

**CITY OF CENTRAL, COLORADO**  
NOTICE OF A REGULAR MEETING of the CITY COUNCIL to be held on  
**Tuesday, December 4, 2012 @ 7:00 p.m.**  
141 Nevada Street, Central City, Colorado  
**AGENDA**

The City Council meeting packets are prepared several days prior to the meetings and available for public inspection at City Hall during normal business hours the Monday prior to the meeting. This information is reviewed and studied by the City Council members, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. Agendas are posted on the City's access channel, on the City Hall bulletin board, at the Post Office and at Washington Hall the Friday prior to the Council meeting.

**7:00pm Council Meeting**

1. Call to Order.
2. Roll Call.

Mayor	Ron Engels
Mayor Pro-Tem	Bob Spain
Council members	Bob Giancola
	Shirley Voorhies
	Rita Lee
3. Pledge of Allegiance
4. Additions and/or Amendments to the Agenda.
5. Conflict of Interest.
6. Consent Agenda: The Consent Agenda contains items that can be decided without discussion. Any Council member may request removal of any item they do not want to consider without discussion or wish to vote no on, without jeopardizing the approval of other items on the consent agenda. Items removed will be placed under Action items in the order they appear on the agenda (this should be done prior to the motion to approve the consent agenda).

Regular Bill lists of November 29; and  
City Council minutes: November 20, 2012.

**PUBLIC FORUM/AUDIENCE PARTICIPATION** – (public comment on items on the agenda not including Public Hearing items): the City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address the City Council. Your comments should be limited to **three (3) minutes per speaker**. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the City Manager for follow-up. Thank you.

**SECOND READING AND PUBLIC HEARING –**

7. Ordinance No. 12-16: An ordinance amending Article VIII of Chapter 6 and Chapter 16 of the Municipal Code regarding Medical Marijuana Business Licensing and Zoning. (Michow)
8. Ordinance No. 12-17: An ordinance of the City Council of the City of Central amending certain provisions of Article III of Chapter 7 of the Central City Municipal Code regarding garbage and refuse; and adopting time when residential trash cans can be outside. (Thompson)

**ACTION ITEMS: NEW BUSINESS –**

9. Resolution No. 12-15: A resolution of the City Council of the City of Central, Colorado approving the Assignment of Agreement for the operation of a Transportation Shuttle Service. (Michow)
10. Resolution No. 12-16: A resolution of the City Council of the City of Central, Colorado approving the First Amendment to Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District. (Michow)

11. Ordinance No. 12-18: An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Chapter 4 of the Municipal Code concerning revenue and finance. (Flowers)
12. Ordinance No. 12-19: An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Article II of Chapter 6 of the Central City Municipal Code; specifically fees and charges related to avoidable or false alarms. (Flowers)
13. Ordinance No. 12-20: An ordinance of the City Council of the City of Central amending certain provisions of Article VI of Chapter 2 of the Central City Municipal Code regarding Historic Preservation Commission membership. (Thompson)
14. Request for \$51,500 for Hillside Garage Geotech Survey work (Lanning)
15. Discuss/Approve Year-end Bonus for Staff (Engels)
16. Resolution No. 12-18: A resolution appropriating additional sums of money to defray expenses in excess of amounts originally appropriated in the 2012 Budget for the City of Central. (Flowers)
17. Resolution No. 12-19: A resolution of the City Council of the City of Central, Colorado approving a Professional Services Agreement with JVA, Inc. for Engineering Services. (Kisselman)
18. Resolution No. 12-20: A resolution of the City Council of the City of Central, Colorado adopting a new Employee Handbook. (Michow)

**REPORTS –**

19. Staff updates –

**COUNCIL COMMENTS** - limited to 5 minutes each member.

**PUBLIC FORUM/AUDIENCE PARTICIPATION** – for non-action items not Action or Public Hearing items on this agenda (same rules apply as outlined in the earlier Public Forum section).

**EXECUTIVE SESSION** – Pursuant to C.R.S. Section 24-6-402(4)(b) for purposes of receiving legal advice concerning the Ballowe litigation.

**ADJOURN.** Next Council meeting December 18, 2012.

Posted 11/30/12

Please call Reba Bechtel, City Clerk at 303-582-5251 at least 48 hours prior to the Council meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting.

**CITY OF CENTRAL  
CASH ON HAND  
11/29/2012**

<b>Total Beginning ENB Cash on Hand 11/14/2012</b>	<b>8,356.59</b>
Deposits to ENB	33,100.61
Wires Out ENB	(26,006.61)
Cleared Checks	-
<hr/>	
11/28/2012	15,450.59
<less previously approved & outstanding>	(3,570.70)
<b>Total ENB Cash on Hand 11/28/2012</b>	<b>11,879.89</b>

<b>Total Beginning CO Biz Cash on Hand 11/15/2012</b>	<b>1,273,116.85</b>
Deposits to COB	307,452.71
Wires Out COB	(70,263.64)
Cleared Checks	(152,162.21)
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11/28/2012	1,358,143.71
<i>Debt Service Payments to come out on 11/29</i>	<b>(660,762.50)</b>
<less previously approved & outstanding>	<b>(71,930.69)</b>
<b>Total COB Cash on Hand 11/28/12</b>	<b>625,450.52</b>

<b>Total Beginning Colotrust Cash on Hand 11/15/12</b>	<b>769,329.24</b>
Wires into Account	4,125.41
Wires out of Account-Into Evengreen National	
<b>Total Colotrust Cash on Hand 11/28/2012</b>	<b>773,454.65</b>

\*\*\*The City is currently in the process of switching the operating account from Evergreen National Bank to Colorado Business Bank. As such, you will see less and less activity out of Evergreen National and on the next cash flow report both of the operating accounts will be reflected. Once all transactions have cleared Evergreen National Bank, it will be removed from this sheet.

<b>TOTAL CASH ON HAND 11/28/10</b>	<b>1,410,785.06</b>
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**CITY OF CENTRAL  
DEBIT CARD PURCHASES  
11/2/12 thru 11/15/12**

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Amount</u>
11/16/2012	FedEx-Kinkos	Budget Binding	276.58
11/19/2012	Onlinestores.com	PW Supplies	74.94
11/19/2012	Loaf & Jug		10.00
11/20/2012	Affordable Quality		668.33
11/21/2012	Bauer Manufacturing	PD Uniform Shirts	163.11
11/21/2012	Micro Electron		1,429.95
11/21/2012	American Waterworks	Water Dept Manuals	262.96
11/21/2012	Walmart	Christmas Decorations	384.28
11/21/2012	Walmart	PW Supplies	246.76
11/26/2012	Walmart	PW Supplies	85.96
11/26/2012	Walmart		12.54
11/28/2012	American Waterworks	Water Dept Supplies	46.30
11/28/2012	Bronners	Christmas Decorations	2,425.00
11/28/2012	Harbor Freight	PW Tools	249.52
11/28/2012	Overstock.com	PW Camera	269.74
11/28/2012	Engineers Supply	Engineer Certification Manual	447.98
11/28/2012	Microcenter	Water Plant Computer Replacement	970.82
<b>TOTAL</b>			<b>8,024.77</b>

