Agenda for the Regular Meeting of the Englewood City Council Monday, March 22, 2010 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 1, 2010.

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. Brad Bertram will be present to address City Council with a request for Englewood to allow low speed electric vehicles to travel on roadways posted with speed limits of 35 mph or less, in accordance with Colorado State Legislation (Senate Bill 09-75).

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.)

8. Communications, Proclamations, and Appointments.

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

9. Consent Agenda Items.

   a. Approval of Ordinances on First Reading.

   b. Approval of Ordinances on Second Reading.

      i. Council Bill No. 3, approving an Intergovernmental Agreement with Colorado State University for cooperative research projects on the land application of wastewater biosolids to dryland wheat farming operations. The 2010 program cost is $109,295 which is to be split 50/50 with the City of Littleton.

      ii. Council Bill No. 5, approving an agreement with Broken T Partners LLC to operate the Broken Tee Englewood Indoor Golf Training Center.

   c. Resolutions and Motions.

10. Public Hearing Items (No Public Hearing Scheduled).

11. Ordinances, Resolutions and Motions

   a. Approval of Ordinances on First Reading.

      i. Council Bill No. 4 (reintroduced as amended) — Recommendation from the Finance and Administrative Services Department to approve a bill for an emergency ordinance amending Ordinance 20, Series of 2009 regarding the Lease-Purchase of certain equipment for City Departments. **STAFF SOURCE: Frank Gryglewicz, Director of Finance and Administrative Services.**

      ii. Council Bill No. 6 — Recommendation from the Public Works Department to approve a bill for an ordinance authorizing an Intergovernmental Agreement with the City of Sheridan for Englewood to provide vehicle maintenance services. **STAFF SOURCE: Pat White, Fleet Manager.**

   b. Approval of Ordinances on Second Reading.

   c. Resolutions and Motions.

      i. Recommendation from the Public Works Department to approve, by motion, an extension to the agreement with the City of Cherry Hills Village for Englewood to provide vehicle maintenance services in 2010. **STAFF SOURCE: Pat White, Fleet Manager.**

      ii. Recommendation from the Public Works Department to approve, by motion, an extension of the 2007 construction contract for Concrete Utility 2010 in the amount of $279,830 to Thoutt Brothers Concrete Contractors, Inc. **STAFF SOURCE: David Henderson, Engineering/Capital Projects Administrator.**

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

12. General Discussion.

    a. Mayor's Choice.

    b. Council Members' Choice.

13. City Manager's Report.

14. City Attorney's Report.

15. Adjournment

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

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 3
INTRODUCED BY COUNCIL
MEMBER McCASLIN

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COLORADO STATE UNIVERSITY (CSU) AND LITTLETON/ENGLEWOOD WASTEWATER TREATMENT PLANT FOR THE COOPERATIVE RESEARCH PROJECT ON LAND APPLICATION OF SEWAGE BIOSOLIDS ON DRYLAND WHEAT.

WHEREAS, since 1982 the Littleton/Englewood Wastewater Treatment Plant (L/E WWTP) and Colorado State University (CSU), Department of Soil and Crop Sciences, have successfully conducted a continuous research program to observe the long-term effects of the application of biosolids for dryland wheat farming; and

WHEREAS, the City Council of the City of Englewood approved an IGA between CSU and the Littleton/Englewood Wastewater Treatment Plant with the passage of Ordinance No. 42, Series of 2004; and

WHEREAS, the research has provided long-term research data and a sound basis of knowledge of the biosolids produced by the L/E WWTP and the environmental impacts of the product; and

WHEREAS, the L/E WWTP-CSU research project has been instrumental in establishing the basis for biosolids beneficial use for the growth of dryland wheat crops in the arid western states and in Australia; and

WHEREAS, the long-term research demonstrates that the beneficial use of wastewater biosolids is an environmentally safe, economically beneficial and agriculturally sound practice for recycling and conserving a valuable resource; and

WHEREAS, the research has benefited not only farming communities of western states but also biosolids researchers, regulators, generators and other environmental professionals; and

WHEREAS, in 1999 the L/E WWTP and CSU received the U.S. EPA award for Outstanding Research Contributing to Beneficial Use of Wastewater Solids – First Place National; and

WHEREAS, CSU has submitted their proposal for the cooperative research project on land application of sewage biosolids on dryland wheat; and

WHEREAS, the 2010 study includes study sites at the Bennett site, and the Byers site; and

WHEREAS, the cost of the CSU Application of Sewage Biosolids Research Project is split 50/50 between Englewood and Littleton.

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

Section 1. The Colorado State University Biosolids Research Proposal, attached hereto as Exhibit A; and the letter of acceptance, attached hereto as Exhibit B, are hereby accepted and approved by the City Council of the City of Englewood.

Section 2. The Director of the Littleton/Englewood Wastewater Treatment Plant is authorized to execute the Colorado State University Biosolids Research acceptance letter for and on behalf of the Littleton/Englewood Wastewater Treatment Plant.

Section 3. The Director of the Littleton/Englewood Wastewater Treatment Plant is hereby authorized to further extend the Intergovernmental Agreement between Littleton/ Englewood Wastewater Treatment Plant and Colorado State University, Biosolids Research Proposal, for the cooperative research project on land application of sewage biosolids on dryland wheat for five additional one year periods.

Introduced, read in full, and passed on first reading on the 1st day of March, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 5th day of March, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of March, 2010 for thirty (30) days.

Read by title and passed on final reading on the 22nd day of March, 2010.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 26th day of March, 2010.

Published by title on the City's official website beginning on the 24th day of March, 2010 for thirty (30) days.

James K. Woodward, Mayor

ATTEST:

Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

Loucrishia A. Ellis

EXHIBIT A

LAND APPLICATION OF SEWAGE BIOSOLIDS

PROPOSAL FOR COOPERATIVE RESEARCH PROJECT BETWEEN

COLORADO STATE UNIVERSITY

AND

LITTLETON/ENGLEWOOD JOINT COUNCIL

2010

I. Land Application of Biosolids

II. Personnel

Project Leaders: K.A. Barbarick, Professor
J. McDaniel, Research Associate
N.C. Hansen, Associate Professor

III. Introduction

We have studied the beneficial use of Littleton/Englewood (L/E) biosolids since 1982 at East and West Bennett, 1988 at Kiowa, 1993 at North Bennett, and 1999 at Byers. We lost the East Bennett plots in 1993 due to a shift from dryland to irrigated agriculture and the last of the West Bennett sites to development in 2005. We ceased research at the Kiowa location in 2007. We will present the proposed research and associated budget separately for three studies (North Bennett, Microbial study, and Byers) and then present the total budget for our proposed research.

IV. Bennett Study Site

North Bennett

We initiated the North Bennett experimental location to replace the East Bennett plots that we lost in 1993. Our former cooperating farmer at East Bennett, Kevin Helzer, decided to grow irrigated crops on our study sites in 1993. We also changed the experimental approach at North Bennett to focus on determining the N equivalency of L/E biosolids associated with repeated applications in a dryland wheat summer-fallow agroecosystem. We will complete harvest soil and biomass sampling and analyses; however, we plan to grow proso millet (*Panicum miliaceum* L.) or sunflowers (*Helianthus* annus, L.) to help control an infestation of jointed goat grass (*Aegilops cylindrica* Host).

We have added Ba, Be, and Mn to our plant and soil analyses since USEPA has identified them as potential pollutants to the CFR503 regulations. Although Ag has also been added to the CFR503 regulations, Colorado State University instrumentation utilized to detect Ag has been less than adequate. Therefore, at this point in time we will not analyze plants and soils for Ag.

A. Objectives for the Bennett study sites (North Bennett)

The objectives of the Bennett study are:

1. To quantify the N equivalency of repeated biosolids application under field conditions compared with commercial N fertilizer at our North Bennett plots.

2. To study the long-term effects of L/E biosolids on soil accumulation and wheat uptake of Ba, Be, Cd, Cr, Cu, Mn, Ni, Pb, Mo, and Zn.

