

**Agenda for the
Regular Meeting of the
Englewood City Council
Monday, November 4, 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 October 21, 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. Englewood Fire Chief Andrew Marsh will recognize the winners of the Fire Prevention Week Contest with a brief reception to follow in the Community Room.
7. Recognition of Unscheduled Public Comment. (This is an opportunity for the public to address City Council. Council may ask questions for clarification, but there will not be any dialogue. Please limit your presentation to three minutes. Time for unscheduled public comment may be limited to 45 minutes, and if limited, shall be continued to General Discussion.)

Council Response to Public Comment
8. Communications, Proclamations, and Appointments.
 - a. A proclamation declaring the month of November as National Diabetes Month.

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

9. Consent Agenda Items.
 - a. Approval of Ordinances on First Reading.
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 55, approving an intergovernmental agreement with Arapahoe County Sheriff's office authorizing participation in a multi-agency law enforcement Task Force.
 - ii. Council Bill No. 56, approving the extension of the limited waiver of the waste transfer surcharge.
 - c. Resolutions and Motions.
10. Public Hearing Items. (None scheduled.)
11. Ordinances, Resolutions and Motions
 - a. Approval of Ordinances on First Reading.
 - i. Council Bill No. 58 – Recommendation from the Parks and Recreation Department to adopt a bill for an ordinance approving an addendum to the Broken Tee Grill restaurant contracting modifying the payment schedule. **Staff Source: Bob Spada, Golf Operations Manager.**
 - ii. Council Bill No. 59 – Recommendation from the Parks and Recreation Department to adopt a bill for an ordinance approving the consolidation of the intergovernmental agreements between the City and Englewood Public Schools relating to shared services and joint activities. **Staff Source: Jerrell Black, Director of Parks and Recreation.**
 - b. Approval of Ordinances on Second Reading.
 - i. Council Bill No. 57, as amended, approving the sale of 3415 S. Broadway to the Englewood Urban Renewal Authority.
 - c. Resolutions and Motions.
 - i. Recommendation from the Public Works Department to approve, by motion, a construction project for improvement repairs to the ramp at Little Dry Creek Plaza at Englewood Marketplace. Staff recommends awarding the contract to the lowest acceptable bidder, Nordstrom Commercial Builders, LLC, in the amount of \$53,637, with a construction contingency of \$6,363, for a total project cost of \$60,000. **Staff Source: Dave Henderson, Deputy Public Works Director.**

12. General Discussion.
 - a. Mayor's Choice.
 - b. Council Members' Choice.
13. City Manager's Report.
14. City Attorney's Report.
15. Adjournment.



PROCLAMATION

WHEREAS, in the United States, 24 million children and adults live with diabetes and an additional 57 million Americans are at risk; and

WHEREAS, one out of every three children (and one in two minority children) born in the United States today will face a future with diabetes if current trends continue; and

WHEREAS, diabetes is a serious disease with potentially life-threatening complications such as heart disease, stroke, blindness, and kidney disease; and

WHEREAS, the American Diabetes Association encourages communities to become more aware of the seriousness of diabetes and has launched a national campaign to Stop Diabetes with the ambitious goal of gathering the support of millions of Americans to help confront, fight, and most importantly, stop diabetes; and

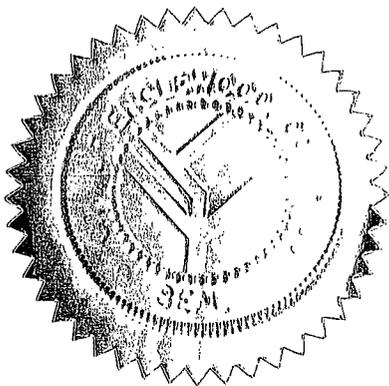
WHEREAS, the Stop Diabetes campaign encourages Americans to join the movement and learn more by visiting www.stopdiabetes.com or calling 1-800-DIABETES.

NOW THEREFORE, I, Randy P. Penn, Mayor of the City of Englewood, Colorado, hereby proclaim the month of November as:

AMERICAN DIABETES MONTH

in the City of Englewood, Colorado. I urge all Englewood residents to get involved with the education, prevention and control of diabetes that affects far too many Americans.

GIVEN under my hand and seal this 4th day of November, 2013.



Randy P. Penn, Mayor

BY AUTHORITY

ORDINANCE NO. _____
 SERIES OF 2013

COUNCIL BILL NO. 55
 INTRODUCED BY COUNCIL
 MEMBER WOODWARD

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR THE CITY OF ENGLEWOOD'S PARTICIPATION IN A MULTI-JURISDICTIONAL TEAM "THE ARAPAHOE COUNTY IMPACT TEAM" (ACIT) BETWEEN THE CITY OF ENGLEWOOD AND THE ARAPAHOE COUNTY SHERIFF'S OFFICE.

WHEREAS, C.R.S 29-1-203 as well as Article XIV §18(2) of the Colorado Constitution encourage governmental entities to make efficient and effective use of their powers and responsibilities through cooperation and the execution of intergovernmental agreements; and

WHEREAS, the Arapahoe County Impact Team is a multi-agency law enforcement team that combines law enforcement resources, to better identify, investigate, and combat criminal activity within Arapahoe County, Colorado; and

WHEREAS, one Englewood police investigator will be assigned to this multi-jurisdictional team to assist in criminal investigations of issues effecting not only Englewood but the entire Arapahoe County for a period of not less than 3 years subject to annual appropriation; and

WHEREAS, the salary/benefits of the Englewood police investigator assigned to the Arapahoe County Impact Team salary/benefits will continue to be paid by the City of Englewood while that Investigator is assigned to the Arapahoe County Impact Team.

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 Englewood's participation in the Arapahoe County Impact Team (ACIT), attached hereto as "Exhibit A".

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

Introduced, read in full, and passed on first reading on the 21st day of October, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25th day of October, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of October, 2013 for thirty (30) days.

Read by title and passed on final reading on the 4th day of November, 2013.

Published by title in the City's official newspaper as Ordinance No. ____, Series of 2013, on the 8th day of November, 2013.