CASH FLOW  
CHECK LISTING

11/29/2012

Inv Date	Inv #	Ck. Date	CK#	Vendor	Description	Amount	Mail Date
		11/23/12	125666	ICMA-401	Retirement Contributions	2,363.72	clrd
		11/23/12	125667	ICMA-457	Retirement Contributions	1,235.24	clrd
		11/23/12	125668	ICMA-IRA	Retirement Contributions	281.00	clrd
		11/23/12	125669	Grossman & Grossman	Employee Garnishment	470.09	Sent
10/9/12	100912CR	11/29/12	125670	DPC Industries	Chlorine for Water Plant	12.00	
10/31/12	172949	11/29/12	125671	Albert Frei and Sons	Roadbase	84.65	
11/8/12	12770	11/29/12	125672	Blackwell Oil	Fuel	2,667.57	
11/5/12	11139187	11/29/12	125673	Bobcat of the Rockies	Bobcat parts and supplies	153.81	
11/15/12	W12362	11/29/12	125674	CIRSA	WC Claim	78.23	
11/17/12	5751132745	11/29/12	125675	Clear Creek Supply	PW Supplies	23.71	
11/7/12	T20264	11/29/12	125676	CO Div. of Fire Safety	Hazmat Tests for Firefighters	90.00	
11/17/12	8023744628	11/29/12	125677	Staples	Copy Paper	468.26	
11/28/12	112812	11/29/12	125678	Dostal Alley	Election Judges Lunch	100.00	
11/14/12	111412	11/29/12	125679	Lew Cady	Historic Preservation Commission	50.00	
11/8/12	2219456	11/29/12	125680	Idaho Springs Lumber	PW Supplies	51.99	
11/16/12	111612	11/29/12	125681	MCI	Toll Free Telephone Service	28.90	
11/13/12	270284	11/29/12	125682	Neve's Uniforms	PD Uniforms	230.84	
10/31/12	9456	11/29/12	125683	OJ Watson	Plow	2,934.11	
11/15/12	913831	11/29/12	125684	Office Stuff	Court Table, Space Heater	167.78	
11/13/12	111312	11/29/12	125685	Xcel Energy	Electricity	2,891.00	
11/13/12	130301	11/29/12	125686	Schwaab Inc	Notary Stamps for Krelle	69.20	
11/12/12	215883232	11/29/12	125687	US Bank	Photocopier Lease	377.02	
11/5/12	5723985	11/29/12	125688	HD Supply	Water Plant Parts and Supplies	216.83	
11/26/12	702396589	11/29/12	125689	USPS	Bus Shelter Lease	133.33	
11/16/12	111612	11/29/12	125690	Century Link	Telephone and Fax Lines	663.76	
10/31/12	21210202	11/29/12	125691	Utility Notification Center	Line Locates	17.71	
11/13/12	9976097825	11/29/12	125692	Grainger	PW Parts and Supplies	108.54	
11/15/12	111512	11/29/12	125693	Stephen Williamson	Water Legal Counsel	5,681.85	
11/7/12	424982	11/29/12	125694	Honnen Equipment	PW Auto Parts and Supplies	236.91	
11/1/12	148678	11/29/12	125695	Galls Inc.	Fire Dept Supplies	175.00	
11/27/12	112712	11/29/12	125696	Shannon Flowers	Reimbursed for Christmas Bulbs for tree	99.22	Sent
11/20/12	Dec-12	11/29/12	125697	Vision Service Plan	Vision Insurance Premiums	332.05	
10/31/12	22973	11/29/12	125698	Co Dept of Public Health	Toxicology for October	60.00	
11/14/12	AI46197	11/29/12	125699	McCandless International	PW Truck Repairs	428.26	
10/31/12	21314	11/29/12	125700	Widner Michow	General Legal Counsel and Litigation	12,560.67	
11/14/12	111412	11/29/12	125701	Gilpin County Historical Society	Historic Preservation Commission	50.00	
2/20/12	6877	11/29/12	125702	Deere & Ault	Water Accounting and Engineering	2,992.50	
11/22/12	230855	11/29/12	125703	Aflac	Supplemental Insurance	489.62	
11/12/12	D707991212	11/29/12	125704	YESCO	Sign Maintenance	80.00	
11/14/12	111412	11/29/12	125705	Gloria Gaines	Historic Preservation Commission	50.00	
11/6/12	910058675	11/29/12	125706	Airgas Intermountain	Oxygen and Nitrogen	112.35	
11/19/12	1178	11/29/12	125707	Peak Motor Coach	PD Vehicle Equipment	11,233.31	

CASH FLOW  
CHECK LISTING

11/29/2012

10/10/12	DX30856	11/29/12	125708	Accutest Mountain States	Water Testing	280.00
11/30/12	113012	11/29/12	125709	Alan Lanning	Mileage Reimbursement for Dec and Nov Addl	215.01
11/14/12	111412	11/29/12	125710	Alexander Thome	Historic Preservation Commission	50.00
11/14/12	38493	11/29/12	125711	Peak Performance Imaging	Metered Photocopies	392.64
11/14/12	111412	11/29/12	125712	Deborah Wray	Historic Preservation Commission	50.00
11/7/12	2033	11/29/12	125713	Finish Line Systems	Residential Water Meters	318.94
10/31/12	30544	11/29/12	125714	Pro Com	PW Employee Testing	37.00
10/23/12	95331	11/29/12	125715	Kois Brothers	PW Truck Equipment/Parts	167.00
11/20/12	11140	11/29/12	125716	ROI Fire and Ballistics	Fire Dept Boots	230.00
10/22/12	43905	11/29/12	125717	JVA Inc.	Standards, Spring St, Nevada St, Johnson Res	10,131.12
10/29/12	11088106	11/29/12	125718	Martin Marietta Materials	Paving Supplies	113.78
11/7/12	121110	11/29/12	125719	Tactron	Fire Dept Control Board	270.37
11/8/12	110812	11/29/12	125720	Bud Allen Inc.	161 Lawrence Brick Repairs	300.00
11/30/12	113012	11/29/12	125721	S1 IT Solutions	Refund Sales Tax	271.00
11/27/12	112712	11/29/12	125722	Russ Thomas	Christmas Tree	200.00
10/22/12	175600	11/29/12	125723	Everist Materials	Road Base and Sand	2,412.00
11/28/12	2143	11/29/12	125724	Colorado Coach Transportation	Shuttle Service for December	25,579.83
11/15/12	Dec-12	11/29/12	125725	Assurant Employee Benefits	Dental Insurance Premiums	1,827.96
<b>Total Issued:</b>						<b>168,899.07</b>
Approved & Sent Checks:						75,501.39
Clrd & Pending Approval						30,229.10
Voided Checks						-
<b>Total Pending Approval 12/4</b>						<b>93,397.68</b>

Outstanding through ENB 3,570.70  
Outstanding through COB 71,930.69

**CITY OF CENTRAL  
CITY COUNCIL MEETING  
November 20, 2012**

**CALL TO ORDER**

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 7:00 p.m., in City Hall on November 20, 2012.

**ROLL CALL**

Present: Mayor Engels  
Alderman Spain  
Alderman Giancola  
Alderman Voorhies  
Alderman Lee

Absent: None

Staff Present: Manager Lanning  
Attorney Michow  
City Clerk Bechtel  
Finance Director Flowers  
Operations Director Kisselman  
CDD/HPO Thompson  
Utilities Superintendent Griffith  
Police Chief Krelle  
Fire Chief Allen

The Pledge of Allegiance was recited by all present.

**ADDITIONS AND/OR AMENDMENTS TO THE AGENDA**

Mayor Engels amended the agenda to add 15(a). The approval of the Energy and Mineral Impact Grant application.

**CONFLICTS OF INTEREST**

No Council Member disclosed a conflict regarding any item on the agenda.

**CONSENT AGENDA**

Alderman Spain moved to approve the consent agenda containing the regular bill lists for November 8 and 15, 2012; the October Financial Report; and the City Council minutes of November 6, 2012. Alderman Voorhies seconded, and after a few questions to staff, the motion carried unanimously.

**PUBLIC FORUM/AUDIENCE PARTICIPATION**

No one requested time to address the Council.

## **SECOND READING AND PUBLIC HEARING**

Ordinance No. 12-12: *An ordinance of the City Council of the City of Central amending Article V of Chapter 6 of the Central City Municipal Code regarding Gaming Device Fees.*

Attorney Michow explained that the purpose of the Ordinance is to extend the marketing device fee (of \$5.00 per device per month) for calendar year 2013. The City Council approved the marketing device fee in December of 2011, pursuant to Ordinance 11-16. As set forth in Ordinance 11-16, the \$5.00 per month per gaming device is effective only until December 31, 2012, unless an extension is approved.

Ordinance 12-12 accomplishes the extension of the marketing device fee and will allow the City and the Central City Business Improvement District (the "CCBID") to continue to cooperate with respect to advertising and marketing activities. Ordinance 12-12 was approved on first reading on October 16, 2012.

