

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE**

I, Scott Gessler, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

**ENGLEWOOD ENVIRONMENTAL FOUNDATION, INC.**

is a **Nonprofit Corporation** formed or registered on 08/14/1997 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19971130062.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 08/24/2012 that have been posted, and by documents delivered to this office electronically through 08/27/2012 @ 15:14:47.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 08/27/2012 @ 15:14:47 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 8325537.



A handwritten signature in black ink, appearing to read 'Scott Gessler', is written over a horizontal line.

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site, <http://www.sos.state.co.us/bi:/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click Business Center and select "Frequently Asked Questions."*

COPY

ARTICLES OF INCORPORATION

OF

ENGLEWOOD ENVIRONMENTAL FOUNDATION, INC.

1997 AUG 14 11:41  
STATE OF COLORADO

The undersigned natural person hereby establishes a nonprofit corporation pursuant to the Colorado Nonprofit Corporation Act and adopts the following Articles of Incorporation:

ARTICLE I

NAME

The name of the Corporation is:

ENGLEWOOD ENVIRONMENTAL FOUNDATION, INC.

ARTICLE II

DURATION

The Corporation shall have perpetual existence.

ARTICLE III

PURPOSES AND POWERS

1. Purposes. The Corporation is formed exclusively to lessen the burdens of government of the City of Englewood, Colorado by performing functions within the meaning of Section 115(1), Section 501(c)(3) and Section 509(a)(3) of the Internal Revenue Code of 1986 (the "Code").

The Corporation shall be permitted to perform every act necessary or incidental to or connected with the furtherance of its exempt purposes, including, but not limited to, taking title to certain land and improvements which is part of the Cinderella City Shopping Center located in the City of Englewood, County of Arapahoe, State of Colorado and performing or arranging for the performance of certain environmental remediation services with respect to such property.

2. Powers. In furtherance of the foregoing purposes and objects (but not otherwise) and subject to the restrictions in Section 3 of this Article, the Corporation shall have and may exercise all such powers as are expressly or indirectly conferred upon nonprofit corporations organized under the laws of the State of Colorado, except as limited by the Articles of Incorporation and including, without limiting the generality of the foregoing,

receiving, maintaining and dealing with, in any manner whatsoever, real or personal property, and using and applying the whole or any part thereof, including income therefrom; provided, however, that such use be exclusively and irrevocably applied to the exempt purposes of the Corporation; and the power to borrow money and become indebted and to execute and deliver bonds, notes, debentures, certificates of participation in lease or other revenues, or other securities, instruments or obligations, for the purposes of acquiring real or personal property, constructing, installing and acquiring improvements, and for such other purpose or purposes as may be necessary or desirable to accomplish the objectives of the Corporation. Such indebtedness may be unsecured or may be secured by any mortgage, trust deed or other lien upon the property to be acquired or any other right or interests of the Corporation.

3. Restrictions Upon the Powers of Directors and Others.

A. No part of the net earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation or any other private individual (except that reasonable payments may be paid for expenses incurred on behalf of the Corporation affecting one or more of its purposes), and no director or officer of the Corporation, or any other private individual shall be entitled to share in any distribution of any of the corporate assets on dissolution of the Corporation or otherwise. Any and all property, both real and personal, which may be owned by this Corporation at any time, is and shall always be exclusively and irrevocably dedicated to the exempt purposes of this Corporation. No substantial part of the activities of the Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation except as provided under Section 501(h) of the Code (or the corresponding provision of any future United States Internal Revenue Law). The Corporation shall not participate or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

B. No part of the assets of the Corporation shall be contributed to any organization whose net earnings or any part thereof inure to the benefit of any private individual or any substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation, if such contribution would not be permitted to be made (i) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Code (or the corresponding provision of any future United States Internal Revenue law) or (ii) by a corporation, contributions to which are deductible under Section 170(a), Section 2055(a) or Section 2522(a) of the Code (or the corresponding provisions of any future United States Internal Revenue law).

