Agenda for the
Regular Meeting of the
Englewood City Council
Monday, April 1, 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 March 18, 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 Parks and Recreation Director Jerrell Black will present golf course staff with a Player Development Award that Broken Tee Englewood recently received from the Golf Course Owners’ Association.
   b. City Council will recognize the nominees for the 2013 Arapahoe County Mayors and Commissioners Youth Awards:
      i. Brittany Dean, an 8th Grader at Englewood Middle School.
      ii. Jennifer Dickerson, a 12th Grader at Colorado’s Finest Alternative High School.
      iii. Haily Fields, a 12th Grader at Colorado’s Finest Alternative High School.
      iv. Angela Hancock, a 12th Grader at Colorado’s Finest Alternative High School.
      v. Yesenia Holguin, an 8th Grader at Englewood Middle School.

vii. Shane Menefee, a 12th Grader at Englewood High School.

viii. Fidel Navarrete, a 12th Grader at Colorado’s Finest Alternative High School.

ix. Sara Nusbickel, a 12th Grader at Colorado’s Finest Alternative High School.

x. Maja Sehic, a 12th Grader at Colorado’s Finest Alternative High School.

xi. Nicholas Spence, an 8th Grader at Englewood Middle School.

c. Tom Parson will be present to discuss the Englewood Depot.

d. Diane Tomasso will be present to discuss the Englewood Depot.

e. David Sandusky will be present to discuss the Englewood Depot.

f. Peter Berger will be present to discuss the Englewood Depot.

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. Proclamation declaring Friday, April 19, 2013 as Arbor Day.

9. Consent Agenda Items.

a. Approval of Ordinances on First Reading.

   i. Council Bill No. 5 – Recommendation from the Utilities Department to approve a bill for an ordinance approving Supplement #169 to the Connectors Agreement Southgate Sanitation District authorizing the inclusion of land within the district. **Staff Source: Stewart H. Fonda, Director of Utilities.**

   ii. Council Bill No. 6 – Recommendation from the Utilities Department to approve a bill for an ordinance authorizing the Valley Sanitation District Wastewater Connector’s Agreement. **Staff Source: Stewart H. Fonda, Director of Utilities.**
b. Approval of Ordinances on Second Reading.

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. 7 — Recommendation from the Police Department to approve a bill for an ordinance amending Title 7, Chapter 6D, Section 12, of the Englewood Municipal Code 2000 – Possession of Marijuana Prohibited. **Staff Source: John Collins, Chief of Police.**

b. Approval of Ordinances on Second Reading

 i. Council Bill No. 3, authorizing amendments to Title 16 of the Englewood Municipal Code (Unified Development Code) regarding floodplain regulations.

c. Resolutions and Motions

 i. Recommendation from the Public Works Department to approve, by motion, a construction contract for the 2013 Concrete Utility program. Staff recommends awarding the bid to the lowest technically acceptable bidder, NORAA Concrete Construction, in the amount of $430,647.50. **Staff Source: Dave Henderson, Engineering/Capital Projects Administrator and Larry Nimmo, Field Operations Administrator.**

 ii. Recommendation from the Utilities Department to approve, by motion, the purchase of water meters and electronic remote transmitters. Staff recommends purchasing the equipment from National Meter and Automation, Inc. in the amount of $138,847.46 in conjunction with Denver Water's purchase to ensure the best quantity price. **Staff Source: Stewart H. Fonda, Director of Utilities.**

 iii. Recommendation from the Utilities Department to approve, by motion, authorizing a letter to the Colorado Congressional delegation concerning stormwater regulations being developed by the US Environmental Protection Agency (EPA). **Staff Source: Stewart H. Fonda, Director of Utilities.**
12. General Discussion.
   a. Mayor’s Choice.
   b. Council Members’ Choice.
      i. Council Bill No. 8, prohibiting recreational marijuana in the City of Englewood.


15. Adjournment.
PROCLAMATION

WHEREAS, in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the United States and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, trees in the City of Englewood increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal; and

WHEREAS, the City of Englewood, Colorado has been recognized for 28 consecutive years as a Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways; and

WHEREAS, the State of Colorado will celebrate Arbor Day on April 19th, 2013;

NOW THEREFORE, I, Randy P. Penn, Mayor of the City of Englewood, Colorado, hereby recognize

ARBOR DAY

in the City of Englewood, Colorado, and I urge all Englewood citizens to support efforts to care for our trees and woodlands and to support our City's efforts to protect our trees and woodlands.

Further, I urge all Englewood citizens to plant trees to gladden the hearts and promote the well being of present and future generations.

GIVEN under my hand and seal this 1st day of April, 2013.

Randy P. Penn, Mayor
COUNCIL COMMUNICATION

<table>
<thead>
<tr>
<th>Date</th>
<th>Agenda Item</th>
<th>Subject</th>
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<tr>
<td>April 1, 2013</td>
<td>9 a i</td>
<td>Southgate Supplement #169</td>
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INITIATED BY
Utilities Department

STAFF SOURCE
Stewart H. Fonda, Director of Utilities

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

None.

RECOMMENDED ACTION

The Water and Sewer Board, at their March 12, 2013 meeting, recommended Council approval of a Bill for an Ordinance approving Southgate Supplement #169.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood provides sewage treatment to approximately 32,000 accounts outside the City through contracts with numerous connector districts. The area is defined by the natural drainage and extends south and east from Broadway to the Valley Highway and from Hampden to Lincoln Ave. excluding Highlands Ranch. By contract the City of Englewood must approve any additions of land to be served by the districts. These are usually in-fill situations that are within what the City considers to be the area it has committed to serve. Adequate capacity has been provided in the treatment plant to accommodate all such future inclusions. Annexation of this parcel of land will not increase the tap allocation of the Southgate Sanitation District.

A request was made by the Southgate Sanitation District representing the owners, Howard Bellowe and Jacquelline Stern, for inclusion of Supplement #169 consisting of a parcel totaling 1.2 acres into the Southgate Sanitation District for residential use. The property is currently zoned Residential. The purpose of the inclusion is to install a sewer line and connect to the existing sewer main in the street. The legal is attached as Exhibit “A”. The property is located on the north side of E. Garden Avenue, east of Colorado Blvd.

FINANCIAL IMPACT

None.

LIST OF ATTACHMENTS

Minutes from March 12, 2013 Water and Sewer Board meeting
Telephone poll from March 19, 2013 approving March 12, 2013 Minutes
Proposed Bill for Ordinance
WATER & SEWER BOARD
MINUTES
TUESDAY, MARCH 12, 2013

Present: Oakley, Wiggins, Lay, Waggoner, Moore, Penn, Burns, Habenicht

Absent: Olson, Woodward

Also present: Yasser Abouaish – City Engineer, Stu Fonda – Director of Utilities, John Bock – Utilities Manager of Administration

1. MINUTES OF THE FEBRUARY 12, 2013 MEETING.

The Board reviewed the February 12, 2013 Water Board Minutes.

Motion: Board moved to approve the February 12, 2013 Water Board Minutes.

Moved: Burns Seconded: Waggoner

Motion passed unanimously.

2. SOUTHGATE SANITATION DISTRICT SUPPLEMENT #169.

A request was made by the Southgate Sanitation District representing the owner, Howard Bellowe and Jacquelline Stern, for inclusion of Southgate Supplement #169 consisting of a parcel totaling 1.2 acres into the Southgate Sanitation District for residential use. The purpose of the inclusion is to install a sewer line and connect to the existing sewer main in the street. The property is located on the north side of E. Garden Avenue, east of Colorado Blvd.

Motion: To recommend Council approval of a Bill for Ordinance approving Southgate Supplement #169.

Moved: Waggoner Seconded: Burns

Motion passed unanimously.
3. VALLEY SANITATION DISTRICT CONNECTORS AGREEMENT.

Valley Sanitation District has submitted a Wastewater Connector’s Agreement for providing sanitary sewer service to districts outside the Englewood corporate boundaries. The Littleton/Englewood Wastewater Treatment Plant receives and treats sewage transmitted by various sanitation districts. The connector’s agreement addresses this service with the district owing and maintaining the sewer mains.

Motion: To recommend Council approval of the Valley Sanitation District Wastewater Connector’s Agreement.

Moved: Burns Seconded: Habenicht

Motion passed unanimously.

4. GUEST: YASSER ABOUAISH – WATER CONSERVATION PLAN.

The Board received a draft of the Water Conservation Board, the Englewood Conservation Measures & Programs outline and the water conservation plan timeline. Yasser noted that there are fifteen water conservation measures, with numbers 1 through 3 the most important measures.

Water Board members, staff and the public are encouraged to submit their comments. The final draft will be published for 60 days from May 1 to June 30. The official public hearing will be on June 11, 2013 during the Water Board meeting. After public comments are received and reviewed, the Water Conservation Plan will go for Council approval then submitted to the Water Conservation Board for approval.

5. ENGLEWOOD W. CHENANGO FIRE TRAINING CENTER.

A memo dated February 19, 2013 from Mike Pattarozzi, Fire Chief, was given to the Board as an informational item. It notes that one option to comply with the CDPS Permit is to allow runoff from the site to be discharged to the sanitary sewer system, in accordance with municipal codes and regulations. Penn noted concerns about the high cost of moving the training center or sending Englewood firefighters to South Metro.

6. CITIZEN REQUEST REGARDING BILLING ISSUES.

The Board received a request from Greg Schaller of 6822 E. Heritage Place S. to waive the late fee from his October 1, 2012 sewer bill.
The Board received a memo regarding Mr. Lehman at 4546 S. Pennsylvania St. Mr. Lehman is requesting that he receive a full refund of $79.00 without having to pay the sewer, storm water and concrete charges due for March, April and May, 2013.

Motion: To deny bill reduction requests for 6822 S. Pennsylvania St. and 4546 S. Pennsylvania St.

Moved: Waggoner Seconded: Burns

Motion passed unanimously.

INFORMATION ON WATER HARDNESS.

The Board received a copy of an e-mail from John Bock to Diane Ramey regarding the mineral content and the resulting water hardness in the Englewood water system.

PROPOSED STORMWATER REGULATIONS.

Mr. Fonda discussed sending a letter to Colorado’s congressional delegation concerning stormwater regulations that the USEPA is currently developing that could have a harsh financial impact on communities across the country. Stu noted that this might affect Englewood’s MS4 Stormwater Permit.

Motion: To recommend Council approval to send letters to Colorado’s congressional delegation concerning stormwater regulations that the USEPA is developing.

Motion: Oakley Seconded: Habenicht

Motion passed unanimously.

CONTINUED FUNDING IN THE FY2014 BUDGET FOR DRINKING WATER AND WASTEWATER RELATED RESEARCH.

Stu reviewed the importance of continued funding in the FY2014 Budget for drinking water and wastewater related research at the EPA in partnership with local wastewater and drinking water utilities. EPA working in conjunction with the Water Research Foundation and the Water Environment Research Foundation helps to ensure that sound science governs compliance with Safe Drinking Water Act and Clean Water Act regulations.
Motion: Recommend Stewart Fonda to send letters to the Colorado Congressional staff supporting continued support in the FY2014 to continue funding drinking water and wastewater related research at the EPA in partnership with local wastewater and drinking water utilities.

Moved: Oakley               Seconded: Waggoner

Motion passed unanimously.

Meeting adjourned 5:45 p.m.

The next Englewood Water Board meeting will be Tuesday, April 9, 2013 at 5:00 p.m. in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage
Recording Secretary
WATER & SEWER BOARD

PHONE VOTE – TUESDAY, MARCH 19, 2013

Phone Vote Roll Call.

Contacted: Clyde Wiggins, Chuck Habenicht, Kells Waggoner, Jim Woodward, Joe Lay, Wayne Oakley, Ranch Penn

Not Contacted: Linda Olson, Tom Burns

1. MINUTES FOR THE MARCH 12, 2013 MEETING.

Motion: Approve the minutes of the March 12, 2013 Water and Sewer Board meeting.

Moved: Habenicht   Seconded: Waggoner

Abstain: Olson

Motion passed unanimously.

The next Water and Sewer Board meeting will be Tuesday, April 9, 2013 at 5:00 p.m. in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage
Recording Secretary
BY AUTHORITY

ORDINANCE NO. ____  COUNCIL BILL NO. 5
SERIES OF 2013  INTRODUCED BY COUNCIL
MEMBER __________

A BILL FOR

AN ORDINANCE APPROVING SUPPLEMENT NO. 169 TO THE SOUTHGATE SANITATION DISTRICT CONNECTOR’S AGREEMENT FOR THE INCLUSION OF LAND WITHIN THE DISTRICT BOUNDARIES.

WHEREAS, Southgate Sanitation District recommends the inclusion of approximately 1.2 acres into the District for residential use; and

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

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

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

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

WHEREAS, the Englewood Water and Sewer Board recommended approval of this Agreement at its March 12, 2013 meeting;

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

Section 1. The Agreement between the City of Englewood and Southgate Sanitation District entitled “Supplement No. 169, to Connector’s Agreement”, which includes 1.2 acres located on the North side of East Garden Avenue, East of Colorado Boulevard in Greenwood Village, is hereby accepted and approved by the Englewood City Council. A copy of said Agreement is attached hereto as “Attachment 1” and incorporated herein by reference.

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

Introduced, read in full, and passed on first reading on the 1st day of April, 2013.
Published by Title as a Bill for an Ordinance in the City's official newspaper on the 5th day of April, 2013.

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

ATTEST:

Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 1st day of April, 2013.

Loucrishia A. Ellis
SUPPLEMENT NO. _____ TO CONNECTOR'S AGREEMENT

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

WITNESSETH:

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

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

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

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

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

IN WITNESS WHEREOF, the parties have set their hands and seals this ______ day of ________, 2013.

CITY OF ENGLEWOOD

By: __________________________
    MAYOR

ATTEST:

CITY CLERK
(SEAL)

SOUTHGATE SANITATION DISTRICT,
ARAPAHOE AND DOUGLAS COUNTIES,
COLORADO

By: __________________________
    PRESIDENT

ATTEST

SECRETARY
(SEAL)
EXHIBIT A

(Legal Description)

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

Date
April 1, 2013

Agenda Item
9 a ii

Subject
Valley Sanitation District Connector’s Agreement

INITIATED BY
Utilities Department

STAFF SOURCE
Stewart H. Fonda, Director of Utilities

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council approved a standard Sanitary Sewer Connector’s Agreement in January, 1988.

RECOMMENDED ACTION

At their March 12, 2013 meeting the Englewood Water and Sewer Board recommended Council approval of the Valley Sanitation District Wastewater Connector’s Agreement.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Sanitary sewer service is provided to districts outside of the Englewood corporate boundaries through the standard connector’s agreement. The Littleton/Englewood Wastewater Treatment Plant is able to receive and treat sewage transmitted by various districts. The attached agreement addresses this service with the district that owns and maintains the sewer mains.

In the Valley Sanitation District there are 2293 taps. The Valley Sanitation District Sanitation District will continue to own the lines and will be responsible for capital improvements in its system. The attached map shows the Valley Sanitation District boundaries.

The City Attorney’s office has reviewed and approved the standard Connector’s Agreement.

FINANCIAL IMPACT

None.

LIST OF ATTACHMENTS

Minutes from March 12, 2013 Water and Sewer Board meeting
Telephone poll from March 19, 2013 approving March 12, 2013 Minutes
Proposed Bill for Ordinance
WATER & SEWER BOARD
MINUTES
TUESDAY, MARCH 12, 2013

Present: Oakley, Wiggins, Lay, Waggoner, Moore, Penn, Burns, Habenicht
Absent: Olson, Woodward
Also present: Yasser Abouaish – City Engineer, Stu Fonda – Director of Utilities, John Bock – Utilities Manager of Administration

1. MINUTES OF THE FEBRUARY 12, 2013 MEETING.

The Board reviewed the February 12, 2013 Water Board Minutes.

Motion: Board moved to approve the February 12, 2013 Water Board Minutes.

Moved: Burns  Seconded: Waggoner:

Motion passed unanimously.

2. SOUTHGATE SANITATION DISTRICT SUPPLEMENT #169.

A request was made by the Southgate Sanitation District representing the owner, Howard Bellowe and Jacqueline Stern, for inclusion of Southgate Supplement #169 consisting of a parcel totaling 1.2 acres into the Southgate Sanitation District for residential use. The purpose of the inclusion is to install a sewer line and connect to the existing sewer main in the street. The property is located on the north side of E. Garden Avenue, east of Colorado Blvd.