In 2011, the City engaged in and completed a visioning process with the casino community and the CCBID. Through that process, the public and private stakeholders involved voiced a strong desire to provide additional marketing for the City at large. One of the results of that process was a recommendation to impose a separate \$5.00 per month per gaming device fee (the "Marketing Fee"), the revenues of which would be allocated specifically for advertising and marketing purposes. The Marketing Fee is separate from the transportation improvements device fee (currently set at \$22.08 per month per device).

The City and the CCBID desire to extend the Marketing Fee for calendar year 2013. Following first reading, counsel for the CCBID (Paul Cockrel and Kathryn Winn of Collins, Cockrel & Cole, P.C.) recommended some minor revisions to Ordinance 12-12. The City Attorney has reviewed the proposed changes and has concluded that all of the proposed revisions are non-substantive in nature and may be approved by City Council.

The City is authorized to enact Ordinance 12-12 pursuant to its home rule authority. As set forth in Ordinance 11-16, the revenues collected by the City from the Marketing Fee are remitted to the CCBID pursuant to the terms of an intergovernmental agreement between the City and the CCBID (the "IGA"). The main purpose of the IGA is to establish the terms and conditions under which the Marketing Fee are remitted to the CCBID (including CCBID's requirement to provide a report to the City regarding its use of the marketing device fee revenues), and to memorialize the joint marketing and advertising efforts of the City and CCBID.

As Ordinance 12-12 extends the Marketing Fee for calendar year 2013, the IGA will need to be amended. For that reason, a resolution approving the First Amendment to the IGA is also on the November 20, 2012 agenda for consideration by City Council.

Mayor Engels opened the public hearing at 7:08 p.m. and invited comment. Hearing none, he closed the public hearing at 7:09 p.m.

Alderman Giancola moved to adopt Ordinance No. 12-12: An ordinance of the City Council of the City of Central amending Article V of Chapter 6 of the Central City Municipal Code regarding Gaming Device Fees. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-13: *An ordinance of the City Council of the City of Central amending certain provisions of Article II of Chapter 13 of the Central City Municipal Code; specifically regulations pertaining to yard hydrants.*

Operations Director Kisselman reviewed the background as explained at 1<sup>st</sup> reading as follows: This ordinance intends to provide clear direction on yard hydrants and how they are metered and allowed as a use in the City. There are three things that have been clarified in the new Ordinance:

Each yard hydrant allowed pursuant to this Section 13-124 shall:

- a. have adequate backflow prevention, consisting of a screw-on vacuum breaker or other backflow preventer approved by the City; and
- b. be separately metered with a radio-read meter approved by the City; and
- c. meet the ASSE requirements specified in Subsection (b) of this Section, if an existing yard hydrant is replaced following the effective date of this Section.

Basically if you already have a meter pit you are in compliance. All yard hydrants must have backflow prevention which can be purchased for \$5. If you need a 2<sup>nd</sup> meter the City will pay half of the meter cost up to \$125 and if you choose not to get the second meter, there will be a \$75 fee from April to October. If your hydrant fails you will need to remove it or upgrade to AWA standards.

Mayor Engels opened the public hearing at 7:11 p.m. and invited comment. Hearing none, he closed the public hearing at 7:12 p.m.

Alderman Voorhies moved to adopt Ordinance No. 12-13: An ordinance of the City Council of the City of Central amending certain provisions of Article II of Chapter 13 of the Central City Municipal Code; specifically regulations pertaining to yard. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-14: *An ordinance of the City Council of the City of Central adopting and appropriating the 2013 Budget, adopting the 2013-2018 Pay Plan, adopting the Capital Improvement Plan, and setting a Property Tax Mill Levy.*

Finance Director Flowers explained that over the past few months City Council and staff have developed the attached 2013 Budget. As required by State law and City Charter, staff formally presented Council with the proposed budget at the October 2, 2012 meeting.

Ordinance 12-14 officially adopts the 2013 Budget and appropriates funding for the expenditures from the funds indicated. Ordinance 12-14 also adopts the 2013-2018 Pay Plan, the Capital Improvement Plan and sets the City's property tax mill levy at 9.631 mills (the same as last year).

Mayor Engels opened the public hearing at 7:14 p.m. and invited comment. Hearing none, he closed the public hearing at 7:14 p.m.

Alderman Voorhies moved to adopt Ordinance No. 12-14: An ordinance of the City Council of the City of Central adopting and appropriating the 2013 Budget, adopting the 2013-2018 Pay Plan, adopting the Capital Improvement Plan, and setting a Property Tax Mill Levy. Alderman Spain seconded, and after a brief discussion of IT costs, the motion carried unanimously.

Ordinance No.12-15: *An ordinance adopting water rates and fees for water services.*

Finance Director Flowers explained that in conjunction with the adoption of the 2013 Budget, the Water Rates as presented in the budget need to be adopted. With the completion of the residential meter installation project, the City will now be able to charge residents for water based off of actual

usage. During a number of budget work sessions, Staff and Council developed tiered rate structures for both residential and commercial users that will serve two purposes; make the Water Fund self sufficient and address the issue of equitability between what user groups are charged and how much water they use. Due to the metering and tiered structure, the base rate is a 10% increase rather than the expected 20%.

**Residential**

**Tier 1** Base Rate \$60 For up to 3,000 gallons used

**Tier 2** Base Rate \$60 + \$4.84 per thousand gallons used from 3,001 to 5,000

**Tier 3** Base Rate \$60 + \$5.81 per thousand gallons used from 5,001 to 7,000

**Tier 4** Base Rate \$60 + \$6.97 per thousand gallons used over 7,001

Residents who are aged sixty-five (65) or older and who resides in the water using unit will be eligible for the Senior Discount. The Senior Discount reduces the base rate charged to \$48 per month. The Senior Discount applies to the base rate only. Amounts for usage will be charged as shown above. Regardless of the amount of water used, the base rates of either \$60 or \$48 will be charged.

**Commercial**

**Tier 0** Base Rate of \$60 for those who use less than 10,000 gallons per month

**Tier 1** Base Rate of \$95 + \$7.26 per thousand gallons used from 10,001-15,000

**Tier 2** Base Rate of \$95 + \$10.89 per thousand gallons used from 15,001-20,000

**Tier 3** Base Rate of \$95 + \$13.61 per thousand gallons used from 20,001-30,000

**Tier 4** Base Rate of \$95 + \$14.97 per thousand gallons used from 30,001-50,000

**Tier 5** Base Rate of \$95 + \$16.47 per thousand gallons used over 50,000

**Out-of-City**

\$64 per thousand gallons-no change from current

As discussed in the Budget Message, the Water Fund's self-sufficiency and the aged infrastructure of the system itself have been made major priorities by City Council. In 2011, the City began the process of correcting these financial and infrastructure deficiencies in several different ways. The first of those was to accept and approve a Five (5) year financial plan that makes the Water Fund self-supporting by the end of the fifth year. As part of this plan, water rates needed to be increased in each of those five years. 2012 was the second year in this plan. In addition to increasing water rates to achieve a self-sufficient fund, Council also directed staff to institute the water meter program in which all commercial water meters were to be replaced and all residential units were to have a water meter installed. By installing meters on all residential units, the City will be able to institute a tiered rate billing structure that charges both businesses and residents for the water they actual use thereby creating equity in the system and proper revenue streams financially. All commercial meters within the City were replaced in 2011. At this time, nearly all residential meters have been installed and staff will have all of them completed by the close of 2012.

Mayor Engels opened the public hearing at 7:24 p.m. and invited comment. Hearing none, he closed the public hearing at 7:24 p.m.

Alderman Spain moved to adopt Ordinance No.12-15: An ordinance adopting water rates and fees for water services. Alderman Giancola seconded. In discussion, Alderman Lee stated that she hopes rates will continue to get more equitable between the commercial and residential users. Alderman Voorhies asked if we will always have a base rate. Finance Director Flowers explained that the base rate covers the cost of operations for the plant. Manager Lanning stated that we will not be looking to increase the base in the future since usage should cover any increased costs. Alderman Giancola questioned the Commercial Tier 0 at \$60 with up to 10,000 gallons. Finance Director Flowers explained that this is to keep it affordable to the very small businesses and was agreed by Council in the work session discussions. When Mayor Engels called the question, the motion carried unanimously.

