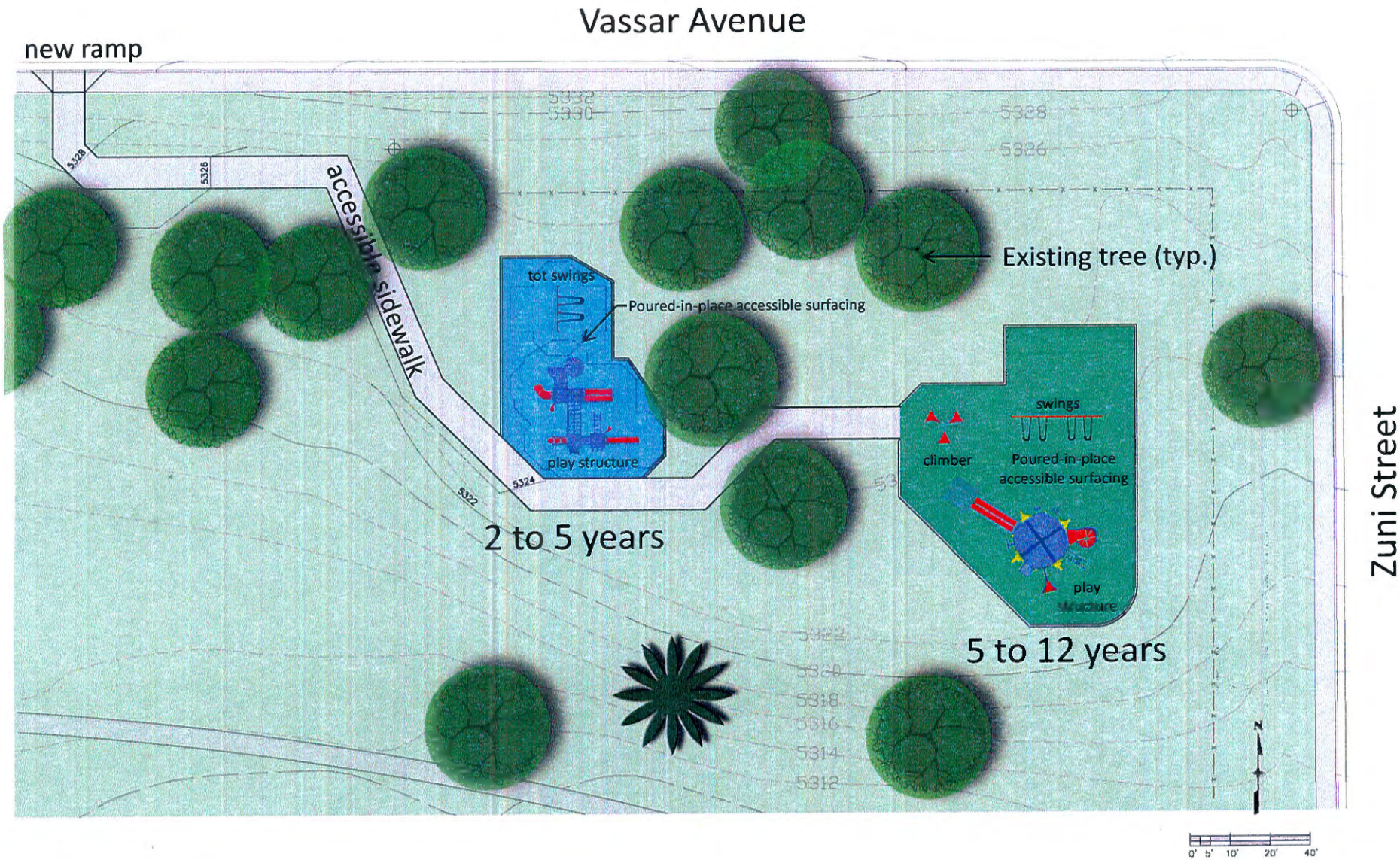
GF 1202

Ages	5-12 (5-12 CSA)
Play Events	14
Min Capacity	52 Children

Approximate Price $50,416

Use Zone	43' x 41' (13.1M x 12.5M)
Weight	6,242 lbs. (2,831 kg)

Min. use zone and weights represent structure only.