Motion: To recommend Council approval of a Bill for Ordinance approving Southgate Supplement #169.

Moved: Waggoner  Seconded: Burns

Motion passed unanimously.
3. VALLEY SANITATION DISTRICT CONNECTORS AGREEMENT.

Valley Sanitation District has submitted a Wastewater Connector’s Agreement for providing sanitary sewer service to districts outside the Englewood corporate boundaries. The Littleton/Englewood Wastewater Treatment Plant receives and treats sewage transmitted by various sanitation districts. The connector’s agreement addresses this service with the district owing and maintaining the sewer mains.

Motion: To recommend Council approval of the Valley Sanitation District Wastewater Connector’s Agreement.

Moved: Burns                 Seconded: Habenicht

Motion passed unanimously.

4. GUEST: YASSER ABOUAISH – WATER CONSERVATION PLAN.

The Board received a draft of the Water Conservation Board, the Englewood Conservation Measures & Programs outline and the water conservation plan timeline. Yasser noted that there are fifteen water conservation measures, with numbers 1 through 3 the most important measures.

Water Board members, staff and the public are encouraged to submit their comments. The final draft will be published for 60 days from May 1 to June 30. The official public hearing will be on June 11, 2013 during the Water Board meeting. After public comments are received and reviewed, the Water Conservation Plan will go for Council approval then submitted to the Water Conservation Board for approval.

5. ENGLEWOOD W. CHENANGO FIRE TRAINING CENTER.

A memo dated February 19, 2013 from Mike Pattarozzi, Fire Chief, was given to the Board as an informational item. It notes that one option to comply with the CDPS Permit is to allow runoff from the site to be discharged to the sanitary sewer system, in accordance with municipal codes and regulations. Penn noted concerns about the high cost of moving the training center or sending Englewood firefighters to South Metro.

6. CITIZEN REQUEST REGARDING BILLING ISSUES.

The Board received a request from Greg Schaller of 6822 E. Heritage Place S. to waive the late fee from his October 1, 2012 sewer bill.
The Board received a memo regarding Mr. Lehman at 4546 S. Pennsylvania St. Mr. Lehman is requesting that he receive a full refund of $79.00 without having to pay the sewer, storm water and concrete charges due for March, April and May, 2013.

**Motion:**
To deny bill reduction requests for 6822 S. Pennsylvania St. and 4546 S. Pennsylvania St.

**Moved:** Waggoner  
**Seconded:** Burns

Motion passed unanimously.

### 7. INFORMATION ON WATER HARDNESS.

The Board received a copy of an e-mail from John Bock to Diane Ramey regarding the mineral content and the resulting water hardness in the Englewood water system.

### 8. PROPOSED STORMWATER REGULATIONS.

Mr. Fonda discussed sending a letter to Colorado’s congressional delegation concerning stormwater regulations that the USEPA is currently developing that could have a harsh financial impact on communities across the country. Stu noted that this might affect Englewood’s MS4 Stormwater Permit.

**Motion:**
To recommend Council approval to send letters to Colorado’s congressional delegation concerning stormwater regulations that the USEPA is developing.

**Motion:**
Oakley  
**Seconded:** Habenicht

Motion passed unanimously.

### 9. CONTINUED FUNDING IN THE FY2014 BUDGET FOR DRINKING WATER AND WASTEWATER RELATED RESEARCH.

Stu reviewed the importance of continued funding in the FY2014 Budget for drinking water and wastewater related research at the EPA in partnership with local wastewater and drinking water utilities. EPA working in conjunction with the Water Research Foundation and the Water Environment Research Foundation helps to ensure that sound science governs compliance with Safe Drinking Water Act and Clean Water Act regulations.
Motion: Recommend Stewart Fonda to send letters to the Colorado Congressional staff supporting continued support in the FY2014 to continue funding drinking water and wastewater related research at the EPA in partnership with local wastewater and drinking water utilities.

Moved: Oakley  Seconded: Waggoner

Motion passed unanimously.

Meeting adjourned 5:45 p.m.

The next Englewood Water Board meeting will be Tuesday, April 9, 2013 at 5:00 p.m. in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage
Recording Secretary
WATER & SEWER BOARD

PHONE VOTE – TUESDAY, MARCH 19, 2013

Phone Vote Roll Call.

Contacted: Clyde Wiggins, Chuck Habenicht, Kells Waggoner, Jim Woodward, Joe Lay, Wayne Oakley, Ranch Penn

Not Contacted: Linda Olson, Tom Burns

1. MINUTES FOR THE MARCH 12, 2013 MEETING.

Motion: Approve the minutes of the March 12, 2013 Water and Sewer Board meeting.

Moved: Habenicht Seconded: Waggoner

Abstain: Olson

Motion passed unanimously.

The next Water and Sewer Board meeting will be Tuesday, April 9, 2013 at 5:00 p.m. in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage
Recording Secretary
BY AUTHORITY

ORDINANCE NO. ___ SERIES OF 2013 COUNCIL BILL NO. 6 INTRODUCED BY COUNCIL MEMBER ______________

A BILL FOR

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

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

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

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

WHEREAS, the Valley Sanitation District has 2,293 taps; and

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

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

WHEREAS, the Englewood Water and Sewer Board reviewed and recommended approval of the Valley Sanitation Wastewater Connector’s Agreement at the March 12, 2013 meeting;

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

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

Section 2. The Mayor is authorized to execute and City Clerk to attest and seal the Intergovernmental “Wastewater Connector’s Agreement”, for and on behalf of the Englewood City Council.
Introduced, read in full, and passed on first reading on the 1st day of April, 2013.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 5th day of April, 2013.

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

ATTEST:

Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 1st day of April 2013.

Loucrishia A. Ellis
THIS AGREEMENT, made and entered into this ______ day of ______, 20__ to be effective as of ______, 20__; by and between the CITY OF ENGLEWOOD, COLORADO, a municipal corporation, hereinafter referred to as “City,” acting by and through its duly elected, qualified and authorized Mayor and City Clerk, and the VALLEY SANITATION DISTRICT, a quasi-municipal corporation and subdivision of the State of Colorado, hereinafter called “District,” acting by and through its authorized Representative.

WITNESSETH

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

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

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

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

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

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

3. Regarding the provision of sewer service, the City’s permitting requirements shall be followed by the District and its users. All sewer plans, specifications and methods of work within the District shall be submitted to the City in writing and approved by the City prior to any construction or tap in the District’s designated area. No permit shall be final and no service shall be provided to property until construction is approved, in writing by the City.

4. The District shall be responsible for the proper maintenance of its sewer system and shall rectify any problems or conditions which have been determined by the District or the City to be detrimental to the City’s treatment process or system. Should the City determine that any discharge enters the sewer system contrary to applicable laws, ordinances, statutes, rules, regulations or permits, the District agrees to proceed at once to take whatever lawful means may be necessary to rectify any such problem or condition.

5. The City shall have the right to allocate service under this Contract, and the City may deny additional service for any utility-related reason, but in no event will the City terminate or refuse any service without cause. The City shall have the right to disconnect service to any area annexed to the District when such annexation takes place without prior written City approval.

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

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

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

The City may bill and collect “District Charges” imposed by the Districts as an additional item to be billed and collected by the City along with the City’s Treatment charge and other fees. The “District Charges” received by the City shall be remitted by the City to the District annually; less an amount equal to the City and District charges which remain delinquent. The District shall notify the City of any changes in the District charges to be imposed and the remittance schedule before May 1st of each year.
7. Subject to the terms of the Taxpayer’s Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time the District agrees that all effluent produced from taps within the District shall not be in violation of any federal, state or City laws, rules or regulations, or any other applicable governmental regulations or the permits under which the City operates its sewage treatment system. The City agrees, during the term hereof, to treat said effluent and to maintain adequate facilities for treating the same.

8. The District agrees that it will maintain, at its own expense, all lines now owned and operated by the District, it being specifically agreed that the City assumes no responsibility should any of the District’s lines become clogged, damaged, or require maintenance. The District shall, if it deems necessary, notify its users of the District’s procedure to remedy service disruption.

9. The City is providing only sewage treatment service and, pursuant thereto; any permits incidental to the use of the City’s sewage lines shall be governed only by this individual Contract with the District and the City does not, by this Contract, offer treatment service except in strict accordance with the terms hereof. This Contract does not offer, and shall not be construed as offering, sewage treatment service to the public generally or to any area outside the limits of the District’s service area described in Exhibit A.

10. This Contract may not be assigned, sold or transferred by the District without the City’s written consent.

11. Should any federal law, rule, permit or regulation or should a decree or order of a court render void or unenforceable any provision of this Contract, in whole or in part, the remainder shall remain in full force and effect.

12. The District shall enforce this Agreement and each of its terms and conditions within the area described in “Exhibit A.” The District shall refuse to serve a user or potential user; disconnect the service of any user pursuant to appropriate law; or take other appropriate action in the event of:

   a. Nonpayment of such user of any charge made by the City for services;

   b. Any violation or noncompliance by such user with the terms of this Agreement;

   c. Any violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, the Department of Health, or other law, rule, permit or applicable regulation.

13. Continued breach of this Agreement by the District and/or its users shall be considered cause for the City to terminate this Agreement. Should the District fail to promptly rectify a breach of any provisions identified herein, after notice thereof, the City may take such steps and do such work as it deems necessary to enforce this Agreement, including litigation and specifically a right to injunction or specific performance against the District or any of its users as is necessary to protect the City’s system and operations.
The prevailing party shall be entitled to expenses and costs of suit, including attorney fees.

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

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

CITY OF ENGLEWOOD, COLORADO

_________________________________________, Mayor

ATTEST:

_________________________________________, City Clerk
VALLEY SANITATION DISTRICT

Phyllis Gooden, President

STATE OF COLORADO

COUNTY OF Jefferson

The foregoing instrument was acknowledged before me this 13th day of February, 2013, by Phyllis Gooden.

Witness my hand and official seal.

My Commission expires: 6-15-13

NOTARY PUBLIC
COUNCIL COMMUNICATION

Date: April 1, 2013
Agenda Item: 11 a i
Subject: Recommendation to approve a bill for an ordinance amending Title 7 related to Recreational Marijuana

Initiated By: Police Department
Staff Source: Gary Condreay, Commander

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council previously established a moratorium pertaining to the sale, manufacture and cultivation of Marijuana.

RECOMMENDED ACTION

The Police Department recommends that City Council adopt a Bill for an Ordinance which would amend Title 7, Chapter 6D, Section 12, of the Englewood Municipal Code 2000 - Possession of Marijuana Prohibited.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The citizens of Colorado recently passed Amendment 64 which changed the state law regarding the regulation and sale of recreational marijuana in Colorado. The governor subsequently put together a task force to study and make recommendations regarding the implementation and regulation of recreational marijuana.

Amending Title 7, Chapter 6D, Section 12, of the Englewood Municipal Code will ensure that our ordinances are compliant with Amendment 64 of the Colorado Constitution.

FINANCIAL IMPACT

No financial impact is anticipated.

LIST OF ATTACHMENTS

Bill for an Ordinance
A BILL FOR

AN ORDINANCE AMENDING TITLE 7, CHAPTER 6D, OF THE ENGLEWOOD MUNICIPAL CODE 2000, RELATING TO THE POSSESSION, USE OR CONSUMPTION OF RECREATIONAL MARIJUANA AND DRUG PARAPHERNALIA.

WHEREAS, Amendment 64 changed Colorado law regarding the regulation and sale of marijuana; and

WHEREAS, the Constitutional Amendment sets a deadline for the completion of regulations by the State Department of Revenue for July 1, 2013; and

WHEREAS, the Governor’s Task Force recently forwarded recommendations to the Legislature; and

WHEREAS, the City of Englewood established a moratorium to evaluate the State regulations; and

WHEREAS, the moratorium on the sale, manufacture and cultivation of marijuana was found to be necessary for the City to evaluate the effect of the Amendment and any State regulations on the City’s existing Medical Marijuana regulations; and

WHEREAS, during the moratorium, City Council directed City staff to continue to develop appropriate recommendations consistent with the Constitutional Amendment and State regulations; and

WHEREAS, the Marijuana definition has been modified to match the new Constitutional language; and

WHEREAS, the Police Department has requested a prohibition as to minors, which is permitted by Amendment 64; and

WHEREAS, language under the Code has been modified as to the number of plants allowed to match the new Constitutional language; and

WHEREAS, Amendment 64 provides that growing of marijuana shall take place in an enclosed, locked, space and shall not be conducted openly and publicly; and

WHEREAS, restrictions on cultivating marijuana have been modified accordingly; and
WHEREAS, the Police Department has requested that the current provisions based upon similar intoxicating liquor open container prohibitions be maintained as to motor vehicles; and

WHEREAS, the penalty provision of 1-4-1 EMC will still apply, and redundant language has been eliminated to avoid confusion; and

WHEREAS, Amendment 64 specifically prohibits consumption of any marijuana that is conducted openly or publicly or in a manner that endangers others; and

WHEREAS, the draft Ordinance has language prohibiting marijuana use in the same manner as Englewood’s restriction on open containers of intoxicating liquor 5-3C-3 EMC; and

WHEREAS, Marijuana Accessories have been exempted from Drug Paraphernalia as required by the language of Amendment 64.

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 7, Chapter 6D, Section 12, of the Englewood Municipal Code 2000, entitled Possession of Marijuana Prohibited, to read as follows:

7-6D-12: Possession Use or Consumption of Marijuana Prohibited.

A. Definitions.

Any word or term used that is defined in Article XVIII, Sections 14, 14(9) or 16 of the Colorado Constitution; in § 25-1.5-101 et seq. C.R.S. or in the Colorado Medical Marijuana Code, § 12-43.3-101 et seq. C.R.S. shall have the same meaning that is ascribed to such word or term in those Constitutional provisions or C.R.S. sections unless the definition is amended by this section.

Use or Consumption of Marijuana: Shall be deemed possession thereof.

Marihuana or Marijuana: All parts of the plant cannabis sativa L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include fiber produced from the stalks, oil or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, if these items exist apart from any other item defined as "marijuana" herein. "Marijuana" does not include marijuana concentrate as defined below. All parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" or "Marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana Accessories: Any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing,
analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

*Medical Marijuana:* means Marijuana that is grown and sold pursuant to the provisions of § 106 of Article 1.5 of Title 12 C.R.S.; Article 43.3 of Title 12 C.R.S. and for a purpose authorized by Section 14 of Article XVIII of the State Constitution.

*Passenger area:* means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including, but not limited to, the glove compartment.

B. It is unlawful for any person to possess, use or consume one ounce or less of Marijuana, except in accordance with Sections 14, and 16 of Article XVIII of the Colorado Constitution.

1. It shall be unlawful for anyone under twenty-one (21) years of age to possess, use or consume one ounce or less of Marijuana.

   (a) **Exception – Medical Marijuana as authorized by EMC 5-3D-1**

2. It shall be unlawful to sell, distribute or transfer Marijuana to a person who is under twenty-one (21) years of age.

   (a) **Exception – Medical Marijuana as authorized by EMC 5-3D-1.**

**D6. Restrictions on locations for cultivating Marijuana.**

1. Growing of Marijuana shall take place in an enclosed, locked space and shall not be conducted openly or publicly.

2. It shall be unlawful to cultivate Marijuana in an outdoor area or an accessory structure including but not limited to outdoor gardens, greenhouses, sheds or storage units;

3. It shall be unlawful to cultivate Marijuana within a garage, whether attached or detached, or other structure designed or intended for the keeping or storage of vehicles, equipment or goods;

4. It shall be unlawful to permit Marijuana plants to be perceptible from the exterior of any structure, including but not limited to:

   (a) Common visual observation of Marijuana.

   (b) Odors, smells, fragrances, or other olfactory stimulus generated by the cultivation, production, possession or processing of Marijuana plants that disturbs the repose of another.

   (c) Light pollution, glare, or brightness of artificial illumination associated with the cultivation, of Marijuana plants that disturbs the repose of another.

   (d) Noise from fans in excess of the limits set in Section 6-2-5(F) EMC, as amended.
45. It shall be unlawful to cultivate Medical Marijuana in the common areas of residential property;

DC. It shall be unlawful to cultivate or permit to be cultivated, more than the following maximum number of Medical Marijuana plants:

1. Six (6) Medical Marijuana plants with three (3) or fewer being mature, flowering plants that are producing a useable form of Marijuana for each Patient of the premises; or

2. The maximum number of Medical Marijuana plants necessary to alleviate the patient's (or patients') chronic debilitating disease(s) or medical condition(s) as evidenced by the patient's (or patients') physician's written professional opinion or recommendation.