## **NEW BUSINESS**

Resolution No. 12-15: *A resolution of the City Council of the City of Central, Colorado approving the Assignment of Agreement for the operation of a Transportation Shuttle Service.*

Attorney Michow explained that the BID has asked for a monthly compensation of \$1500 for administrative expenses and clarified that the shuttle contractor will have 2 buses that are ADA accessible.

Mayor Engels questioned the \$1500 monthly cost since we are already subsidizing this service from the general fund by 37%. Manager Lanning explained that we are trying to accomplish building a relationship with the BID which includes events and marketing. This is about building that partnership and we have budgeted very close if this cost is included depending on the cost to wrap a bus. By allowing this relatively small cost, it will encourage improved transportation through the BID and strengthen this partnership.

Alderman Voorhies moved to table Resolution No. 12-15: A resolution of the City Council of the City of Central, Colorado approving the Assignment of Agreement for the operation of a Transportation Shuttle Service pending further information on how the \$1500 will be spent. Alderman Giancola seconded, and without discussion, the motion carried 4 votes to 1 with Alderman Spain voting no.

Resolution No. 12-16: *A resolution of the City Council of the City of Central, Colorado approving the First Amendment to Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District.*

Attorney Michow stated that this resolution is connected to the previous Resolution and will also need to be tabled.

Alderman Voorhies moved to table Resolution No. 12-16: A resolution of the City Council of the City of Central, Colorado approving the First Amendment to Intergovernmental Agreement by and between the City of Central and the Central City Business Improvement District. Alderman Giancola seconded, and without discussion, the motion carried 4 votes to 1 with Alderman Spain voting no.

Resolution No.12-17: *A resolution of the City Council of the City of Central, amending the City of Central Comprehensive Fee Schedule.*

City Clerk Bechtel explained that the proposed resolution amends the comprehensive fee schedule to include additional fees that staff feels should be listed and approved as well as fees that were adopted under the code revisions to Chapter 13 (Utilities) and therefore need to be established. For clarity, staff has also included the 2013 water rates on the amended fee schedule.

Alderman Voorhies moved to approve Resolution No.12-17: A resolution of the City Council of the City of Central, amending the City of Central Comprehensive Fee Schedule with corrections. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-16: *An ordinance amending Article VIII of Chapter 6 and Chapter 16 of the Municipal Code regarding Medical Marijuana Business Licensing and Zoning.*

Attorney Michow stated that the recent voter approved Amendment 64 is not included in this revision since it will not be effective until July 2013. Attorney Michow explained the changes as follows: City Council previously adopted regulations regarding the licensing and zoning of medical marijuana businesses. The purpose of this Ordinance is to repeal and reenact the City's medical marijuana regulations to:

- Update terminology based on the State Medical Marijuana Code (“MMC”) so that “dispensaries” are now referred to as “centers”.
- Establish a local licensing authority as required by the MMC, which is either the City Manager or the City Council.(depending on the nature of the application)
- Change the permitted hours of operation to conform to the MMC.
- Include prohibited locations, such as within 1,000 feet of a school, consistent with the MMC.
- Require issuance of written decisions on licenses within time frames set forth in the MMC.
- Refer to security requirements set forth in the MMC.
- Add requirements for patients and primary caregivers to limit number of plants to twelve (12), restrict cultivation to indoor use and only within primary dwelling unit (not accessory structures).
- Require primary caregivers to obtain business and sales tax license through the City. (must be kept confidential as is consistent with state law)

Central City has in place regulations governing medical marijuana dispensaries, which are codified in Article VIII of Chapter 6 of the Municipal Code. Since the City's adoption of its medical marijuana regulations, the State Legislature has adopted House Bill 1284 (“HB 1284”). HB 1284 outlines the state's regulatory program to address the issue of medical marijuana in Colorado (Medical Marijuana Code). The relevant portions of HB 1284 are summarized below.

- HB 1284 creates a new State Medical Marijuana Licensing Authority within the Department of Revenue.
- The State Medical Marijuana Licensing Authority is authorized to issue a state license for three types of operations discussed below in more detail:
  - Medical Marijuana Center.
  - Medical Marijuana-Infused Products Manufacturer.
  - “Optional Premises” a/k/a “Growing Facility”.
- The State Medical Marijuana Licensing Authority is required to enact regulatory rules governing certain actions and operations of all persons engaging in the possession, use, production, and distribution of medical marijuana. These rules will require time to prepare and are not expected to be available until perhaps mid-2011.
- The State regulations prepared by the State Medical Marijuana Licensing Authority address:
  - Forms for applications.
  - Violations and enforcement of violations.

- Penalties for violations.
- Instructions for local licensing authorities and law enforcement officers.
- Procedures for license issuance, renewals, reinstatements, fee payment, and revocation of licenses.
- State procedures for inspections, investigations, searches, etc.
- Product informational displays.
- Patient and Caregiver Registration Card programs.
- Fingerprint and criminal history background check processes.
- Security requirements for licensed facilities.
- Regulation of storage, warehouses, and transportation of medical marijuana.
- Sanitary requirements for licensed businesses.
- Labeling standards.
- Processes for reporting and transmitting monthly sales tax payments.
- Any other matters necessary for the fair and stringent administration of the law.

HB 1284 expressly recognizes that a municipality may be more stringent or restrictive than the provisions of HB 1284. In addition, the Bill reserves to local governments the power to adopt and enforce an ordinance licensing, regulating, or prohibiting the cultivation or sale of medical marijuana. The City Council may also adopt additional standards for the issuance of a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer licenses, which may include restrictions on the size of and distance between licensed premises and any other requirements that the City deems necessary.

Moreover, from a zoning and land use perspective, the City also possesses some authority to regulate primary caregiver operations and, in particular, to regulate this use when its operations are equivalent to a business or commercial enterprise.

Alderman Voorhies moved to adopt Ordinance No. 12-16: An ordinance amending Article VIII of Chapter 6 and Chapter 16 of the Municipal Code regarding Medical Marijuana Business Licensing and Zoning and set the Public Hearing for December 4<sup>th</sup> at 7:00 p.m. Alderman Giancola seconded, and without discussion, the motion carried unanimously.

Ordinance No. 12-17: *An ordinance of the City Council of the City of Central amending certain provisions of Article III of Chapter 7 of the Central City Municipal Code regarding garbage and refuse; and adopting time when residential trash cans can be outside.*

CDD/HPO Thompson explained that the purpose of this Ordinance is to amend the Municipal Code to identify when it is appropriate to put trash cans out by the curb. No such restriction currently exists. Staff is proposing to allow trash to be put out at 6:00 am until 9:00 pm on the day of trash service. This summer, one property in particular elected to keep their trash cans out by the road throughout the week. Bears and other critters were attracted throughout the summer and frequently scattered trash around the property. Additionally, other residents in the area had more bear encounters than usual. While the City was able to pursue littering complaints against the property, the source of the concern, trash cans left out all week, was not something which could be pursued from an enforcement perspective.

Alderman Voorhies moved to adopt Ordinance No. 12-17: An ordinance of the City Council of the City of Central amending certain provisions of Article III of Chapter 7 of the Central City Municipal Code regarding garbage and refuse; and adopting time when residential trash cans can be

outside and set the Public Hearing for December 4<sup>th</sup> at 7:00 p.m. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Energy and Mineral Grant Application

Manager Lanning explained that this application is due on December 3<sup>rd</sup>. The application will be for \$1,250,000 with a request for \$700,000 and a \$549,204 City match. This project is to fix specific trouble spots and do a complete chipseal of the Parkway. We currently have \$257,000 left in the budget for grant match so the remainder will come from the Public Property Trust Fund, the General Fund, and the Historic Preservation Fund.

Alderman Spain moved to approve the State of Colorado Energy and Mineral Impact Grant application for the Central City Parkway resurfacing project. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

**STAFF REPORTS**

CDD/HPO Thompson stated that he has given information about the City process to the owner of a vacant property interested in building a home.