C. Notwithstanding any other provisions of these Articles, the Corporation shall not carry on any activities not permitted to be carried on (i) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Code (or the corresponding provision of any future United States Internal Revenue law), or (ii) by a corporation, contributions to which are deductible under Sections 170(a), 2055(a), or 2522(a) of the Code (or the corresponding provisions of any future United States Internal Revenue law).

D. Upon dissolution of the Corporation, after the liabilities of the Corporation have been discharged or provided for, the Corporation's remaining assets shall be transferred to the City of Englewood, Colorado.

#### ARTICLE IV

##### BOARD OF DIRECTORS

The control and management of the affairs of the Corporation and of the disposition of its funds and property shall be vested solely in a Board of Directors. The number of directors, their terms of office and the manner of their selection and election shall be determined according to the Bylaws of the Corporation from time to time in force. The names and addresses of the persons who shall serve as the initial directors of the Corporation are as follows:

Frank Gryglewicz  
Director of Financial Services  
City of Englewood  
3400 S. Elati Street  
Englewood, Colorado 80110

Rick Kahm  
Acting Director of Public Works  
City of Englewood  
3400 S. Elati Street  
Englewood, Colorado 80110

Robert Simpson  
Director of Neighborhood and  
Business Development  
City of Englewood  
3400 S. Elati Street  
Englewood, Colorado 80110

ARTICLE V

REGISTERED OFFICE AND REGISTERED AGENT

The address of the initial registered office of the Corporation is 650 S. Cherry Street, Suite 1000, Denver, Colorado 80222. The name of the initial registered agent at such address is Stephen P. Rickles, Esq..

ARTICLE VI

MEMBERS, STOCKHOLDERS AND VOTING

The Corporation shall have no members. The entire voting power for all purposes shall rest in the Board of Directors, each member of which shall be entitled to one vote on each matter submitted to a vote. The Corporation shall have no capital stock or stockholders.

ARTICLE VII

BYLAWS

The initial Bylaws of the Corporation shall be adopted by the Board of Directors. Such Board shall have the power to alter, amend or repeal the Bylaws. Such Bylaws may contain any provisions for the regulation or management of the affairs of the Corporation which are not inconsistent with the law or these Articles of Incorporation, as the same may from time to time be amended. However, no bylaw at any time in effect, and no amendment to the Articles, shall have the effect of giving any director or officer of this Corporation any proprietary interest in its property or assets whether during the term of its existence or as an incident to its dissolution.

ARTICLE VIII

INDEMNIFICATION AND LIMITATION  
ON DIRECTOR LIABILITY

A. Indemnification; Generally.

The Corporation may indemnify its directors, officers, employees and agents for liabilities incurred by such directors, officers, employees, or agents in their capacity as such as is provided in these Articles of Incorporation and in the Bylaws of the Corporation.

B. Limitation on Director Liability for Monetary Damages.

A director shall not be personally liable to the Corporation or to its members, if any, for monetary damages for breach of fiduciary duty as a director, except that the foregoing shall not eliminate or limit the liability of a director to the Corporation or to its members, if any, for:

1. Any breach of the director's duty of loyalty to the Corporation or to its members;
2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
3. Loans made by the Corporation to its directors or officers and any other acts specified in Colorado Revised Statutes §7-24-111 as the same may be hereafter amended. Directors who assent to or participate in making such loans are liable to the Corporation under Colorado law for the amount of such loan until the repayment thereof;
4. Assenting to or participating in any transaction from which the director derived an improper personal benefit.

The foregoing limitation on personal liability for monetary damages shall apply to acts or omissions occurring since the date of incorporation of this Corporation. If the Colorado Nonprofit Corporation Act is hereafter amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation, in addition to the limitation on personal liability provided herein, shall be further eliminated or limited to the fullest extent permitted by the Colorado Nonprofit Corporation Act, as so amended or the Revised Colorado Nonprofit Corporation Act. Any repeal or modification of this Article VIII shall be prospective only and shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

C. Preservation of Exempt Status.

Notwithstanding any other provision of this Article or the Bylaws, the Corporation shall not indemnify, advance expenses, purchase insurance, or take any other action under this Article or the Bylaws which would jeopardize or be inconsistent with qualification of the Corporation as an organization described in Section 115(1) or Section 501(c)(3) of the Code.