3. To study the long-term effects of L/E biosolids on As, Hg, and Se levels in soil and grain in the 0, 2, and 5 dry tons/acre plots for the North Bennett site. Samples will consist of a composite of all replications for each rate for grain analyses. This gives three grain samples. We also will composite separately the 0-20 and 20-60-cm soil samples from the same plots as the grain samples. This will provide us a total of six soil samples to analyze for each site.

4. To determine the accumulated NO_3-N levels to a depth of 180 cm (6 feet) associated with repeated application of various N fertilizer or sewage biosolids at our North Bennett plots.

5. To determine the carryover effects of biosolids and N fertilizer on introduction of proso millet (*Panicum miliaceum* L.) or sunflowers (*Helianthus* annus, L.) into the wheat-fallow rotation. This change is required to control the noxious weed jointed goat grass (*Aegilops cylindrica* Host). Since jointed goat grass has a life cycle that is similar to winter wheat, about the only control option is to add a crop to the rotation that has a different life cycle. Once the jointed goat grass is controlled, we tentatively plan to return to the wheat-fallow rotation.

B. Bennett study sites budget (See Table 1 on the next page).

Table 1. Proposed budgets for the North Bennett sewage biosolids studies.

North Bennett Category	Current 2009	Proposed 2010	Proposed 2011
Routine Analyses	1325	1364	1405
As, Hg, Se Analyses	481	495	510
Student hourly salary†	668	668	668
Student hourly fringe‡	7	4	4
Travel	1680	1730	1782
Harvest, plot set-up	747	769	792
Research Assoc. (6 months)¶	16000	16000	16000
Research Assoc. fringe§	3936	4128	4128
Professor (2 weeks)¶	6419	6419	6419
Professor fringe§	1579	1656	1656
Total direct costs	**32841**	**33233**	**33364**
Indirect costs ψ	**15435**	**15620**	**15681**
Total costs	48276	48853	49045

† Assumes 50% of the student hourly's effort on the North Bennett and 50% effort on the Byers site.

‡ Student-hourly fringe rate is 0.6% in 2010 and 2011.

¶ Assumes 50% on the North Bennett study and 50% on the Byers study. We also assumed a 0% salary increase for 2010 and 2011. We assumed that all other costs for 2009 and 2010 will increase by 3% per year.

§ Fringe benefit rates were estimated to be 25.1% for 2009, and 25.8% for 2010 and 2011 for the Research Associate and Professor.

ψ The total indirect costs are 47% for 2009 through 2011.

V. Microbial Study (To Replace the Phosphorus Study)

A. Introduction

Most biosolids land-application studies focus on risk assessment of potential problems associated with contamination of soils and water with heavy metals, pathogens, personal care products, flame retardants, etc. Other than studies regarding soil fertility status and crop production, studies which test hypotheses of biosolids as beneficial soil amendments are scarce. It is surprising that few scientists have sought to quantify the environmental benefits of biosolids land application, given that many studies have found little or no harmful effects of biosolids when land applied at agronomic rates.

A novel laboratory incubation study to examine the effects of a biosolids amendment on soil microbial-faunal interactions is proposed. Of the soil fauna, the study will focus on Enchytraeidae worms because their members have diverse feeding strategies (bacteria, fungi, and soil organic matter), and because they are known to affect dissolved organic carbon production and reservoirs in soil. This is important because the production of available dissolved organic carbon is the rate-limiting step in microbial nitrogen mineralization-immobilization processes in a newly developed soil N biogeochemical model. The objectives for this study are to determine:

1) if enchytraeid worm populations increase in response to biosolids amendment,
2) if the worms selectively graze on biosolids material or on bacteria due to increased bacterial biomass in biosolids-amended soil,
3) if biosolids amendment results in increased soil dissolved organic carbon concentrations due to enhanced microbial-faunal interactions,
4) whether these interactions ultimately lead to greater N mineralization rates in soil. The hypothesis is that biosolids amendment to soil will increase enchytraeid trophic interactions with soil bacteria, resulting in greater release of dissolved organic carbon and mineral N into soil.

B. Microbial study budgets (See Table 2 below)

Table 2. Proposed budgets for the microbial sewage biosolids study.

Micro study Category	Microbial Study 2009†	Microbial Study 2010†	Microbial Study 2011†
Supplies	300	309	318
Analyses	1741	1793	1847
Total direct costs	**2041**	**2102**	**2165**
Indirect costs‡	**959**	**988**	**1018**
Total costs	3000	3090	3183

† We assumed that all costs for 2010 and 2011 will increase by 3% per year.

‡ The total indirect costs are 47% for 2009 through 2011.

VI. Byers Study Site

A. Introduction

With the establishment of the L/E Byers biosolids-application site, we are developing some practical, never-done-before research. No-till and minimum tillage management is increasing in popularity in eastern Colorado because it improves water conservation and allows more intensive cropping. Biosolids application could enhance the benefits of no-till or minimum tillage by improving soil cover and soil physical characteristics when surface applied. Biosolids could work in concert with crop residues to allow farmers to meet the Natural Resource Conservation Service 30% soil coverage required to comply with conservation programs.

Biosolids application could initially supply soil cover until adequate crop residue can accumulate. Continued additions may even provide production and economic advantages. Farmers may eventually use biosolids as an integral part of a conservation program. Because of continuing droughty conditions, beginning in Fall 2005, we changed our crop rotations. We

eliminated the wheat-wheat-corn-sunflower-fallow (WWCSF) and converted those plots to our other two rotations (wheat-fallow, WF and wheat-corn-fallow, WCF). This increased our replications for WF and WCF from two to four, providing us with a more robust statistical analysis of the effects of these two rotations.

B. Objectives

Our objectives at the Byers site are:

1. To determine if increasing biosolids application from once every two years to two out of three years is a feasible management alternative.

2. To determine if biosolids behave like crop residues in terms of moisture storage and crop production. Available-water storage and crop yields are the properties of greatest interest.

3. To determine the effects of biosolids application at the agronomic rate compared with commercial N fertilizer in two cropping systems on soil and grain accumulation of plant nutrients and trace elements limited by the Colorado Department of Public Health and Environment biosolids-application regulations.

C. Procedures

Treatments:

1. Two crop rotations:

   a. Wheat-fallow (typical rotation)
   b. Wheat-corn-fallow

2. Biosolids/fertilizer treatments:

   a. Biosolids application to supply N recommended for the measured soil NO_3-N (e.g., the agronomic rate).
   b. Commercial N fertilizer at the agronomic rate.

D. Experimental design

We now use four blocks (replications) of each treatment arranged in a split-plot design. The main plots will consist of the cropping rotations. Each main plot will be split to accommodate biosolids application on half the plot and commercial fertilizer addition on the other half.

All phases of each rotation will be present each year to allow assessment of all soil and crop responses each year. This requires a total of 20 main plots and 40 split plots (4 replications, 5 cropping rotations, biosolids/fertilizer treatment splits).

Each main plot will be 0.8 km (0.5 miles) long by 30 m (100 feet) wide. Each biosolids/fertilizer split would, therefore, be 15 m (50 feet) wide.

E. Measurements

We will complete the following measurements or analyses.

1. Annual grain and biomass yields.
2. Records on farmer inputs.
3. Plant-available concentrations of NO_3-N, P, K, Fe, Mn, Cu, Zn, Na, Cd, Cr, Pb, Mo, Ni, Ba, Be, and Mn in soil before each crop planting (determined in 0-5, 5-10, 10-20, and 20-30 cm samples from each replicated plot).
4. We will composite 0-5-cm soil samples for As, Hg, and Se analyses for each replication before each crop planting. This will give us 14 soil samples to analyze for As, Hg, and Se each year.
5. Deep soil sampling before each crop planting by hydraulic probe for NO_3-N (determined 0-30, 30-60, 60-90, 90-120, 120-150, 150-180 cm samples, if possible, from each replicated plot).
6. Concentrations of P, K, Fe, Mn, Cu, Zn, Na, Cd, Cr, Pb, Mo, Ni, Ba, Be, and Mn in grain sampled from each replicated plot.
7. For annual As, Hg, and Se grain analyses, we will composite grain samples for each biosolids or N fertilizer replication for each type of crop. This scheme will provide us with four wheat and two corn samples for As, Hg, and Se analyses each year.