Operations Director Kisselman explained that staff has refurbished some old Christmas decorations that had not been used for sometime and will be busy getting ready for the tree lighting next week.

**COUNCIL COMMENTS**

Alderman Voorhies invited all citizens and staff to the annual Tommyknocker events.

**PUBLIC FORUM/AUDIENCE PARTICIPATION**

No one requested time to address the Council.

Hearing no further business, Mayor Engels adjourned the meeting at 8:35 p.m. The next Council meeting is scheduled for December 4, 2012 at 7:00 p.m.

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Ronald E. Engels, Mayor

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Reba Bechtel, City Clerk



# AGENDA ITEM # 7

## CITY COUNCIL COMMUNICATION FORM

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**TO:** Mayor Engels and Members of City Council

**FROM:** Linda Michow, City Attorney

**DATE:** November 28, 2012

**ITEM:** Ordinance No. 12-16 Concerning the Regulation of Medical Marijuana Establishments and Patients and Primary Caregivers

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ORDINANCE AND PUBLIC HEARING  
 MOTION  
 INFORMATION

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- I. **REQUEST OR ISSUE:** The City Council is being asked to consider Ordinance No. 12-16 on second reading. The City Council previously adopted regulations regarding the licensing and zoning of medical marijuana businesses. The purpose of this Ordinance is to repeal and reenact the City's medical marijuana regulations to:
- Update terminology based on the State Medical Marijuana Code ("MMC") so that "dispensaries" are now referred to as "centers".
  - Establish a local licensing authority as required by the MMC, which is either the City Manager or the City Council.
  - Change the permitted hours of operation to conform to the MMC.
  - Include prohibited locations, such as within 1,000 feet of a school, consistent with the MMC.
  - Require issuance of written decisions on licenses within time frames set forth in the MMC.
  - Refer to security requirements set forth in the MMC.

- Product informational displays.
- Patient and Caregiver Registration Card programs.
- Fingerprint and criminal history background check processes.
- Security requirements for licensed facilities.
- Regulation of storage, warehouses, and transportation of medical marijuana.
- Sanitary requirements for licensed businesses.
- Labeling standards.
- Processes for reporting and transmitting monthly sales tax payments.
- Any other matters necessary for the fair and stringent administration of the law.

HB 1284 expressly recognizes that a municipality may be more stringent or restrictive than the provisions of HB 1284. In addition, the Bill reserves to local governments the power to adopt and enforce an ordinance licensing, regulating, or prohibiting the cultivation or sale of medical marijuana. The City Council may also adopt additional standards for the issuance of a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer licenses, which may include restrictions on the size of and distance between licensed premises and any other requirements that the City deems necessary.

Moreover, from a zoning and land use perspective, the City also possesses some authority to regulate primary caregiver operations and, in particular, to regulate this use when its operations are equivalent to a business or commercial enterprise.

V. **LEGAL ISSUES:** The City is authorized to enact Ordinance No. 12-16 pursuant to its home rule authority and the Colorado Medical Marijuana Code.

VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** N/A

VII. **SUMMARY AND ALTERNATIVES:** City Council has the following options:

- (1) Adopt Ordinance No. 12-16 on second reading, as may or may not be amended;
- (2) Direct staff to make revisions to the Ordinance and schedule consideration of the Ordinance on a future City Council agenda for first reading; or
- (3) Reject or deny the Ordinance.

**CITY OF CENTRAL, COLORADO  
ORDINANCE NO. 12-16**

**AN ORDINANCE AMENDING ARTICLE VIII OF CHAPTER 6  
AND CHAPTER 16 OF THE MUNICIPAL CODE REGARDING THE  
REGULATION OF MEDICAL MARIJUANA ESTABLISHMENTS,  
PATIENTS AND PRIMARY CAREGIVERS**

**WHEREAS**, the City of Central is a home rule city of the State of Colorado; and

**WHEREAS**, the City Council of the City of Central previously adopted regulations governing medical marijuana establishments as authorized pursuant to Amendment 20 which added § 14 of Article XVIII to the Colorado Constitution and as codified in Article VIII of Chapter 6 of the Municipal Code; and

**WHEREAS**, the City Council also adopted zoning regulations governing medical marijuana establishments found in Chapter 16 of the Municipal Code; and

**WHEREAS**, since adoption of the City's local regulations, the Colorado general assembly has adopted and amended the Colorado Medical Marijuana Code, set forth in Colorado Revised Statutes, Section 12-43.3-101 et. seq.; and

**WHEREAS**, Colorado Revised Statutes, Section 12-43.3-310, specifically authorizes a municipality to enact local government zoning, health, safety and public welfare laws for the distribution of medical marijuana that may be more restrictive than the Colorado Medical Marijuana Code; and

**WHEREAS**, the City desires to amend and update the City's regulations concerning medical marijuana to be consistent (except where more stringent regulations apply) with the Colorado Medical Marijuana Code; and

**WHEREAS**, the City further desires to adopt limited regulations concerning patients and primary caregivers so as to ensure the public health and safety of the community is protected; and

**WHEREAS**, by Colorado Revised Statutes, Section 12-43.3-404(7), and Formal Opinion of the Colorado Attorney General dated November 16, 2009, medical marijuana is classified as tangible personal property and the sale of such property is subject to local sales tax; and

**WHEREAS**, primary caregivers engaged in the cultivation, production, and processing of medical marijuana for one or more patients involves the sale or distribution of taxable tangible personal property for which the Central Municipal Code requires licensing and reporting of taxable transactions.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL,  
GILPIN COUNTY:**

**Section 1.** Article VIII of Chapter 6 of the Municipal Code is hereby repealed and readopted to read as follows in its entirety:

**Article VIII Medical Marijuana Licenses**

**Division 1. Medical Marijuana Establishments**

**Sec. 6-301. Findings.**

The City Council adopts this Article based upon the following findings of fact:

(1) On November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article XVIII to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited, specified circumstances described in Amendment 20.

(2) The intent of Amendment 20 is to enable certain specified persons who comply with the registration provisions of the law to legally obtain, possess, cultivate, grow, use and distribute marijuana without fear of criminal prosecution under Colorado (as opposed to federal) law.

(3) Despite the adoption of Amendment 20 marijuana is still a controlled substance under Colorado and federal law. As a result, making it legal for a person to obtain, possess, cultivate, grow, use and distribute marijuana, even for medical use as contemplated by Amendment 20, has the potential for abuse that should be closely monitored and regulated by local authorities to the extent possible.

(4) If not closely monitored and regulated, the presence of marijuana, even for the purposes legally permitted by Amendment 20, can cause an increase in illegal activities within the City affecting the health, safety, order, comfort, convenience and general welfare of the residents of the City.

(5) If medical marijuana establishments operating pursuant to Amendment 20 were allowed to be established and to operate without appropriate local regulation of their location, medical marijuana establishments might be established in areas that would conflict with the City's comprehensive land use plan; be inconsistent with surrounding uses; or otherwise be detrimental to the public health, safety and welfare.

(6) Nothing in this Article allows a person to:

- a. Engage in conduct that endangers others or causes a public nuisance;

- b. Possess, cultivate, grow, use or distribute marijuana for any purpose other than for use as medical marijuana as authorized and limited by Amendment 20, and the implementing state statutes and administrative regulations;
- c. Possess, cultivate, grow, use or distribute marijuana that is otherwise illegal under applicable law; or
- d. Engage in any activity related to the possession, cultivation, growing, use or distribution of marijuana that is otherwise not permitted under the laws of the City or the State of Colorado.

(7) This Article is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the City and the inhabitants thereof.

(8) No person, business, activity or use that distributed or involved the distribution of marijuana within the City prior to the enactment of this Article, as originally adopted by Ordinance No. 10-01, shall be deemed to have been legally established under this Code, and no such person, business, activity or use shall be entitled to claim legal, nonconforming status under any provision of this Code or applicable law.