City of Englewood

northwest greenbelt playground renovation

CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this 5th day of August, 2013 by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and RICHDELL CONSTRUCTION, INC., whose address is 7001 COLORADO BLVD. COMMERCE CITY, CO. 80022 ("Contractor"), commencing on the 28th day of May 23, 2013 and continuing for at least ten (10) days thereafter the City advertised that sealed proposals would be received for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

PROJECT: N/W Greenhelt Playground Renovation

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Parks and Recreation 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
   Technical Specifications
   Drawings sheets 1 – 20

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 Parks + Rec and agrees to fully complete said work by Oct 31, 2013, plus such extension or extensions of time as may be granted by the Director of Parks and Recreation, 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 Two hundred twenty seven thousand nine hundred ninety five dollars ($227,995.00)

H. Appropriation of Funds: At present, $227,995 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. 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.

J. 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

K. Contractors Guarantee: The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of one (1) year 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 Parks and Recreation 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).

(e) **Damages for Breach of Contract:** The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's breach of any section of this paragraph or provisions required pursuant to C.R.S. 8-17.5-102. Contractor shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first written above.

CITY OF ENGLEWOOD

By: _____ Date: _____

ATTEST: _____

City Clerk

RIDDELL CONSTRUCTION INC.
Contractor (print company name)

By: _____ Date: _____
(Signature)
SCOTT RIDDELL - PRESIDENT
(Print name and Title)

STATE OF Colo)
) ss.
COUNTY OF Adams)

On this 2nd day of July, 2013, before me personally appeared Scott Riddell, known to me to be the President of Riddell Construction, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

My commission expires: 7/2015

NOTARY

Bond No. CSB0010698

PERFORMANCE, PAYMENT AND MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS That we Richdell Construction, Inc. hereinafter called the Principal, and Contractors Bonding and Insurance Company hereinafter called the Surety, are jointly and severally held and firmly bound unto THE CITY OF ENGLEWOOD, County of ARAPAHOE, State of COLORADO, hereinafter called the Owner, in the sum of Two Hundred Twenty Seven Thouand * ($ 227,995.00----------), lawful money of the United States of America, to be paid to the Owner for the payment whereof the Principal and Surety hold themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly bound by these presents.

WHEREAS, the Principal has, by means of a written agreement dated _____ entered into a Contract with the Owner for the construction of Northwest Greenbelt Playground Renovation which Contract is by reference made a part hereof the same as though fully set forth herein;

NOW, THEREFORE, the conditions of this obligation are as follows:

FIRST, The Principal shall: (1) faithfully perform said Contract on Principal's part and satisfy all claims and demands incurred for the same; (2) fully indemnify and save harmless the Owner from all costs and damages which said Owner may incur in making good any default.

SECOND, To the extent permissible by law, the Principal shall protect, defend, indemnify and save harmless the Owner, the Architect-Engineer, and their officers, agents, servants and employees, from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including in part attorney fees, incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person, or damage to property, including in part the loss of use, resulting therefrom, based upon or allegedly based upon any act, omission or occurrence of the Principal, or his employees, servants, agents, subcontractors or suppliers, or anyone else under the Principal's direction and control (regardless of whether or not cause in part by a party indemnified hereunder), and arising out of, occurring in connection with, resulting from, or caused by the performance or failure of performance of any work or services called for by the Contract, or from conditions created by the performance or non-performance of said work or services.

THIRD. The Principal shall pay all persons, firms and corporations, all just claims due them for the payment of all laborers and mechanics for labor performed, for all materials and equipment used or rented in the performance of Principal's Contract.

Contractor's Guarantee. The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of one (1) year from all causes arising from defective workmanship and materials, and to make all repairs arising from said causes during such period without further compensation, and shall keep the same in said work and repair without further compensation for a period of one (1) year from and after completion and acceptance thereof by the City. 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 P+R, whose decision upon the matter shall be final and obligatory upon the Contractor.

Every Surety on this bond shall be deemed and held, any Contract to the Contrary notwithstanding, to consent without notice:

1. To any extension of time to the Contractor in which to perform the Contract.

2. To any change in the Plans, Drawings, Specifications, Contract or other Contract Documents, when such change does not involve an increase of more than twenty percent (20%) of the total contract price, and shall then be released only as to such excess increase.

Further, every Surety on this bond shall pay to this Owner all costs and attorney fees necessary to enforce the provisions on the bond provisions contained herein.

Unless prohibited by law, an action on the payment and performance provisions of this bond may be brought by the Owner or any person entitled to the benefits of this bond at any time within five years from date of final settlement of the Contract, and under the maintenance provisions of this bond an action may be brought within five (5) years from the time the cause of action arises.

Principal and Surety are jointly and severally liable under the provisions hereof and action against either or both may proceed without prior action against the other, and both may be joined in one action.

SIGNED AND SEALED THIS _____ day of _____, 20__.

IN PRESENCE OF:

Richdell Construction, Inc.