Published by title on the City's official website beginning on the 6th day of November, 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

INTERGOVERNMENTAL AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2013, by and between ARAPAHOE COUNTY, Englewood, Greenwood Village, Littleton and provides as follows:

WHEREAS, Section 29-1-203 of the Colorado Revised Statutes, as well Article XIV, Section 18(2), of the Colorado Constitution, encourage governmental entities to make efficient and effective use of their powers and responsibilities through cooperation and the execution of intergovernmental agreements; and

WHEREAS, intergovernmental agreements may provide for the joint exercise of functions, services, or facilities lawfully authorized to each contracting governmental entity; and

WHEREAS, the signatories to this agreement are each authorized by law to provide law enforcement and other emergency services; and

WHEREAS, criminal activity commonly transcends the geographical boundaries of the separate governmental jurisdictions situated within the county of Arapahoe; and

WHEREAS, the parties hereto desire to share and coordinate resources in the enforcement, intervention, and prevention of criminal activity within the county of Arapahoe; and

NOW THEREFORE, in consideration of the foregoing recitals and the mutual terms, covenants, and conditions set forth below, the signatories hereto voluntarily agree as follows:

1. The purpose of this agreement is to set forth a framework within which the parties hereto shall combine their law enforcement resources in order to better identify, investigate, and combat criminal activity within Arapahoe County, Colorado, through the creation of a special multi-jurisdictional criminal investigations unit comprised of members drawn from each participating jurisdiction. This unit shall be known as the Arapahoe County Impact Team ("ACIT"). Those entities participating in the formation and operation of the ACIT shall be referred to herein as "member jurisdictions."

2. Each member jurisdiction shall assign not less than one sworn law enforcement officer to the ACIT who shall serve on the unit on a fulltime basis during the assignment. All officers assigned to the ACIT shall have been adequately trained by their home jurisdiction in criminal investigative techniques and operations and have a documented history of successfully working within a special operations unit prior to their assignment. The total number of persons who shall or may be assigned to the ACIT from any one member jurisdiction shall be agreed upon by the participating entities from time to time as circumstances and needs warrant. Each member jurisdiction shall be solely responsible for the salary and other compensation paid the officer(s) it

may assign to the ACIT, and shall supply its ACIT officers such equipment, including, where appropriate, vehicles, necessary to allow both the officer and the ACIT to effectively carry out their respective duties and responsibilities.

3. Officers assigned to the ACIT shall serve a tour of duty of not less than ~~3~~ years unless the assignment is withdrawn by the officer's home jurisdiction or is otherwise terminated as elsewhere provided for in this agreement. Each officer and/or other person assigned to serve on the ACIT shall remain the employee of his or her home jurisdiction and shall, likewise, remain subject to and covered under that jurisdiction's liability and other insurance or self-insurance coverage, in addition to its personnel policies and procedures, inclusive of policies and procedures governing overtime, employment compensation and benefits, worker's compensation, vacation and sick time, grievances and discipline, job performance review, duty assignments, and termination. Each member jurisdiction shall also retain responsibility for the conduct of those officers it assigns to the ACIT and in the event a claim or legal action should be brought against an officer and/or the ACIT arising from the officer's conduct, the officer's home jurisdiction, at its sole cost, shall be responsible to defend and indemnify the officer consistent with the terms and limitations provided under the Colorado Liability of Peace Officers Statute and Governmental Immunity Act, COLO.REV.STAT. §§ 29-5-111 and 24-10-101, *et seq.*, respectively. The provisions of this paragraph shall survive and remain in effect against any member jurisdiction that should withdraw from participation in the ACIT, as well as the termination of the agreement.

4. Officers serving on the ACIT shall be cross-deputized by each member jurisdiction so to vest them with full law enforcement authority when performing ACIT activities within the geographical boundaries of each jurisdiction. This authority shall remain effective during the term of the officer's assignment to the unit unless the same is withdrawn or terminated by the vesting member jurisdiction.

5. The ACIT shall operate from offices within the Arapahoe County Sheriff's Office ("ACSO") and the day-to-day management and tactical command of the ACIT shall rest in a lieutenant (the ACIT Commander) with the ACSO, who shall be assigned to the unit by the Arapahoe County Sheriff. Upon reasonable notice to the member jurisdiction and Arapahoe County Sheriff, the ACIT Commander shall have the authority and discretion to terminate the assignment of any officer upon such grounds as he or she may deem necessary or appropriate for the efficient and/or effective operation of the unit.

6. The operations of the ACIT shall be informed and guided by the policies and procedures of the ACSO, and the ACSO shall serve as the custodian and repository for all reports, evidence, and records compiled or generated by the ACIT's activities.

7. The management and general operations of the ACIT shall be subject to joint review by the chief law enforcement officers from each member jurisdiction (or their authorized designee) sitting together as they may deem necessary or appropriate from time to time. It is not the intent of the member jurisdictions to create a separate legal entity or government

subdivision/agency by the creation of the ACIT and any member jurisdiction may, within its discretion, withdraw from participation in the ACIT at any time upon providing written notice to the other members not less than thirty (30) days prior to such withdrawal. This agreement may also be terminated in its entirety upon the affirmative vote of a majority of the member jurisdictions.

8. No change, amendment, or waiver of any of the terms or provisions of this agreement shall be valid or binding unless the same has been approved in writing by all member jurisdictions.

9. This agreement is made solely for the benefit of the parties hereto and is not intended, nor shall it be deemed, to confer, give, or allow any rights or claim or right of action by any person or entity not signatory hereto.

10. This agreement embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this writing supersedes all previous communications, representations, or agreements, either verbal or written, between the parties.

11. This agreement may be executed in several counterparts and, as so executed, shall constitute one agreement, binding on all the parties even though all have not signed the same counterpart. Any counterpart which has attached to it separate signature pages which together contain the signature of all the parties shall be deemed a fully executed instrument for all purposes.

12. This agreement shall not be deemed a pledge of the credit of any signatory hereto, and nothing herein shall be construed to create a multiple-fiscal year direct or indirect debt or financial obligation.

13. This agreement shall not become effective or be binding against any member jurisdiction except upon the affirmative written approval or authorization of the legislative body for such jurisdiction.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date written above.

ARAPAPHOE COUNTY SHERIFF

Grayson Robinson

CITY OF ENGLEWOOD, COLORADO

Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013

COUNCIL BILL NO. 56
INTRODUCED BY COUNCIL
MEMBER OLSON

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

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

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

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

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

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

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

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

WHEREAS, the Englewood City Council passed Ordinance No. 22, Series 2010 extending the waiver of the surcharge until December 31, 2013; and

WHEREAS, the Englewood City Council passed Ordinance No. 56, Series of 2011 which increased the Surcharge to \$.43 per cubic yard effective January 1, 2012; and

WHEREAS, the passage of this proposed Ordinance will extend the waiver of the surcharge until December 31, 2016;

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

Section 1. The City Council of the City of Englewood, Colorado hereby approves an Ordinance amending Title 4, Chapter 7, Subsection 11, with the extension of the Limited Waiver of the Waste Transfer Surcharge to read as follows:

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

- A. Incorporated with a City Hall within the boundaries of Arapahoe County.
- B. Does not provide municipal collection of household solid waste directly or indirectly.
- C. Offers to its citizens the collection of household trash on a limited basis during the months of May, June, July, August and September.

This Section shall be effective only until December 31, ~~2013~~ 2016, after which time it shall be null and void without further action of the City.

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

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

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

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

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

Introduced, read in full, and passed on first reading on the 21st day of October, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 25th day of October, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 23rd day of October, 2013 for thirty (30) days.