ARTICLE IX

INCORPORATOR

The name and address of the incorporator is:

Stephen P. Rickles, Esq.  
Guthery & Rickles, P.C.  
650 S. Cherry Street, Suite 1000  
Denver, Colorado 80222

ARTICLE X

AMENDMENT

The Board of Directors reserves the right from time to time to amend, alter, change or repeal these Articles of Incorporation by the affirmative vote of a majority of the directors in office or by unanimous consent of all such directors pursuant to Colorado Revised Statutes §7-23-110.

Dated: August 14, 1997.



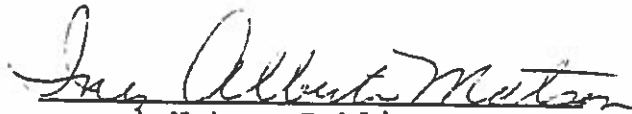
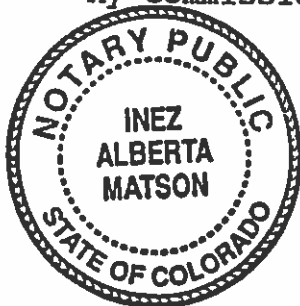
\_\_\_\_\_  
Stephen P. Rickles, Incorporator

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF ARAPAHOE        )

14<sup>th</sup> The foregoing instrument was acknowledged before me this day of August, 1997, by Stephen P. Rickles, as Incorporator of Englewood Environmental Foundation, Inc.

In witness whereof, I have hereunto set my hand and seal.

My commission expires: 12-9-98.

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

Frank

AMENDED BYLAWS

OF

ENGLEWOOD ENVIRONMENTAL FOUNDATION, INC.  
("the Corporation")

1. OFFICES. The principal office of the Corporation in the State of Colorado is at 3400 S. Elati Street, Englewood, Colorado 80110. Other offices and places of business may be established from time to time by resolution of the Corporation's Board of Directors.

2. SEAL. The seal of the Corporation shall have inscribed thereon the name of the Corporation, and the words, "Colorado" and "Seal", and shall be in such form as may be approved by the Corporation's Board of Directors. The Corporation's Board of Directors shall have the power to alter the seal of the Corporation at its pleasure.

3. MEMBERS. The Corporation shall not have members.

4. DIRECTORS.

4-A. Board of Directors. The affairs of the Corporation shall be managed solely by a Board of three persons who shall be appointed by the City Manager (the "Manager") of the City of Englewood, Colorado (the "City"). Unless otherwise designated by the City Manager, the three persons shall be those individuals holding the positions with the City of Englewood, Colorado, of Finance Director, Engineering Manager, and Director of Neighborhood and Business Development.

4-B. Annual Meeting. The annual meeting of the Corporation's Board of Directors shall be at the principal office of the Corporation and will be held on the third Thursday in April of each year pursuant to notice as provided in Paragraph 4-E or on such other day or at such other place or time as may be determined by the directors pursuant to notice as provided by Paragraph 4-E. The annual meeting of the Corporation's Board of Directors shall be for the purpose of electing officers and transacting such other business as may come before the meeting.

4-C. Regular Meeting. Regular meetings of the Corporation's Board of Directors shall be held on a periodic basis as decided by the Corporation's Board of Directors pursuant to notice as provided by Paragraph 4-E.

4-D. Special Meetings. Special meetings of the Corporation's Board of Directors may be called at any time by the by the President or by one-third of the directors then in office,



and may be held within or without the State of Colorado at such time and place as the notice or waiver thereof may specify.

4-E. Notice. Notice of any meeting shall be mailed to the last known address of each director at least three days prior to the date or time fixed for the meeting. The presence of any director at a meeting shall constitute waiver of notice of such meeting except as otherwise provided by law. Unless specifically required by law, the Articles of Incorporation or these Bylaws, neither the business to be transacted at, nor the purpose of, any meeting of the Corporation's Board of Directors need be specified in the notice or waiver of notice of such meeting.