F. Byers study site budgets (See Table 3 on the next page.)

Table 3. Proposed budgets for the Byers sewage biosolids study.

Byers Category	Current 2009	Proposed 2010	Proposed 2011
Analyses	2938	3026	3117
Hourly salary†	668	668	668
Hourly Fringe‡	7	4	4
Research Assoc. (6 months)¶	16000	16000	16000
Research Assoc. fringe§	3936	4128	4128
Professor (2 weeks)¶	6419	6419	6419
Professor fringe	1579	1656	1656
Harvest, plot set-up	2117	2180	2245
Weather Station Maintenance ψ	446	459	473
Travel	4345	4475	4609
Total direct costsθ	**38454**	**39015**	**39319**
Indirect costs	**18073**	**18337**	**18480**
Total costs	56527	57352	57799

† Assumes 50% of the student hourly's effort on the North Bennett and 50% effort on the Byers site.

‡ Student-hourly fringe rate is 0.6% in 2010 and 2011.

¶ Assumes 50% on the North Bennett study and 50% on the Byers study. We also assumed a 0% salary increase for 2010 and 2011. We assumed that all other costs for 2009 and 2010 will increase by 3% per year.

§ Fringe benefit rates were estimated to be 25.1% for 2009, and 25.8% for 2010 and 2011 for the Research Associate and Professor.

ψ The total indirect costs are 47% for 2009 through 2011.

VII. Total Budgets

We have tabulated the total budgets by location (Table 4) and by budget category (Table 5) for 2008 through 2010.

Table 4. Total budgets by location for 2009-2011.

Total by location Category	Current 2009	Proposed 2010	Proposed 2011
North Bennett			
Total direct costs	32841	33233	33364
Indirect costs	15435	15620	15681
Total costs	48276	48853	49045
Byers			
Total direct costs	38454	39015	39319
Indirect costs	18073	18337	18480
Total costs	56527	57352	57799
Micro study			
Total direct costs	2041	2102	2165
Indirect costs	959	988	1018
Total costs	3000	3090	3183
Total			
Total direct costs	73336	74350	74848
Indirect costs	34468	34945	35179
Total costs	107804	109295	110027

Table 5. Total budgets by budget categories for 2009-2011.

Total by category Category	Current 2009	Proposed 2010	Proposed 2011
Analyses	6784	6987	7197
Personnel (salary plus fringe)	57218	57750	57750
Harvest, plot set up, weather station	3309	3408	3510
Travel	6024	6205	6391
Total direct costs	**73336**	**74350**	**74848**
Indirect costs[†]	**34468**	**34945**	**35179**
Total costs	107804	109295	110027

† Total indirect costs are 47% of total direct costs for 2009-2011.

LITTLETON/ENGLEWOOD
WASTEWATER TREATMENT PLANT
2900 S. Platte River Drive
Englewood, Colorado 80110
(303) 762-2600
FAX 762-2620

City of Littleton

City of Englewood

EXHIBIT B

March 6, 2010

Office of Sponsored Programs
2002 Campus Delivery
Fort Collins, Colorado 80523-2002
Attention: Christine Carsten, Research Administrator

RE: COOPERATIVE RESEARCH PROJECT - SLUDGE APPLICATION TO DRYLAND WHEAT FIELDS – 2010 FISCAL YEAR

Dear Ms. Carsten:

We are pleased to inform you that the 2010 proposals for continuing the research projects at the Bennett and Byers sites, and for Microbial Study were approved at the February 18, 2010 Littleton/Englewood Wastewater Treatment Plant Supervisory Committee meeting. This letter serves as authorization for the 2010 studies. Authorization is based on the following understanding:

1. The upper expenditure limit for the Bennett study is $48,853 for fiscal year 2010.

2. The upper expenditure limit for the Byers study is $57,352 for fiscal year 2010.

3. The upper expenditure limit for the Microbial study is $3,090 for fiscal year 2010.

4. Separate authorization must be obtained for additional work beyond that described in the proposals.

5. Progress reporting and invoicing will be on a quarterly basis. Project reports must accompany all invoices, also on a quarterly basis. A final report will be provided.

6. Invoices are to provide detailed background of project costs according to categories shown in the Proposed Budget Tables in your proposal.

7. All publications pertaining to the research work will be submitted to the cities for review prior to release. All other conditions set forth in your July 2009 proposal shall be incorporated in this agreement.

We anticipate your program will proceed immediately. Please acknowledge your acceptance of the terms of the agreement by signing the bottom portion of both agreements and returning one original to me for the official City records. Please retain one original for your records.

Sincerely,

Stewart H. Fonda
Director

ACCEPTANCE OF TERMS OF AGREEMENT:

_____

Signature Title Date

SHF/ca
Attachment

cc: Dr. Ken Barbarick, Dept of Soil & Crop Sciences, 1170 Campus Delivery, CSU, Ft Collins, CO 80523-1170

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 5
INTRODUCED BY COUNCIL
MEMBER OLSON

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF ENGLEWOOD AND BROKEN T PARTNERS LLC FOR A TRAINING CENTER AT BROKEN TEE ENGLEWOOD.

WHEREAS, the Englewood Golf Course indoor training center was part of the clubhouse expansion in 1995, consisting of 6 hitting bays with two computer swing analyzers ; and

WHEREAS, the facility has been a positive addition to the Clubhouse although the revenue stream has been minimal; and

WHEREAS, TNT leased the Training Center offering indoor lessons, club fittings and golf training sessions from 2002 to 2006; and

WHEREAS, TNT decided to terminate their contract in the fall of 2006; and

WHEREAS, in 2007 a Request for Information was sent to determine if any area golf related retail businesses were interested in a location at the Englewood golf course; and

WHEREAS, proposals were received and interviews were held; and

WHEREAS, the Englewood City Council had previously approved an Agreement with McGetrick Golf Academy to lease and manage the Training Center located at the Broken Tee Englewood; and

WHEREAS, McGetrick Golf Academy terminated their contract as of November 30, 2009; and

WHEREAS, Broken T Partners LLC submitted a proposal and was selected for the following reasons: many of the same benefits that are currently in place, discounted lessons to all Englewood residents, free instruction to our Hole-N-One with emphasis on junior golf, improvements to the facility, seeking sponsorships for the Hole-N-One program and other benefits; and

WHEREAS, the passage of this Ordinance will approve the Agreement to lease and manage the Training Center located at the Broken Tee Englewood;

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

Section 1. The City Council of the City of Englewood, Colorado, hereby authorizes and approves the Agreement for the lease and management of the Training Center located at the Broken Tee Englewood between the City and Broken T Partners LLC, attached hereto as Attachment 1.

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

Introduced, read in full, and passed on first reading on the 1st day of March, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 5th day of March, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of March, 2010 for thirty (30) days.

Read by title and passed on final reading on the 22nd day of March, 2010.

Published by title in the City's official newspaper as Ordinance No. ___, Series of 2010, on the 26th day of March, 2010.

Published by title on the City's official website beginning on the 24th day of March, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. ___, Series of 2010.