Read by title and passed on final reading on the 4th day of November_, 2013.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2013, on the 8th day of November, 2013.

Published by title on the City's official website beginning on the 6th day of November, 2013 for thirty (30) days.

This Ordinance shall take effect thirty (30) days after publication following final passage.

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

COUNCIL COMMUNICATION

Date November 4, 2013	Agenda Item 11 a i	Subject Broken Tee Grill Restaurant Addendum - Golf Course
Initiated By Department of Parks and Recreation	Staff Source Bob Spada, Golf Operations Manager	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Ordinance #65, Series of 2012 - Approval of Golf Course Restaurant Contract with Broken Tee Grill, LLC

RECOMMENDED ACTION

Staff recommends City Council adopt a bill for an ordinance approving an addendum to the Broken Tee Grill restaurant contract authorizing the payment schedule to start on April 1st and continuing to November 1st in the amount of \$4,500 per month for a total of \$36,000.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Golf Course has provided a restaurant concession at the existing clubhouse since 1982. The current concessionaire, Broken Tee Grill, LLC has operated the restaurant facility since January of 2013.

The current contract indicates rent is due on the first of the month starting in January and ending in December. Due to the slow business in the winter months of January – March and December, Broken Tee Grill, LLC has requested an adjustment in the terms of the rent schedule. This has been done previously with other restaurant vendors and has proven to be successful.

FINANCIAL IMPACT

There will be no financial impact to the golf course as the rent amount will remain the same (\$36,000) annually.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013

COUNCIL BILL NO. 58
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AUTHORIZING ADDENDUM NO. 1 TO THE BROKEN TEE GRILL, LLC. CONCESSIONAIRE AGREEMENT.

WHEREAS, the Englewood City Council authorized the Golf Course Restaurant Concessionaire Agreement with Broken Tee Grill, LLC. by the passage of Ordinance No. 65, Series of 2012; and

WHEREAS, due to the slow business in the winter months of January, February, March and December the Broken Tee Grill, LLC has requested an adjustment in the terms of the rent schedule; and

WHEREAS, the current agreement requires a monthly payment of \$3,000 per month for the months commencing on January 1st and ending in December; and

WHEREAS, the passage of this Ordinance would amend the current Agreement by requiring \$4,500 payments in 8 installments (April 1 through November 1) for the same annual total of \$36,000; and

WHEREAS, this has been done previously with other restaurant vendors and has proven to be successful.

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 approves "Addendum NO. 1" to the Golf Course Restaurant Concessionaire Agreement between the City of Englewood and the Broken Tee Grill, LLC, attached hereto as Exhibit A.

Section 2. The Mayor is authorized to execute and the City Clerk to attest and seal Addendum NO. 1 for and on behalf of the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 4th day of November, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 8th day of November, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 6th day of November, 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 4th day of November, 2013.

Loucrishia A. Ellis

Addendum NO. 1

THIS ADDENDUM NO. 1 to the Broken Tee Grill, LLC. Concessionaire Agreement, made and entered into this ____ day of _____, 20____, by and between the CITY OF ENGLEWOOD, a Colorado municipal corporation, hereinafter referred to as "City", and BROKEN TEE GRILL, LLC, hereinafter referred to as "Concessionaire".

The Concessionaire agrees to renew the Broken Tee Grill, LLC. Concessionaire Agreement with Section 12 - Rent amended as follows:

Section 12. RENT.

a) Concessionaire shall pay rent to the City in accordance with the following schedule:

- i. Concessionaire shall pay \$4,500 per month in 8 installments April 1, 2014 through November for a total of \$36,000.
- ii. The aforesaid fixed rent payments shall be paid each month, in advance, on the first day of each month or on the first Monday of each month if the first day falls on Saturday or Sunday.

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

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

CITY OF ENGLEWOOD, COLORADO

BROKEN TEE GRILL, LLC.

"City"

"Concessionaire"

By _____
Randy P. Penn, Mayor

By _____
Janae Caluwer

ATTEST:

Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date: November 4, 2013	Agenda Item: 11 a ii	Subject: Englewood Schools/City of Englewood - Consolidation of Intergovernmental Agreements
Initiated By: Department of Parks and Recreation	Staff Source: Jerrell Black, Director of Parks and Recreation	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

A City that provides diverse cultural, recreational and entertainment opportunities.
A safe, clean, healthy and attractive City.
A progressive City that provides responsive and cost efficient services.

RECOMMENDED ACTION

Staff recommends that City Council adopt a bill for an ordinance that consolidates and terminates past Intergovernmental Agreements between the Englewood School District and the City of Englewood.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood and the Englewood School District have partnered in shared services and joint activities for many years. Most of the agreements that are listed in the ordinance relate to Parks and Recreation programming and joint use of facilities. Some of the existing agreements have expired, some of the agreements will be terminated, some agreements will remain unchanged, the Hosanna Complex Detention Pond agreement will be modified and a new agreement will address shared costs and responsibilities of the development of a Synthetic Turf Field at the new 7 - 12 Englewood School Campus.

FINANCIAL IMPACT

Hosanna Complex - Currently, the School District pays the City of Englewood \$12,000/year for maintenance of the Hosanna site. This agreement will change that distribution to a 50/50 split, less any revenues received from the rental of the complex.

Synthetic Turf Field - The City will submit applications for grants to help fund the field. Any costs beyond grants received by the City will be the responsibility of the School District. All revenues received from the rental of the synthetic turf field will be deposited in a capital replacement fund account. These monies can only be used for the replacement of the turf at the end of its lifespan.

LIST OF ATTACHMENTS

Proposed Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013

COUNCIL BILL NO. 59
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND THE ARAPAHOE COUNTY SCHOOL DISTRICT NO. 1 CONSOLIDATING PREVIOUS SHARED SERVICE AND JOINT ACTIVITY INTERGOVERNMENTAL AGREEMENTS BETWEEN THE TWO PARTIES; MODIFYING AGREEMENTS CONCERNING HOSANNA FIELD AND AUTHORIZING APPLICATIONS FOR GRANTS.

WHEREAS, shared service and joint activity intergovernmental agreements have been identified between the Englewood Parks and Recreation Department and the Englewood School District; and

WHEREAS, many of the agreements shall remain in place and do not need to be modified; and

WHEREAS, Ordinance No. 1, Series of 1998/1999 pertaining to the City hosting the Englewood Schools Website has terminated because Englewood Schools now have their own website; and

WHEREAS, an Intergovernmental Agreement dated July 15, 1974 pertaining to tennis and handball courts is terminated because the handball courts now belong to the School District and the tennis courts were removed and replaced with an inline hockey rink; and

WHEREAS, Ordinance No. 41, Series of 1984 pertaining to Maddox Elementary Use space for Nature Center has terminated because the Nature Center no longer exists; and

WHEREAS, Ordinance No. 6, Series of 1984 pertaining to the Englewood High School Swimming Pool Use has terminated because the EHS swimming pool has been torn down as part of the new 7-12 Campus Project; and

WHEREAS, a Joint Responsibility Letter regarding Englewood High School Tennis Courts has terminated because the EHS tennis courts have been torn down as part of the new 7-12 Campus Project; and

WHEREAS, Ordinance No. 17, Series of 1983 and Ordinance No. 12, Series of 1987, concerning the Hosanna Complex need to be modified so as to reflect the current agreement between the parties; and

WHEREAS, the parties wish to share in the development of a synthetic field at the 7-12 Campus and desire to set forth their understanding in that regard.