E. Concerning Marijuana in Motor Vehicles:

1. A person while in the passenger area of a motor vehicle that is on a public street, highway or public right-of-way may not have use or consume Marijuana in his or her possession.

2. The provisions of this Section (E) shall not apply to:

   (a) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation.

   (b) Marijuana possession use or consumption by a passenger, other than the driver or front seat passenger, in the living quarters of a house coach, house trailer, motor home, as defined in C.R.S. §42-1-102(57), or trailer coach, as defined in C.R.S. §42-1-102(106)(a).

   (e) The possession of Marijuana in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

   (d) The possession of Marijuana in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

F. The maximum punishment that can be imposed for violation of this Section is as is set forth in Section 14-1-1 of this Code. However, in imposing punishment on minors for violation of this Section, the Court is limited to the restrictions of subsection 14-1(1)(B) of this Code.

Restrictions on use or the consumption of Marijuana that is conducted openly and publicly or in a manner that endangers others.

1. It shall be unlawful for any person to use or consume Marijuana in any public place.
A. Definitions. As used in this Section, unless the context otherwise requires:

1. Drug paraphernalia means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the laws of this State. Drug paraphernalia includes, but is not limited to:

   a. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances under circumstances in violation of the laws of this State;

   b. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

   c. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

   d. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

   e. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

   f. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or

   g. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

      (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

      (2) Water pipes;

      (3) Carburetion tubes and devices;

      (4) Smoking and carburetion masks;

      (5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

      (6) Miniature cocaine spoons and cocaine vials;

      (7) Chamber pipes;
(8) Carburetor pipes;
(9) Electric pipes;
(10) Air-driven pipes;
(11) Chillums;
(12) Bongs; or
(13) Ice pipes or chillers.

2. Drug Paraphernalia shall not mean or include Marijuana Accessories as defined by Article XXIII of the State Constitution.

B. Determination; Considerations.

1. In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:
   a. Statements by an owner or by anyone in control of the object concerning its use;
   b. The proximity of the object to controlled substances;
   c. The existence of any residue of controlled substances on the object;
   d. Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he/she knows or reasonably should know, could use the object to facilitate a violation of this Section;
   e. Instructions, oral or written, provided with the object concerning its use;
   f. Descriptive materials accompanying the object which explain or depict its use;
   g. National or local advertising concerning its use;
   h. The manner in which the object is displayed for sale;
   i. Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco or Marijuana products;
   j. The existence and scope of legal uses for the object in the community;
   k. Expert testimony concerning its use.
C. Possession of Drug Paraphernalia. A person commits possession of drug paraphernalia if he/she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of this Code, except in accordance with Section 14 of Article XVIII of the Colorado Constitution.

D. Manufacture, Sale or Delivery of Drug Paraphernalia; Penalty. Any person who sells or delivers, possesses with intent to sell or deliver, or manufactures with intent to sell or deliver equipment, products, or materials knowing, or under circumstances where one reasonably should know, that such equipment, products or materials could be used as drug paraphernalia commits a violation of this Section, except in accordance with Section 14 of Article XVIII of the Colorado Constitution.

E. Advertisement of Drug Paraphernalia; Penalty. Any person who places an advertisement in any newspaper, magazine, handbill, or other publication and who intends thereby to promote the sale in this City of equipment, products, or materials designed and intended for use as drug paraphernalia commits a violation of this Code, except in accordance with Section 14 of Article XVIII of the Colorado Constitution.

F. Defenses. The common law defense known as the procuring agent defense is not a defense to any crime in this Section.

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 1st day of April, 2013.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 5th day of April, 2013.

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

ATTEST: Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 1st day of April, 2013.

Loucrishia A. Ellis
AN ORDINANCE AMENDING TITLE 16, CHAPTERS 1, 2, 3, 4, 5, 6, 8, 9 AND 11, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO FLOODPLAIN REGULATIONS.

WHEREAS, the Colorado Water Conservation Board (CWCB), in partnership with the Federal Emergency Management Agency (FEMA), began a project to update and digitize all Floodplain Insurance Rate Maps (FIRM) for Arapahoe County; and

WHEREAS, at the completion of the project the City of Englewood amended Title 16 by adopting the updated Englewood FIRMs and corresponding regulations under Ordinance No. 44, Series of 2010; and

WHEREAS, in 2011, the State of Colorado adopted higher standards for floodplain management providing uniform standards for regulatory floodplains in Colorado and activities in those floodplains; and

WHEREAS, the CWCB requires that any community that participates in the National Flood Insurance Program (NFIP) must adopt the new standards; and

WHEREAS, the City’s favorable NFIP rating regarding flood mitigation policies and regulations allows citizens with property within the floodplain to receive approximately a ten percent (10%) reduction in flood insurance premiums; and

WHEREAS, the proposed amendments are necessary in order for the City of Englewood to remain in the program and provide the discounted premium option for Englewood residents; and

WHEREAS, the CWCB requires the amendments to be adopted and effective by January 14, 2014; and

WHEREAS, the Planning and Zoning Commission held a public hearing on January 8, 2013; and

WHEREAS, the Planning and Zoning Commission approved the amendments to the Floodplain Regulations and recommended forwarding to City Council;
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 1, Section 4, of the Englewood Municipal Code 2000, entitled Purpose and Intent, to read as follows:

16-1-4: Purpose and Intent.

A. General Intent and Purpose. The City Council hereby finds, determines, and declares that the uniform regulation of land development in the City, in accordance with a Comprehensive Plan and as established by the standards, procedures, and enforcement provisions of this Title, is necessary for the immediate preservation of the public peace, health, safety, convenience, and welfare.

B. Intent to Supersede General Colorado Law. The City of Englewood recognizes that zoning is ultimately a local and municipal matter, and intends with this Title to supersede within the territorial limits and other jurisdiction of the City any general law of the State of Colorado in conflict herewith.

C. Specific Purposes. The regulations of this Title are intended to implement the Englewood Comprehensive Plan, as amended, and more specifically to:

1. Encourage and facilitate land use by designating and regulating the distribution and location of buildings, structures, and land for residential, commercial, industrial, recreational, or other appropriate uses.

2. Promote land uses that support and encourage economic and sustainable development.

3. Regulate uses within floodplains to mitigate hazards to the public and damage to property.

4. Promote development that preserves and enhances quality of life and protects environmental resources of the City.

5. Facilitate the provision of infrastructure such as water, sewerage, streets, transportation, and other public facilities.

6. Regulate the division, transfer and conveyance of realty within the City.

7. Provide a comprehensive, consistent, and efficient development review process.
Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 2, of the Englewood Municipal Code 2000, entitled Summary Table of Administrative and Review Roles, to read as follows:

16-2-2: Summary Table of Administrative and Review Roles.

The following table summarizes the review and decision-making responsibilities of the entities that have specific roles in the administration of the procedures set forth in this Chapter. For purposes of this table, an "(Approval) Lapsing Period" refers to the total time from the application's approval that an applicant has to proceed with, and often complete, the approved action. Failure to take the required action within the specified "lapsing period" will automatically void the approval. See Section 16-2-3.L EMC, "Lapse of Approval," below.

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<tr>
<td>Historic Preservation</td>
<td>16-6-11</td>
<td>✓ R R D</td>
<td>✓ ✓ ✓</td>
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<tr>
<td>Landmark Sign</td>
<td>16-6-13</td>
<td>✓ D A</td>
<td>✓ ✓</td>
<td>✓ ✓</td>
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<tr>
<td>Limited Review Use Permits</td>
<td>16-2-13</td>
<td>✓ D A</td>
<td>1 year</td>
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<tr>
<td>Major Subdivisions</td>
<td>16-2-10</td>
<td>✓ R R D</td>
<td>✓ ✓ ✓</td>
<td>6 months to submit Final Plat</td>
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<tr>
<td>Preliminary Plat</td>
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<td>6 months to submit Final Plat</td>
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<tr>
<td>Final Plat</td>
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<td>60 days to record</td>
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<tr>
<td>Simultaneous Review Preliminary Plat/Final Plat</td>
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<td>✓ ✓ ✓</td>
<td>60 days to record</td>
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<tr>
<td>Recorded Final Plat</td>
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<td>Minor Subdivision</td>
<td>16-2-11</td>
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<td>✓ ✓ ✓</td>
<td>6 months to submit Final Plat</td>
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<tr>
<td>Preliminary Plat</td>
<td>✓ D A</td>
<td>60 days to record</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Final Plat</td>
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<tr>
<td>Official Zoning Map Amendments (Rezonings)</td>
<td>16-2-7</td>
<td>✓ R R D</td>
<td>✓ ✓ ✓</td>
<td>None</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PUD and TSA Rezonings</td>
<td>16-2-7</td>
<td>✓ R R D</td>
<td>✓ ✓ ✓</td>
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<tr>
<td>Temporary Use Permits</td>
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<td>As stated in Permit</td>
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<tr>
<td>Unlisted Use Classifications</td>
<td>16-5-1.B</td>
<td>✓ D A</td>
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<td>Zoning Site Plan</td>
<td>16-2-9</td>
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<tr>
<td>Zoning Variances</td>
<td>16-2-16</td>
<td>✓ R D</td>
<td>✓ ✓</td>
<td>180 days</td>
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</table>
Notice Required: See Table 16-2-3.1 Summary of Mailed Notice Requirements

Section 3. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 10, Subsection E, of the Englewood Municipal Code 2000, entitled Zoning Variances, to read as follows:

16-2-10: Major Subdivisions.

Approval of a Major Subdivision Plat is required whenever a subdivision of land requires the dedication of land for public rights-of-way or public areas. Approval of a Major Subdivision Plat requires a two-stage process involving (1) approval of a preliminary plat by the Commission, and (2) approval of a final plat document by the Council. The Minor Subdivision process in Section 16-2-11 EMC, shall apply where dedication of land is not required and to certain boundary adjustments and lot consolidations.

EDITORS NOTE: The Subsections A through D, contain no changes and are therefore not included here.

E. Criteria. The Commission shall review and consider the preliminary plat application with particular attention to the following matters:

1. The zoning of the property proposed for subdivision, together with the zoning of the areas immediately adjacent thereto.

2. The proposed layout of lots and blocks and the proposed dimensions thereof to demonstrate compliance with applicable yard area requirements.

3. The availability of all utilities, and the proximity thereof to the area proposed for subdivision.

4. Topography and natural features of the land with special reference to floodplains.

5. The continuity of streets and alleys within the area proposed for subdivision, and the design and location of such streets and alleys, with relation to existing streets and alleys, both within and without the area proposed for subdivision, and the Master Street Plan.

6. Whether rights-of-way are designed and located to facilitate the safe movement of pedestrians and bicyclists.

7. Whether bicycle and pedestrian facilities have been selected, located, and designed in accordance with current City standards.

8. The location of utility and other easements.
9. The location of, and provision for, public areas, including land reserved for parks, schools and other public uses.

10. The method of handling drainage and surface water.

11. Any other matters that the Commission deems important to be considered in order to accomplish the purposes set forth in this Title.

EDITORS NOTE: Subsections F through G, contain no changes and therefore are not included here.

Section 4. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 2, Section 16, of the Englewood Municipal Code 2000, entitled Zoning Variances, to read as follows:

16-2-16: Zoning Variances.

Two (2) different types of variance are available: (1) Zoning Variances and (2) Floodplain Variances. Zoning Variances are addressed in this section, and Floodplain Variances are addressed in Chapter 16-4 EMC (Floodplain Regulations). (Note that the Planning Commission is the decision-making body on Floodplain Variances rather than the Board of Adjustment and Appeals.) The Board of Adjustment and Appeals pursuant to the procedures in this Section may grant Zoning Variances from the zoning provisions of this Title otherwise applicable to a property.

EDITORS NOTE: The remaining sections of 16-2-16 contain no changes and are not included here.
Section 5. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 3, Section 1, of the Englewood Municipal Code 2000, entitled General Provisions, to read as follows:

16-3-1: General Provisions.

A. Establishment of Base Zoning Districts. The following base zoning districts are hereby established:

<table>
<thead>
<tr>
<th>TABLE 16-3-1.1: BASE ZONING DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Residential One Dwelling Unit Districts</strong></td>
</tr>
<tr>
<td>R-1-A</td>
</tr>
<tr>
<td>R-1-B</td>
</tr>
<tr>
<td>R-1-C</td>
</tr>
<tr>
<td><strong>Residential One and Multi-Dwelling Unit Districts</strong></td>
</tr>
<tr>
<td>R-2-A</td>
</tr>
<tr>
<td>R-2-B</td>
</tr>
<tr>
<td><strong>Mixed-Use Residential/Limited Office-Retail Districts</strong></td>
</tr>
<tr>
<td>MU-R-3-A</td>
</tr>
<tr>
<td>MU-R-3-B</td>
</tr>
<tr>
<td>MU-R-3-C</td>
</tr>
<tr>
<td><strong>Mixed-Use Medical Districts</strong></td>
</tr>
<tr>
<td>M-1</td>
</tr>
<tr>
<td>M-2</td>
</tr>
<tr>
<td><strong>Mixed-Use Commercial Districts</strong></td>
</tr>
<tr>
<td>MU-B-1</td>
</tr>
<tr>
<td>MU-B-2</td>
</tr>
<tr>
<td>TSA</td>
</tr>
<tr>
<td><strong>Industrial Districts</strong></td>
</tr>
<tr>
<td>I-1</td>
</tr>
<tr>
<td>I-2</td>
</tr>
<tr>
<td><strong>Special Purpose Districts</strong></td>
</tr>
<tr>
<td>PUD</td>
</tr>
</tbody>
</table>
B. **Relationship of Base Districts to Overlay Districts.** Lands within the City may be classified into one of the base zoning districts, as described above, and may also be classified as an overlay district. (see, for example, Chapter 16-4 EMC, “Flood Plain Overlay District”) An overlay district is a land use classification that lies over the base zoning allowing for additional uses and development standards different from the base zoning. Where the property is classified in an overlay district as well as a base zoning district, then the regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying district. In the event of an express conflict between the standards governing a base district and those governing an overlay district, the standards governing the overlay district shall control.

<table>
<thead>
<tr>
<th>TABLE 16-3-1.2: OVERLAY DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name</strong></td>
</tr>
<tr>
<td>M-O-2</td>
</tr>
<tr>
<td>NPO</td>
</tr>
</tbody>
</table>

C. **Compliance with District Standards.** No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with the zoning district regulations of this Chapter 16-3 EMC, the use regulations of Chapter 16-5 EMC, the development standards of Chapter 16-6 EMC, and all other applicable regulations of this Title.

Section 6. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16 Chapter 4, of the Englewood Municipal Code 2000, entitled Floodplain Regulations, to read as follows:

16-4: **FLOODPLAIN REGULATIONS**

16-4-1: **Authority and Purpose.**

A. **Statutory Authority.** The legislature of the State has in 31-23-301 Title 29, Article 20 C.R.S., as amended, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry by minimizing flood losses.
B. Findings of Fact.

1. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards areas that cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods which hazardous to other lands because they are inadequately anchored, elevated, floodproofed or otherwise protected from flood damage.

C. Purpose. It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;

2. Protect property and minimize damage to public critical facilities infrastructure and other public facilities such as water, sewer, and gas mains; electrical and communications stations; and streets and bridges located in floodplains;

3. Minimize expenditure of public money for costly flood control projects;

4. Protect the natural areas required to convey flood flows so that they develop in a manner consistent with reasonable floodplain management;

5. Protect and preserve the water-carrying characteristics and capacities of all watercourses, including gulches, sloughs, and artificial water channels used for the conveyance of storm and floodwater;

6. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

7. Minimize prolonged business interruptions;

8. Help maintain a stable tax base by providing for the sound use and development of flood prone areas to minimize future flood blight areas; and
9. Insure that potential buyers are notified that property is in a flood hazard area.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this Chapter uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

4. Control filling, grading, dredging and other development which may increase flood damage; and

5. Prevent or regulate the construction of flood barriers, including fences and walls, which will unnaturally divert flood waters or which may increase flood hazards to other lands.

16-4-2: Jurisdiction and Applicability.

A. Applicability. The provisions of this Chapter shall apply to all land within the City identified as the Floodplain District and defined as:

1. The areas of special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study - Arapahoe County, Colorado, and Incorporated Areas" dated December 17, 2010, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto, and


The above Official Flood Studies are hereby adopted by reference and declared to be a part of this Title.
B. Basis for Establishing the Areas of Special Flood Hazard Areas. The City hereby establishes floodplains and floodways whose boundaries are those of the designated 100-year floodplain, special flood hazard areas and the designated floodways as are shown or tabulated in the Official Flood Studies Insurance Study for the City of Englewood.