_____
Loucrishia A. Ellis

ATTACHMENT 1

AGREEMENT

THIS AGREEMENT, hereinafter called "Lease", made and entered into this _____ day of___ _____, 20____, by and between the CITY OF ENGLEWOOD, a Colorado municipal corporation, hereinafter referred to as "City", and BROKEN T PARTNERS LLC, hereinafter referred to as "Trainer";

WITNESSETH:

WHEREAS, the City owns certain real property which is known as the Broken Tee Englewood Municipal Golf Course Clubhouse And Training Center, hereinafter called "Training Center", and located in the City of Sheridan; and

WHEREAS, City and Trainer desire to enter into a lease for the management of the Training Center located at the Broken Tee Englewood Municipal Golf Course;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter appearing and of the payment of the monies hereinafter set forth, the parties hereto agree as follows:

Section 1. STATEMENT OF INTENT.

The purpose of this Lease is to provide video golf training, instruction, club fitting and club sales. The Trainer will not have exclusive right to all club sales.

Section 2. GRANT.

The City hereby agrees to allow the Trainer to use the area described in "Exhibit A" of the Englewood Clubhouse Training Center plus use of the driving range including use of range balls at no cost and practice areas for instruction and other related activities. There will be space on the driving range and practicing area designated for the Trainer. The Trainer will be using an agreed upon area for their lessons/programs; however, it is generally understood that the Trainer will use the western most located spaces on the range.

Section 3. DEFINITION OF PREMISES.

The "Leased Premises" as referred to herein is defined to be the Golf Clubhouse Training Center, which is owned by the City of Englewood, Colorado. See Exhibit "A", and portion of range as referred to in Section 2.

Section 4. TERM OF AGREEMENT.

The City hereby grants to Trainer the right to hold the Leased Premises pursuant to the terms of this Lease for a one (1) year Lease with two (2) one (1) year renewals at the option of the Trainer and with two (2) additional optional one (1) year periods by agreement of both parties. If the Trainer intends to renew the contract they must inform the Director of Parks and Recreation ninety (90) days prior to termination of the Lease. The City shall inform Trainer of its decision through the Director of Parks and Recreation.

Section 5. USE OF THE PREMISES.

Trainer shall have the right to possession of the Leased Premises for the purpose of providing video golf training, instruction, club fitting, club sales and club repair. However, nothing in this Lease shall be construed to authorize that which is prohibited under United States, State or local law, ordinance, code or regulation.

Section 6. SERVICES.

All services provided by the Trainer shall be reviewed and approved by the Director of Parks and Recreation. The Trainer will provide lessons and clinics for the City. The City will continue to offer the Hole-N-One Program, Par 3 League, golf team and some lessons. The Trainer will provide free instruction for the Hole-N-One Program. The Trainer will provide lesson discounts for Englewood residents and Parks and Recreation sponsored programs.

Section 7. HOURS OF OPERATION.

a) From May 1st through September 30th of each year, the Trainer shall provide digital video golf analysis six (6) days per week and during these months shall be open each day to the public from 9:00 AM and shall remain open until 5:00 PM.

b) During the months of October 1st through April 30th of each year, the Trainer shall provide video golf analysis five (5) days per week and during these months shall be open each day to the public at 9:00 AM and shall remain open until 5:00 PM.

c) Nothing herein shall be construed as prohibiting the Trainer from being open for other hours in addition to those stated in Paragraphs "a" and "b" above. Trainer may close on Christmas Day and Thanksgiving.

d) Trainer agrees to cooperate with the Golf Course Manager in scheduling golf meetings and events. In the event of any disagreement, the matter shall be referred to the Director of Parks and Recreation and his/her decision is final.

e) Any adjustments to the hours of operation must be approved by the Director of Parks and Recreation or his designee.

f) Trainer and or the City may temporarily close the Training Center for cleaning, construction and maintenance under a mutually agreed upon schedule.

Section 8. MAINTENANCE, REPAIR AND REPLACEMENT.

a) The Trainer shall be responsible for repairs and/or replacement of all equipment associated with the leased premise. This does not include driving range equipment owned by the City of Englewood.

Section 9. CLEANLINESS GUIDELINES.

a) All rules, regulations and guidelines required by the City of Englewood must be adhered to.

b) All applicable local, state and Federal Government Acts and Regulations must be adhered to.

c) Any specific guidelines established by the Director of Parks and Recreation must be adhered to.

Section 10. RENT.

a) Trainer shall pay rent to the City:

i. Commencing on January 1st, 2010, the Trainer shall pay $20,000 per year, in accordance with the following schedule:

April through November: $2,500 per month.

Rent can be prepaid anytime .

ii. Trainer will provide reasonable efforts to attain sponsorships for the Hole-N-One Jr. Program.

The aforesaid fixed rent payments shall be paid, per schedule above on the first day of each month or on the first Monday of each month if the first day falls on Saturday or Sunday.

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

Section 11. UTILITIES.

The Trainer will be responsible for twenty percent (20%) of all utility costs for the entire building. In the event of major changes to the existing facility which increases utility costs, this Section needs to be adjusted.

Section 12. PARKING FACILITIES.

a) The existing parking facility adjacent to the Golf Course Clubhouse (hereinafter called "parking facility") shall be open for use by Trainer and its customers; such right of use of the said parking facilities shall be non-exclusive right.

b) City shall at its own expense maintain the parking facility, which shall include snow removal when necessary.

Section 13. SIGNS.

Any signage for the leased premise shall be the sole responsibility of the Trainer. All signage must be approved by the Director of Parks and Recreation or his designee.

Section 14. ADDITIONAL FACILITIES AND EQUIPMENT.

Trainer shall have the right to install additional facilities and equipment with the consent of the Director of Parks and Recreation or his designee. Permanently attached fixtures or equipment shall become property of the City upon termination of the lease. Permanently attached fixtures are considered to be any item that causes damage to the building upon removal. In no event will a golf simulator be considered a permanently attached fixture.

Section 15. SECURITY.

Trainer is responsible for the obtaining of theft insurance covering equipment, supplies and personal property of Trainer. Such policies shall contain no right of subrogation against the City. Trainer shall provide a copy of the policy to the Director of Parks and Recreation. Additional costs for security, as required by the Director of Parks and Recreation or his designee, shall be the responsibility of the Trainer.

Section 16. PERSONNEL.

a) Trainer shall at its own expense employ such qualified personnel as may be necessary for the training operation and shall require all personnel to be clean, polite, and courteous in their transactions with the public.

b) Trainer shall give personal supervision and direction to the operation of the Training Center and, when absent, keep competent personnel in charge.

c) City shall not be responsible for the wages or salaries of any employee or representative of Trainer, nor for any debts, liabilities or other obligations of Trainer.

d) Neither the Trainer nor the employees who perform services pursuant to the Agreement shall be considered employees, servants or agents of the City of Englewood as a result of the performance of services under the Agreement.

e) Violence or acts prohibited by law committed by the Trainer and employees of Trainer shall cause immediate termination of the Lease, if not resolved to the satisfaction of the City, after notification.

Section 17. LICENSES AND PERMITS.

Trainer, at its own expense, shall secure any and all licenses and permits for services.