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

Section 1. The following Agreements shall remain:

Ordinance No. 57, Series of 2012 – New 7-12 Campus Projects for Bldg. Use Tax

- The following projects were identified and have been completed as part of the sales tax rebate: Alternate 2 (includes \$24,000 for intersection improvements); Parking along Lehigh (not less than 40 spaces); Mansfield Parking (not less than 29 spaces); Traffic Signal Improvements at Logan/Mansfield.

Ordinance No. 38, Series of 2005 – Inline Hockey, Joint Responsibility of Rink/Basketball Court at Sinclair MS (Alternative High School)

Ordinance No. 37, Series of 2011 - Community Gardens at Charles Hay/Clayton

Ordinance No. 36, Series of 1998 – Clayton Elementary Athletic Field

Ordinance No. 14, Series of 2013 – CFAHS/Gyms Use of Gymnasiums by City IGA

Ordinance No. 66, Series of 2011- Flat 14ers Project to keep kids healthy/active IGA

All Schools Memorandum of Understanding Distribution of Program Flyers.

Section 2. The following Agreements shall be terminated:

Ordinance No. 1, Series of 1998/1999 –City to Host School Website

Intergovernmental Agreement dated July 15, 1974 -Tennis & Handball Courts

Ordinance No. 41, Series of 1984 – Maddox Elementary Use space for Nature Center

Ordinance No. 56, Series of 1999 – Flood Middle School Beautification Project

Ordinance No. 6, Series of 1984 – Englewood High School Swimming Pool Use

Joint Responsibility Letter – Englewood High School Tennis Courts.

Section 3. The following Agreements shall be modified as follows:

Ordinance No. 17, Series of 1983 – Hosanna Complex Detention Pond Intergovernmental; Agreement and Ordinance No. 12, Series of 1987 –Hosanna Complex Detention Pond; Intergovernmental Agreement Shared Maintenance Adjustment shall be modified as follows:

- School District and City will share the annual maintenance costs at a 50/50 split less any revenues received from the rental of the site (Athletic Fields, Baseball Field and Softball Field).
- All scheduling of the complex will continue to be administered by the City.
- Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage. After City use, the City will rent the facilities out to the public to help offset the total maintenance cost. (Revenues generated from rentals will be deducted from the total maintenance cost before the maintenance expenditures are split between both parties).
- The School District will be responsible for school activity functions (lining fields, field set up, restrooms, access, etc.). The City will be responsible for City and rental activities (field set up, restrooms, access, etc.).
- Englewood Schools will maintain and be responsible for all above ground facilities at the Hosanna Athletic Complex. These are items such as: buildings, fencing, dugouts, bleachers, goals, etc.
- Parks and Recreation will maintain and be responsible for all below ground facilities at the Hosanna Athletic Complex. This is to include: mowing, aeration, fertilization, irrigation, pesticide application, tree maintenance, infield and warning track amendmets and maintenance and all ball field/athletic field maintenance (sod, infield edges, mounds, warning track, bases and anchors).
- Each organization shall be responsible for the activities and functions which they schedule on the fields. This includes field lining, restrooms, access, trash disposal, etc. During the remainder of the year, Parks staff will empty trash receptacles when there are no functions scheduled.
- Supplies for the restrooms will be supplied by the Schools (TP, paper towels, soap). Snow removal will be completed by Parks staff throughout the complex, up to but not including the stairs on the southern portion of the complex.
- It is also agreed upon that Parks staff and School staff will conduct a monthly meeting in order to further communication on the scheduling of events at the complex, field striping and any other maintenance related issues that arise. Monthly meetings will occur between February and September on a mutually agreed upon day and time for the season.

Section 4. Englewood Schools and the City of Englewood will share in the development of a synthetic field at the 7 – 12 Campus.

- City Council authorizes the City Manager or designee to apply for grants to help fund the construction of the new field.
- The School District will fund any additional costs beyond the grant amounts received by the City.
- The School District will maintain the field and will assume all costs related to maintenance.
- The City will schedule all activities on the site. Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage.

- All revenues received from rental of the site will be deposited in a capital replacement fund account. This fund will be used strictly for replacement of the turf at the end of its life span.

Section 5. The Agreement Between the City of Englewood and the Arapahoe County School District No. 1 is attached hereto as Exhibit A.

Introduced, read in full, and passed on first reading on the 4th day of November, 2013.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 8th day of November, 2013.

Published as a Bill for an Ordinance on the City's official website beginning on the 6th day of November, 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 4th day of November, 2013.

Loucrishia A. Ellis

AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND
THE ARAPAHOE COUNTY SCHOOL DISTRICT NO. 1

This agreement, entered into this ____ day of _____, 20____, by and between the City of Englewood, a Colorado Home Rule Municipality (herein called "City") and the Englewood School District.

WHEREAS, shared services and joint activities have been identified between the Englewood Parks and Recreation Department and the Englewood School District.

Section 1. The following Agreements shall remain in place:

- Ordinance No. 57, Series of 2012 – New 7-12 Campus Projects for Bldg. Use Tax
- The following projects were identified and have been completed as part of the sales tax rebate: Alternate 2 (includes \$24,000 for intersection improvements); Parking along Lehigh (not less than 40 spaces); Mansfield Parking (not less than 29 spaces); Traffic Signal Improvements at Logan/Mansfield.
- Ordinance No. 38, Series of 2005 – Inline Hockey, Joint Responsibility of Rink/Basketball Court at Sinclair MS (Alternative High School)
- Ordinance No. 37, Series of 2011 - Community Gardens at Charles Hay/Clayton
- Ordinance No. 36, Series of 1998 – Clayton Elementary Athletic Field
- Ordinance No. 14, Series of 2013 – CFAHS/Gyms Use of Gymnasiums by City IGA
- Ordinance No. 66, Series of 2011- Flat 14ers Project to keep kids healthy/active IGA
- All Schools Memorandum of Understanding Distribution of Program Flyers

Section 2. The following Agreements shall be terminated:

- Ordinance No. 1, Series of 1998/1999 –City to Host School Website
- Intergovernmental Agreement dated July 15, 1974 -Tennis & Handball Courts
- Ordinance No. 41, Series of 1984 – Maddox Elementary Use space for Nature Center
- Ordinance No. 56, Series of 1999 – Flood Middle School Beautification Project
- Ordinance No. 6, Series of 1984 – Englewood High School Swimming Pool Use
- Joint Responsibility Letter – Englewood High School Tennis Courts