By. _____
Name Title

ATTEST: (As to Corporation)

By: _____
Secretary

(CORPORATE SEAL)

Contractors Bonding and Insurance Company

By _____
Attorney in fact Sheila J. Montoya
(SEAL OF SURETY)

COUNTERSIGNED:

By: Not Applicable
Resident Agent (Print Name Below)

(Accompany this bond with Attorney-in-fact's authority from the Surety to execute the bond, certified to include the date of the bond.)

Approved for the City of Englewood: By: _____
City Manager

Contractors Bonding and Insurance Company
3101 Western Ave., Suite 300
Seattle, WA 98121

POWER OF ATTORNEY

Contractors Bonding and Insurance Company

Know All Men by These Presents:

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired.

That **Contractors Bonding and Insurance Company**, a Washington corporation, does hereby make, constitute and appoint: John Browning, Anuj Jain, Mona D. Weaver, Sheila J. Montoya, Angela M. Tindol, jointly or severally.

in the City of Denver, State of Colorado its true and lawful Agent and Attorney in Fact, with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, the following described bond.

Any and all bonds, undertakings, and recognizances in an amount not to exceed Ten Million and 00/100 Dollars ($10,000,000.00) for any single obligation.

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

The **Contractors Bonding and Insurance Company** further certifies that the following is a true and exact copy of the Resolution adopted by the Board of Directors of **Contractors Bonding and Insurance Company**, and now in force to-wit:

> "All bonds, policies, undertakings, Powers of Attorney or other obligations of the Corporation shall be executed in the corporate name of the Corporation by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies or undertakings in the name of the Corporation. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the Corporation. The signature of any such officer and the corporate seal may be printed by facsimile or other electronic image."

IN WITNESS WHEREOF, the **Contractors Bonding and Insurance Company** has caused these presents to be executed by its Vice President with its corporate seal affixed this 7th day of January, 2013.

CONTRACTORS BONDING AND INSURANCE COMPANY — CORPORATE SEAL 1979 — WASHINGTON

Contractors Bonding and Insurance Company

Roy C. I

Vice President

State of Washington } SS
County of King

On this 7th day of January, 2013, before me, a Notary Public, personally appeared Roy C. Di, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of the **Contractors Bonding and Insurance Company** and acknowledged said instrument to be the voluntary act and deed of said corporation.

Joseph B. Muller

Notary Public

Notary Public
State of Washington
JOSEPH B. MULLER
MY COMMISSION EXPIRES
March 29, 2016

CERTIFICATE

I, the undersigned officer of **Contractors Bonding and Insurance Company**, a stock corporation of the State of Washington, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that the Resolution of the Company as set forth in the Power of Attorney, is now in force. In testimony whereof, I have hereunto set my hand and the seal of the **Contractors Bonding and Insurance Company** this _____, day of _____, _____.

Contractors Bonding and Insurance Company

Roy C. Di

Vice President

0575440032912

A005951

CITY OF ENGLEWOOD

PURCHASING DIVISION

REQUEST NO. ITB-13-006
DATE: May 28, 2013

INVITATION TO BID
Northwest Greenbelt Playground Construction Project

The City of Englewood will receive sealed bids for supplying **"Northwest Greenbelt Playground Construction Project"** as per specifications no later than **Thursday, June 20, 2013 prevailing time, 2:00 P.M. MDT**. Bids will be received at the Front Desk of the L/E Wastewater Treatment Plant located at 2900 S Platte River Dr., Englewood, CO 80110. The Bid Opening will occur at the above noted location.

Bidding firms are asked to mark envelope **"NWGB Playground Construction"** in lower left hand corner with the **Bid #ITB-13-006** shown on the front of the envelope in which the bid is submitted. The City of Englewood assumes no responsibility for unmarked envelopes being considered for award. If City offices are closed due to inclement weather, an amendment will be issued with a new date, time and address of the bid opening.

At time, date, and place above, bids will be publicly opened and read out loud. Late bids will not be accepted under any circumstance, and any bid so received shall be returned to the bidding firm unopened. In addition, telegraphic and/or bids sent by electronic devices are not acceptable and will be rejected upon receipt. Bidding firms will be expected to allow adequate time for delivery of their bid either by air freight, postal service, or other means. Bidding firms are invited to, but not required to attend the bid opening.