4-F. Quorum. A quorum at all meetings of the Corporation's Board of Directors shall consist of a majority of the directors, but a smaller number may adjourn from time to time without further notice, until a quorum is secured. The act of the majority of the directors then present at a meeting at which a quorum is present shall be the act of the Corporation's Board of Directors.

4-G. Vacancy. Any vacancy occurring in the Corporation's Board of Directors shall be filled by the City Manager of the City of Englewood. Should a vacancy exist in any Board position by reason of a vacancy in the position with the City of Finance Director, Engineering Manager, or Director of Neighborhood and Business Development, any individual named by the City to serve in such position on an interim basis shall serve as a director until such position is filled on a permanent basis. If no individual is named to serve in such position on an interim basis, the City Manager shall name another individual to serve as a director until such position is filled.

4-H. Compensation and Expense Reimbursement. No director of the Corporation shall receive a salary or other compensation for services rendered as a director. A director may be reimbursed for actual expenses incurred to carry out his or her duties as a director.

4-I. Loans. No loans shall be made by the Corporation to its directors.

## 5. OFFICERS.

5-A. Election. The Engineering Manager of the City of Englewood shall be the president, the Finance Director of the City of Englewood shall be the vice-president and treasurer, and the Director of Neighborhood and Business Development shall be the secretary of the Corporation.

**5-B. Officers.** The officers of the Corporation shall exercise and perform the respective powers, duties and functions as are stated below, and as may be assigned by the Corporation's Board of Directors.

5-B-1. The president shall be the chief executive officer of the Corporation and shall, subject to the control of the Corporation's Board of Directors, have general supervision, direction and control of the affairs and officers of the Corporation. The president, or the vice-president, unless some other person is specifically authorized by the Corporation's Board of Directors, shall sign all bonds, deeds, mortgages, leases and contracts of the Corporation. The president shall perform all the duties commonly incident to this office and such other duties as the Corporation's Board of Directors shall designate.

5-B-2. In the absence or disability of the president, the vice-president shall perform all duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions on the president; provided, however, that if the vice-president cannot so act, then the secretary shall perform the duties provided in this Paragraph 5-B-2. The vice-president shall have such other powers and perform such other duties as may from time to time be assigned to him or her by the president.

5-B-3. The secretary shall keep accurate minutes of all meetings of the Corporation's Board of Directors. He or she shall be responsible for the giving of notice of meetings of the Corporation's Board of Directors. The secretary shall be the custodian of the records and of the seal of the Corporation and shall attest the affixing of the seal of the Corporation when so authorized. The secretary shall perform all duties commonly incident to his or her office and such other duties as may from time to time be assigned to him or her by the president.

5-B-4. The treasurer, subject to the order of the Corporation's Board of Directors, shall have the care and custody of the money, funds, valuable papers and documents of the Corporation. He or she shall keep correct and complete books and records of accounts of the Corporation's transactions, which shall be the property of the Corporation, and shall render financial reports and statements of condition of the Corporation when so requested by the Corporation's Board of Directors or the president. The treasurer shall perform all duties commonly incident to his or her office and such other duties as may from time to time be assigned to him or her by the president.

**5-C. Compensation and Expense Reimbursement.** No officer of the Corporation shall receive a salary or other compensation for services rendered as an officer. An officer may

be reimbursed for actual expenses incurred to carry out his or her duties as an officer.

5-D. Disability. In the event of absence or inability of any officer to act, the Corporation's Board of Directors may delegate the powers or duties of such officer to any other officer whom it may select.

5-E. Vacancy. Should a vacancy exist in the Position of Finance Director, Engineering Manager, or Director of Neighborhood and Business Development, the individual named by the City Manager to serve in such position on an interim basis shall serve as officer until such position is filled on a permanent basis. If no individual is named to serve in such position on an interim basis, the City Manager shall name another individual to serve in the applicable office until such position is filled.

5-F. Loans. No loans shall be made by the Corporation to its officers.