Section 3. Ordinance No. 17, Series of 1983 – Hosanna Complex Detention Pond Intergovernmental Agreement and Ordinance No. 12, Series of 1987 – Hosanna Complex Detention Pond Intergovernmental Agreement Shared Maintenance Adjustment shall be modified as follows:

- School District and City will share the annual maintenance costs at a 50/50 split less any revenues received from the rental of the site (Athletic Fields, Baseball Field and Softball Field).
- All scheduling of the complex will continue to be administered by the City.
- Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage. After City use, the City will rent the facilities out to the public to help offset the total maintenance cost. (Revenues generated from rentals will be deducted from the total maintenance cost before the maintenance expenditures are split between both parties).
- The School District will be responsible for school activity functions (lining fields, field set up, restrooms, access, etc.). The City will be responsible for City and rental activities (field set up, restrooms, access, etc.).
- Englewood Schools will maintain and be responsible for all above ground facilities at the Hosanna Athletic Complex. These are items such as: buildings, fencing, dugouts, bleachers, goals, etc.
- Parks and Recreation will maintain and be responsible for all below ground facilities at the Hosanna Athletic Complex. This is to include: mowing, aeration, fertilization, irrigation, pesticide application, tree maintenance, infield and warning track amendments and maintenance and all ball field/athletic field maintenance (sod, infield edges, mounds, warning track, bases and anchors).
- Each organization shall be responsible for the activities and functions which they schedule on the fields. This includes field lining, restrooms, access, trash disposal, etc. During the remainder of the year, Parks staff will empty trash receptacles when there are no functions scheduled.
- Supplies for the restrooms will be supplied by the Schools (TP, paper towels, soap). Snow removal will be completed by Parks staff throughout the complex, up to but not including the stairs on the southern portion of the complex.
- It is also agreed upon that Parks staff and School staff will conduct a monthly meeting in order to further communication on the scheduling of events at the complex, field striping and any other maintenance related issues that arise. Monthly meetings will occur between February and September on a mutually agreed upon day and time for the season.

Section 4. Englewood Schools and the City of Englewood will share in the development of a synthetic field at the 7 – 12 Campus.

- City Council authorizes the City Manager or designee to apply for grants to help fund the construction of the new field.
- The School District will fund any additional costs beyond the grant amounts received by the City.
- The School District will maintain the field and will assume all costs related to maintenance.
- The City will schedule all activities on the site. Englewood Schools will continue to have first priority on usage. The City will receive second priority regarding usage.
- All revenues received from rental of the site will be deposited in a capital replacement fund account. This fund will be used strictly for replacement of the turf at the end of its life span.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

ATTEST:

CITY OF ENGLEWOOD

Loucrishia A. Ellis, City Clerk

Randy P. Penn, Mayor

ARAPAHOE SCHOOL DISTRICT
NO. 1

COUNCIL COMMUNICATION

Date: November 4, 2013	Agenda Item: 11 b i	Subject: Ordinance Approving the Sale of City-Owned Property Located at 3415 S. Broadway to the Englewood Urban Renewal Authority
Initiated By: Community Development	Staff Source: Alan White, Community Development Director	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Medici Communities presented the proposed project to City Council and EURA members at the September 3, 2013 and September 9, 2013 study sessions. Sale of the City-owned portion of the redevelopment property was discussed on September 23, 2013 and October 14, 2014 as an executive session topic.

RECOMMENDED ACTION

Staff recommends approval, on second reading, of Council Bill No. 57, as amended, an ordinance approving the sale of City-owned property located at 3415 S. Broadway to the Englewood Urban Renewal Authority (EURA).

The sale is contingent upon three conditions as requested by Council:

1. Adequate parking shall be provided for businesses fronting S. Broadway based on the 2013 parking study.
2. The design of the redevelopment project shall be substantially as presented to EURA and City Council in Medici Community's 3rd Submittal to the EURA.
3. Should construction of the redevelopment project fail to commence within the time period required by the EURA, the ownership of the property shall revert to the City unless the City and EURA agree otherwise.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

In the mid-1980's the Englewood Urban Renewal Authority (EURA) acquired the majority of the land on which this urban renewal project is proposed. Also during this time, the City acquired a 50-foot wide parcel fronting Broadway as a result of a fire at the structure previously occupying that parcel. Together the two parcels comprise 1.8 acres. The parcels have remained vacant since they were acquired and have been used for parking.

In 1989 the EURA entered into a lease agreement with the City to lease the property for interim parking. This was approved by Ordinance No. 41, series of 1988. After the initial term, the lease was renewed under Ordinance 19, Series of 1993 for a three-year term with the ability to renew for successive one year terms. The lease was not renewed in 1996 nor in any subsequent years. Both leases contained provisions that the lease was for parking as an interim use and the lease was cancellable if a redevelopment proposal acceptable to the City and EURA was submitted by a redeveloper.

Although two previous attempts to redevelop the property had not been successful, in 2012 the Board of the EURA and the City Council both agreed to gauge interest in developing the property by issuing a Request for Proposals (RFP). A draft RFP was prepared and was reviewed first by EURA, then Council. The final draft was reviewed by EURA in October 2012. The EURA Board decided that the RFP should be issued early in 2013. The RFP was reviewed by Council one last time on February 25, 2013.

The RFP soliciting development proposals was issued on March 6, 2013. The RFP was mailed to 42 local (Front Range) real estate development companies in addition to a handful who called in response to the sign posted on the property. The submittal deadline was April 12th. At their April 10th meeting the EURA Board scheduled a special meeting on April 24th to review the development proposals received and establish the next steps in the selection process. The Board also requested the participation of two Council members in this process. The selection of two members from Council occurred on April 22nd.

Three proposals were received by the deadline. EURA reviewed the proposals on April 24th and eliminated one proposal from further consideration. The Board directed staff to request additional information from the remaining developers, with a deadline of May 3rd to reply.

On May 8th the additional information was reviewed and the Board set July 10th as the date for presentations by the two developers. After the presentations, the Board had additional questions and concerns and requested information for a second round of presentations. The Board met on August 7th to review the additional information and conducted second interviews/presentations on August 14th. Due to the late hour, the Board postponed selecting a preferred developer until a special meeting held on August 21st. At that meeting, the Board selected Medici Communities as the preferred developer.

Simultaneous to negotiations with Medici, the EURA Board directed staff to obtain an update to the appraisal of the property obtained in September 2012. That new appraisal was obtained and in the opinion of the appraiser, the fair market value of the City-owned property was determined to be \$215,000.