The City of Englewood has contracted with BidNet that utilizes a central bid notification system created for the City of Englewood. This system allows vendors to register online and receive notification of new bids, amendments and awards. If you do not have internet access, please call the BidNet support group at (800) 677-1997 extension #214. Vendors with internet access should review the registration options at the following website:

http://www.RockyMountainBidSystem.com

Any questions or clarifications concerning this bid shall be submitted in writing by e-mail to astutz@englewoodgov.org at the City of Englewood, Procurement Division, 1000 Englewood Parkway, Englewood, CO 80110. The bid title and number should be referenced on all correspondence. **All questions must be received no later than 2:00 P.M. MDT Thursday, June 13, 2013.** All responses to questions/clarifications will be listed on the Rocky Mountain E-Purchasing Site as listed above in the form of an addendum no later than Monday, June 17, 2013. The City will not be bound nor responsible for any explanations or interpretations other than those given in writing as set forth in this invitation for bid. No oral interpretations shall be binding on the City.

All material submitted in connection with this bid becomes the property of the City of Englewood. Any and all bids received by the City shall become public record and shall be open to public inspection after the award of a

contract, except to the extent the bidding entity designates trade secrets or other proprietary data to be confidential.

The successful bidding entity agrees to comply with all applicable Federal, State, County and City laws, ordinances, rules and regulations that in any manner affect the items covered herein and agrees to secure all necessary licenses and permits in connection with this invitation and any goods or services to be provided.

Where bidding entities are required to enter City of Englewood property to deliver materials or perform work or services as a result of an award, the entity will assume the obligation and expense of obtaining all necessary licenses, permits and insurance. The bidding entity shall be required to have property, liability, and workers compensation insurance with minimum limits of $1,000,000.00 and to provide the City with copies of the certificate of insurance.

The successful bidding entity will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin and will comply with the Americans with Disabilities Act.

By submission of the bid, the bidding firm certifies that the bid has been developed independently and submitted without coordination with any other bidding entity.

The City of Englewood shall have the right to reject any or all bids, and to waive any informalities or irregularities therein and request new bids when required. In addition, the City reserves the right to accept the bid deemed most advantageous to the best interest of the City. Any award made in response to this Invitation to Bid will be made to that responsible bidding entity whose offer will technically be most advantageous to the City- price, delivery, estimated cost of transportation, and other factors considered. The option of selecting a partial or complete bid shall be at the discretion of the City of Englewood.

BIDDERS MUST SUBMIT PROPOSALS ON THE ATTACHED BID PROPOSAL FORM

The city of Englewood is exempt from all federal, state, and local taxes.

Federal Tax I.D. 84-6000583
State # 98-03470-000

Alicia Stutz
Procurement Specialist
City of Englewood, CO

GENERAL INFORMATION
ITB-13-006
Northwest Greenbelt Playground Construction Project

The City of Englewood's objective is to hire a qualified and competent Contractor to provide all labor, materials and equipment necessary to construct the Northwest Greenbelt Playground, the location address is 2010 W. Vassar Avenue, Englewood, Colorado 80110.

The ITB includes demolition, construction, new playground equipment, fall zone materials, concrete walk, and landscaping.

Project Schedule:

a. Bid Package Available: Tuesday, May 28, 2013
b. Pre-Bid Meeting: Tuesday, June 11, 2013 10:00 A.M. MDT
c. Questions Due: Thursday, June 13, 2013 2:00 P.M. MDT
d. Bids Due: Thursday, June 20, 2013 2:00 P.M. MDT
e. Construction Completion Deadline: September 30, 2013

Documents becoming contract documents are:

a. The ITB
b. The SOQ
f. The Contract Drawings
g. Technical Specifications sections in Divisions 1, 2 and 3

The Consulting Designer of this project is Patti Miers, Project Manager, Ph (303) 804-0080 of PKM Design Group, Inc., 7353 S. Alton Way, Suite 125, Centennial, CO 80112.

Recommended Pre-Bid Meeting: There will be a pre-bid meeting on Tuesday, June 11, 2013 at 10:00 A.M. at the Englewood Civic Center 1000 Englewood Parkway, Englewood, Colorado 80110 2nd floor Community Room.

There is a 5% bid bond required for this project. Each Bid shall be accompanied by an appropriate guarantee in the form of a Bid Bond, Certified Check or Cashier's Check made payable to the City of Englewood in a amount of not less that 5% of the bid amount.

The awarded Contractor will be required to have ready and furnish a "**Performance, Payment and Maintenance Bond**" in the amount of **100%** (copy attached) executed by a surety company acceptable to the City of Englewood within 10 days of Notice of Award.

Sample Contract: a sample contract, which the City of Englewood intends to use with the successful contractor is attached to this ITB and identified as "Sample Contract". Exceptions to the contract should be identified and submitted with the contractor's proposal. Proposed exceptions must not conflict with or attempt to preempt mandatory requirements.