## 6. FINANCE AND CONTRIBUTIONS.

6-A. Banking. The monies of the Corporation shall be deposited in the name of the Corporation in such bank or banks or trust company or trust companies, as the Corporation's Board of Directors shall designate, and may be drawn out only on checks signed in the name of the Corporation by such person or persons as the Corporation's Board of Directors by appropriate resolution may direct. Notes and commercial paper, when authorized by the Corporation's Board of Directors, shall be signed in the name of the Corporation by such officer or officers or agent or agents as shall thereunto be authorized from time to time.

6-B. Fiscal Year. The fiscal year of the Corporation shall be determined by resolution of the Corporation's Board of Directors.

7. WAIVER OF NOTICE. Any officer or director may waive, in writing, any notice required to be given by law or these Bylaws, whether before or after the time stated therein.

8. ACTION WITHOUT A MEETING. Nothing in these Bylaws shall be construed so as to prevent any action required to be taken at a meeting of the Corporation's Board of Directors or any action which may be taken at such meeting, to be taken without a meeting, if a consent, in writing, setting forth the action so taken shall be signed by all members of the Corporation's Board of Directors.

9. INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS.

9-A. Definitions. For purposes of this Article, the following terms shall have the meanings set forth below:

9-A-1. "Corporation" means the Corporation and, in addition to the resulting or surviving corporation, any domestic or foreign predecessor entity of a corporation in a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

9-A-2. "Director" means an individual who is or was a director of the Corporation, and an individual who, while such a director of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise, or employee benefit plan. A "director" shall be considered to be serving an employee benefit plan at the Corporation's request if his or her duties to the Corporation also impose duties on or otherwise involve services by him or her to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context otherwise requires, the estate or personal representative of a "director".

9-A-3. "Expenses" means the actual and reasonable expenses, including attorneys' fees, incurred by a party in connection with a proceeding.

9-A-4. "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to a private foundation or an employee benefit plan) or reasonable expense incurred with respect to a proceeding.

9-A-5. "Official capacity" when used with respect to a director of the Corporation means the office of director in the Corporation, and when used with respect to a person in a capacity other than as a director (even if such person is also a director) means the office in the Corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the Corporation in the performance of his or her duties in his or her capacity as such officer, employee or agent. "Official capacity" does not include service for any other foreign or domestic corporation or for any partnership, joint venture, trust, other enterprise or employee benefit plan when acting directly on behalf of such other corporation, partnership, joint venture, trust, enterprise or plan as a director, officer, employee, fiduciary or agent thereof.

9-A-6. "Party" means any person who was, is, or is threatened to be made, a named defendant or respondent in a proceeding by reason of the fact that such person is or was a director, officer or employee of the Corporation, and any person who, while a director, officer or employee of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan. A party shall be considered to be serving an employee benefit plan at the Corporation's request if such party's duties to the Corporation also impose duties on or otherwise involve services by such party to the plan or to participants in or beneficiaries of the plan. "Party" includes, unless the context otherwise requires, the estate or personal representative of such party.

9-A-7. "Proceeding" means any threatened, pending or completed action, suit or proceeding, or any appeal therein, whether civil, criminal, administrative, arbitratve or investigative (including an action by or in the right of the Corporation) and whether formal or informal.

9-B. Right to Indemnification.

9-B-1. Standards of Conduct. Except as provided in Paragraph 9-B-3 below, the Corporation shall indemnify any party to a proceeding against liability incurred in or as a result of the proceeding if (a) such party conducted himself or herself in good faith, (b) such party reasonably believed (i) in the case of a director acting in his or her official capacity, that his or her conduct was in the Corporation's best interests, or (ii) in all other cases, that such party's conduct was at least not opposed to the Corporation's best interests, and (c) in the case of any criminal proceeding, such party had no reasonable cause to believe his or her conduct was unlawful. For purposes of determining the applicable standard of conduct under this Paragraph 9-B, any party acting in his or her official capacity who is also a director of the Corporation shall be held to the standard of conduct set forth in Paragraph 9-B-1(b)(i), even if such party is sued solely in a capacity other than as such director.

9-B-2. Settlement. The termination of any proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, is not of itself determinative that the party did not meet the applicable standard of conduct set forth in Paragraph 9-B-1.