Section 18. INSURANCE/INDEMNIFICATION.

a) Trainer agrees to furnish to City a performance bond or letter of credit in the amount of Ten Thousand Dollars ($10,000.00) guaranteeing faithful performance by Trainer of all payment of rent, utility costs, etc., along with all terms, covenants, and conditions herein contained and compliance with applicable City ordinances. Said bond shall be furnished within 30 days of signed agreement and shall remain in effect for the term of the lease.

b) Trainer shall at Trainer's own expense keep in full force and effect during the term of this Lease statutory Worker's Compensation coverage if required. A copy of the certificates of insurance shall be sent to the City in care of the Department of Risk.

c) INDEMNIFICATION. Trainer agrees to indemnify and hold harmless the City of Englewood, its Council, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss or damage, of any kind whatsoever, which arise out of or are in any manner connected with Trainer, if such injury, loss, or damage is caused in whole or in part by the act, omission, or other fault of Trainer, or any officer or employee of Trainer. Trainer agrees to investigate, handle, respond to, and to provide defense for any such liability, claims, or demands at the sole expense of Trainer, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

d) INSURANCE.

i. Trainer is to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all obligations assumed by Trainer pursuant to this Lease.

ii. Trainer shall procure and continuously maintain the minimum insurance coverage's listed below, with the forms and insurers acceptable to the City of Englewood. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

(A) General liability and errors and omissions insurance with minimum limits of one million dollars ($1,000,000) per each person and one million dollars ($1,000,000) per each occurrence, plus an additional amount sufficient to pay related attorneys' fees and defense costs.

iii Fire and Extended Coverage Insurance shall be provided by the City on the ClubHouse building, and extended buildings included in Leased Premises, only. Trainer shall be solely responsible for securing and paying for insurance coverage on those improvements and contents belonging to Trainer located in or on the Leased Premises. Trainer hereby expressly waives any cause of action or right of recovery, which Trainer may hereafter have against City for any loss or damage to Leased Premises or to any contents or improvements thereto belonging to either party, caused by fire, explosion, or theft.

iv. The policies required above shall be endorsed to include the City of Englewood and the City of Englewood's Council and employees as additional insured. Every policy required above shall be primary insurance, and any insurance carried by the City of Englewood, its officers, or its employees, or carried by or provided through any self-insurance pool of the City of Englewood, shall be excess and not contributory insurance to that provided by Trainer.

v. The certificate of insurance provided to the City of Englewood shall be completed by the Trainer's insurance agent as evidence that policies providing the required coverage's, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City of Englewood prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverage's afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been given to the City of Englewood. The completed certificate of insurance shall be sent to:

City Clerk
City of Englewood
1000 Englewood Parkway
Englewood, Colorado 80110

A certified copy of any policy shall be provided to the City of Englewood at its request. A copy of the certificates of insurance shall be sent to the City in care of the Department of Risk, 1000 Englewood Parkway, Englewood, Colorado 80110.

vi. The parties hereto understand and agree that the parties are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently $1,000,000 per person and $1,000,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

A certificate evidencing said insurance policy shall be kept on file with the Department of Risk of the City and shall have a provision that the same shall not be altered, amended, or canceled without first giving written notification thereof to the City thirty days prior thereto. Trainer further agrees to indemnify the City for any claims brought against the City because or on account of Trainer's operation. A copy of the certificates of insurance shall be sent to the City in care of the Department of Risk.

Section 19. FIRE OR NATURAL DISASTERS.

In the event fire or natural disaster renders the Club House and its Training Center facilities inoperable, the Trainer shall be released from the terms of compensation to be paid the City until such time as the Club House and its Training Center facilities are declared open and operable by the City. If in the event such Training Center facilities are not open and operable within a period of thirty (30) days from the time of such disaster, Trainer has the right to terminate its contract and Lease with the City under Section 20, Termination of Lease, contained herein.

Section 20. TERMINATION OF LEASE.

a) This Lease may, at any time, be terminated by either party upon ninety (90) days' written notice to the other without cause.

b) The parties may terminate the Lease by giving thirty (30) days' written notice of a violation of paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18, provided Trainer has been given notice of violation, Trainer has neglected to cure such violation.

c) Violation of paragraph 19 shall be grounds for immediate termination of the Lease.

Section 21. DELIVERY AND REMOVAL UPON TERMINATION.

Trainer will deliver the premises at the termination of this Lease in as good condition and state of repair as when received, except for ordinary wear and tear or loss or damage caused by an act of God. Upon termination, Trainer shall have the right to remove any supplies or personal property belonging to or installed by the operator, subject, however, to any valid lien or claim, which City may have for unpaid fees. Provided also that if said removal causes any damage to the premises, said Trainer will repair the same in a proper and satisfactory manner at its own expense.

Section 22. This Agreement may not be assigned and a sublease shall not be allowed without the written consent of both parties. Independent contractors are separate from this Section.

Section 23. ATTORNEY FEES PREVAILING PARTY.

In the event that either party to this Agreement shall commence any action against the other party arising out of or in connection with this Agreement, or contesting the validity of this Agreement or any provision of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees and related costs, fees and expenses incurred by the prevailing party in connection with such action or proceeding.

Section 24. NOTICES.

All notices, demands and communications hereunder shall be personally served or given by certified or registered mail, and:

a) If intended for City shall be addressed to City at:

City of Englewood
Attention: Director of Parks and Recreation
1000 Englewood parkway
Englewood, Colorado 80110

with a copy to:

City of Englewood
Attention: City Attorney
1000 Englewood Parkway
Englewood, Colorado 80110

b) If intended for Trainer shall be addressed to Trainer at:

Broken T Partners LLC
Attention: Manager [Kevin Hollern]
2101 W. Oxford Avenue
Englewood, CO 80110

c) Any notice given by mail shall be deemed delivered when deposited in a United States general or branch post office, addressed as above, with postage prepaid, or when served personally at the applicable address.

Section 25. ENTIRE AGREEMENT.

This Lease, together with the Exhibit A attached hereto:

a) Contains the entire Lease between the parties; and

b) Shall be governed by the laws of the State of Colorado.

Section 26. SEVERABILITY.

If any clause of provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

Section 27. CAPTIONS.

The caption of each Section is added as a matter of convenience only and shall not be considered in the construction of any provision or provisions of this Lease.

Section 28. BINDING EFFECT.

All terms, conditions and covenants to be observed and performed by the parties hereto shall be applicable to and binding upon their respective heirs, administrators, executors, successors and assigns.

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

CITY OF ENGLEWOOD, COLORADO
"City"

By: _____
Jerrell Black, Director of Parks & Recreation

BROKEN T PARTNERS LLC
"Trainer"

By: _____
Manager

STATE OF Colorado)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 18 day of February 2010, by Stephen W. Buretz as Manager of Broken T Partners LLC.