**Sec. 6-302. Authority.**

The City Council hereby finds, determines and declares that it has the power to adopt this Article pursuant to:

- (1) The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
- (2) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
- (3) Section 31-15-103, C.R.S. (concerning municipal police powers);
- (4) Section 31-15-401, C.R.S. (concerning municipal police powers);
- (5) Section 31-15-501, C.R.S. (concerning municipal authority to regulate businesses);
- (6) The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
- (7) Section 14 of Article XVIII of the Colorado Constitution; and
- (8) The powers contained in the City of Central Home Rule Charter.

**Sec. 6-303. Definitions.**

(a) As used in this Article, the following words shall have the following meanings:

*Amendment 20* means a voter-initiated amendment to the Colorado Constitution adopted November 7, 2000 codified as Section 14 of Article XVIII to the Colorado Constitution.

*Applicant* means a person who has submitted an application for license pursuant to this Article.

*Application* means an application for license submitted pursuant to this Article.

*City Manager* means the City Manager of the City or designee.

*Colorado Medical Marijuana Code* means Article 43.3 of Title 12 of the Colorado Revised Statutes, inclusive of promulgated rules, and as may be amended.

*Cultivation* means the process by which a person promotes the germination and growth of a seed to a mature marijuana plant. *Cultivation* does not include the storing or watering of mature marijuana plants without the aid of grow lighting.

*Day* means a calendar day, unless otherwise indicated.

*Good cause* means and includes: (1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Article and any rule and regulation promulgated pursuant to this Article or the Colorado Medical Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued pursuant to an order of the state department of revenue or local licensing authority; or (3) the licensee's medical marijuana center has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the medical marijuana establishment is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace, as defined in Article VII of Chapter 10 of this Code; (ii) a continuing pattern of drug-related criminal conduct within the premises of the medical marijuana establishment or in the immediate area surrounding the medical marijuana establishment; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the medical marijuana establishment.

*License* means a license to operate a medical marijuana establishment issued pursuant to this Article.

*Licensee* means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code.

*Local Licensing Authority* means the City Council of the City of Central as may be delegated to the City Manager as more specifically enumerated in this Article.

*Medical marijuana center* means a premises licensed pursuant to the Colorado Medical Marijuana Code to operate a business described in C.R.S. Section 12-43.3-402 that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of Article XVIII of the state constitution but is not a caregiver.

*Medical marijuana establishment* means a medical marijuana center, a medical marijuana-infused product manufacturer or an optional premises cultivation operation.

*Medical marijuana-infused product* means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to, edible products, ointments, and tinctures.

*Medical marijuana-infused product manufacturer* means a person licensed pursuant to this Article and the Colorado Medical Marijuana Code to operate a business as described in C.R.S. Section 12-43.3-404.

*Optional premises cultivation operation* means a premises licensed pursuant to this Article and the Colorado Medical Marijuana Code where a business described in C.R.S. Section 12-43.3-403 will operate.

*Patient* has the meaning provided in Section 14(a)(d) of Article XVIII of the Colorado Constitution as further defined and regulated in C.R.S. Section 25-1.5-106 and 5 C.C.R. 1006-2.

*Primary caregiver* has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution as further defined and regulated in C.R.S. Section 25-1.5-106 and 5 C.C.R. 1006-2.

*School* means a public or private preschool or a public or private elementary, middle, junior high or high school.

(b) In addition to the definitions provided in Subsection (a) hereof, the other defined terms in Amendment 20 are incorporated into this Article by reference.

**Sec. 6-304. License required.**

No person shall operate a medical marijuana establishment within the City without a valid license issued in accordance with this Article.

**Sec. 6-305. Application for license.**

(a) An applicant seeking to obtain a license pursuant to this Article shall file an application with the City Manager. The form of the application shall be provided by the state and shall include all information required by the Colorado Medical Marijuana Code, and any additional information requested by the City Manager if such information, in his or her opinion, is reasonably necessary to complete the investigation and review of the application.

(b) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required City licenses and licenses related to the operation of the approved medical marijuana center, including, without limitation:

- (1) Any required land use approval, if applicable;
- (2) A City business and sales tax license; and
- (3) Any building permits, including mechanical, plumbing license or electrical license.

**Sec. 6-306. Application fee.**

An applicant shall pay to the City a nonrefundable application fee when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application. The amount of the application fee shall be fixed by the City Council by resolution.

**Sec. 6-307. Investigation of application.**

(a) The City Manager shall determine whether the application is complete and notify the applicant of any deficiencies. Upon receipt of a properly completed application, together with all information required in connection therewith, and the payment of the application fee as required by Section 6-306, the City Manager shall transmit copies of the application to:

- (1) the Police Department;
- (2) the Planning Department; and
- (3) any other person or agency which the City Manager determines should properly investigate and comment upon the application.

(b) Upon receipt of a completed application the Police Department shall obtain and review a criminal background records search on the applicant from the Colorado Bureau of Investigation.

(c) Within twenty (20) days of receipt of a completed application those City departments and other referral agencies described in Subsection (a) of this Section shall provide the City Manager with comments concerning the application.

**Sec. 6-308. Standards for issuance of license.**

(a) The City Manager is authorized to administratively approve a license under this Article so long as the following conditions are met:

- (1) The application (including any required attachments and submissions) is complete and signed by the applicant;

(2) The applicant has paid the application fee and any other fees required by this Code;

(3) The application does not contain a material falsehood or misrepresentation;

(4) The application complies with all of the requirements of this Article, the Code and the Colorado Medical Marijuana Code;

(5) The applicant has received written approval from the police department as to the applicant's criminal background; and

(6) The proposed location of the medical marijuana establishment is in compliance with the location, zoning and building requirements set forth in this Code.

(b) The City Manager may refer an application for a license under this Article to the City Council for a public hearing as permitted by C.R.S. Section 12-43.3-302.

**Sec. 6-309. Denial of license.**

The local licensing authority shall deny an application for a license under this Article, when the applicant fails to meet all of the standards set forth in Section 6-308 of this Article.

**Sec. 6-310. Authority to impose conditions on license.**

The local licensing authority is authorized to impose such reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this Article and applicable law.

**Sec. 6-311. Decision on application.**

The local licensing authority shall approve, deny or conditionally approve an application within thirty (30) days of the receipt of the completed application. The decision and the reasons for the decision, as well as any conditions of approval, shall be in writing.

**Sec. 6-312. Notice of decision.**

The City Manager shall notify the applicant of the decision on the application within three (3) business days of rendering the decision. A copy of the decision shall be sent by certified mail to the applicant at the address shown in the application.

**Sec. 6-313. Appeal of denial or condition approval of license.**

(a) An applicant has the right to appeal the City Manager's denial or conditional approval of an application to the City Council by filing a written request with the City Manager within twenty (20) days of the date of the notice of the decision described in Section 6-464 of this Code.

(b) The applicant shall be provided with not less than ten (10) days prior written notice of the appeal hearing to be held by the City Council.

(c) The burden of proof in an appeal filed under this Section shall be on the applicant.

(d) If the City Council finds by a preponderance of the evidence that the decision of the City Manager was correct, the City Council shall uphold the decision of the City Manager. If the City Council finds by a preponderance of the evidence that the decision of the City Manager was incorrect, the City Manager's decision shall be set aside and the license issued (if it was previously denied) or the conditions of approval stricken or modified.

(e) Any decision made by the City Council on an application for a license shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

**Sec. 6-314. Contents of license.**

(a) A license shall contain the following information:

(1) The name of the licensee;

(2) The date of the issuance of the license;

(3) The address at which the licensee is authorized to operate the medical marijuana establishment;

(4) Any special conditions of approval imposed upon the license by the City Manager, pursuant to Section 6-462; and

(5) The date of the expiration of the license.

(b) A license must be signed by both the applicant and the City Manager to be valid.

**Sec. 6-315. License transferable.**

A licensee may transfer or assign all ownership, rights and interests in a license subject to prior application to and approval by the City Manager and compliance with C.R.S. Section 12-43.3-309. The City Manager may refer the transfer application to the City Council for a public hearing in conformance with C.R.S. Section 12-43.3-309. Any attempt to transfer or assign a license in violation of this Section voids the license.

**Sec. 6-316. Duration of license; renewal.**

(a) Each license issued pursuant to this Article shall be valid for one (1) year from the date of issuance, and may be renewed as provided in this Section.