FINANCIAL IMPACT

The City will receive \$215,000 from the EURA once the closing on the sale of the remainder of the project property occurs. The project has an estimated value of \$24.8 million. The City will receive one-time revenues including use tax, permit fees and parks fee in lieu of dedication. It is anticipated that Medici will request redevelopment assistance under the City's incentive policy which will affect the net one-time revenues to the City. The project includes 23,500 square feet of commercial space and sales tax revenue from these uses is anticipated. Property tax revenue will be received by the City and other taxing entities once construction is complete and the property is included on the county tax roll.

LIST OF ATTACHMENTS

Council Bill No. 57, to which is attached a Sales Agreement

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2013

COUNCIL BILL NO. 57
INTRODUCED BY COUNCIL
MEMBER WOODWARD

AN ORDINANCE AUTHORIZING THE SALE OF 3415 SOUTH BROADWAY IN THE CITY OF ENGLEWOOD TO THE ENGLEWOOD URBAN RENEWAL AUTHORITY (EURA).

WHEREAS, in the mid-1980's the Englewood Urban Renewal Authority (EURA) acquired the majority of the land on which this urban renewal project is proposed; and

WHEREAS, in 2012 the Board of the EURA and the Englewood City Council both agreed to gauge interest in developing the property by issuing a Request for Proposals (RFP); and

WHEREAS, a draft RFP was prepared and was reviewed by the EURA and Council; and

WHEREAS, the EURA Board selected Medici Communities as the preferred developer; and

WHEREAS, simultaneous to negotiations with Medici, the EURA Board directed staff to obtain an update to the appraisal of the property obtained in September 2012; and

WHEREAS, that new appraisal was obtained and the fair market value of the City-owned property was determined to be \$215,000; and

WHEREAS, the City will receive \$215,000 from the EURA once the closing on the sale of the remainder of the project property occurs; and

WHEREAS, the design of the redevelopment project shall be substantially as presented to EURA and City Council in Medici Community's 3rd Submittal to the EURA; and

WHEREAS, should construction of the redevelopment project fail to commence within the time period required by the EURA, the ownership of the property shall revert to the City and no payment shall be due from EURA to the City.

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

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes the Mayor to sign a Contract to Buy and Sell Real Estate containing the conditions listed, attached hereto as Exhibit 1.

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 3415 South Broadway to the Englewood Urban Renewal Authority.

Introduced, read in full, amended and passed as amended on first reading on the 21st day of October, 2013.

Published by Title as an amended Bill for an Ordinance in the City's official newspaper on the 25th day of October, 2013.

Published as an amended Bill for an Ordinance on the City's official website beginning on the 23rd day of October, 2013 for thirty (30) days.

Read by title and passed as amended on final reading on the 4th day of November, 2013.

Published by title as amended in the City's official newspaper as Ordinance No. ____, Series of 2013, on the 8th day of November, 2013.

Published by title as amended on the City's official website beginning on the 6th day of November, 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 as amended on final reading and published by title as Ordinance No. ____, Series of 2013.

Loucrishia A. Ellis

CONTRACT TO BUY AND SELL REAL ESTATE

This Contract is made on the _____ day of _____, 2013, between THE CITY OF ENGLEWOOD, a Municipal Corporation, 1000 Englewood Parkway, Englewood, Colorado 80110 County of Arapahoe [Seller], and ENGLEWOOD URBAN RENEWAL AUTHORITY (EURA), 1000 Englewood Parkway, Englewood, CO. 80110 [Seller] agrees to buy, and the undersigned Seller, agrees to sell, on the terms and conditions set forth in this Contract, the following described real estate in the County of Arapahoe, Colorado, to wit:

Lots 44-45 BLK 1, Enwood Addition
City of Englewood, Colorado

As shown on the attached Exhibit A

This property shall be purchased together with all interest of seller, all improvements and all attached fixtures thereon. The purchase price shall be Two Hundred and Fifteen Thousand DOLLARS (\$215,000) payable in U. S. Dollars by Buyer to Seller.

This Contract shall not be assignable by Buyer without Seller's prior written consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

Subject to tender or payment by Buyer with the Seller shall execute and deliver a good and sufficient Quit Claim Deed to Buyer, conveying the Property subject to the following conditions:

1. The Property is sold "as is, where is". All warranties expressed or implied including fitness for purpose of use are hereby waived by the Buyer.
2. The City (Seller) will not provide title insurance.
3. Adequate parking shall be provided for businesses fronting Broadway based upon the 2013 Parking Study.

EURA will negotiate an equitable agreement to pay ongoing maintenance of shared parking; however, existing businesses fronted on the West side of the 3400 block of Broadway shall be exempt from any payments for 12 months after the completion of construction.
4. The design of the redevelopment project shall be substantially as presented to EURA and City Council in Medici Community's 3rd Submittal to the EURA.
5. Payment to the City for the property shall be made within 10 working days of the date of the real estate closing between EURA and Medici Communities, LLC.
6. Should construction of the redevelopment project fail to commence within the time period required by the EURA, the ownership of the property shall revert to the City and no payment shall be due from EURA to the City.
7. The EURA agrees that the property shall not be sold to or developed by another developer other than Medici Communities, either separately or as part of EURA's entire ownership, unless approved by both the EURA and the City.

Except as otherwise provided in this Contract, the property and inclusions shall be delivered in the condition existing as of the date of this Contract, ordinary wear and tear expected.

Closing shall take place at CityCenter Englewood or at another place and date mutually agreed upon by the parties.

ENTIRE AGREEMENT. This Contract constitutes the entire contract between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract.

NOTICE OF ACCEPTANCE: COUNTERPARTS. If accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

ENGLEWOOD URBAN RENEWAL AUTHORITY

Buyer: Laura Rogers – Chairman

Buyers Address: 1000 Englewood Parkway
Englewood, CO 80110

Date of Buyer's signature 10/30/13

ATTEST:

Julie Bailey - Recording Secretary

Buyer: Alan White – Executive Director

Buyers Address: 1000 Englewood Parkway
Englewood, CO 80110

Date of Buyer's signature 10/30/13

ATTEST:

Julie Bailey - Recording Secretary

CITY OF ENGLEWOOD, COLORADO

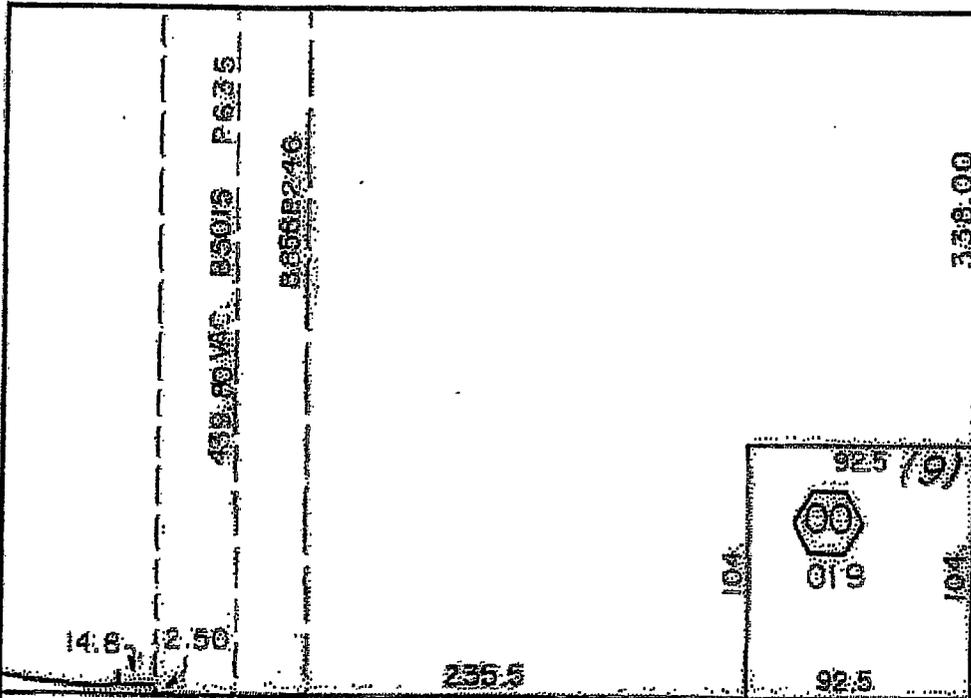
Seller: Randy P. Penn, Mayor

Sellers Address:
1000 Englewood Parkway
Englewood, CO 80110

Date of Seller's signature _____

ATTEST:

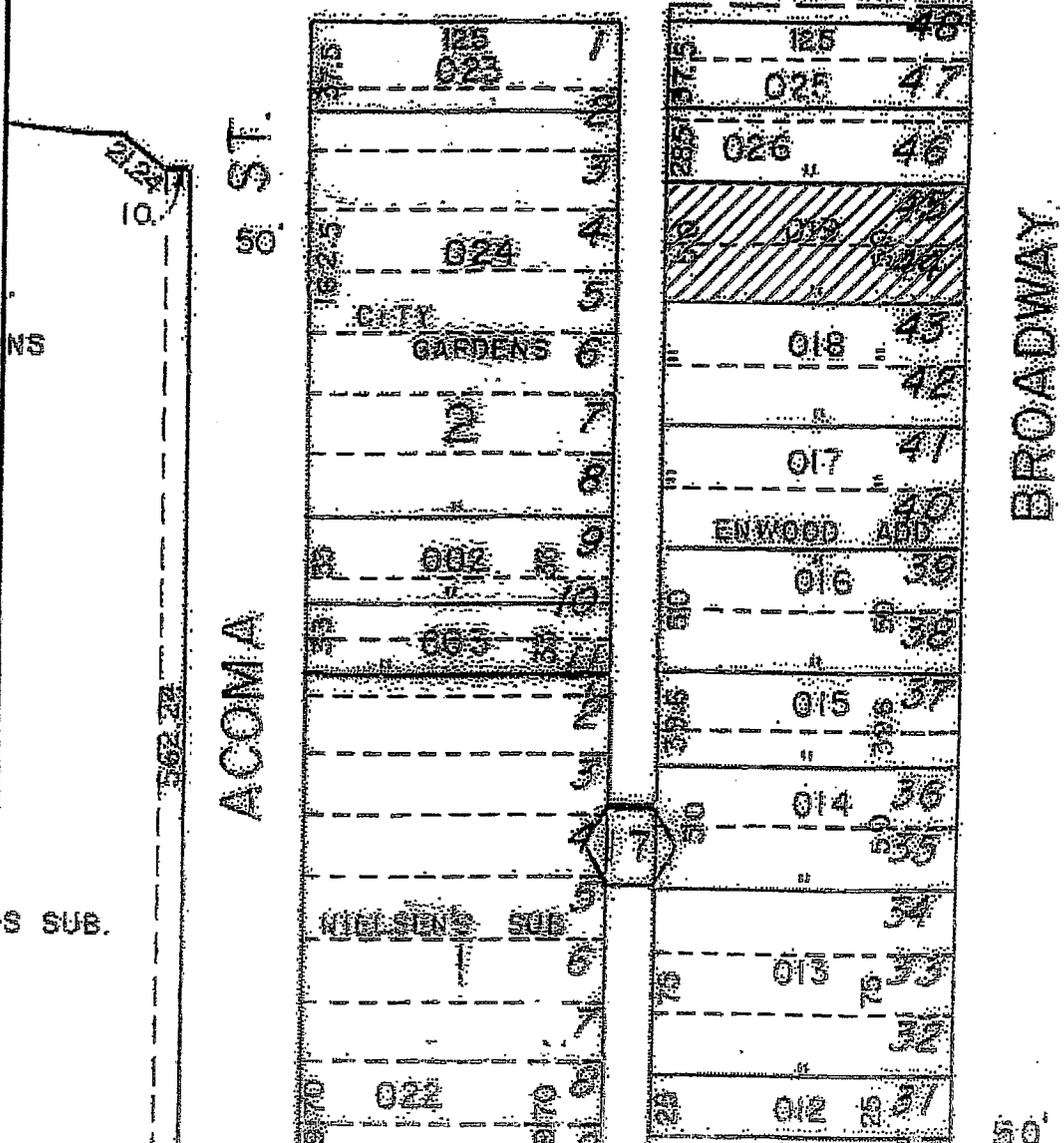
Loucrishia A. Ellis, City Clerk



ENGLEWOOD

PKWY.

3400 S



ACOMA ST.

BROADWAY

S SUB.

50.

COUNCIL COMMUNICATION

Date: November 4, 2013	Agenda Item: 11 c i	Subject: Award Contract for Plaza Ramp Repairs
Initiated By: Public Works Department	Staff Source: Dave Henderson, Deputy Public Works Director	

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approved Resolution 53, Series of 2012, which transferred a one-time supplemental appropriation in the amount of \$100,000 from the Long-Term Asset Reserve (LATR) to the Public Improvement Fund for maintenance and improvement to the Little Dry Creek plaza adjacent to Englewood Marketplace. These funds have carried over to the 2013 Public Improvement Fund.

Council discussed proposed improvements to the Little Dry Creek plaza at Englewood Marketplace at the January 22, 2013 Executive Session.

RECOMMENDED ACTION

Staff recommends that City Council approve, by motion, a construction project titled "**Plaza Ramp Repairs 2013 - S. Broadway and Hampden Avenue**". The total estimated construction cost is **\$60,000.00**, which includes a construction contract with **Nordstrom Commercial Builders, LLC**, the lowest acceptable bidder, in the amount of **\$53,637.00**, and a construction contingency in the amount of **\$6,363.00**. Staff recommends authorizing the Director of Public Works to execute the contract.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The condition of the Little Dry Creek plaza at the Englewood Marketplace has been an issue for the landlord and prospective tenants. In 2012, based on a request from a prospective tenant, City Council appropriated \$100,000 for maintenance and improvements to the plaza. Recommended improvements include landscaping, concrete repairs, caulking, and repairing/reconstructing the ramp to current ADA standards. The prospective tenant exercised an option to back out of the lease which put the design and construction of the City's proposed improvements on hold.