9-B-3. Indemnification Prohibited. Except as hereinafter set forth in this Paragraph 9-B-3, the Corporation may not indemnify a party under this Paragraph 9-B either in connection with (a) any proceeding by or in the right of the

Corporation in which the party is or has been adjudged liable to the Corporation, or (b) any proceeding charging improper personal benefit to the party, whether or not involving action in the party's official capacity, in which the party is adjudged liable on the basis that personal benefit was improperly received by the party (even if the Corporation was not thereby damaged).

9-B-4. Court-Ordered Indemnification.

Notwithstanding the foregoing, the Corporation shall indemnify any such party if and to the extent required by the court conducting the proceeding, or any other court of competent jurisdiction to which the party has applied, if it is determined by such court, upon application by the party, that despite the adjudication of liability in the circumstances described in clauses (a) and (b) of Paragraph 9-B-3 or whether or not the party met the applicable standard of conduct set forth in Paragraph 9-B-1, and in view of all relevant circumstances, the party is fairly and reasonably entitled to indemnification for such expenses as the court deems proper in accordance with the Colorado Nonprofit Corporation Act.

9-B-5. Claims by or in the Right of Corporation.

Indemnification permitted under this Paragraph 9-B in connection with a proceeding by or in the right of the Corporation shall be limited to reasonable expenses incurred in connection with the proceeding.

9-B-6. Combined Proceedings.

If any claim made by or in the right of the Corporation against a party is joined with any other claim against such party in a single proceeding, the claim by or in the right of the Corporation (and all expenses related thereto) shall nevertheless be deemed the subject of a separate and distinct proceeding for purposes of this Article.

9-C. Prior Authorization Required.

Any indemnification under Paragraph 9-B (unless ordered by a court) shall be made by the Corporation only if authorized in the specific case after a determination has been made that the party is eligible for indemnification in the circumstances because the party has met the applicable standard of conduct set forth in Paragraph 9-B-1 and after an evaluation has been made as to the reasonableness of the expenses. Any such determination, evaluation and authorization shall be made by the Corporation's Board of Directors by a majority vote of a quorum of such Board, which quorum shall consist of all directors not parties to the subject proceeding, or by such other person or body as permitted by law.

9-D. Success on Merits or Otherwise.

Notwithstanding any other provision of this Article, the Corporation shall indemnify a party to the extent such party has been wholly successful, on the merits or otherwise, including without

limitation, dismissal without prejudice or settlement without admission of liability, in defense of any proceeding, against reasonable expenses incurred by such party in connection therewith.

9-E. Advancement of Expenses. The Corporation shall pay for or reimburse the reasonable expenses, or a portion thereof, incurred by a party in advance of the final disposition of the proceeding if: (1) the party furnishes the Corporation a written affirmation of such party's good-faith belief that he or she has met the standard of conduct described in Paragraph 9-B-1; (2) the party furnishes the Corporation a written undertaking, executed personally or on behalf of such party, to repay the advance if it is ultimately determined that the party did not meet such standard of conduct; and (3) authorization of a payment and a determination that the facts then known to those making the determination would not preclude indemnification under this Article have been made in the manner provided in Paragraph 9-C. The undertaking required by clause (2) must be an unlimited general obligation of the party, but need not be secured and may be accepted without reference to financial ability to make repayment.

9-F. Payment Procedures. The Corporation shall promptly act upon any request for indemnification, which request must be in writing and accompanied by the order of court or other reasonably satisfactory evidence documenting disposition of the proceeding in the case of indemnification under Paragraph 9-D and by the written affirmation and undertaking to repay as required by Paragraph 9-E in the case of indemnification under such section. If no disposition of such claim is made within ninety (90) days after written request for indemnification is made, the claimant may apply by way of civil action in any court of competent jurisdiction for an adjudication as to the validity and extent of the claim. A party's expenses incurred in connection with successfully establishing such party's right to indemnification, in whole or in part, in any such proceeding shall also be paid by the Corporation.