(b) An application for the renewal of an existing license shall be made to the City Manager not less than forty-five (45) days prior to the date of expiration. The process for renewal shall be administrative, in accordance with C.R.S. Section 12-43.3-311, provided that any decision not to renew shall be made by the City Council in accordance with the requirements set forth in C.R.S. Section 12-43.3-311.

(c) At the time of the filing of an application for the renewal of an existing license the applicant shall pay a renewal fee in an amount fixed by resolution by the City Council.

**Sec. 6-317. Duties of licensee.**

It is the duty and obligation of each licensee to do the following:

- (1) Comply with all of the terms and conditions of the license;
- (2) Comply with all of the requirements of this Article;
- (3) Comply with all other applicable City ordinances;
- (4) Comply with the Colorado Medical Marijuana Code;
- (5) Comply with all state laws and administrative regulations pertaining to the medical use of marijuana;
- (6) Comply with all applicable federal laws, rules or regulations, other than a federal law, rule or regulation concerning the possession, sale or distribution of marijuana which conflicts with Amendment 20;
- (7) Permit inspection of its records and operation by the City Manager for the purpose of determining the licensee's compliance with the terms and conditions of the license; and
- (8) Post the license in a conspicuous location at the medical marijuana establishment.

**Sec. 6-318. Suspension or revocation of license.**

(a) A license issued pursuant to this Article may be suspended or revoked by the local licensing authority for the following reasons:

- (1) Fraud, misrepresentation, or a false statement of material fact contained in the license application;
- (2) A violation of any City, state, or federal law or regulation, other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20;
- (3) A violation of any of the terms and conditions of the license;
- (4) A violation of any of the provisions of this Article; or
- (5) Good cause.

(b) Hearing, Burden of Proof.

(1) Any authorized City official may request in writing that a license issued under this Article be suspended or revoked. The written request to suspend or revoke must include the allegations upon which the suspension or revocation is based and must be provided to the licensee.

(2) The City Council shall preside over the hearing on the suspension or revocation.

(3) The date and time of the hearing must be set, written notice of which must be sent by regular mail postage prepaid to the licensee at least ten days prior to the hearing date.

(4) The hearing must be conducted based on the allegations provided in the written request. The hearing is informal where no rules of evidence shall apply. The burden shall be on the City to prove by a preponderance of the evidence that the licensee has violated the provisions of Section 6-318(a).

(5) A written decision must be provided to the licensee within ten business days of the conclusion of the hearing. Notice shall be given by mailing a copy of the decision to the licensee by regular mail, postage prepaid, at the address shown in the license. Notice is deemed to have been properly given upon mailing.

(c) In connection with the suspension of a license, the City Manager may impose reasonable conditions.

(d) Any decision made by the City Council shall be a final decision and may be appealed to the district court, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the suspension or revocation of the license.

**Sec. 6-319. Prohibited Locations; Permanent Location Required.**

Prior to the issuance of a license for a medical marijuana establishment, the City Manager shall determine whether the proposed location of the medical marijuana establishment complies with the requirements of this Section and Chapter 16 of the Central City Municipal Code. Failure to comply with the requirements of this Section shall preclude issuance of a license.

(a) No medical marijuana establishment shall be located within an area zoned for single family residential use.

(b) Each medical marijuana establishment shall be operated from a permanent location. No medical marijuana dispensary shall be permitted to operate from a moveable, mobile or transitory location.

(c) No medical marijuana establishment shall be located within one thousand (1,000) feet of a school, an alcohol or drug treatment facility, or the principal campus of a college, university, or seminary, or a residential child care facility.

(d) Medical marijuana establishments that were lawfully in existence at a specific location within the City as of the effective date of this Section shall not be subject to the prohibition at that location.

**Sec. 6-320. On-site cultivation prohibited.**

The cultivation of marijuana on or within a medical marijuana center is prohibited.

**Sec. 6-321. Hours of operation.**

A medical marijuana establishment may serve, sell or distribute medical marijuana only between the hours of 8:00 a.m. and 7 p.m. Monday through Sunday.

**Sec. 6-322. Signage.**

All signage for a medical marijuana establishment shall comply with the requirements of Chapter 14 of this Code.

**Sec. 6-323. Required warnings to be posted.**

There shall be posted in a conspicuous location in each medical marijuana establishment a legible sign containing the following warnings:

(1) A warning that the diversion of marijuana for nonmedical purposes is a violation of state law;

(2) A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;

(3) A warning that loitering in or around the medical marijuana establishment is prohibited by state law; and

(4) A warning that possession and distribution of marijuana is a violation of federal law.

**Sec. 6-324. Paraphernalia.**

Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers may lawfully be sold at a medical marijuana establishment. Such items may be sold or provided only to patients or primary caregivers.

**Sec. 6-325. Alcohol.**

The sale or consumption of an alcoholic beverage within a medical marijuana establishment is prohibited.

**Sec. 6-326. Security requirements.**

A licensee shall provide security on the premises of a medical marijuana establishment in accordance with the Colorado Medical Marijuana Code.

**Sec. 6-327. Taxes.**

Each licensee shall pay sales tax on all medical marijuana, paraphernalia and other tangible personal property sold by the licensee at the medical marijuana establishment.

**Sec. 6-328. Penalties; injunctive relief.**

(a) It is a municipal offense for any person to violate any provision of this Article. Any person convicted of having violated any provision of this Article shall be punished as set forth in Section 1-72 of this Code.

(b) In addition to all other remedies available to the City under this Code and by law, the operation of a medical marijuana establishment without a valid license issued pursuant to this Article may be enjoined by the City in an action brought in a court of competent jurisdiction.

**Sec. 6-329. No waiver of governmental immunity.**

In adopting this Article, the City Council is relying on and does not waive or intend to waive by any provision of this Article, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the City, its officers or its employees.

**Sec. 6-330. No City liability.**

By accepting a license issued pursuant to this Article, a licensee releases the City, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section.

**Sec. 6-331. Indemnification of City.**

By accepting a license issued pursuant to this Article a licensee, jointly and severally if more than one, agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation,

claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana establishment that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. The City Manager may require a licensee to execute a written instrument confirming the provisions of this Section.

**Sec. 6-332. Other laws remain applicable.**

The provisions of this Article do not protect licensees, operators, employees, customers and clients of a licensed medical marijuana establishment from prosecution pursuant to any laws that may prohibit the cultivation, sale, use or possession of controlled substances. In addition, as of the date of the adoption of this Article the cultivation, sale, possession, distribution and use of marijuana remain violations of federal and state law (except for conduct covered by Amendment 20), and this Article affords no protection against prosecution under such federal and state laws. Licensees, operators, employees, customers and clients of a licensed medical marijuana establishment assume any and all risk and any and all liability arising or resulting from the operation of the establishment under any state or federal law. Further, to the greatest extent licensed by law, any actions taken under the provisions of this Article by any public officer or officers, elected or appointed officials, employees, attorneys and agents of the City shall not become a personal liability of such person or of the City.

**Sec. 6-333. Compliance with State Law**

Except as otherwise provided herein, the local licensing authority shall be governed by the Colorado Medical Marijuana Code now in effect or subsequently amended. In the event of a conflict between the provisions of this article and those in the Colorado Medical Marijuana Code, the more stringent provision shall apply.

**Division 2. Primary Caregivers**

**Sec. 6-340. Primary Caregiver Requirements.**

(a) No primary caregiver shall produce, offer, sell or grow medical marijuana within the City without a valid business and sales tax license issued in accordance with this Chapter.

(b) Primary caregivers shall comply with all applicable provisions of this Code, and specifically, the business licensing and sales tax licensing and reporting requirements set forth in this Chapter. A primary caregiver shall provide the registry identification card number of each of his or her patients to employees of the City including any police officer of the City upon request in the course of their official duties while investigating compliance with the requirements of this Article.

(c) To the extent required by law, written documentation that includes the name, address, or other information of a patient or primary caregiver including, but not limited

to applications, permits, and correspondence, shall be maintained by the City as confidential. No person shall be permitted to have access to such confidential documentation except for authorized employees and contractors of the City in the course of their official duties and authorized employees of authorized law enforcement agencies.