The Contractor will be required to have a City of Englewood License and pay fees based on the license type. **All bids to include 3½% Sales and Use Tax, and a ¼% Arapahoe County Open Space Tax, on materials incorporated into the project.**

Liquidated Damages:

The Contractor shall agree that as liquidated damages for delay, but not as a penalty, the Contractor shall pay the Owner (The City of Englewood), $250.00 (two hundred and fifty dollars) for each day that expires after the time specified under "Project Schedule" until the Work is finally complete.

Statement of Qualifications: Included in the bid documents is a Statement of Qualifications form that must be completed and submitted with bid proposals.

Insurance – See "Insurance" document (attached) for required insurance which must be kept in effect during the performance of this work. Certificates must be provided to the City prior to undertaking any work.

All work performed under this solicitation and attached drawings, will be performed in a manner that will protect the public and workers during the construction and comply with all applicable laws and regulations.

The disposal of all waste material during the project shall be the responsibility of the Contractor. The contractor shall supply a dumpster or dump truck to haul away all trash and debris. The work site must be kept neat and orderly while the work is done. The Contractor shall not store debris on site nor use any dumpster except his own.

The Contractor shall not carry on construction operations on Saturdays, Sundays, or holidays unless previously arranged. The Contractor shall be allowed to work between the hours of 8:00 A.M. to 5:00 P.M. MDT, Monday through Friday.

No reimbursement will be made by the City of Englewood for any costs incurred prior to a formal "Notice to Proceed" or purchase order being issued. The Contractor shall commence work under the contract on or before the 10th day following the "Notice to Proceed" unless such time for beginning the work shall be changed by the City of Englewood's Project Manager for this Project in the "Notice to Proceed." The project shall be completed no later than Monday, September 30, 2013.

The successful bidder upon Notice of Award will execute the contract and furnish required insurance certificates to the City of Englewood.

The Contractor shall be responsible for any sub-contractor brought in by the Contractor and insure all sub-contractors comply with all insurance & licensing requirements.

All work shall be made in accordance with good commercial practice and shall be adhered to by the successful Contractor(s), except in such cases where the delivery will be delayed due to acts of God, strikes, or other causes beyond the control of the Contractor. In these cases, the Contractor shall notify the City of the delays in advance of the delivery date so that a revised delivery schedule can be negotiated.

Should anything be omitted from the Contract Documents which is necessary to a clear understanding of the work, or should it appear that various instructions are in conflict, then the Contractor shall secure written instructions from the Owner before proceeding with the construction affected by such omissions or discrepancies. The Contractor shall furnish all materials, labor, equipment and perform all operations required to complete the work in accordance with the intent of the Contract, Drawings and Specifications.

A listing should be provided of all sub-contractors and additional qualification information should be provided as to the experience of the firm that will construct the Foundation and Civil Works of Pre-Manufactured Office Building Project. Identify the contact person and supervisory personnel who will work on the project. Resumes of each person should be provided with emphasis on their experience with similar work.

Client#: 53289 8RICHCON

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 07/03/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Willis of Colorado, Inc.
2000 South Colorado Boulevard
Tower II, Suite 900
Denver, CO 80222

CONTACT NAME:
PHONE (A/C, No, Ext): 303 722-7776 FAX (A/C, No): 303-722-8862
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Bituminous Casualty Company	20095
INSURER B: Pinnacol Assurance Company	41190
INSURER C: Allianz Insurance Company	35300
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Richdell Construction, Inc.
7001 Colorado Blvd.
Denver, CO 80022

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC			CLP 3 589 660	07/01/2013	07/01/2014	EACH OCCURRENCE	$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
							MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
							PRODUCTS - COMP/OP AGG	$2,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS			CAP 3 589 659	07/01/2013	07/01/2014	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $10,000			CUP 2 803 479	07/01/2013	07/01/2014	EACH OCCURRENCE	$3,000,000
							AGGREGATE	$3,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	4082596	07/01/2013	07/01/2014	X WC STATU-TORY LIMITS OTH-ER	
							E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
C	INLAND MARINE			MZI98474999	07/01/2013	07/01/2014	$100,000 Leased Equipme $50,000 Jobsite	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Project Description: NW Greenbelt Playground Renovation

CERTIFICATE HOLDER

City of Englewood, Colorado
100 Englewood Parkway
Englewood, CO 80110

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD CORPORATION. All rights reserved.