C. Compliance. No structure or land located in the Floodplain District a special flood hazard area shall hereafter be constructed, located, extended, converted, altered or have its use changed without full compliance with the terms of this Chapter and all other applicable regulations. These regulations meet the minimum requirements set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

1. Floodplain Development Permit. A Floodplain Development Permit shall be required prior to commencement of any construction or other development to ensure conformance with the provisions of this Chapter.

2. Certificate of Compliance.

   a. No vacant land shall be occupied or used and no building shall be hereafter erected, altered, or moved on the floodplains of any watercourse, nor shall such buildings be occupied, until a certificate of compliance has been issued by the Floodplain Administrator.

   b. The applicant shall submit a certification by a registered Colorado professional engineer to the Floodplain Administrator that the finished fill and building floor elevations, floodproofing measures, or other protection factors were accomplished in compliance with the provisions of this Chapter. This certification shall also state whether or not the structure contains a basement. Within ten (10) days after receipt of such certification from the applicant, the Floodplain Administrator shall issue a certificate of compliance only if the building or premises and the proposed use thereof, conform with all of the requirements of this Chapter.

D. Abrogation and Greater Restrictions. The regulations of this Chapter shall be construed as being supplementary to the regulations imposed on the same lands by the underlying zone classification. This Chapter is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this Chapter and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall apply.

E. Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements, shall be liberally construed in favor of the City, and shall be deemed neither to limit nor repeal any other powers granted under State Statutes.
F. Warning and Disclaimer of Liability. The degree of flood protection intended to be provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods may occur on occasions, or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that the areas outside the areas of special flood hazards areas or land uses permitted within such areas will always be free from flooding or flood damages. This Chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

G. Severability. See Section 16-1-10 EMC, "Severability".

16-4-3: Permitted Uses.

The following open uses shall be permitted within the Floodplain District a special flood hazard area to the extent that they are not prohibited in a particular area by any underlying zone district classification:

A. Agricultural uses, such as general farming and the raising of plants, flowers, and nursery stock.

B. Public and private recreational uses such as parks, swimming areas, golf courses, driving ranges, picnic grounds, fishing, and hiking and biking trails not requiring permanent or temporary structures designed for human habitation.

C. Utility facilities such as: flowage areas, transmission lines, pipelines, water monitoring devices, roadways and bridges.

D. All uses allowed by the underlying zone district classification within the Floodplain District a special flood hazard area shall be permitted as long as the use complies with conditions set forth in Subsection 16-4-7(B) EMC, "Floodplain Development Permit Criteria".

16-4-4: Similar Uses.

Uses very similar in nature to permitted uses may be allowed by the Floodplain Administrator, provided that they are consistent with the provisions of this Chapter.

16-4-5: Nonconforming Uses.

Existing nonconforming uses in the Floodplain District a special flood hazard area may be modified, altered, or repaired to incorporate floodproofing measures; but such nonconforming uses shall not be expanded.

16-4-6: Administration.

A. Floodplain Administrator. The City Manager or designee shall be the Floodplain Administrator and shall enforce the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. The Department of Public Works shall provide the Floodplain Administrator
with a technical review of all applications to build within the floodplain or a drainage way prior to the issuance of a Floodplain Development Permit.

B. **Floodplain Administrator Duties and Responsibilities.** The Floodplain Administrator's duties and responsibilities shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter. For all new or substantially improved structures the Floodplain Administrator shall maintain the following information:
   a. The actual elevation (in relation to mean sea level) of the lowest floor (including basement).
   b. The actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
   c. The floodproofing certifications required in Subsection 16-4-11(B) EMC "(Minimum Floodproofing Criteria").

2. Review all applications within ten (10) working days for Floodplain Development Permits required by this Chapter. Such review shall:
   a. Determine whether such construction or development is located within the Floodplain District a special flood hazard area.
   b. Assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
   c. Determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

   ed. Consider the following:
   1) The danger that materials may be swept onto other lands to the injury of others.
   2) The danger to life and property due to flooding or erosion damage.
   3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
   4) The importance of the services provided by the proposed facility to the community.
   5) The availability of alternative locations for the proposed use that is not subject to flooding or erosion damage.
   6) The compatibility of the proposed use with existing and anticipated development.
7) The relationship of the proposed use to the Comprehensive Plan.

8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

9) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

10) The costs of providing governmental services during and after flood such as sewer, gas, electrical, and water systems, and streets and bridges.

11) Flood barriers, including fences, which will unnaturally divert flood waters or which may increase flood hazards to other lands.

3. Review all Building Permit applications for construction or development in Floodplain District a special flood hazard area within ten (10) working days. Approval of a building permit shall be deemed to neither limit nor repeal any other powers granted under State Statutes. Applications for building permits shall be reviewed on a case-by-case basis to:

   a. Determine if the proposed development is located in the Floodplain Districts a special flood hazard area.

   b. Assure the building site will be reasonably safe from flooding.

   c. Assure all necessary permits have been obtained from the Federal, State, or local governmental agencies from which prior approval is required.

   d. Assure all new construction and substantial repairs, improvements, or alterations shall be made in accordance with the minimum floodproofing criteria specified in Section 16-4-11 EMC (Minimum Floodproofing Criteria), or elevation criteria in Subsection 16-4-7(B)(2) EMC.

   e. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Chapter, including proper elevation of the structure.

4. Interpret, where needed, the exact location of the boundaries of the areas of special flood hazards areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to present a case to the Floodplain Administrator and to submit supporting technical evidence. The decision of the Floodplain Administrator may be appealed as provided in Section 16-4-14 EMC, "Floodplain Appeals and Variances."  

5. When base flood elevation data has not been provided in accordance with Section 16-4-8 EMC, "Floodplain District Regulations," the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer this Chapter.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

7. When a regulatory floodway has not been designated, the Floodplain Administrator shall require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one one-half foot (1/2') at any point within the City.

8. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, the Floodplain Administrator may approve certain development in Zones A1-30, AE, AH, on the FIRM which increases the water surface elevation of the base flood by more than one one-half foot (1/2'), provided that the City first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfill the requirements of such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

9. Shall keep a copy of the Flood Insurance Study (FIS), DFIRMS, FIRMS on file and available for public inspection.

16-4-7: Floodplain Development Permit.

A. Floodplain Development Permit Process.

1. Application. A Floodplain Development Permit shall be obtained before a building permit may be issued or construction or development begins on lands within the Floodplain District a special flood hazard area as identified in Subsection 16-4-2(A) EMC above (Applicability). Application for a Floodplain Development Permit shall be made on forms provided by the City and may include, but is not limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; proposed landscape alterations; existing or proposed structures; fill, storage of materials, and drainage facilities; and the location of the foregoing in relation to special flood hazard areas. Specifically, the following information is required:

a. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

b. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed;

c. A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 16-4-11 EMC, "(Minimum Floodproofing Criteria)"; and

d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
2. Decision of Floodplain Administrator is to be Based on Certain Factors. The
determination of the Floodplain Administrator on each Floodplain Development Permit
shall be based on applicable provisions of this Chapter and the following relevant
factors:

a. The danger to life and property due to flooding or erosion damage;

b. The susceptibility of the proposed facility and its contents to flood damage and the
effect of such damage on the individual owner;

c. The danger that materials may be swept onto other lands to the injury of others;

d. The compatibility of the proposed use with existing and anticipated development;

e. The safety of access to the property in times of flood for ordinary and emergency
vehicles;

f. The costs of providing governmental services during and after flood conditions
including maintenance and repair of streets and bridges, and public utilities and
facilities such as sewer, gas, electrical and water systems;

g. The expected heights, velocity, duration, rate of rise and sediment transport of the
flood waters and the effects of wave action, if applicable, expected at the site;

h. The availability of alternative locations, not subject to flooding or erosion damage,
for the proposed use; and

i. The relationship of the proposed use to Roadmap Englewood: 2003 Englewood
Comprehensive Plan, as amended.

3. Floodplain Administrator Decisions on Permits for Public Facilities or Utility
Development in a Floodway. Subject to Section 16-4-10 EMC, "(Development in
Floodways)," the Floodplain Administrator shall act on an application for public
facilities or utility development in a floodway within thirty (30) days from receiving the
application.

4. Conditions Attached to Development Permits. Upon consideration of the factors listed
above and the purposes of this Chapter, the Floodplain Administrator shall attach such
conditions, in addition to those required by the Floodplain Development Permit, as are
necessary to further the purposes of this Chapter. Such conditions may include
specifications for, without limitation because of, specific enumeration, modification of
waste disposal methods and facilities, landscaping, period of operation, operational
controls, sureties, deed restriction, and adequate floodproofing.

B. Floodplain Development Permit Criteria.

1. Structures Accessory to Open Uses. Structures accessory to open uses permitted in
Section 16-4-3 EMC, "(Permitted Uses)," whether temporary or permanent, may be
permitted only upon a determination by the Floodplain Administrator that:

a. Structures will not be designed for human habitation.
b. Structures will have low flood damage potential.

c. The structure or structures, if permitted, will be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

1) Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of floodwaters.

2) So far as is practicable, structures will be placed so that their longitudinal axis are approximately on the same line as those of adjoining structures.

3) Structures will be firmly anchored to prevent the structure or building from floating away and thus threatening to further restrict bridge openings and other restricted sections of the stream or river.

4) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

5) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

6) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Other Structures, Temporary or Permanent, to be Occupied by People. Other structures, whether temporary or permanent, which are to be occupied by people, may be permitted only upon a finding by the Floodplain Administrator that:

a. Such structures shall comply with Section 16-4-7 EMC, "(Floodplain Development Permit) Process," and Section 16-4-11 EMC, "(Minimum Floodproofing Criteria)."

b. The lowest floor, including the basement, of any structure to be erected, constructed, reconstructed, or moved on or within the Floodplain District a special flood hazard area, shall be constructed at or above a point one foot (1') above the 100-year flood elevation for the particular area and the fill shall extend at such elevation at least fifteen feet (15') beyond the limits of any structure or building erected thereon.

c. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and to withstand hydrodynamic loads.

3. Fills or Deposition of Materials. Fills or deposition of materials may be permitted only upon a finding by the Floodplain Administrator that:

a. Any fill or deposition of materials will comply with applicable sections of Chapter 16-6 EMC, "(Development Standards)."
b. The fill or deposition of materials will have some beneficial purpose and the amount thereof will not be greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the final dimensions of the proposed fill or other material and the use to which the filled land will be put.

c. The fill or deposition of materials does not encroach on that portion of the floodplain, which would have significant and perceptible flow during the flood, and which for that reason would help convey the floodwaters.

d. The fill or other materials will be protected against erosion by riprap, strong vegetative cover, or bulkheading.

4. Storage or Processing of Materials. The storage or processing of materials that are buoyant, flammable, explosive, or in time of flooding, could be injurious to human, animal or plant life, shall be above the flood protection elevation for the particular area or floodproofed in compliance with Section 16-4-11 EMC, Minimum Floodproofing Criteria. Solid waste disposal facilities, such as salvage yards or areas for the dumping of refuse or the storage of non-operable vehicles, shall not be permitted.

16-4-8: Floodplain Regulations.

The following regulations shall apply to all uses within the Floodplain District a special flood hazard area, notwithstanding that such uses may be specifically permitted under the terms of this Chapter.

A. Flood Protection Elevation or Height. The flood protection elevation or height shall correspond to a point one foot (1') above the elevation or "flood profile" shown on or attached to the FIRM.

B. Flood-Carrying Capacity. No floodplain uses shall adversely affect the efficiency of, or unduly restrict the capacity of any channel, any tributary to any main stream, drainage ditch, or any other drainage facility or systems; nor shall any watercourse be altered or restricted unless the flood-carrying capacity of the watercourse shall be maintained.

C. General Standards. In all areas of special flood hazards areas the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. All new and replacement water supply systems shall be designed to minimize or 
eliminate infiltration of flood waters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or 
eliminate infiltration of flood waters into the system and discharge from the systems into 
flood waters; and,

7. On-site waste disposal systems shall be located to avoid impairment to them or 
contamination from them during flooding.

8. All manufactured homes shall be installed using methods and practices which minimize 
flood damage. For the purposes of this requirement, manufactured homes must be 
elevated and anchored to resist flotation, collapse, or lateral movement. Methods of 
anchoring may include, but are not limited to, use of over-the-top or frame ties to ground 
anchors. This requirement is in addition to applicable State and local anchoring 
requirements for resisting wind forces.

D. Specific Standards. In all of special flood hazards areas where base flood elevation data has 
been provided as set forth in Subsections 16-4-2(B) EMC (Basis for Establishing Special 
Flood Hazard Areas), 16-4-6(B)(5) EMC, or 16-4-13(D) EMC (Subdivision Plats) of this 
Chapter, the following provisions are required:

1. Residential Construction. New construction and substantial improvement of any 
residential structure shall have the lowest floor (including basement), electrical, heating, 
ventilation, plumbing, and air conditioning equipment and other service facilities 
(including ductwork), elevated to or one foot (1') above the base flood elevation. A 
registered Colorado professional engineer, architect, or land surveyor shall certify and 
submit a certification the elevation of the lowest floor, including basement, to the 
Floodplain Administrator, that the standard of this subsection as proposed in Section 16-
4-13 EMC, "Subdivision Plats" is satisfied.

2. Nonresidential Construction. With the exception of Critical Facilities, outlined in 
Subsection 16-4-8(H) EMC (Standards for Critical Facilities), New construction and 
substantial improvements of any commercial, industrial or other nonresidential structure 
shall either have the lowest floor (including basement) electrical, heating, ventilation, 
plumbing, and air conditioning equipment and other service facilities (including 
ductwork), elevated to or one foot (1') above the base flood level elevation or together 
with attendant utility and sanitary facilities, be designed so that below at one foot (1') 
above the base flood level elevation, the structure is watertight with walls substantially 
impermeable to the passage of water and with structural components having the 
capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado professional engineer or architect shall develop and/or review 
structural design, specifications, and plans for the construction, and shall certify that the 
design and methods of construction are in accordance with accepted standards of practice 
as outlined in this Subsection. A record of such certification which includes the specific 
elevation (in relation to mean sea level) to which such structures are floodproofed shall 
be maintained by the Floodplain Administrator.
3. Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:

   a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

   b. The bottom of all openings shall be no higher than one foot (1') above grade.

   c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured Homes.

   a. Zones A1-30, AH and AE: All manufactured homes, those substantially improved, or those having that are placed or substantially improved on sites (i) outside of a manufactured home park or subdivision; (ii) in a new manufactured home park of subdivision; or (iii) in an expansion to an existing manufactured home park or subdivision; or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, on sites in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are at or elevated one foot (1') above the base flood elevation and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

This Subsection shall apply in an expansion to an existing manufactured home park or in an existing manufactured home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced.

   b. Zones A1-30, AH, and AE: Manufactured homes, in an existing manufactured home park, not subject to the provisions of 4.a above shall be elevated so that either:

      1) The lowest floor of the manufactured home and electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) is are at or one foot (1') above the base flood elevation, or

      2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
e. **Zone A**: Manufactured homes shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes shall be elevated and anchored to resist flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Any additions to the manufactured home shall be similarly anchored.

5. **Recreational Vehicles**. Recreational vehicles placed on sites within Zones A1-30, AH, and AE shall either:

   a. Be on the site for fewer than one hundred eighty (180) consecutive days,

   b. Be fully licensed and ready for highway use, or

   c. Meet the permit requirements of Subsection 16-4-7(B) EMC (Floodplain Development Permit) above and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this Subsection. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

E. **Standards for Areas of Shallow Flooding (AO/AH Zones)**. Located within the areas of special flood hazard areas established in Subsection 16-4-2(A) EMC (Applicability) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. Residential structures: All new construction and substantial improvements shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least as high as one foot (1') above the depth number specified in feet on the FIRM (at least two three feet (2') if no depth number is specified).

   Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. Non-residential structures: With the exception of Critical Facilities, outlined in Subsection 16-4-8(H) EMC (Standards for Critical Facilities), all new construction and substantial improvements shall:

   a. Have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least as high as one foot (1') above the depth number specified in feet on the FIRM (at least two three feet (2') if no depth number is specified), or;
b. Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight to at least one foot (1') above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer or architect. Such certification shall be submitted to the Floodplain Administrator.