Deborah A Rivera
Notary Public

My Commission expires: 12/17/2012

City Of Englewood

GOLF COURSE

Exhibit A

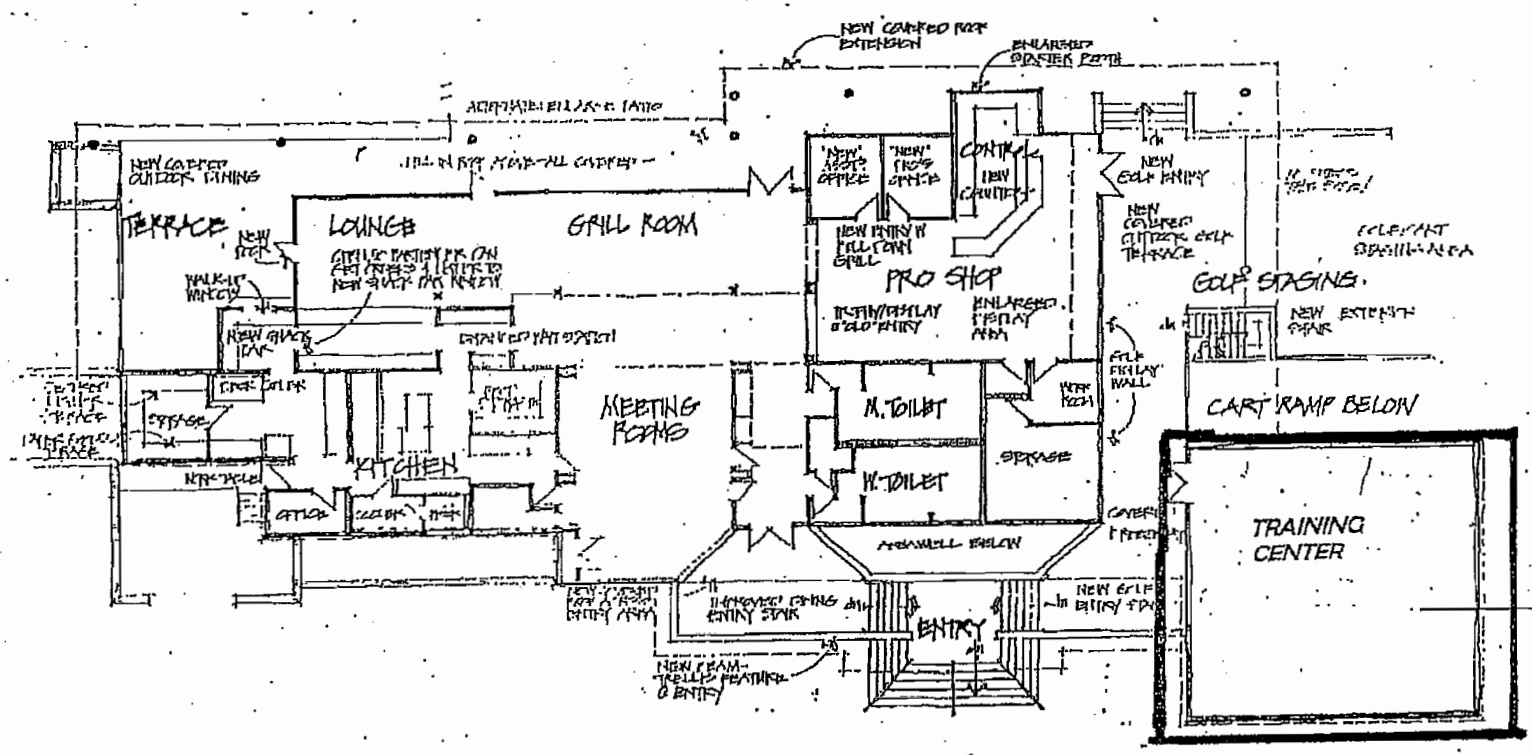

Exhibit A

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
March 22, 2010	11 a i	A Bill for an Emergency Ordinance amending Ordinance 20, Series of 2009 regarding the Lease-Purchase of Equipment for City Departments

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

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

City Council previously discussed leasing self contained breathing apparatus (SCBA) equipment, police tactical vests, and a voice over internet protocol (VOIP), telephone system at the 2009 Budget Retreat.

On May 8, 2009, City Council passed on final reading Ordinance 20, Series of 2009 which approved the lease-purchase of equipment for various City of Englewood departments.

On March 1, 2010, City Council approved Council Bill Number 4, amending Ordinance 20, Series of 2009.

RECOMMENDED ACTION

Staff recommends that City Council approve the attached bill for an emergency ordinance amending Ordinance 20, Series of 2009.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The original bill for an ordinance included equipment for lease-purchase that was subsequently funded by other sources or the projects were abandoned leaving only information technology-related equipment subject to lease-purchase.

This bill for an emergency ordinance amends the Ordinance 20, Series of 2009 but still allows the City to lease-purchase needed information technology equipment and conserves its capital and takes advantage of low interest rates.

This bill is presented to City Council as an emergency to protect the City against expected interest rate changes. The City expects to close on this lease at the end of March. Moving the closing up will insure estimated interest rates are preserved at their relatively low level.

FINANCIAL IMPACT

This action preserves a low interest rate not to exceed 4.75 percent. The annual principal and interest payments over the term of the lease will not exceed $128,000. The total principal paid will not exceed $350,000 and will not extend beyond calendar year 2013.

LIST OF ATTACHMENTS

Proposed Bill for an Emergency Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 4
INTRODUCED BY COUNCIL
MEMBER GILLIT

A BILL FOR

AN EMERGENCY ORDINANCE OF THE CITY OF ENGLEWOOD WHICH AMENDS ORDINANCE NO. 20, SERIES OF 2009 REGARDING THE LEASE-PURCHASE OF CERTAIN EQUIPMENT FOR CITY DEPARTMENTS.

WHEREAS, the City of Englewood, Colorado (the "City"), is a home rule municipality of the State of Colorado (the "State") duly organized and operating under the Home Rule Charter of the City and the Constitution and laws of the State; and

WHEREAS, pursuant to Ordinance No. 20, Series of 2009 which passed on final reading on May 8, 2009 ("Ordinance No. 20"), the City Council of the City (the "City Council") approved the lease-purchase of certain "Fire Department Equipment" for an amount not to exceed $330,000 and the "Information Technology and Police Department Equipment" for an amount not to exceed $625,000, as more specifically provided in Ordinance No. 20 (capitalized terms used in this Ordinance but not otherwise defined or redefined herein shall have the meanings set forth in Ordinance No. 20); and

WHEREAS, since the adoption of Ordinance No. 20, a significant portion of the Equipment has been acquired through non-lease funding sources and the initial lease-purchase proposal to be funded pursuant to Ordinance No. 20 has expired; and

WHEREAS, certain of the Information Technology and Police Department Equipment in an amount not greater than $350,000 remains to be financed and an alternate lease-purchase proposal has been received by the City; and

WHEREAS, pursuant to an alternate Lease/Purchase Agreement and related documents recently presented to the City (collectively, the "Lease Agreements"), CAFCO Leasing LLC, a Colorado limited liability company, as lessor, is to lease the Information Technology and Police Department Equipment specifically identified in the Lease Agreements for "Lease Payments" (set forth in an exhibit to Lease Agreements and defined in Ordinance No. 20 as Rental Payments) which are subject to annual appropriation by the City Council; and

WHEREAS, the City Council is desirous of reauthorizing and directing the transaction described above;

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

Section 1. Amendment of Section 1 of Ordinance No. 20. Section 1 of Ordinance No. 20 is hereby amended to read as follows:

The City Council hereby approves the lease-purchase of the Information Technology and Police Department Equipment identified in the Lease Agreements for an aggregate amount not to exceed $350,000, with annual aggregate payments not to exceed $128,000 and lease terms which shall

not extend beyond calendar year 2013. The City Council hereby reaffirms its delegation to the Mayor, or in the absence thereof, the Mayor Pro Tem, of authority to determine the net effective rate for the lease-purchase financing, which rate shall not be in excess of 4.75% per annum, and the final amounts of the Lease Agreements.

Section 2. Reaffirmation of Ordinance No. 20. The City Council hereby reaffirms the authorization, declarations, findings and determinations set forth in Ordinance No. 20, except as amended pursuant to Section 1 of this Ordinance.

Section 3. Emergency declaration and Effective Date. It is necessary to amend Ordinance No. 20, which was adopted with a 30-day effective date in 2009, to provide for alternate Lease Agreements as set forth in this Ordinance. In order to enable the purchase of the Information Technology and Police Department Equipment to proceed pursuant to the current proposal which expires April 8, 2010. The City Council hereby finds and determines that this Ordinance is necessary for the immediate preservation of public property, health, peace and safety. This Ordinance shall be effective immediately upon final passage and be published within seven days after final passage.

Introduced, read in full, and passed on first reading on the 1st day of March, 2010.

Published as a Bill for an Ordinance on the 5th day of March, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 3rd day of March, 2010 for thirty (30) days.

Amended, reintroduced as amended, read in full, and passed as amended on first reading on the 22nd day of March, 2010.

Published as an amended Bill for an Ordinance on the 26th day of March, 2010.

Published as an amended Bill for an Ordinance on the City's official website beginning on the 24th day of March, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the amended Bill for an Ordinance, amended, reintroduced, read in full and passes as amended on first reading on the 22nd day of March, 2010.

_____
Loucrishia A. Ellis

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
March 22, 2010	11 a ii	City of Sheridan Fleet Maintenance Agreement

Initiated By:	Staff Source:
Public Works Department	Pat White, Fleet Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Striving to promote regional cooperation, City Council has approved fleet maintenance agreements with the City of Sheridan since 1993.

RECOMMENDED ACTION

Staff recommends Council approve a bill for an ordinance authorizing the Mayor to sign a four-year Intergovernmental Agreement (IGA) with the City of Sheridan for the provision of vehicle maintenance services.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood has been servicing the City of Sheridan's vehicles since 1993. Sheridan has been satisfied with the services provided by the City and is interested in continuing our working relationship at the hourly rate of $68, which is the same rate charged to the City of Cherry Hills Village. The IGA allows for adjusting the hourly rate each year.