In early 2013, Englewood received a request from another prospective tenant in the Englewood Marketplace for maintenance and improvements to the public plaza. This tenant, Costa Vida, is a fast casual Mexican restaurant. Costa Vida followed through with a lease and recently pulled building permits. Tenant finish is underway. Staff proceeded with design of the ramp and landscaping after building permits were issued.

Modification of the existing ramp required survey, design drawings, and specifications to assure the improvements would meet current ADA standards. Staff retained the services of EST, Inc. to prepare the

necessary drawings for bidding and building permit application. Design was completed on October 2nd and bids were received from two qualified contractors on October 11th.

Along with the ramp and railing repairs, this project also includes concrete repairs, brick paver repairs, and caulking in the plaza area. Landscaping will be accomplished under a separate contract to be completed in early spring of 2014.

The two bids received are as follows:

Nordstrom Commercial Builders, LLC	\$53,637.00
New Design Construction	\$61,996.00

The Engineer's Estimate is \$61,586.00

FINANCIAL IMPACT

Detailed below are the costs associated with the project:

Plaza Ramp Repairs (this contract)	\$53,637.00
Construction Contingency	<u>6,363.00</u>
Total Estimated Cost	\$60,000.00

\$100,000 is appropriated and available in the Public Improvement Fund. The remaining \$40,000 is available for landscaping.

LIST OF ATTACHMENTS

Contract Form

CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this **4th** day of **November, 2013**, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and **Nordstrom Commercial Builders, LLC (NCB)**, whose address is **9226 Teddy Lane, Suite 125, Lone Tree, CO 80124**, ("Contractor"), 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: Plaza Ramp Repairs 2013-S. Broadway & Hampden Ave

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

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

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

- A. Contract Documents: It is agreed by the parties hereto that the following list of instruments, drawings and documents which are attached or incorporated by reference constitute and shall be referred to either as the Contract Documents or the Contract and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto and they are as fully a part of this agreement as if they were set out verbatim and in full:
 - Invitation to Bid
 - Contract (this instrument)
 - Special Provisions Insurance
 - Performance Payment Maintenance Bond
 - Construction Plans and Details

- B. Scope of Work: The Contractor agrees to and shall furnish all labor, tools, supplies, traffic control, equipment, fencing, materials and everything necessary for and required to do, perform, and complete all the work described, drawn, set forth, shown and included in said Contract Documents.

- C. Terms of Performance: The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works, and agrees to fully complete said work by **December 13, 2013**, plus such extension or extensions of time as may be granted by the Director of Public Works in accordance with the provisions of the Contract Documents and Specifications.

- D. Indemnification: The city cannot and by this Agreement/Contract does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any

other person or entity, for any purpose. The Contractor shall defend, indemnify and save harmless the City, its officers, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature including Worker's Compensation claims, in any way resulting from or arising out of this Agreement/Contract: provided, however, that the Contractor need not indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and Employees.

- E. Termination of Award for Convenience: The City may terminate the award at any time by giving written notice to the Contractor of such termination and specifying the effective date of such termination, at least thirty (30) days before the effective date of such termination. In that event all finished or unfinished service, reports, material (s) prepared or furnished by the Contractor after the award shall, at the option of the City, become its property. If the award is terminated by the City as provided herein, the Contractor will be paid that amount which bears the same ratio to the total compensation as the services actually performed or material furnished bear to the total services/materials the successful firm agreed to perform under this award, less payments of compensation previously made. If the award is terminated due to the fault of the Contractor the clause relating to termination of the award for cause shall apply.
- F. Termination of Award for Cause: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the covenants, agreements or stipulations of the award, the City shall have the right to terminate the award by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, all furnished or unfinished services, at the option of the City, become its property, and the Contractor shall be entitled to receive just, equitable compensation for any satisfactory work documents, prepared completed or materials as furnished.

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

- G. Terms of Payment: The City agrees to pay the Contractor for the performance of all the work required under this contract, and the Contractor agrees to accept as his full and only compensation therefore, such sum or sums of money as may be proper in accordance with the price or prices set forth in the Contractor's proposal attached and made a part hereof, the total estimated cost thereof being **Fifty Three Thousand Six Hundred Thirty Seven and no cents (\$53,637.00)**.
- H. Appropriation of Funds: At present, **\$53,637.00** has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, the parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement/Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term

of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated. The City shall immediately notify the Contractor or its assignee of such occurrence in the event of such termination.

- I. Liquidated Damages: The City and Contractor recognize that time is of the essence in this Agreement because of the public interest in health and safety, and that the City will suffer financial loss, and inconvenience, if the Work is not complete within the time specified in the bid documents, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense and difficulties involved in proving, in a legal proceeding, the actual loss suffered by the City if the Work is not complete on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay, but not as a penalty, Contractor shall pay the City **\$200** for each day that expires after the time specified for substantial completion until the Work is complete, and **\$200** for each day that expires after the time specified for final completion until the Work is finally complete.
- J. Assignment: Contractor shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of the City specifically including, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Any attempted assignment which is not in compliance with the terms hereof shall be null and void. Unless specifically stated to the contrary in any written consent to an Assignment, no Assignment will release or discharge the Assignor from any duty or responsibility under the Contract Documents.
- K. Contract Binding: It is agreed that this Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns, and successors.
- L. Contractor's Guarantee. The Contractor shall guarantee that the work of the contract shall remain in good order and repair for a period of two (2) years from all causes arising from defective workmanship and materials, and to make all repairs arising from said causes during such period without further compensation, and shall guarantee the concrete curbs, gutters, pavements, and sidewalks against defective workmanship and materials, and shall keep the same in good order and repair without further compensation for a period of two (2) years from and after completion and acceptance thereof by the City. The determination of the necessity for the repair or replacement of said paving, curbs, gutters, railings, and sidewalks or any portion thereof, shall rest entirely with the Director of Public Works, whose decision upon the matter shall be final and obligatory upon the Contractor.

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

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

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

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

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

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

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

(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

NCB, LLC

Contractor (print company name)

By: _____

Date: 10/28/13

(Signature)
Todd Nordstrom Managing Member
(Print name and Title)

STATE OF Colorado)

COUNTY OF Douglas) ss.

On this 28th day of October, 2013, before me personally appeared Todd Nordstrom, known to me to be the Managing Member of NCB, LLC, 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: 09-09-2017

NOTARY
JODI M SCHUSTER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134056279
COMMISSION EXPIRES SEP. 09, 2017