3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Subsection are satisfied.

43. Within Zones AH or AO, adequate drainage paths around structures on slopes shall be required to guide flood waters around and away from proposed structures.

F. Alteration of a Watercourse. For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

4. Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or Certified Professional Hydrologist.

5. All activities within the regulatory floodplain shall meet all applicable Federal, State and City of Englewood floodplain requirements and regulations.

6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by registered Colorado professional engineer, that there is not more that a 0.00-foot rise in the proposed conditions compared to existing Floodway conditions resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CIOMR and Floodway revision in accordance with Subsection 16-4-8(D) EMC (Specific Standards).
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

G. Properties Removed from the Floodplain by Fill. A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMRF), unless such new structure or addition complies with the following:

1. Residential Construction: The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot (1') above the base flood elevation that existed prior to the placement of fill.

2. Nonresidential Construction: The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot (1') above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facility be designed so that the structure or addition is watertight to at least one foot (1') above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

H. Standards for Critical Facilities. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. Classification of Critical Facilities. It is the responsibility of the City to identify and confirm that specific structures in the community meet the following criteria.

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:

(1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers):

(2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures that do not provide these functions):

(3) Designated emergency shelters:

(4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other
emergency warning systems, but excluding towers, poles, lines, cables, and conduit).

(5) Public utility plant facilities for generation and distribution (hubs, treatment plants, substation and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and

(6) Air Transportation lifelines (airports, municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

(7) Exemptions.

(a) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

(b) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the City that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected; the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Section, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City on an as-needed basis upon request.

b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

(1) These facilities may include:

(a) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);

(b) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;

(c) Refineries;

(d) Hazardous waste storage and disposal sites; and

(e) Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place. AND the chemical(s) is stored in quantities equal to or
greater than the Threshold Planning Quantity (TPO) for that chemical, then that facility shall be considered to be a Critical Facility. The TPO for these chemicals is: either five hundred (500) pounds or the TPO listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. §302 (2010) also known as Extremely Hazardous Substances (EHS); or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. §1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. §302 (2010) and OSHA regulation “Occupational Safety and health Standards,” 29 C.F.R. §1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this ordinance, but exclude later amendments to or editions of the regulations.

(2) Specific exemptions to this category include:

(a) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.

(b) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction, by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority), that a release of the subject hazardous material does not pose a major threat to the public.

(c) Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Section.

c. At-risk population facilities include medical care, congregate care, and schools.

(1) These facilities consist of:

(a) Elder care (nursing homes);
(b) Congregate care serving twelve (12) or more individuals (day care and assisted living);
(c) Public and private schools (preschools, K-12 schools), before-school and after-school care serving twelve (12) or more children;...

d. Facilities vital to restoring normal services including government operations.

(1) These facilities consist of:

(a) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
(b) Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the City that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City on an as-needed basis upon request.

(2) Protection for Critical Facilities. All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

(a) Location outside the special flood hazard area; or

(b) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet (2') above the Base Flood Elevation.

(3) Ingress and Egress for New Critical Facilities. New Critical Facilities shall, when practicable as determined by the City, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

16-4-9: Undesignated Floodways. (Reserved)

Until a regulatory floodway is designated, it must be demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City, before any new construction, substantial improvements or other development, including fill, is permitted within Zones A1-30 and A-AR as shown on the FIRM.

16-4-10: Development in Floodways.

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Section 16-4-16 EMC (Floodplain Definitions)). Located within areas of special flood hazard areas established in Subsection 16-4-2-A(A) EMC (Applicability) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply to public facilities or utilities only:
A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless it has been demonstrated through hydrologic and hydraulic analyses performed by a registered Colorado professional engineer in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels (a No-Rise Certification is required) during the occurrence of the base flood discharge.

B. If Subsection A, above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Section.

1. The Floodplain Administrator shall act on an application in the manner above described within thirty (30) days from receiving the application.

C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

16-4-11: Minimum Floodproofing Criteria.

A. All new construction and substantial improvements of non-residential structures within zones A-AE on the FIRM that do not have the lowest floor, including basement, elevated to or above the base flood level shall be floodproofed. All floodproofed structures, together with attendant utility and sanitary facilities, shall be so designed that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. The Floodplain Administrator shall require that the applicant submit a plan or document certified by a registered Colorado professional engineer that the floodproofing measures are consistent with the flood protection elevation for the particular area.

B. Floodproofing measures include the following:

1. Anchorage to resist flotation and lateral movement.
2. Installation of watertight doors, bulkheads and shutters.
3. Reinforcement of walls to resist water pressures.
4. Use of waterproof paints, membranes, or mortars to reduce seepage of water through walls.
5. Addition of mass or weight to structures to resist flotation.
6. Installation of pumps to lower water levels in structures.
7. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
8. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into the floodwaters.

9. Pumping facilities for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.

10. Construction to resist rupture or collapse caused by water pressure or floating debris.

11. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

12. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

13. Other floodproofing measures certified by a registered Colorado professional engineer to be consistent with the flood protection elevation for the particular area.

C. Where a non-residential structure is intended to be made watertight below the base flood level.

1. A registered Colorado professional engineer shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of Section 16-4-7 EMC, "Floodplain Development Permit."

16-4-12: Floodplain-District Special Flood Hazard Area Amendments.

The boundaries of the Floodplain-District Special Flood Hazard Areas shall be subject to periodic review and shall be amended in the manner provided by law, to conform to any revised, corrected or additional hydrological data available from Federal, State or regional agencies or from a consulting engineer retained by the City.

16-4-13: Subdivision Plats.

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be designed to minimize flood damage.

B. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

C. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood damage hazards.

D. Base flood elevation data shall be provided for subdivision proposals and other proposed developments including the placement of manufactured home parks and subdivisions that contain at least fifty (50) lots or five (5) acres, whichever is less, if not otherwise provided pursuant to Subsections 16-4-2(B) EMC (Basis for Establishing Special Flood Hazard Areas) and 16-4-5(B) EMC (Floodplain Administrator Duties and Responsibilities).
E. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet requirements of Section 16-4-7 EMC (Floodplain Development Permit).

16-4-14: Floodplain Appeals and Variances.

A. General. The Planning and Zoning Commission shall hear and decide appeals and requests for variances from the requirements of this Chapter.

1. Appeals and floodplain variance requests shall be processed pursuant to the general zoning appeals and variances requirements of 16-2-18 EMC, "Appeals," and 16-2-16 EMC, "Variances," respectively.

2. Those aggrieved by the final decision of the Commission may appeal such decision by appropriate legal action to a court of record having jurisdiction. Such appeal shall be filed no more than thirty (30) days from the date of the Commission's final decision.

B. Appeals. The Commission shall hear and decide appeals only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

C. Variances.

1. Any applicant to whom a variance is granted to build the lowest floor elevation below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.

3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant items 1-4111. in Subsection 16-4-6(B)(2)(ed) EMC of this Chapter have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

5. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

6. In passing upon a Floodplain Variance application, the Commission shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this Title.
Criteria for Considering a Floodplain Variance. The Commission shall grant a Floodplain Variance only upon a showing of good and sufficient cause and determination that:

a. The variance is the minimum necessary, considering the flood hazard, to afford relief;

b. Failure to grant the Floodplain Variance would result in exceptional hardship to the applicant; and

c. The granting of a Floodplain Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws.

Upon consideration of the above and the intent of this Chapter, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

7. Upon consideration of the above and the intent of this Chapter, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

16-4-15: Enforcement.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without being in full compliance with the terms of this Chapter and other applicable regulations. Enforcement of the provisions of this Chapter shall be pursuant to Section Chapter 16-10 EMC, "Enforcement and Penalties".

16-4-16: Floodplain Definitions.

The following definitions pertain specifically to Chapter 16-4 EMC, "Floodplain Regulations" and are intended to be used only in the regulation of special flood hazard areas as identified in this Chapter. For the purposes of floodplain regulation, these definitions supersede the same terms as defined in 16-11-2 EMC, "Definition of Word, Term, and Phrases" of this Title.

100-Year Flood: A flood having a recurrence interval that has a one-percent (1%) chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-hundred flood." The term does not imply that the flood will necessarily happen once every one-hundred years.

100-Year Floodplain: The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-Year Flood: A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five-hundred years.
**500-Year Floodplain:** The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

**Addition:** Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

**Area of Shallow Flooding:** A designated AO, AH, or VO zone on the City's Flood Insurance Rate Map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (1'-3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard:** The land in the floodplain within the City of Englewood subject to a one percent (1%) or greater chance of flooding in any given year.

**Base Flood:** A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE):** The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AFE, AR/AL-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.

**Basement:** Any area of a building having its floor sub-grade (below ground level) on all sides.

**Channel:** The physical confines of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

**Conditional Letter Of Map Revision (CLOMR):** FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**Critical Facility:** A structure or related infrastructure, but not the land on which it is situated, as specified in Subsection 16-4-8(H) EMC (Standards for Critical Facilities) that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

**Development:** Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Digital Flood Insurance Rate Map (DFIRM):** FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

**Elevated Building:** For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by (i) foundation walls, shear walls, posts, piers, pilings, or...
columns, or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls and openings sufficient to facilitate the unimpeded movement of flood waters.

Existing Construction: For the purposes of determining flood insurance rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain regulations adopted by the City.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA: Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood (or Flooding): A general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland or tidal waters, and/or

(B) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Damage Potential: The susceptibility of a specific land use at a particular location to damage by flooding, and the potential of the specific land use to increase off-site flooding or flood related damages.

Flood, Fringe Area: That portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus twenty-five percent (25%) of the regulatory base flood discharge.

Flood Hazard Area: The floodplain consisting of the floodway and the flood fringe area.

Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the City of Englewood.
Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

Flood Profile: A graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to location along a stream or river.

Flood Protection Elevation: An elevation one foot (1') above the elevation of "flood profile" of the 100-year flood under existing channel and floodplain conditions. It is one foot (1') above the elevation of the flood for the Floodplain District a special flood hazard area as shown on the Official Zoning Map City’s official Flood Insurance Rate Maps maintained in the office of the Community Development Department.

Floodplain or Flood-Prone Area: The relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water which has been or may be covered temporarily by floodwater. For administrative purposes, the floodplain may be defined as the area that would be inundated by the "standard project flood" (U.S. Army Corps of Engineers) or the "maximum probable flood". Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain development permit: A permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

Floodplain District: That portion of the floodplain subject to inundation by the 100 year flood. Its width is determined by the 100 year flood. Its length or reach is determined by natural bounds such as a lake, or by political or legal bounds. This equals the intermediate regional flood as defined by the U.S. Army Corps of Engineers.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain regulations.

Flood-prone Area: Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures, primarily for the reduction or elimination of flood damage to lands, water, and sanitary facilities, structures, and their contents.

Floodway: The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1') a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (1/2').
of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

**Freeboard:** The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

**Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure:** Any structure that is:

(A) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(C) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(D) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Revision (LOMR):** FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevation (BFEs), or the Special Flood Hazard Area (SFHA).

**Letter of Map Revision Based on Fill (LOMR-F):** FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

**Lowest Floor:** The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance Program regulations.
Manufactured Home: A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Manufactured Home Park or Subdivision, Existing: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain regulations adopted by the City.

Manufactured Home Park or Subdivision, New: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on the City's Flood Insurance Rate Map are referenced.

National Flood Insurance Program (NFIP): A Federal program that authorizes the sale of federally subsidized flood insurance in participating communities.

Natural Drainage: The pattern of surface and stormwater drainage from a particular site before the construction or installation of improvements or prior to any regrading.

New Construction: For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by the City and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No-Rise Certification: A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used
to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Recreational Vehicle: A vehicle which is:

(A) Built on a single chassis;

(B) Four hundred (400) square feet or less when measured at the largest horizontal projections;

(C) Designed to be self-propelled or permanently towable by a light duty truck; and

(D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area: The land in the floodplain within the City of Englewood subject to a one percent (1%) or greater chance of flooding in any given year, i.e. the 100-year floodplain.

Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(A) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions, or
Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Violation: The failure of a structure or other development to be fully compliant with the City's floodplain regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in NFIP Standards Sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5), as amended, is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation: The height, in relation to the National American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplain.

Watercourse: A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir, or lake in which storm runoff and floodwater flows either regularly or infrequently. This includes major drainageways for carrying urban storm runoff.

Section 7. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16 Chapter 5, Section 2, Subsection A(3)(b)(1); B(1); and C(1) & (2), of the Englewood Municipal Code 2000, entitled Use-Specific Standards, to read as follows:

16-5-2: Use-Specific Standards.

A. Residential Uses.


b. Standards for Development of Manufactured Home Parks.

(1) Manufactured Home Park Site Location.

(a) The manufactured home park shall be located on a well-drained site, shall not be within the lines of a 100-year floodplain plain or flood hazard area, and the site shall be made free from marshes, swamps or other potential breeding places for insects or rodents. The site should not be exposed to undue chronic nuisances such as noise, smoke, fumes, or odors.

(b) The topography on the manufactured home park site should be favorable to minimum grading, manufactured home placement, and ease of maintenance. The longitudinal grade for the individual space shall not exceed five percent (5%) and an adequate crown or cross-gradient for surface drainage shall be provided.

B. Public/Institutional Uses.

1. Utility Facility. Within the flood plain overlay district a special flood hazard area, all utility facilities allowed by the underlying zone district classification shall be permitted
provided the facility complies with the conditions set forth in Chapter 16-4 EMC, (Floodplain Regulations).

C. Commercial Uses.

1. Adult Use. An adult use shall be permitted so long as it complies with the following requirements:

   a. Distance Limitation.

      (1) No adult entertainment or service facility shall be located on any site unless such site is a minimum of one thousand feet (1,000') from the location of another such adult entertainment or service facility, whether inside or outside of the City of Englewood city limits; and

      (2) No adult use shall be located on a site unless such site is located a minimum of five hundred feet (500') from the boundary line of:

         (a) Any residential district defined in this Title, including, but not limited to, all "R" districts and the TSA district;

         (b) A manufactured home park or similar residential zone district in an area adjoining the City of Englewood; or

         (c) Any religious institution, public park, public library, community center, or educational institution, whether within or without the City of Englewood.

   b. Measurement of Distance. All distances in this Section shall be measured by following a straight line from the nearest point of the property line of the proposed adult use, to the nearest point of the boundary of the residential districts noted above or nearest point of the property line of:

      (1) Any existing adult use;

      (2) Manufactured home park;

      (3) Religious institution;

      (4) Public park;

      (5) Public library;

      (6) Community center; or

      (7) Educational institution.

Measurements based on one inch (1") to one hundred feet (100') Arapahoe County Assessor maps shall be deemed acceptable for this purpose.
2. Agricultural Use. Within the Flood Plain District a special flood hazard area, all uses allowed by the underlying zone district classification shall be permitted provided the use complies with the conditions set forth in Chapter 16-4 EMC (Floodplain Regulations).

EDITORS NOTE: The remaining sections of 16-5-2 contain no changes and therefore are not included here.

Section 8. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16 Chapter 6, Section 8, Subsection A, of the Englewood Municipal Code 2000, entitled Storm Water Drainage and Erosion/Siltation Control, to read as follows:

16-6-8: Storm Water Drainage and Erosion/Siltation Control.

A. Applicability.

1. General Applicability to All Development. All subdivision plats, Planned Unit Developments, or any other proposed construction submitted for approval shall include adequate drainage system design. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the City Manager or designee with each development proposal or application for permit.

2. Applicability to Development in the Flood Plain a Special Flood Hazard Area. Proposed development or improvements in the a special flood hazard area shall meet the requirements of Chapter 16-4 EMC, "Flood Plain Overlay District." (Floodplain Regulations). The flood hazard study shall be in the form of a final drainage report and shall include all such computations necessary to show that the requirements of Chapter 16-4 EMC. (Floodplain Regulations) are met.

EDITORS NOTE: The remaining sections of 16-6-8 contain no changes and therefore are not included here.

Section 9. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16 Chapter 8, Section 4, of the Englewood Municipal Code 2000, entitled Subdivision Design and Improvements, to read as follows:

16-8-4: Subdivision Design and Improvements.

I. Subdivision Plats in the Flood Plain Zone District a Special Flood Hazard Area:

1. All subdivision proposals shall be designed to minimize flood damage and comply with the flood control standards, as applicable, in Chapter 16-4 EMC. (Floodplain Regulations).