ITB-13-006
Northwest Greenbelt Playground Construction Project

BID PROPOSAL FORM

Name of Contractor: RKHDELL CONSTRUCTION, INC. Date: 6·20·13

BIDDERS ARE REQUESTED TO SUBMIT A LUMP SOME FOR THE ENTIRE PROJECT INCLUDING ALL PERMITS, LABOR, BONDS, MATERIALS AND SUPPLIES NEEDED TO COMPLETE THE PROJECT IN ACCORDANCE WITH THE INTENT OF THE CONSTRUCTION DOCUMENTS:

Total Bid Price: $ 213,437.00

Receipt of Addenda Nos. 1, 2 *is hereby acknowledged.*

One such bid for the construction and installation of those improvements to the Northwest Greenbelt Playground.

TOTAL AMOUNT OF BID
TWO HUNDRED THIRTEEN THOUSAND FOUR HUNDRED THIRTY-SEVEN DOLLARS.

($ 213,437.00)

This Contract will be awarded to the lowest reliable and responsible bidder.

This offer shall be open to acceptance and is irrevocable for sixty (60) days from the bid closing date.

The undersigned bidder hereby agrees to be ready and to appear at the office of the Department of Parks and Recreation, to execute the attached form of Contract in conformity of this bid and also to have ready and furnish the required bond in the sum of the full amount of this proposal, executed by a surety company acceptable to the City of Englewood, at any time within ten (10) days from the date of a written notice from the Director of Parks and Recreation to do so, mailed to the address hereinafter given.

This Proposal is made without any connection with any other persons, firms, or corporations making any other bid for this same work and is in all respects fair and without collusion or fraud.

The Undersigned Bidder acknowledges the right of the City to reject any or all bids submitted and to waive informalities therein.

NORTHWEST GREENBELT PLAYGROUND ELEVATIONS
Bid Documents- May 30, 2013
BID SCHEDULE

SUPPLEMENTAL UNIT COSTS

Instructions to Bidder: Complete the unit cost of each item indicated below. Cost will include all materials, labor and equipment for installation in accordance with the Plans and Specifications. Unit prices will be used for adjustments in the case of additions or deletions of items from this contract.

Item	Description	Bid	Unit	Unit Price	Total Cost
1	SOD STRIPPING, REMOVAL		SY	$ 1.45 -	
2	SOD NO AMENDMENT		SY	$ 3.60	
3	TOPSOIL (SOD AREAS)		CY	$ 25.00	
4	EARTHWORK		CY	$ 20.00 -	
5	SOIL PREPARATION (4 CY AMENDMENTS/ 1000 SF)		SF	$ 0.19 -	
6	CEDAR MULCH (4" DEPTH)		CF	$ 2.00 -	
7	4' PLASTIC FENCE		LF	$ 2.00 -	
8	CONCRETE PAVING (6")		SY	$ 35.00	
9	SILT FENCE		LF	$ 2.00 -	
10	8"X16" PLAYGROUND CURB		LF	$ 35.00 -	
11	4" PERFORATED PIPE		LF	$ 9.00 -	
12	ENGINEERED WOOD FIBER		CY	$ 35.00 -	
13	POURED IN PLACE RUBBER SURFACING NO CONCRETE		SF	$ 16.75 -	
14	3" PVC MAINLINE		LF	$ 6.50 -	
15	4" PERFORATED PVC PIPE		LF	$ 9.00 -	
16	2" POLYETHYLENE PIPE		LF	$ 3.00 -	
17	1- 1/2" POLYETHYLENE PIPE		LF	$ 2.50 -	
18	1" POLYETHYLENE		LF	$ 2.15 -	
19	RAINBIRD 1800 SAM PRS SPRINKLER		EA	$ 23.00 -	
20	TREE PROTECTION		EA	$ 100.00	
21	EROSION CONTROL BLANKET		SF	$ 0.20 -	
22	VEHICLE TRACKING CONTROL		EA	$ 1,200.00	
23	CONSTRUCTION FENCE- 6' HT chain link		LF	$ 2.25 -	
24	CONCRETE WASHOUT		EA	$ 400.00	
26	STABILIZED STAGING AREA		EA	$ 1,200.00	
27	REMOVAL OF CONCRETE PAVING		SY	$ 11.00	
28	REMOVAL OF CONCRETE CURB		LF	$ 4.00 -	

Dated at 7001 Colorado Blvd. Commerce City, Co. 80022 this 20th day of June, 2013

Signature of Bidder:

If an individual: _____ doing business as

_____

If a partnership: _____

By: _____ member of firm

If a corporation: Rylhdall Construction

a ___ Colorado corporation

By: _____

Business address, name and phone number of Bidder:

7001 Colorado Blvd.

Commerce City, Co. 80022

The name and location of the last work of this kind herein contemplated upon which Bidder was engaged is as follow:

See Attached

For information relative hereto please refer to:

Name _____ Title _____

Address _____

* Base Bid was bid using "PlayWorld Systems" from Childrens Playstructures & Recreation – See Attached Drawings

* Add $14,558 to use "Little Tikes" from Recreation Plus, the original specified playground equipment

COUNCIL COMMUNICATION

Date	Agenda Item	Subject
August 5, 2013	11 c ii	Plant Gates Repair and Replacement Project- Award of Construction Contract

INITIATED BY	STAFF SOURCE
Littleton/Englewood WWTP Supervisory Committee	Stewart H. Fonda, Director of Utilities Dennis Stowe, Plant Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approval of the 2013 Littleton/Englewood WWTP Capital Infrastructure Budget.

RECOMMENDED ACTION

The recommended action is to approve, by Motion, a construction contract for the Plant Gates Repair and Replacement Project located at the Littleton/Englewood WWTP. Staff recommends awarding the contract to the lowest responsive bidder, Stanek Constructors Inc., in the amount of $ 421,000.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Littleton/Englewood WWTP facility contains a number of process areas which include tanks, channels and underground piping. Gates are utilized to control wastewater flow through the process areas and to provide isolation. Proper functioning is necessary to maintain plant operations.

As part of our routine capital infrastructure projects, 11 main plant gates have been identified for needed repair and replacement. The gates vary in age from the original plant construction in the 1970s to the expansion projects conducted in the 1980s. The gates range in size from 48-66 inches. Without these gates, we cannot perform needed maintenance activities.

The Project was advertised on the Rocky Mountain E-Purchasing System (Bidnet). A total of three (3) Bids were received, with the following base bid results.

Velocity Constructors Inc., Denver, CO	$ 312,163
Stanek Constructors Inc., Golden, CO	$ 421,000
RN Civil Constructors Inc., Centennial, CO	$ 438,000

Following the Bid Opening, Velocity Constructors Inc. formally requested to withdraw its Bid. Velocity cited a major oversight in the construction sequence and work scope that was not included in the original Bid price. After review, the City of Englewood accepted the withdraw request.

Stanek Constructors Inc. was identified as the apparent low bidder. Based on our review, Stanek's Bid is responsive and complete. Stanek is a general construction contractor specializing in water-wastewater projects. Stanek is well known in the industry, and qualified and competent to perform the scope of work for this Project. The Project was budgeted, and the contract amount ($421,000) is available in the 2013 Budget.

FINANCIAL IMPACT

The Bid amount is included in the 2013 Capital Infrastructure Budget and will be shared 50/50 by the Cities of Englewood and Littleton.

LIST OF ATTACHMENTS

Bid Tabulation Sheet
Contract

City of Englewood Bid Tabulation Sheet
Bid Opening: Wednesday, July 10, 2013
ITB-13-007 Plant Gate Replacement and Repairs Project

Apparent Low Bidder

Item # and Description	Velocity Constructors, Inc. 1330 S Cherokee St. Denver, CO 80223 Robert Rogstad, VP. 303-984-7800 ext. 103	RN Civil Construction 5975 S Quebec St. #140 Centennial, CO 80111 Daniel Niehus, Owner 303-482-3059	Stanek Constructors, Inc. 651 Corporate Cir. Ste 108 Golden, CO 80401 Jerry Arguello, VP. 303-980-8233
Receipt of Addendum #1 Y/N	Y	Y	Y
Bid Bond Y/N	Y	Y	Y
Statement of Qualifications (SOQ) Y/N	Y	Y	Y
Lump Sums Bid Items:			
HW Influent South	$ 55,539.00	$ 63,000.00	$ 86,000.00
HW Influent North	$ 59,274.00	$ 63,000.00	$ 86,000.00
HW Barscreen 3 from the North	$ 41,891.00	$ 40,000.00	$ 33,000.00
HW Barscreen 4 from the North	$ 28,821.00	$ 40,000.00	$ 33,000.00
SCT 4 Influent West	$ 5,233.00	$ 31,000.00	$ 21,000.00
SCT 4 Influent East	$ 5,233.00	$ 31,000.00	$ 21,000.00
SCT 5 Influent West	$ 5,233.00	$ 31,000.00	$ 21,000.00
SCT 5 Effluent West	$ 5,233.00	$ 31,000.00	$ 21,000.00
Total Bid:	$ 206,457.00	$ 330,000.00	$ 322,000.00
Exceptions:	The Vendor has submitted a letter to withdraw their bid. The City has accepted their request to withdraw.	None	None
Bid Alternate Items:			
CCT Influent South	$ 32,200.00	$ 35,000.00	$ 30,000.00
CCT Influent Middle	$ 28,741.00	$ 35,000.00	$ 30,000.00
CCT Influent North	$ 28,741.00	$ 35,000.00	$ 30,000.00
CCT SSPS Drain Valve	$ 16,024.00	$ 3,000.00	$ 9,000.00
Total Sum Bid Alternates:	$ 105,706.00	$ 108,000.00	$ 99,000.00
Total Sum Bid & Alternates:	$ 312,163.00	$ 438,000.00	$ 421,000.00

CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this _____ day of _____, 20__, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and Stanek Constructors, Inc., whose address is 651 Corporate Circle, Suite 108, Golden, CO 80401 ("Contractor"), commencing on the day of _____ __, 20__, and continuing for at least ten (10) days thereafter the City advertised that sealed proposals would be received for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

PROJECT: L/E WWTP Plant Gates Repair and Replacement Project

WHEREAS, proposals pursuant to said advertisement have been received by the Mayor and City Council and have been certified by the Director of Utilities 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
   Technical Specifications
   Drawings sheets SM-7, SM-12, SM-17, SM-19, SM-50, SM-52, SM-54, M-04-001, and S-04-163
   Spill Control, Management and Clean Up Document

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 Utilities and agrees to fully complete said work by December 3, 2013, plus such extension or extensions of time as may be granted by the Director of Utilities 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. Accidental Spills and/or Releases of Chemicals, Process Wastewater or Other Unpermitted Substances to the Site If a release of chemicals, process wastewater or other unpermitted substance is spilled, leaked, or otherwise released to the environment or Site, by CONTRACTOR, subcontractors, suppliers, or anyone else for whom CONTRACTOR is responsible, CONTRACTOR will take immediate steps to secure or otherwise isolate such condition, immediately notify the Littleton/Englewood Wastewater Treatment Plant staff and contain and clean up any such substance or spill. CONTRACTOR is responsible for making all notifications and complying with all regulatory requirements related to such an incident. Any waste generated as a result of a spill, leak, or other release to the environment or Site by CONTRACTOR, subcontractors, suppliers, or anyone else for whom CONTRACTOR is responsible shall become the property of CONTRACTOR and shall be disposed of in accordance with all applicable requirements. In addition to cleanup and disposal costs, CONTRACTOR is responsible for all costs associated with demobilization, remobilization, medical examinations, and all other costs, claims, losses, and damages, including but not limited to attorney fees and litigation costs as well as fines and penalties, incurred by Littleton/Englewood Wastewater Treatment Plan as a result of any substance or material that is spilled, leaked, or otherwise released to the environment or Site by CONTRACTOR, subcontractors, suppliers, or anyone else for whom CONTRACTOR is responsible.

F. 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.

G. 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.

H. 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 Four Hundred Twenty One Thousand and no/100 Dollars ($421,000.00). A 10% retainage of the awarded project amount will be withheld until final inspection and acceptance by the Project Manager.

I. Appropriation of Funds: At present, **$421,000.00** 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.

J. 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 **$0** for each day that expires after the time specified for substantial completion until the Work is complete, and **$0** for each day that expires after the time specified for final completion until the Work is finally complete.

K. 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.

L. 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.

M. Contractors Guarantee: The Contractor shall guarantee that work and associated incidentals shall remain in good order and repair for a period of one (1) year 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 Utilities 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).

(e) Damages for Breach of Contract: The City may terminate this contract for a breach of contract, in whole or in part, due to Contractor's breach of any section of this paragraph or provisions required pursuant to C.R.S. 8-17.5-102. Contractor shall be liable for actual and consequential damages to the City in addition to any other legal or equitable remedy the City may be entitled to for a breach of this Contract under this Paragraph.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first written above.

CITY OF ENGLEWOOD

By: _____ Date: _____
Stu Fonda, Director of Utilities and L/E Wastewater TreatmentPlant

ATTEST: _____
City Clerk - Loucrishia A. Ellis

Stanek Constructors, Inc.

By: _____ Date: July 29, 2013
(Signature)
Robert S. Stanek, President
(Print name and Title)

STATE OF CO)
) ss.
COUNTY OF Jefferson)

On this 29th day of July, 2013, before me personally appeared Robert S. Stanek, known to me to be the President of Stanek Constructors, Inc., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

My commission expires: 8/17/2016

LANA K SZCZEPANSKI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID # 20084002302
MY COMMISSION EXPIRES AUGUST 07, 2016

Revised 07/25/13