9-G. Insurance. By action of the Corporation's Board of Directors, notwithstanding any interest of the directors in such action, the Corporation may purchase and maintain insurance in such amounts as the Corporation's Board of Directors deems appropriate to protect itself and any person who is or was a director, officer, employee, fiduciary or agent of the corporation, or who, while a director, officer, employee, fiduciary or agent of the Corporation, is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, fiduciary or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan against any liability asserted against or incurred by such person in any such capacity

or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under applicable provisions of law or this Article. Any such insurance may be procured from any insurance company designated by the Board of Directors, whether such insurance company is formed under the laws of Colorado or any other jurisdiction, including any insurance company in which the Corporation has an equity or any other interest, through stock ownership or otherwise. The Corporation may create a trust fund, grant a security interest or use other means (including, without limitation, a letter of credit) to ensure the payment of such sums as may become necessary to effect indemnification as provided herein.

9-H. Right to Impose Conditions to Indemnification.

The Corporation shall have the right to impose, as conditions to any indemnification provided or permitted in this Article, such reasonable requirements and conditions as may appear appropriate to the Corporation's Board of Directors in each specific case and circumstances, including but not limited to any one or more of the following: (1) that any counsel representing the party to be indemnified in connection with the defense or settlement of any proceeding shall be counsel mutually agreeable to the party and to the Corporation; (2) that the Corporation shall have the right, at its option, to assume and control the defense or settlement of any claim or proceeding made, initiated or threatened against the party to be indemnified; and (3) that the Corporation shall be subrogated, to the extent of any payments made by way of indemnification, to all of the indemnified party's right of recovery, and that the party to be indemnified shall execute all writings and do everything necessary to assure such rights of subrogation to the Corporation.

9-I. Other Rights and Remedies. The indemnification provided by this Article shall be in addition to other rights to indemnification which a party may have or hereafter acquire by virtue of applicable statute.

9-J. Applicability; Effect. The indemnification provided in this Article shall be applicable to acts or omissions that occurred prior to the adoption of this Article, shall continue as to any party entitled to indemnification under this Article who has ceased to be a director, officer or employee of the Corporation or, at the request of the Corporation, was serving as and has since ceased to be a director, officer, partner, trustee, employee, fiduciary or agent of any other domestic or foreign corporation, or of any partnership, joint venture, trust, other enterprise or employee benefit plan, and shall inure to the benefit of the estate and personal representatives of each such person. The repeal or amendment of this Article or of any section or provision hereof that would have the effect of limiting, qualifying or restricting any of the



powers or rights of indemnification provided or permitted in this Article shall not, solely by reason of such repeal or amendment, eliminate, restrict or otherwise affect the right or power of the Corporation to indemnify any person, or affect any right of indemnification of such person, with respect to any acts or omissions that occurred prior to such repeal or amendment. All rights to indemnification under this Article shall be deemed to be provided by a contract between the Corporation and each party covered hereby.

9-K. Indemnification of Agents. The Corporation shall have the right, but shall not be obligated, to indemnify any agent of the Corporation who is not otherwise covered by this Article to the fullest extent permissible by the laws of Colorado. Unless otherwise provided in any separate indemnification arrangement, any such indemnification shall be made only as authorized in the specific case in the manner provided in Paragraph 9-C.

9-L. Savings Clause; Limitation. If this Article or any paragraph or provision hereof shall be invalidated by any court on any ground, then the Corporation shall nevertheless indemnify each party otherwise entitled to indemnification hereunder to the fullest extent permitted by law or any applicable provision of this Article that shall not have been invalidated. Notwithstanding any other provision of these Bylaws, the Corporation shall neither indemnify any person nor purchase any insurance in any manner or to any extent that would jeopardize or be inconsistent with the qualification of the Corporation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code").

10. AMENDMENTS. These Bylaws may be altered, amended, or repealed at any meeting of the Corporation's Board of Directors by a vote of a majority of the Directors present at a meeting at which a quorum is present called for such purpose pursuant to notice, or by unanimous consent of all of the Directors as provided in Article 8 of these Bylaws.

AS APPROVED BY THE BOARD OF  
DIRECTORS OF ENGLEWOOD  
ENVIRONMENTAL FOUNDATION, INC.,  
effective

11/17/, 1997.

By:   
Rick Kahm, President