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. Base flood elevation data shall be provided for subdivision proposals and other proposed
developments that contain at least fifty (50) lots or five (5) acres, whichever is less.

EDITORS NOTE: The remaining sections of 16-8-4 contain no changes and therefore
are not included here.

Section 10. The City Council of the City of Englewood, Colorado hereby authorizes
amending title 16, Chapter 9, Section 2, Subsection A, of the Englewood Municipal Code 2000,
entitled Nonconforming Uses, to read as follows:

16-9-2: Nonconforming Uses.

A. Nonconforming Use of Building or Structure.

1. The nonconforming use of a building or structure may be continued, except as otherwise
provided herein.

2. A nonconforming use in a Floodplain District may be modified, altered, or repaired
to incorporate floodproofing measures, but shall not be extended or expanded.

3. The nonconforming use shall not be changed to a different nonconforming use.

4. The nonconforming use, if changed to a conforming use, may not thereafter be changed
to any nonconforming use.

5. The nonconforming use shall not be extended or expanded. An "extension or expansion"
shall include any increase in the floor area of the building or structure in which the
nonconforming use is conducted or any expansion or relocation of the nonconforming
use, in whole or in part, to a different part of the building or structure.

6. The permitted accessory uses to a nonconforming use shall be those existing on the
effective date of this Title, and the initiation of additional accessory uses shall not be
permitted after that date, except as follows:

a. A nonconforming residential use in any zone district shall be permitted to initiate a
single home occupation, subject to all applicable standards stated in Section 16-5-
4.C.1 EMC, "Home Occupations".

b. A nonconforming residential use shall be permitted to construct a residential garage
or carport that otherwise complies with this Title.

7. A nonconforming multi-unit dwelling containing two (2) units shall be permitted to add a
separate water and sewer line for each unit, and such addition shall not be deemed to
constitute a change to a different nonconforming use or an extension or expansion of the
existing nonconforming use.

8. If the nonconforming use is discontinued for a period of one hundred eighty (180) days
or more, regardless of any intent to resume operations, any future use of the buildings or
structure must be a conforming use.
9. If a conforming building or structure containing a nonconforming use is destroyed or damaged to the extent of more than sixty percent (60%) of its value, as determined pursuant to the method of valuation of buildings for the issuance of a building permit, any future use of the rebuilt or restored building or structure shall be a conforming use. However, a legal nonconforming one-unit dwelling, on the effective date of this Title, located in a business or industrial zone district, may be rebuilt or reconstructed and used as a one-unit dwelling if a building permit for the dwelling unit is applied for within one (1) year after the destruction or damage occurred. Further, a legal nonconforming dwelling containing two (2) units, on the effective date of this Title, located in an R-1-A, R-1-B, or R-1-C residential zone district may be rebuilt or reconstructed and used as a two-unit dwelling if a building permit for a multi-unit dwelling containing two (2) units is applied for within one (1) year after the destruction or damage occurred.

EDITORS NOTE: The remaining sections of 16-9-2 contain no changes and therefore remain the same.

Section 11. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 9, Section 3, Subsection B, of the Englewood Municipal Code 2000, entitled Nonconforming Structures, to read as follows:

16-9-3: Nonconforming Structures.

B. Nonconforming Building or Structure.

1. A nonconforming building or structure may continue to be used, except as otherwise provided herein.

2. A nonconforming building or structure may be repaired, structurally altered, or expanded only if the alteration, repair, or expansion complies with this Title. If the nonconforming building or structure or any portion thereof, is declared unsafe by the Chief Building Official, the building may be strengthened or restored to a safe condition.

3. Notwithstanding the provisions of subsection A.2, above, a nonconforming building or structure in a Floodplain District may be modified, altered, or repaired to incorporate floodproofing measures, but shall not be extended or expanded.

4. No nonconforming building or structure that is destroyed or damaged to the extent of more than sixty percent (60%) of its value, as determined pursuant to the method of determining the valuation of buildings for building permit issuance, shall be repaired or rebuilt except in compliance with the requirements of this Title.

5. If a nonconforming building or structure becomes conforming, it shall not be changed back to a nonconforming building or structure.

6. No person shall move a nonconforming building or structure to another parcel unless the building or structure and its location on the new parcel comply with the use regulations of the zone district applicable to the new parcel.

EDITORS NOTE: The remaining sections of 16-9-3 contain no changes and therefore are not included here.
Section 12. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 16, Chapter 11, Section 2, Subsection B, of the Englewood Municipal Code 2000, entitled Definition of Words, Terms, and Phrases by deleting the following, to read as follows:

16-11-2: Definition of Words, Terms, and Phrases.

B. Definition of Words, Terms, and Phrases.

Equal Degree of Encroachment: The degree of encroachment established by considering the effect of encroachments on the hydraulic efficiency of the flood plain along a significant reach of the stream on both sides.

Open Space: Any parcel or area of land or water essentially unimproved with any residential, commercial, or industrial uses and set aside, dedicated, or reserved for public or private use and enjoyment including recreational, scenic, or environmental purposes. Open space may include agricultural uses and natural features located on a site, including but not limited to steep slopes, flood plains, hazard areas, unique vegetation and critical plant communities, stream/river corridors, wetlands and riparian areas, wildlife habitat and migration corridors, areas containing threatened or endangered species and archeological, historical, and cultural resources. Parking lots and storage areas for vehicles and material shall not be considered as open space.

Program Deficiency: A defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those Flood Plain Management Regulations of the NFIP Standards in Sections 60.3, 60.4, 60.5 and 60.6.

Reach: A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the flood plain where flood heights are primarily controlled by man-made or natural flood plain obstructions or restrictions. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most likely be a reach.

Remedy a Violation: To bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Title or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Storage Capacity of a Flood Plain: The volume of space above an area of flood plain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving.

EDITORS NOTE: The remaining definitions contain no changes and therefore are not included here.

Section 13. 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 14. 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 15. 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 16. 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 17. 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 4th day of March, 2013.

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

Published as a Bill for an Ordinance on the City’s official website beginning on the 6th day of March, 2013 for thirty (30) days.

A Public Hearing was held on the 18th day of March, 2013.

Read by title and passed on final reading on the 1st day of April, 2013.

Published by title in the City’s official newspaper as Ordinance No. ___, Series of 2013, on the 5th day of April, 2013.

Published by title on the City’s official website beginning on the 3rd day of April, 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
COUNCIL COMMUNICATION

Date: April 1, 2013
Agenda Item: 11 c i
Subject: Award of a construction contract for Concrete Utility Program 2013

INITIATED BY:
Department of Public Works

STAFF SOURCE:
Dave Henderson, Engineering/Capital Projects Administrator
Larry Nimmo, Field Operations Administrator

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

- On May 5, 1997, City Council approved Ordinance No. 36, Series 1997 creating a Concrete Utility and Concrete Utility Enterprise Fund (EMC Chapter 8, Title 12).
- On April 2, 2012, City Council approved a motion to award a construction contract for the 2012 Concrete Utility Program to NORAA Concrete Construction. The contract documents included a provision to extend the contract for up to 3 years.
- On November 19, 2012, City Council approved Resolution No. 87, Series 2012, establishing fees for the Concrete Utility.

RECOMMENDED ACTION

Staff recommends that City Council approve, by motion, an extension of the 2012 construction contract for Concrete Utility 2013 in the amount of $430,647.50 to NORAA Concrete Construction, and authorizing the Director of Public Works to execute the contract.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Section 11-3B-1 of the Municipal Code specifies that it is the responsibility of every property owner to maintain the concrete curbs, gutters, and sidewalks adjacent to their property. An option available to property owners is to participate in the Concrete Utility. The Concrete Utility provides a funding mechanism for concrete repair at a reasonable cost ($9.99 per quarter for a typical residential property) and a convenient way to pay (96% of the fees are collected through the water/sewer billing system). The City contributes its share of the fees just like any private owner.

In 2012, the City advertised and received five bids for annual concrete replacement project. NORAA Concrete Construction submitted the lowest responsive bid. The bid documents included a provision, at our option, to extend the contract for up to three years. This proposed extension will be the first year of that extension.

NORAA Concrete has submitted unit prices for 2013 (see attached letter). The overall proposed increase is 5%. Nationally, concrete prices are up 3%, asphalt prices up 8.9%, and construction labor costs are up 2% (statistics per March, 2013 Engineering News Record). See the attached letter from NORAA regarding the local market. Staff finds the proposed cost increase to be fair and reasonable.
NORAA’s performance on the 2012 Concrete Project was excellent. They completed the work in an efficient manner and minimized impacts to our residents during construction. With Council approval, the City will be able to take advantage of quality work and favorable prices.

Concrete Utility 2013 is scheduled for construction during the spring and summer of 2013.

FINANCIAL IMPACT

Council approved a 25% fee increase for the Concrete Utility in late 2012. This generated additional revenue in the amount of $173,000. This increased revenue will go directly to additional construction, increasing the construction budget from $325,000 last year to $498,000.

Estimated Construction costs for the 2013 project are as follows:

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<tr>
<td>Construction contract</td>
<td>$430,647.50</td>
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<tr>
<td>Contingency for unidentified work</td>
<td>67,352.50</td>
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<tr>
<td>Total Estimated 2013 Construction Cost</td>
<td>$498,000.00</td>
</tr>
</tbody>
</table>

$498,000 is budgeted for construction in the 2013 Concrete Utility.

LIST OF ATTACHMENTS

NORAA letter regarding 2013 pricing
Contract
January 7, 2013

Larry Nimmo
Field Operations Administrator
City of Englewood
1000 Englewood Pkwy
Englewood, CO 80110

RE: Extension of the 2012 Concrete Utility Contract

Dear Larry,

Attached is our bid schedule with our pricing for the 2013 year for the Extension of the 2012 Concrete Utility Contract. As you will see there is has been a price increase and listed below are the reasons for the increase.

1. Cost of Concrete - +10%
2. Cost of Asphalt - +5.71%
3. Cost of Subcontractors - +15%
4. Cost of Disposal Fees - +12.5%
5. Cost of fuel, insurance, tags & toll fees all have gone up
6. There were a multitude of minimum load fees (under 4 cy) - $70 each
7. Wait time fees (travel to multiple spots) - $2 per minute

The overall increase is not more than 5%. This is compared to last year’s quantities with this year’s pricing.

If you have questions, please feel free to contact us. We look forward to working with you!!

Sincerely,

Lori Kaiser
Secretary/Treasurer
CONTRACT
CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this 1st day of April, 2013, by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the “City”, and Noraa Concrete Construction, whose address is 39673 E 160th Ave, Keenesburg, CO 80643, ("Contractor"), commencing on the 7th day of January, 2013 the City exercised its option to extend the original contract dated April 2nd, 2012 pursuant to Special Condition 2.32 for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

PROJECT: 2013 Concrete Utility Project

WHEREAS, the letter of extension of the 2012 contract has been received by the Director of Public Works and forwarded to the Mayor and City Council with a recommendation that a contract for said 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
Section 1 - General Information
Section 2 - Special Provisions
Section 3 - General Conditions
Section 4 - Portland Cement Concrete
Section 5 - Placing and Finishing Concrete
Section 6 - Site Preparation
Section 7 - Base Course
Section 8 - City of Englewood Construction Details

B. Scope of Work: The Contractor agrees to and shall furnish all labor, tools, supplies, traffic control, equipment, materials and everything necessary for and required to do, perform and complete all the work described, drawn, set forth, shown and included in said Contract Documents.
C. **Terms of Performance:** The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works, **no later than April 30, 2013,** and agrees to fully complete said work by September 1, 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 **Four Hundred Thirty Thousand Six Hundred Forty Seven Dollars and Fifty Cents ($430,647.50)**
H. **Appropriation of Funds:** At present, $430,647.50 has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, the parties understand and acknowledge that each party is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, notwithstanding anything in this Agreement/Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City and applicable law. Upon the failure to appropriate such funds, this Agreement shall be deemed terminated. The City shall immediately notify the Contractor or its assignee of such occurrence in the event of such termination.

I. **Liquidated Damages:** The City and Contractor recognize that time is of the essence in this Agreement because of the public interest in health and safety, and that the City will suffer financial loss, and inconvenience, if the Work is not complete within the time specified in the bid documents, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense and difficulties involved in proving, in a legal proceeding, the actual loss suffered by the City if the Work is not complete on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay, but not as a penalty, Contractor shall pay the City $250 for each day that expires after the time specified for substantial completion until the Work is complete, and $250 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.** In addition to the Contractor's Guarantee provided for in the Section 3.51 of the General Contract Conditions, the Contractor shall further 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 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, 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. [C.R.S 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

Noraa Concrete Construction Corp.
Contractor (print company name)

By: ________________________ ___ Date: ______________________
    (Signature)
    Lori Yaiser Sec-Tre
    (Print name and Title)

STATE OF Colorado ss.
COUNTY OF Adams

On this ______ day of _______ 20___, before me personally appeared ______
Lori Yaiser, known to me to be the _______ _______ of
Noraa Concrete Construction Corp., 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: December 4, 2016

NOTARY

LISA WAGNER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 2004404399
MY COMMISSION EXPIRES DECEMBER 4, 2016
<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description and Price</th>
<th>Estimated Quantity</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>101.</td>
<td>Remove vertical curb &amp; gutter at the unit price of eight dollars and fifty cents ($8.50) per linear foot.</td>
<td>750 L.F.</td>
<td>$6,375.00</td>
</tr>
<tr>
<td>102.</td>
<td>Remove concrete sidewalks and driveways at the unit price of one dollar and ninety cents ($1.90) per square foot.</td>
<td>15,000 S.F.</td>
<td>$28,250.00</td>
</tr>
<tr>
<td>103.</td>
<td>Remove curbwalk at the unit price of eight dollars and fifty cents ($8.50) per linear foot.</td>
<td>3,000 L.F.</td>
<td>$25,500.00</td>
</tr>
<tr>
<td>104.</td>
<td>Remove monolithic vertical curb &amp; gutter w/4' walk at the unit price of ten dollars and fifty cents ($10.50) per linear foot.</td>
<td>400 L.F.</td>
<td>$4,200.00</td>
</tr>
<tr>
<td>105.</td>
<td>Remove industrial type &quot;B&quot; at the unit price of ten dollars and fifty cents ($10.50) per linear foot.</td>
<td>50 L.F.</td>
<td>$525.00</td>
</tr>
<tr>
<td>106.</td>
<td>Remove 4 ft. wide V-Pan at the unit price of seven dollars and zero cents ($7.00) per linear foot.</td>
<td>25 L.F.</td>
<td>$175.00</td>
</tr>
<tr>
<td>107.</td>
<td>Remove concrete cross pan at the unit price of two dollars and twenty cents ($2.20) per square foot.</td>
<td>2,800 S.F.</td>
<td>$6,160.00</td>
</tr>
</tbody>
</table>
108. Remove concrete alley paving at the unit price of \( \text{two} \) \( \text{dollars and twenty} \) cents \( ($2.20) \) per square foot. 
\[ \text{2,500 S.F} \rightarrow \$5,500.00 \]

109. Remove 12"-15" reinforced concrete paving at the unit price of \( \text{two} \) \( \text{dollars and seventy-five} \) cents \( ($2.75) \) per square foot. 
\[ \text{1,450 S.F} \rightarrow \$3,987.50 \]

110. Saw concrete for removal and clean debris at the unit price of \( \text{five} \) \( \text{dollars and zero} \) cents \( ($5.00) \) per lineal foot. (See Spec. 2.29) 
\[ \text{1,500 L.F} \rightarrow \$7,500.00 \]

111. Saw asphalt at the unit price of \( \text{two} \) \( \text{dollars and twenty} \) cents \( ($2.20) \) per lineal foot. 
\[ \text{2,500 L.F} \rightarrow \$5,500.00 \]

112. Remove asphalt at the unit price of \( \text{sixty} \) \( \text{dollars and zero} \) cents \( ($1.60) \) per square foot. 
\[ \text{6,000 S.F} \rightarrow \$9,600.00 \]

114. Construct vertical curb & gutter w/2' pan 6" thick at the unit price of \( \text{eighteen} \) \( \text{dollars and sixty} \) cents \( ($18.60) \) per lineal foot. 
\[ \text{500 L.F} \rightarrow \$9,250.00 \]

117. Construct slope back vertical curb & gutter at the unit price of \( \text{eighteen} \) \( \text{dollars and zero} \) cents \( ($18.00) \) per lineal foot. 
\[ \text{25 L.F} \rightarrow \$450.00 \]