FINANCIAL IMPACT

From 1993 through 2009, the Servicenter Garage has taken on the additional workload of servicing Sheridan's fleet vehicles. This has been accomplished without adding additional staff. The hourly rate of $68, plus a 30% mark up on parts, will cover the City's expenses for services performed. It is estimated that, in 2010, the City of Englewood will realize revenue in the amount of $80,000.

LIST OF ATTACHMENTS

Bill for an Ordinance

BY AUTHORITY

ORDINANCE NO. ____
SERIES OF 2010

COUNCIL BILL NO. 6
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ENGLEWOOD, COLORADO, AND THE CITY OF SHERIDAN, COLORADO, WHEREBY THE CITY OF ENGLEWOOD WILL PROVIDE THE CITY OF SHERIDAN WITH VEHICLE MAINTENANCE.

WHEREAS, the City of Englewood had agreements with other governmental entities for the servicing of the vehicles of those entities since 1992; and

WHEREAS, the City of Englewood and the City of Sheridan entered into an intergovernmental agreement whereby Englewood provided Sheridan with vehicle maintenance by the passage of Ordinance No. 3, Series of 2004/2005; and

WHEREAS, the Contract authorized the extension of the services for three additional one year periods to be negotiated by the City Manager or his designee and extensions to the Contract were completed for the years 2006, 2007 and 2008; and

WHEREAS, the City of Englewood and the City of Sheridan desire to continue such agreement whereby Englewood shall provide the City of Sheridan with maintenance of their vehicles; and

WHEREAS, the passage of this proposed Ordinance authorizes an Intergovernmental Agreement between Englewood and the City of Sheridan for maintenance of their vehicles for a one year period and includes a provision for an extension of services for three additional one year periods;

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 Sheridan, Colorado, and the City of Englewood, Colorado, for vehicle maintenance, attached as "Exhibit A", is hereby accepted and approved by the Englewood City Council.

Section 2. The Mayor is authorized to execute and the City Clerk to attest and seal the intergovernmental Agreement for and on behalf of the City of Englewood, Colorado.

Section 3. The City Manager is authorized to negotiate and sign and the City Clerk to attest and seal any extensions of this Contract for three additional one year periods for and on behalf of the City of Englewood, Colorado;

Introduced, read in full, and passed on first reading on the 22nd day of March, 2010.

Published as a Bill for an Ordinance in the City's official newspaper on the 26th day of March, 2010.

Published as a Bill for an Ordinance on the City's official website beginning on the 24th day of March, 2010 for thirty (30) days.

_____
James K. Woodward, Mayor

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance, introduced, read in full, and passed on first reading on the 22nd day of March, 2010.

_____
Loucrishia A. Ellis

EXHIBIT A

CONTRACT

THIS AGREEMENT, entered into this 24th day of February, 2010 by and between the City of Englewood, whose address is 1000 Englewood Parkway, Englewood, Colorado 80110 and the City of Sheridan, whose address is 4101 South Federal Boulevard, Englewood, Colorado 80110.

TERMS OF CONTRACT

NOW THEREFORE, IT IS AGREED by and between the City of Englewood and the City of the City of Sheridan that:

1. The City of Englewood, Colorado shall perform the following services:

   The City of Englewood shall perform all necessary repairs and maintenance on the vehicles owned by the City of the City of Sheridan to the satisfaction of the City of Sheridan, and the City of the City of Sheridan shall pay to the City of Englewood for such services the sum of sixty-eight dollars ($68.00) per hour, in addition to the cost to the City of Englewood of any parts or outside vendor charges plus thirty percent (30%) handling fee.

2. The City of Englewood will proceed with the performance of the services called for in Paragraph No. 1 on January 1, 2010 and the Contract shall terminate on December 31, 2010. Three additional one (1) year periods may be negotiated by the City Manager or his designee.

3. Some maintenance of the City of the City of Sheridan's vehicles shall be performed by the City of Englewood according to a schedule to be made by the City of The City of Sheridan and approved by the City of Englewood as part of this agreement, and shall include work requested by the City of Sheridan or work identified by Englewood during inspection of the vehicle.

4. The City of Englewood shall repair any vehicles of the City of The City of Sheridan delivered to the City of Englewood for that purpose in a good, workmanlike manner.

5. The City of Englewood and the City of the City of Sheridan agree not to: refuse to hire, discharge, promote, demote or discriminate in any matter of compensation; performance, services or otherwise, against any person otherwise qualified solely because of race, creed, sex, color, national origin or ancestry.

6. This Contract may not be modified, amended or otherwise altered unless mutually agreed upon in writing by the parties.

7. The City of Englewood by and through its employees and agents shall be considered for all purposes of the Contract, to be independent contractors and not employees of the City of The City of Sheridan.

8. The City of Sheridan by and through its employees and agents shall be considered for all purposes of the Contract, to be independent contractors and not employees of the City of Englewood.

9. The City of Englewood shall not assign or transfer its interest in the Contract without the written consent of the City of Sheridan. Any unauthorized assignment or transfer shall render the Contract null, void and of no effect as to the City of Sheridan.

10. Neither party shall not assign or transfer its interest in the Contract without the written consent of the other party. Any unauthorized assignment or transfer shall render the Contract null, void and of no effect.

11. The City of Englewood shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of the repairs under the Contract. The City of Englewood shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services related to the Contract.

12. Either party of the Contract may terminate the Contract by giving to the other party 30 days notice in writing with or without good cause shown. Upon delivery of such notice by the City of Sheridan to the City of Englewood and upon expiration of the 30 day period, the City of Englewood shall discontinue all services in connection with the performance of the Contract. As soon as practicable after receipt of notice of termination, the City of Englewood shall submit a statement, showing in detail the services performed under the Contract to the date of termination. The City of Sheridan shall then pay the City of Englewood promptly that proportion of the prescribed charges which the services actually performed under the Contract bear to the total services called for under the Contract, less such payments on account of the charges as have been previously made.

13. All notices and communications under the Contract to be mailed or delivered to the City of Englewood shall be to the following address:

    Director of Public Works
    City of Englewood
    1000 Englewood Parkway
    Englewood, Colorado 80110

    All notices and communications pertaining to the Contract shall be mailed or delivered to the City of Sheridan at the following address:

    _____
    City of Sheridan
    4101 South Federal Boulevard
    The City of Sheridan, Colorado 80110

14. The terms and conditions of the Contract shall be binding upon each City, its successors and assigns.

15. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City of Sheridan and the City of Englewood.

16. This Contract is to be governed by the laws of the State of Colorado. Venue for any proceeding brought in connection with this Contract shall be in Arapahoe County.

17. This Contract may be executed in counterparts, using manual, electronic or facsimile signature, each of which shall be deemed an original and all of which together shall constitute one and the same document.

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

ATTEST:

Loucrishia A. Ellis, City Clerk

CITY OF ENGLEWOOD

James K. Woodward, Mayor

ATTEST:

Arlene Sague
, City Clerk

CITY OF SHERIDAN

Dallas Hall
, Mayor

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
March 22, 2010	11 c i	City of Cherry Hills Village Fleet Maintenance Agreement

Initiated By:	Staff Source:
Public Works Department	Pat White, Fleet Manager

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Striving to promote a cooperative environment with intergovernmental agencies, City Council has approved fleet maintenance agreements with the City of Cherry Hills Village since 2003.

RECOMMENDED ACTION

Staff seeks Council approval, by motion, authorizing the City Manager to sign an extension to the agreement with the City of Cherry Hills Village for the provision of vehicle maintenance services in 2010.

BACKGROUND, ANALYSIS, AND ALTERNATIVES IDENTIFIED

The City of Englewood has provided fleet maintenance services for Cherry Hills Village since 2003. For 2010, the City will perform fleet maintenance at a rate of $68 per hour, which is the same rate we charge the City of Sheridan.

FINANCIAL IMPACT

The hourly rate of $68 per hour, plus a 30% mark up on parts, will cover all expenses incurred by the City of Englewood. It is estimated that, in 2010, the City of Englewood will realize revenue in the amount of $70,000.

LIST OF ATTACHMENTS

Extension of Agreement

EXTENSION OF AGREEMENT

WHEREAS, the City of Englewood and the City of Cherry Hills Village entered into an agreement for vehicle maintenance service for 2008, dated May 5, 2008; and

WHEREAS, the agreement provides for three additional one-year periods, which may be negotiated by the City Manager or his designee.

NOW, THEREFORE, the parties agree to extend the contract from January 1, 2010 through December 31, 2010 with the following price for services:

> The City of Englewood shall perform all necessary repairs and maintenance on the vehicles owned by the City of Cherry Hills Village to Cherry Hills Village satisfaction, and the City of Cherry Hills Village sixty-eight dollars ($68.00) per hour, in addition to the cost to the City of Englewood of any parts or outside vendor charges plus a thirty percent (30%) handling fee.

DATED: 3/1/10

CITY OF CHERRY HILLS VILLAGE

Michael J. Wozniak, Mayor

ATTEST:

Laura Smith, City Clerk

DATED: _____

CITY OF ENGLEWOOD

_____
Gary Sears, City Manager

ATTEST:

_____
Loucrishia A. Ellis, City Clerk

COUNCIL COMMUNICATION

Date:	Agenda Item:	Subject:
March 22, 2010	11 c ii	Award of a Construction Contract for Concrete Utility Program 2010

Initiated By:	Staff Source:
Public Works Department	David Henderson, Engineering/Capital Projects Administrator

COUNCIL GOAL AND PREVIOUS COUNCIL ACTION

Council approved Ordinance No. 36, Series 1997 creating a Concrete Utility and Concrete Utility Enterprise Fund (EMC Chapter 8, Title 12) on May 5, 1997.

On June 4, 2007, Council approved a motion awarding the "Concrete Utility 2007" contract to Thoutt Brothers Concrete Contractors, Inc. The 2007 contract contained a provision to extend the contract for up to three additional years.

On March 17, 2008, Council approved a motion extending Thoutt Brothers contract for the 2008 Concrete Utility.

On March 2, 2009, Council approved a motion extending the Thoutt Brothers contract for the 2009 Concrete Utility.

RECOMMENDED ACTION

Staff recommends that City Council approve, by motion, an extension of the 2007 construction contract for Concrete Utility 2010 in the amount of $279,830 to Thoutt Brothers Concrete Contractors, Inc., and authorizing the Director of Public Works to execute the contract. This award will be the third year of that extension.

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 ($7.96 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.

Thoutt Brothers Concrete Contractors, Inc. has submitted unit prices for 2010 that are identical to the 2009 prices (0% increase). Staff has researched concrete prices in the Denver Metro area and finds the proposed 0% increase favorable to the City. Thoutt Brothers was low bidder for similar 2010 concrete removal and replacement projects with the City of Arvada and Douglas County. Nationally, cement

prices are up 0.2% and construction labor costs up 2.9% (statistics per March, 2010 Engineering News Record). With Council approval, the City will be able to take advantage of quality work and favorable prices.

Concrete Utility 2010 is scheduled for construction during the spring and summer of 2010.

FINANCIAL IMPACT

Estimated Construction costs for the 2010 project are as follows:

Construction contract	$279,830
Contingency for unidentified work	45,170
Total Estimated 2010 Construction Cost	$325,000

$325,000 is budgeted for construction in the 2010 Concrete Utility.

LIST OF ATTACHMENTS

Contract
Thoutt Bros. letter regarding 2010 pricing

CONTRACT

CITY OF ENGLEWOOD, COLORADO

THIS CONTRACT and agreement, made and entered into this **22nd day of March, 2010,** by and between the City of Englewood, a municipal corporation of the State of Colorado hereinafter referred to as the "City", and **Thoutt Brothers Concrete Contractors, Inc.,** whose address is 5460 Tennyson St., Denver, 80212 Colorado, ("Contractor"). Commencing on the 17th day of December, 2007 the City exercised its option to extend the original contract dated June 4th, 2007 pursuant to Special Condition 2.32 for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the following:

PROJECT: **2010 CONCRETE UTILITY**

WHEREAS, the letter of extension of the 2007 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 name 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 the Contract, the mutual agreements hereinafter contained:

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:

   2010 Unit Prices
   Proposal
   Contract (this instrument)
   Performance Payment Maintenance Bond
   Receipt, Release, Waiver of Claims
   Special Provisions

General Conditions
Detailed Specifications
Plans and Drawings

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

C. Terms of Performance: The Contractor agrees to undertake the performance of the work under this Contract within **ten (10) days** from being notified to commence work by the Director of Public Works and agrees to fully complete said work within **one hundred (100) working days**, 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 Contractor covered by the award, less payments of compensation previously made. If the award is terminated due to the fault of the Contractor, the clause relating to termination of the award for cause shall apply.

F. Termination of Award for Cause: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations or if the Contractor shall violate any of the covenants, agreements or stipulations of the award, the City shall have the right to terminate the award by giving written notice to the Contractor of such termination and specifying the effective date of termination. In that event, all furnished or unfinished services, at the option of the City, become its property, and the Contractor shall be entitled to receive just, equitable compensation for any satisfactory work documents, prepared completed or materials as furnished.

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

G. Terms of Payment: The City agrees to pay the Contractor for the performance of all the work required under this contract, and the Contractor agrees to accept as his full and only compensation therefore, such sum or sums of money as may be proper in accordance with the price or prices set forth in the Contractor's proposal attached and made a part hereof, the total estimated cost thereof being **Two Hundred Seventy Nine Thousand Eight Hundred Thirty dollars and no/00 ($279,830.00).**

H. Appropriation of Funds: At present, **$279,830.00** has been appropriated for the project. Notwithstanding anything contained in this Agreement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted by the governing body or are otherwise unavailable in any following fiscal period for which appropriations were received without penalty or expense except as to those portions of the Agreement or other amounts for which funds have already been appropriated or are otherwise available. The City shall immediately notify the contractor or its assignee of such occurrence in the event of such termination.

I. 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.

J. Verification of Compliance with C.R.S. 8-17.5-101 ET.SEQ. Regarding Hiring of Illegal Aliens:

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

(b) Verification: Contractor will participate in either the E-Verify program or the Department program, ad 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 for services. 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 subcontract 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 an 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 CRS §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 34.

IN WITNESS WHEREOF, the parties have caused these presents to be signed personally or by their duly authorized officers or agents and their seals affixed and duly attested the day and year first above written.

This Contract is executed in **4** counterparts.

THOUTT BROS.
CONCRETE CONTRACTORS INC.

Contractor

by _____
Party of the Second Part

ATTEST:

_____
Secretary

CITY OF ENGLEWOOD

by _____
Director of Public Works
Party of the First Part

ATTEST:

_____
City Clerk

THOUTT BROS. CONCRETE CONTRACTORS INC.

HONESTY

BUILD
WITH CONCRETE FOR
A BETTER TOMORROW

EFFICIENCY

BUILD
THE FUTURE OF
TOMORROW NOW!

SINCERITY

PH. 458-1298

5460 TENNYSON ST.
DENVER, COLORADO 80212

January 5, 2010

Mr. Larry G. Nimmo
City of Englewood, CO
1000 Englewood Pkwy.
Englewood, CO 80110

RE: Extension of Concrete Utility Contract

Dear Mr. Nimmo:

After reviewing our contract, I am pleased to inform you that we can offer the City of Englewood the same pricing for 2010 as 2009. Should you have any questions or concerns regarding this matter, please feel free to contact me at (303) 458-1298. Thank you.

Sincerely,

Donald E. Thoutt
Secretary
Thoutt Bros. Concrete Contractors, Inc.