118. Construct 4" concrete sidewalk at the unit price of \( \text{four} \) \( \text{dollars and twenty-five} \) cents \( ($4.25) \) per square foot. 
\[ \text{9,000 S.F} \rightarrow \$38,250.00 \]

119. Construct 6" concrete sidewalk at the unit price of \( \text{four} \) \( \text{dollars and eighty} \) cents \( ($4.80) \) per square foot. 
\[ \text{4,000 S.F} \rightarrow \$19,200.00 \]
120. Construct 6" colored concrete sidewalk at the unit price of 
Six dollars and zero cents ($6.00) per square foot. 
2,000 S.F. $12,000.00

121. Construct 8" concrete sidewalk at the unit price of 
Five dollars and zero cents ($5.00) per square foot. 
800 S.F. $4,000.00

122. Construct Type I curbwalk 4" thick at the unit price of 
Twenty-two dollars and zero cents ($22.00) per lineal foot. 
2,000 L.F. $45,000.00

123. Construct Type I curbwalk 6" at the unit price of 
Twenty-three dollars and zero cents ($23.00) per lineal foot. 
800 L.F. $18,400.00

124. Construct Type I curbwalk 8" thick at the unit price of 
Twenty-eight dollars and zero cents ($28.00) per lineal foot. See Spec. 2.30. 
100 L.F. $2,800.00

125. Construct Type II curbwalk 4" thick at the unit price of 
Twenty-seven dollars and zero cents ($27.00) per lineal foot. 
150 L.F. $4,050.00

126. Construct Type II curbwalk 6" thick at the unit price of 
Twenty-eight dollars and zero cents ($28.00) per lineal foot. 
150 L.F. $4,200.00

127. Construct Type II curbwalk 8" thick at the unit price of 
Twenty-eight dollars and twenty-five cents ($28.25) per lineal foot. See Spec. 2.30. 
10 L.F. $282.50

128. Construct Monolithic vertical curb & gutter w/6" thick pan 
& 4' walk 4" thick at unit price of 
Thirty dollars and zero cents ($30.00) per lineal foot. 
150 L.F. $4,500.00
129. Construct Monolithic vertical curb & gutter w/6" thick pan and 4' walk 6" thick at the unit price of $30.00 per lineal foot.

\[ \text{Thirty} \frac{0}{0} \text{dollars and cents} \]

150 L.F. $4,500.00

130. Construct Monolithic vertical curb & gutter w/8" thick pan and 4' walk 8" thick at the unit price of $40.00 per lineal foot. See Spec. 2.30.

\[ \text{Forty} \frac{0}{0} \text{dollars and cents} \]

10 L.F. $400.00

131. Construct industrial type "B" at the unit price of $38.00 per lineal foot.

\[ \text{Thirty-eight} \frac{0}{0} \text{dollars and cents} \]

50 L.F. $1,900.00

132. Construct 4'-wide V-Pan 6" thick at the unit price of $25.00 per lineal foot.

\[ \text{Twenty-five} \frac{0}{0} \text{dollars and cents} \]

25 L.F. $625.00

133. Construct Curb Ramp at the unit price of $1,300.00 per each. (See 2.26 in Special Provisions.)

\[ \text{One thousand three hundred} \frac{0}{0} \text{dollars and cents} \]

20 Ea. $26,000.00

134. Construct 8" cross pan at the unit price of $1.50 per square foot. See Spec. 2.30.

\[ \text{Eight} \frac{50}{0} \text{dollars and cents} \]

2,800 S.F. $23,800.00

135. Construct 8" concrete alley paving at the unit price of $1.50 per square foot. See Spec. 2.30.

\[ \text{Eight} \frac{50}{0} \text{dollars and cents} \]

2,500 S.F. $21,250.00

136. Construct 12"-15" reinforced concrete paving (JRCP) at the unit price of $12.40 per square foot.

\[ \text{Twelve} \frac{40}{0} \text{dollars and cents} \]

1,450 S.F. $17,980.00
137. Asphalt patching at the unit price of
\[ \frac{\text{One hundred}}{\text{zero}} \] dollars and \[ \text{cents} \]
($110.00) per ton.

150 Tons $16,500.00

138. Compacted gravel basecourse at the unit price of
\[ \frac{\text{Twenty-five}}{\text{zero}} \] dollars and \[ \text{cents} \]
($25.50) per ton.

25 Tons $637.50

139. Construct chase section at unit price of
\[ \frac{\text{One thousand}}{\text{five hundred}} \] dollars and \[ \text{cents} \]
($1,500.00) per each. See Detail E-9

8 Ea. $12,000.00

140. Inlet repair at unit price of
\[ \frac{\text{Zero}}{\text{five hundred}} \] dollars and \[ \text{cents} \] ($1,500.00) per each (see

2.33 in Special Provisions)

2 Ea. $3,000.00

141. Construct inlet at the unit price of
\[ \frac{\text{Three thousand}}{\text{two hundred}} \] dollars and \[ \text{cents} \]
($3,600.00) per each.

2 Ea. $6,400.00

142. Adjust manhole at the unit price of
\[ \frac{\text{Three hundred}}{\text{five hundred}} \] dollars and \[ \text{cents} \]
($350.00) per each.

2 Ea. $700.00

143. Remove brick pavers at the unit price of
\[ \frac{\text{Two}}{\text{zero}} \] dollars and \[ \text{cents} \]
($2.00) per square foot.

25 S.F. $50.00

152. Remove tree and stumps less than or equal to 12" at the
unit price of \[ \frac{\text{Four hundred}}{\text{zero}} \] dollars and \[ \text{cents} \]
($400.00) per each.

10 Ea. $4,000.00

153. Remove tree and stumps less than or equal to 24" at the
unit price of \[ \frac{\text{Six hundred}}{\text{zero}} \] dollars and \[ \text{cents} \]
($600.00) per each.

10 Ea. $6,000.00
154. Remove tree and stumps less than or equal to 36" at the unit price of $1,200.00 per each. 5 Ea. $6,000.00

155. Remove tree and stumps less than 48" at the unit price of $2,000.00 per each. 3 Ea. $6,000.00

156. Remove tree and stumps greater than 48" at the unit price of $3,500.00 per each. 2 Ea. $7,000.00

TOTAL BASE BID Four hundred thirty thousand six hundred DOLLLARS AND SEVEN CENTS ($430,647.07)

PROPOSAL: Pursuant to and in compliance with all requirements of the Invitation to Bid, all applicable Addenda, the undersigned Bidder, having examined the site and become thoroughly familiar with local conditions affecting the performance and costs of the Work at the place where the Work is to be performed, hereby proposes and agrees to fully complete the Work, including furnishing of all labor, materials, and equipment, in full accordance with the Contract Documents, for the sum of Four hundred thirty thousand six hundred forty-seven dollars and forty-seven CENTS, Dollars ($430,647.50), which includes all applicable taxes on materials, equipment, labor, and services.
COUNCIL COMMUNICATION

<table>
<thead>
<tr>
<th>Date</th>
<th>Agenda Item</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1, 2013</td>
<td>11 c ii</td>
<td>Water Meter and ERT Purchase</td>
</tr>
</tbody>
</table>

INITIATED BY
Utilities Department

STAFF SOURCE
Stewart H. Fonda, Director of Utilities

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approved the 2005 meter purchase in the amount of $76,785.10 at their March 21, 2005 meeting.
Council approved the 2006 meter purchase in the amount of $51,331.40 at their May 15, 2006 meeting.
Council approved the 2009 meter purchase in the amount of $114,140 at their February 2, 2009 meeting.
Council approved the 2010 meter purchase in the amount of $46,601.10 at their March 9, 2010 meeting.
Council approved the 2011 meter purchase in the amount of $69,145.00 at their May 2, 2011 meeting.
Council approved the 2012 meter purchase in the amount of $99,563.56 at their April 16, 2012 meeting.

RECOMMENDED ACTION

The Water and Sewer Board, at their February 12, 2013 meeting, recommended approval by motion for the purchase of water meters and electronic remote transmitters (ERTs) from National Meter and Automation, Inc. in the amount of $138,847.46.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The Utilities Department purchases water meters needed for an entire year by requesting one large bid proposal for additional cost savings. The Utilities Department is converting the metering system to the ITRON Automatic Meter Reading System. All meters and registers purchased will be compatible with the ITRON System. A portion of these meters will be resold to Englewood customers for new installations as part of the flat-rate-to-meter conversion process. Some of the meter stock will be used to replace inactive or poorly functioning meters and to convert existing meters to the ITRON system.

A portion of the 2013 order is electronic remote transmitters (ERT's) for updating existing residential meters, enabling meter readers to obtain meter readings using radio frequencies. This improves accuracy, and at the same time, is a labor saving device.

FINANCIAL IMPACT

Englewood’s meter and ERT order is being placed in conjunction with Denver Water Board’s contract with National Meter for the best quantity price. The purchase order is based on a previous bid by Denver Water. Meters and ERTs will be purchased from National Meter & Automation for the amount of $138,847.46. Of this amount, approximately $20,000 will be resold to Englewood customers for flat-rate to meter conversions.

There is money budgeted for these meters in the 2013 Budget.

LIST OF ATTACHMENTS

February 12, 2013 Water and Sewer Board meeting minutes
Quote from National Meter and Automation, Inc.
WATER & SEWER BOARD
MINUTES
TUESDAY, FEBRUARY 12, 2013

Present: Oakley, Wiggins, Lay, Waggoner, Moore, Woodward, Penn, Burns

Absent: Habenicht

Also present: Yasser Abouaish – City Engineer, Stu Fonda – Director of Utilities, Jonathan Bridges – Englewood/Littleton Wastewater Treatment Plant, Randy Pierce – Utilities Systems Support Specialist

The meeting was called to order at 5:03 p.m.


The Board received the Minutes of the November 13, 2012 Water Board Meeting and the resulting phone vote of November 15, 2012.

2. GUEST: DWAYNE TINSLEY – SOUTHGATE SANITATION DISTRICT IBA INCREASE.

Dwayne Tinsley, Southgate Sanitation District’s Manager, appeared to discuss the Big Dry Creek Interceptor Agreement effective January, 2013. The updated Southgate BIA line charge will be $0.220559 per 1,000 gallons of winter water consumption. This will affects only Englewood customers in the Basin Interceptor sewer area. On an average Utilities bill the increase be approximately $2.00 per year.

Motion: The Board moved to approve Southgate’s BIA line charge increase to $0.220559.

Moved: Waggoner   Seconded: Burns

Motion passed unanimously.
**Note: Nancy Reid, Assistant City Attorney, noted that Southgate has increased their fees for consumers who are subject to the Big Dry Creek Interceptor. Such fees are billed by the City per the interceptor agreement but do not require any action by City Council unless the City fees are also affected. The charge is merely passed on through billing.

3. **GUEST: JONATHAN BRIDGES – MEADOW GOLD ADMINISTRATIVE COMPLIANCE ORDER.**

Jonathan Bridges appeared to discuss the Administrative Compliance Order to Gold Meadow Dairies that will assess penalties of $12,000 for mismanagement of wastewater and mismanagement of process waste. The violation was discovered during a site visit. The penalty amount was reviewed by the EPA for accuracy. This is an informational item for the Board before the letter is mailed.

4. **GUEST: YASSER ABOUAISH – WATER CONSERVATION PLAN.**

Yasser Abouaish, Utilities Engineer, appeared to discuss the progress of Englewood’s Water Conservation Plan. Yasser summarized the 75% progress report. Yasser will appear before the Board in March with the 95% completed Conservation Plan and a cost benefit analysis. The Conservation Plan will be published in the April Englewood Citizen, with the public review in May and June.

5. **STORMWATER – MS4 COMPLIANCE ASSISTANCE.**

Yasser Abouaish, Utilities Engineer, appeared to discuss the MS4 Stormwater Assistance Program. The proposal encompasses a stormwater specialist assisting Englewood with the MS4 Permit and establishing standard operating procedures.

**Motion:** Recommend the City Manager approved the MS4 Stormwater Assistance Program.

**Moved:** Lay  **Seconded:** Waggoner

Motion passed unanimously
6.  **FLUSH AND BURN PROGRAM.**

Yasser Abouaish, Utilities Engineer, appeared to discuss the annual Water Distribution System Annual Spring Maintenance Program that will begin in April. Englewood will temporarily discontinue use of ammonia and convert its disinfectant to free chlorine. During this time, increased flushing activities will also occur to remove any sedimentation in the water mains. A notice will appear in the next Englewood Citizen. Customers that may be impacted during this program, due to medical conditions, will be notified.

7.  **WATER METER PURCHASE.**

Randy Pierce, Utilities Systems Support Specialist, appeared to discuss the Utilities Department annual water meter purchase. The National Meter Company extended the same price for water meters, registers and Itron modules as was given to the Denver Water Department. The Utilities Department is requesting approval to purchase 618 meters in a variety of meter sizes from 5/8" to 2" in the amount of $138,847.46.

**Motion:**

Moved: Waggoner  
Seconded: Burns

Motion passed unanimously.

8.  **METER YOKES & FITTINGS PURCHASE.**

Three bids were received for the purchase of water yokes and fittings. The lowest, acceptable bid that complied with the Public Law 111-38- - Lead Free Compliance was Ferguson Enterprises Inc. in the amount of $16,168.00.

**Motion:**

To recommend City Manager or Council approval of the bid for water meter yokes and fittings from Ferguson Enterprises, Inc. in the amount of $16,168.00.

Moved: Burns  
Seconded: Waggoner

Motion passed unanimously.
9. **BIKE TRAIL AT UNION AVE.**

Tom Brennan, City Engineer, appeared to discussed the Bike Trail at Union Ave. Tom noted that routing the bike path around the pump station is preferable.

10. **NUTRIENTS AND LONG RANGE PLAN.**

Dennis Stowe, Manager of the Littleton/Englewood Wastewater Treatment Plant appeared to discuss the plant’s long range planning efforts for ammonia and nutrients. Mr. Stowe noted that expensive modifications to comply with State requirements may be necessary by 2030.

The meeting adjourned at 6:15 p.m.

The next Englewood Water Board meeting will be Tuesday, March 12, 2013 at 5:00 in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage  
Recording Secretary
Mr. Randy Pierce  
City of Englewood  
Water Department  
Englewood, Colorado 80110

Dear Randy,

As per your request National Meter & Automation, Inc. is pleased to offer an extension of all pricing for Badger Water Meters, Registers, and Itron 60W ERT Modules.

As you know, this is the same pricing that Denver Water has had. This pricing was originally established in January of 2010. This means that the City of Englewood will have enjoyed the same competitive pricing with no increases for four years.

This pricing will remain firm thru 12/31/2013.

Additionally, should the City of Englewood wish to use Itron 100W ERT Modules the additional cost per module would be: $18.50 each.

I look forward to working with the City of Englewood for the upcoming year for your water meter and Itron needs.

Thank you,

Noel Frakes  
President/CEO
## Meter Request 2013

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**Total**  $138,847.46
COUNCIL COMMUNICATION

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<td>Proposed Stormwater Regulations Being Developed</td>
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INITIATED BY
Utilities Department

STAFF SOURCE
Stewart H. Fonda, Director of Utilities

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

None.

RECOMMENDED ACTION

The Water and Sewer Board, at their March 12, 2013 meeting, recommended Council approval, by motion, to send letters to Colorado’s Congressional delegation concerning stormwater regulations that the US Environmental Protection agency (EPA) is currently developing.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

Despite impressive efforts of local Colorado municipalities to implement pollution reduction programs that protect waterways from urban runoff, the EPA is currently moving forward with new stormwater regulations that carry harsh financial impacts on communities across the country.

The attached letter requests that the EPA conduct a study and report to Congress. Many other Colorado cities have sent similar letters to Colorado’s Congressional delegation.

FINANCIAL IMPACT

None.

LIST OF ATTACHMENTS

Minutes from March 12, 2013 Water and Sewer Board meeting
Telephone poll from March 19, 2013 approving March 12, 2013 minutes
Proposed Letter
WATER & SEWER BOARD
MINUTES
TUESDAY, MARCH 12, 2013

Present: Oakley, Wiggins, Lay, Waggoner, Moore, Penn, Burns, Habenicht
Absent: Olson, Woodward
Also present: Yasser Abouaish – City Engineer, Stu Fonda – Director of Utilities, John Bock – Utilities Manager of Administration

1. MINUTES OF THE FEBRUARY 12, 2013 MEETING.

The Board reviewed the February 12, 2013 Water Board Minutes.

Motion: Board moved to approve the February 12, 2013 Water Board Minutes.

Moved: Burns  Seconded: Waggoner:

Motion passed unanimously.

2. SOUTHGATE SANITATION DISTRICT SUPPLEMENT #169.

A request was made by the Southgate Sanitation District representing the owner, Howard Bellowe and Jacquelline Stern, for inclusion of Southgate Supplement #169 consisting of a parcel totaling 1.2 acres into the Southgate Sanitation District for residential use. The purpose of the inclusion is to install a sewer line and connect to the existing sewer main in the street. The property is located on the north side of E. Garden Avenue, east of Colorado Blvd.

Motion: To recommend Council approval of a Bill for Ordinance approving Southgate Supplement #169.

Moved: Waggoner  Seconded: Burns

Motion passed unanimously.
3. VALLEY SANITATION DISTRICT CONNECTORS AGREEMENT.

Valley Sanitation District has submitted a Wastewater Connector’s Agreement for providing sanitary sewer service to districts outside the Englewood corporate boundaries. The Littleton/Englewood Wastewater Treatment Plant receives and treats sewage transmitted by various sanitation districts. The connector’s agreement addresses this service with the district owing and maintaining the sewer mains.

Motion: To recommend Council approval of the Valley Sanitation District Wastewater Connector’s Agreement.

Moved: Burns Seconded: Habenicht

Motion passed unanimously.

4. GUEST: YASSER ABOUAISH – WATER CONSERVATION PLAN.

The Board received a draft of the Water Conservation Board, the Englewood Conservation Measures & Programs outline and the water conservation plan timeline. Yasser noted that there are fifteen water conservation measures, with numbers 1 through 3 the most important measures.

Water Board members, staff and the public are encouraged to submit their comments. The final draft will be published for 60 days from May 1 to June 30. The official public hearing will be on June 11, 2013 during the Water Board meeting. After public comments are received and reviewed, the Water Conservation Plan will go for Council approval then submitted to the Water Conservation Board for approval.

5. ENGLEWOOD W. CHENANGO FIRE TRAINING CENTER.

A memo dated February 19, 2013 from Mike Pattarozzi, Fire Chief, was given to the Board as an informational item. It notes that one option to comply with the CDPS Permit is to allow runoff from the site to be discharged to the sanitary sewer system, in accordance with municipal codes and regulations. Penn noted concerns about the high cost of moving the training center or sending Englewood firefighters to South Metro.

6. CITIZEN REQUEST REGARDING BILLING ISSUES.

The Board received a request from Greg Schaller of 6822 E. Heritage Place S. to waive the late fee from his October 1, 2012 sewer bill.
The Board received a memo regarding Mr. Lehman at 4546 S. Pennsylvania St. Mr. Lehman is requesting that he receive a full refund of $79.00 without having to pay the sewer, storm water and concrete charges due for March, April and May, 2013.

**Motion:** To deny bill reduction requests for 6822 S. Pennsylvania St. and 4546 S. Pennsylvania St.

**Moved:** Waggoner  
**Seconded:** Burns

Motion passed unanimously.

**7. INFORMATION ON WATER HARDNESS.**

The Board received a copy of an e-mail from John Bock to Diane Ramey regarding the mineral content and the resulting water hardness in the Englewood water system.

**8. PROPOSED STORMWATER REGULATIONS.**

Mr. Fonda discussed sending a letter to Colorado’s congressional delegation concerning stormwater regulations that the USEPA is currently developing that could have a harsh financial impact on communities across the country. Stu noted that this might affect Englewood’s MS4 Stormwater Permit.

**Motion:** To recommend Council approval to send letters to Colorado’s congressional delegation concerning stormwater regulations that the USEPA is developing.

**Motion:** Oakley  
**Seconded:** Habenicht

Motion passed unanimously.

**9. CONTINUED FUNDING IN THE FY2014 BUDGET FOR DRINKING WATER AND WASTEWATER RELATED RESEARCH.**

Stu reviewed the importance of continued funding in the FY2014 Budget for drinking water and wastewater related research at the EPA in partnership with local wastewater and drinking water utilities. EPA working in conjunction with the Water Research Foundation and the Water Environment Research Foundation helps to ensure that sound science governs compliance with Safe Drinking Water Act and Clean Water Act regulations.
Motion: Recommend Stewart Fonda to send letters to the Colorado Congressional staff supporting continued support in the FY2014 to continue funding drinking water and wastewater related research at the EPA in partnership with local wastewater and drinking water utilities.

Moved: Oakley            Seconded: Waggoner

Motion passed unanimously.

Meeting adjourned 5:45 p.m.

The next Englewood Water Board meeting will be Tuesday, April 9, 2013 at 5:00 p.m. in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage
Recording Secretary
Phone Vote Roll Call.

Contacted: Clyde Wiggins, Chuck Habenicht, Kells Waggoner, Jim Woodward, Joe Lay, Wayne Oakley, Ranch Penn

Not Contacted: Linda Olson, Tom Burns

1. MINUTES FOR THE MARCH 12, 2013 MEETING.

Motion: Approve the minutes of the March 12, 2013 Water and Sewer Board meeting.

Moved: Habenicht Seconded: Waggoner

Abstain: Olson

Motion passed unanimously.

The next Water and Sewer Board meeting will be Tuesday, April 9, 2013 at 5:00 p.m. in the Community Development Conference Room.

Respectfully submitted,

Cathy Burrage
Recording Secretary
Dear {title} {name},

Coloradans believe stewardship of the environment is a core value, take its responsibility to heart, and put it into action. Ensuring clean water is a top priority, and our Colorado leaders have built programs that are successful and effective. Stormwater is an example where the actions of our local programs have actually improved the quality of our waterways, and did it during a period of residential and commercial growth.

In the shadow of these local Colorado efforts, the EPA is currently moving forward with new and severe stormwater regulations that could carry a harsh financial impact on communities across the country. Among the troubling aspects of these proposed regulations are: a specifically stated one-size-fits-all approach; the requirement that some existing businesses "retrofit" their properties to new rules and the disconnect between the new rules, costs and research showing the rules' benefit.

As you are aware, Section 402 of the Clean Water Act requires the EPA to conduct a study and report to Congress prior to developing any new stormwater regulations. We believe that the EPA should be required to comply with the law as passed by Congress. It is not sufficient to show that there are issues somewhere in the country. Any new rules should follow a study that looks at local issues and a range of cost-effective local solutions.

We implore Congress to direct the EPA to perform the needed studies and to only implement rules that incorporate the flexibility for geographically specific and cost-effective solutions. Only with guidelines that address the unique features of a local ecosystem will our program truly protect the environment.

Thank you for your attention to this matter.

Sincerely,

{name of person}
{name of company, government, or organization}
Chairman Michael K. Simpson  
House Committee on Appropriations  
Subcommittee on the Interior, Environment and Related Agencies  
The Capitol 11307  
March 23, 2012  
Dear Chairman Simpson:

Senator Michael Bennet  
458 Russell Senate Office Building  
Washington, DC 20510  
Phone: 202-224-5852

Senator Mark Udall  
Hart Office Building, Suite SH-328  
Washington, DC 20510  
Phone: 202-224-5941

Congresswoman Diana DeGette  
2335 Rayburn House Office Building  
Washington, DC 20515-4329  
Phone: 202-225-4431

Congressman Jared Polis  
501 Cannon HOB  
Washington, DC 20515  
Phone: 202-225-2161

Congressman Scott Tipton  
218 Cannon HOB  
Washington, DC 20515  
Phone: 202-225-4761

Congressman Cory Gardner  
213 Cannon HOB  
Washington, DC 20515  
Phone: 202-225-4676
Congressman Doug Lamborn
437 Cannon House Office Building
Washington, DC 20515
Phone: 202-225-4422

Congressman Mike Coffman
1222 Longworth HOB
Washington, DC 20515
Phone: 202-225-7882

Congressman Ed Perlmutter
1221 Longworth House Office Building
Washington, DC 20515
Phone: 202-225-2645
BY AUTHORITY
ORDINANCE NO. ___ SERIES OF 2013
COUNCIL BILL NO. 8 INTRODUCED BY COUNCIL MEMBER ____________

A BILL FOR
AN ORDINANCE ENACTING TITLE 7, CHAPTER 6D, SECTION 12, SUBSECTION 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000, DEFINING RECREATIONAL MARIJUANA CULTIVATION FACILITIES, RECREATIONAL MARIJUANA PRODUCT MANUFACTURING FACILITIES, RECREATIONAL MARIJUANA TESTING FACILITIES, RECREATIONAL RETAIL MARIJUANA STORES; AND PROHIBITING THESE BUSINESSES.

WHEREAS, the City of Englewood ("City") is a home-rule municipality organized and existing under the provisions of Colorado Constitution Article XX; and

WHEREAS, pursuant to the Constitution, and as further authorized by State statutes, including, but not limited to C.R.S. Section 31-15-401, the City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its residents; and

WHEREAS, such police powers include the power to regulate the nature and type of businesses allowed within such community; and

WHEREAS, in 2000 Colorado voters passed a Constitutional Amendment concerning medical marijuana; and

WHEREAS, Englewood adopted a licensing procedure for medical marijuana and revised it's ordinances with the adoption of Ordinance No. 41, Series of 2009 and Ordinance No. 27, Series of 2011; and

WHEREAS, the voters of Colorado approved Amendment 64 at the 2012 general election, which will be codified as Section 16 of Article 18 of the Colorado Constitution, authorizing the use, display, purchase, transport, and transfer of one ounce or less of recreational marijuana by a person 21 of age or older; and

WHEREAS, Amendment 64 allows local governments to prohibit recreational marijuana retail stores, cultivation facilities, product manufacturing facilities and testing facilities by ordinance or by placing a ballot measure on the November 2014 General Election ballot; and

WHEREAS, Amendment 64 provides that nothing shall be construed to limit any privileges or rights of a medical marijuana patient, medical marijuana primary care-giver or licensed entity, nor does it permit a Medical Marijuana Center to distribute medical marijuana to a person who is not a
medical marijuana patient or operate on the same premises as a Recreational Retail Marijuana Store; and

WHEREAS, this Ordinance will not restrict personal use of marijuana as allowed under the Colorado Constitution, nor shall it affect Englewood’s currently licensed medical marijuana businesses, primary care-givers, patients, and Code provisions relating thereto.

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 addition of a new Title 7, Chapter 6D, Section 12, Subsection 2, of the Englewood Municipal Code 2000, entitled Recreational Marijuana, to read as follows:

7-6D-12-2: Recreational Marijuana.

A. Purpose and Intent. The purpose of this subsection is to prohibit certain business uses related to Recreational Marijuana in the City. The City Council makes the following findings regarding its intent:

1. Pursuant to the provisions of Article XX, Section 6, of the Colorado Constitution, and as further authorized by State Statutes, including, but not limited to C.R.S. Section 31-15-401, the City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its residents. These police powers include the power to regulate the nature and type of businesses allowed within such community.

2. Article XVIII, Section 16 of the Colorado Constitution specifically authorizes a municipality to "enact ordinances or regulations ... governing the time, place, manner and number of recreational marijuana establishment operations."

3. Article XVIII, Section 16 of the Colorado Constitution specifically authorizes a municipality to prohibit the operation of recreational marijuana establishments: recreational marijuana cultivation facilities, recreational marijuana product manufacturing facilities, recreational marijuana testing facilities and recreational retail marijuana stores.

B. Definitions.

Recreational Marijuana or Marijuana: shall mean all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" or "Marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral
administrations, food, drink or other product. Recreational Marijuana does not include Medical Marijuana as defined in Article XVIII, Section 14, of the Colorado Constitution, under the Colorado Medical Marijuana Code, 12-43.3-101 et seq. C.R.S., and Title 5, Section 3D, of the Englewood Municipal Code; and

Recreational Marijuana Cultivation Facility: shall mean and include any real property used for or upon which there is any type of structure or any such facility that includes or is associated with cultivating, preparing, or packaging Recreational Marijuana.

Recreational Marijuana Establishment: shall mean and include a Recreational Marijuana Cultivation Facility, a Recreational Marijuana Testing Facility, a Recreational Marijuana Product Manufacturing Facility, or a Recreational Retail Marijuana Store.

Recreational Marijuana Product Manufacturing Facility: shall mean and include any real property used for or upon which there is any type of structure, or any such facility that includes or is associated with manufacturing, preparing, or packaging Recreational Marijuana.

Recreational Marijuana Testing Facility: shall mean and include any real property used for or upon which there is any type of structure, or any such facility that includes or is associated with analyzing and certifying the safety and potency of medical Recreational Marijuana.

Recreational Marijuana Products: shall mean concentrated Recreational Marijuana products that are comprised of Recreational Marijuana and other ingredients and are intend for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Recreational Retail Marijuana Store: shall mean and include any real property used for or upon which there is any type of structure, or any such facility that includes or is associated with the sale of Recreational Marijuana to consumers.

C. Prohibition:

1. Recreational Marijuana Establishments are prohibited.

   a. This prohibition shall not apply to Medical Marijuana Centers, Medical Marijuana Primary Care-Givers, Medical Marijuana Infused Product Manufacturers, Medical Marijuana Optional Premises Cultivation Operations that are licensed in accordance with Article XVIII, Section 14, of the Colorado Constitution, the Colorado Medical Marijuana Code, and Title 5-3D EMC.

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.

Section 7. Federal and state laws are binding upon home rule municipalities. However, neither this Article nor its adoption, implementation, or enforcement shall be construed as an intent of the City, its elected officials, its employees or contractors or Authority members to violate federal law, including but not limited to, the Controlled Substances Act of 1970, as amended, nor shall such adoption, implementation or enforcement be construed as acquiescence or conspiracy by the City, its elected officials, appointed Authority members, contractors, or its employees to violate such federal and state law.

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

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 5th day of April, 2013.

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

ATTEST: ____________________________________________
Randy P. Penn, Mayor

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 1st day of April, 2013.

__________________________
Loucrishia A. Ellis
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| 109                      | 2                    | 350 | 230| 580   | 60.34%      | 39.66%     | 100.00%|
| 110                      | 2                    | 224 | 215| 439   | 51.03%      | 48.97%     | 100.00%|
| 111                      | 2                    | 623 | 380| 1003  | 62.11%      | 37.89%     | 100.00%|
| 113 [split within County]| 2                    | 156 | 208| 364   | 42.86%      | 57.14%     | 100.00%|
| 114                      | 2                    | 493 | 204| 697   | 70.73%      | 29.27%     | 100.00%|
| 117                      | 2                    | 353 | 151| 504   | 70.04%      | 29.96%     | 100.00%|
| **Total**                | **2**                | **2,199** | **1,388** | **3,587** | **61.30%** | **38.70%** | **100.00%**|

| 115*                     | 3                    | 252 | 121| 373   | 67.56%      | 32.44%     | 100.00%|
| 116                      | 3                    | 623 | 300| 923   | 67.50%      | 32.50%     | 100.00%|
| 118                      | 3                    | 434 | 181| 615   | 70.57%      | 29.43%     | 100.00%|
| 119                      | 3                    | 415 | 201| 616   | 67.37%      | 32.63%     | 100.00%|
| 129                      | 3                    | 308 | 178| 486   | 63.37%      | 36.63%     | 100.00%|
| 130                      | 3                    | 487 | 257| 744   | 65.46%      | 34.54%     | 100.00%|
| **Total**                | **3**                | **2,519** | **1,238** | **3,757** | **67.05%** | **32.95%** | **100.00%**|

| 120                      | 4                    | 281 | 159| 440   | 63.86%      | 36.14%     | 100.00%|
| 121                      | 4                    | 260 | 182| 442   | 58.82%      | 41.18%     | 100.00%|
| 122                      | 4                    | 343 | 194| 537   | 63.87%      | 36.13%     | 100.00%|
| 123                      | 4                    | 453 | 284| 737   | 61.47%      | 38.53%     | 100.00%|
| 124                      | 4                    | 502 | 324| 826   | 60.77%      | 39.23%     | 100.00%|
| 125                      | 4                    | 299 | 144| 443   | 67.49%      | 32.51%     | 100.00%|
| 140                      | 4                    | 210 | 186| 396   | 53.03%      | 46.97%     | 100.00%|
| **Total**                | **4**                | **2,348** | **1,473** | **3,821** | **61.45%** | **38.55%** | **100.00%**|

| Totals [as close as we can get as County Precinct 113 is split] | All City Council Districts | 9,678 | 5,361 | 15,039 | 64.35% | 35.65% | 100.00% |

*115 yes = 504, no = 243 total 747 split evenly between Districts 1 & 3