(d) The cultivation, production or processing of medical marijuana and medical marijuana plants by primary caregivers for patients is a home occupation subject to the regulations set forth in Chapter 16 of the Code.

**Section 2.** Section 16-13, titled Definitions, of Chapter 16 of the Central City Municipal Code is hereby amended to delete the definition of “Medical Marijuana Dispensary” and to add the following new definitions to read:

*Medical marijuana center* means a premises licensed pursuant to the Colorado Medical Marijuana Code to operate a business described in C.R.S. Section 12-43.3-402 that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of Article XVIII of the state constitution but is not a caregiver.

*Patient* has the meaning provided in Section 14(a)(d) of Article XVIII of the Colorado Constitution as further defined and regulated in Section 25-1.5-106 and 5 C.C.R. 1006-2.

*Primary caregiver* has the meaning provided in Section 14(1)(f) of Article XVIII of the Colorado Constitution as further defined and regulated in Section 25-1.5-106 and 5 C.C.R. 1006-2.

**Section 3.** Section 16-35 and Section 16-192 of Chapter 16 of the Central City Municipal Code are further amended to replace all references to “Medical Marijuana Dispensary” with the phrase “Medical Marijuana Center.”

**Section 4.** Article II of Chapter 16 of the Central City Municipal Code is hereby amended to add a new Section 16-37 to read in full as follows:

Sec. 16-37 Medical marijuana patients and primary caregivers.

Primary caregivers who cultivate, possess or dispense medical marijuana for use by patients, and patients who cultivate or possess medical marijuana for their own medical use, shall be subject to the following limitations:

1. All cultivation, processing and production of medical marijuana shall be conducted entirely within a dwelling unit. For purposes of this provision, dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single family, two-family or multi-family dwelling or mixed use building.

2. No cultivation, processing or production of medical marijuana may occur in an accessory structure; garage, whether attached or detached; shed; greenhouse; storage unit; or other structure other than a dwelling unit.
3. Patients and caregivers shall comply with all applicable City and state regulations, ordinances and laws, including home occupation requirements set forth in this Chapter.
4. No cultivation, possession or dispensing shall occur in the common areas of a multi-family or attached residential building.
5. No more than twelve (12) marijuana plants regardless of size or stage of growth may be cultivated or kept within any dwelling unit.
6. In no event shall a patient or primary caregiver keep, cultivate, grow or process more medical marijuana than such person is entitled to possess under Article XVIII, Section 14 of the Colorado Constitution.

**Section 5. Repealer.** Existing ordinances, parts of ordinances, or resolutions which are inconsistent or conflict with the provisions of this Ordinance are hereby repealed.

**Section 6. Severability.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

**Section 7. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Central City, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

**Section 8. Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

**INTRODUCED AND READ** by title only on first reading at the regular meeting of the City Council of the City of Central on the \_\_\_\_ day of \_\_\_\_\_, 2012, at Central City, Colorado.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

Approved as to form:

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Linda C. Michow, City Attorney

ATTEST:

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Reba Bechtel, City Clerk

**PASSED AND ADOPTED** on second reading, at the regular meeting of the City Council of the City of Central on the \_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

ATTEST:

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Reba Bechtel, City Clerk

**POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY** in the Weekly Register Call newspaper on \_\_\_\_\_, 2012.

**POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING]** in the Weekly Register Call newspaper on \_\_\_\_\_, 2012.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

ATTEST:

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Reba Bechtel, City Clerk



# AGENDA ITEM # 8

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Greg Thompson, CDD  
**DATE:** December 4, 2012  
**ITEM:** Ordinance 12-17 - Residential Trash Collection

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ORDINANCE  
 MOTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

The City Council is being asked to consider Ordinance No. 12-17 on second reading. The purpose of the Ordinance is to amend the Municipal Code to identify when it is appropriate to put trash cans out by the curb. No such restriction currently exists.

This summer, one property in particular elected to keep their trash cans out by the road throughout the week. Bears and other critters were attracted throughout the summer and frequently scattered trash around the property. Additionally, other residents in the area had more bear encounters than usual. While the City was able to pursue littering complaints against the property, the source of the concern, trash cans left out all week, was not something which could be pursued from an enforcement perspective.

Ordinance 12-17 was approved on first reading on November 20, 2012.

**II. RECOMMENDED ACTION / NEXT STEP:**

Review and approve Ordinance No. 12-17 on first reading with any amendments as proposed by City Council and schedule for second reading and public hearing.

**III. FISCAL IMPACTS:**

None.

**IV. BACKGROUND INFORMATION:**

City residential trash collection is currently provided free to residents. Pick up day is currently Thursday.

**V. LEGAL ISSUES:**

The City is authorized to enact Ordinance No. 12-17 pursuant to its home rule authority.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

Leaving trash cans out inevitably leads to litter strewn about the property. The property

which has been leaving their trash out sits over the creek in Eureka Gulch. Passing this ordinance should clean up the property, surrounding neighborhood and the nearby water way. This ordinance would apply to all properties. In addition, bears and other animals would not be drawn to properties which may leave out trash cans.

**VII. SUMMARY AND ALTERNATIVES:**

Council may take one of the following actions:

1. Approve Ordinance No. 12-17 on second reading, as may or may not be amended, and schedule for second reading and public hearing;
2. Direct staff to make revisions to the Ordinance and continue the public hearing of the Ordinance to a date certain; or
3. Reject or deny the ordinance.

As set forth above, Ordinance 12-17 was approved on first reading at the November 20, 2012 regular City Council meeting.

**CITY OF CENTRAL, COLORADO  
ORDINANCE 12-17**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL  
COLORADO AMENDING CERTAIN PROVISIONS OF ARTICLE III OF  
CHAPTER 7 OF THE CENTRAL CITY MUNICIPAL CODE REGARDING  
GARBAGE AND REFUSE; AND ADOPTING TIMES WHEN RESIDENTIAL  
TRASH CANS CAN BE OUTSIDE**

**WHEREAS**, the City of Central is a home rule municipality that is authorized, pursuant to its Home Rule Charter, the Colorado Constitution and state law, to adopt ordinances in furtherance of the health, safety and welfare of the City's inhabitants; and

**WHEREAS**, the City has previously adopted regulations pertaining to garbage and refuse standards, as codified in Article III of Chapter 7 of the Central City Municipal Code; and

**WHEREAS**, the Central City Municipal Code does not currently address when residential trash cans can be outside; and

**WHEREAS**, wildlife found in this mountainous area includes, bear, mountain lions, raccoons and other animals which can be attracted to trash cans which are left out; and

**WHEREAS**, when attracted to trash cans, wildlife can become a nuisance by scattering trash around properties, as well as create potentially deadly situations for both humans and wildlife; and

**WHEREAS**, keeping the City clean and minimizing human/wildlife conflict are both desirable goals of the City.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO THAT:**

**Section 1.** **Creation of Section 7-87.** Section 7-87 of Article III of Chapter 7 is hereby created to read as set forth below:

It shall be unlawful to place residential garbage or recycling containers within a front yard setback or in the public right-of-way or out for collection at any time earlier than 6:00 a.m. on the scheduled date of collection. All such containers shall be removed from those locations by 9:00 p.m. on collection day.

**Secs. 7-88 – 7-100. Reserved.**

**Section 2.** **Codification Amendments.** The codifier of Central City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Central City Municipal Code.

**Section 3. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 4. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 5. Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

**INTRODUCED AND READ** by title only on first reading at the regular meeting of the City Council of the City of Central on the 20<sup>th</sup> day of November, 2012, at Central City, Colorado.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

Approved as to form:

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Linda C. Michow, City Attorney

ATTEST:

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Reba Bechtel, City Clerk

**PASSED AND ADOPTED** on second reading, at the regular meeting of the City Council of the City of Central on the 4<sup>th</sup> day of December, 2012.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

**ATTEST:**

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Reba Bechtel, City Clerk

**POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on November 22, 2012.**

**POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on December 6, 2012.**

**CITY OF CENTRAL, COLORADO**

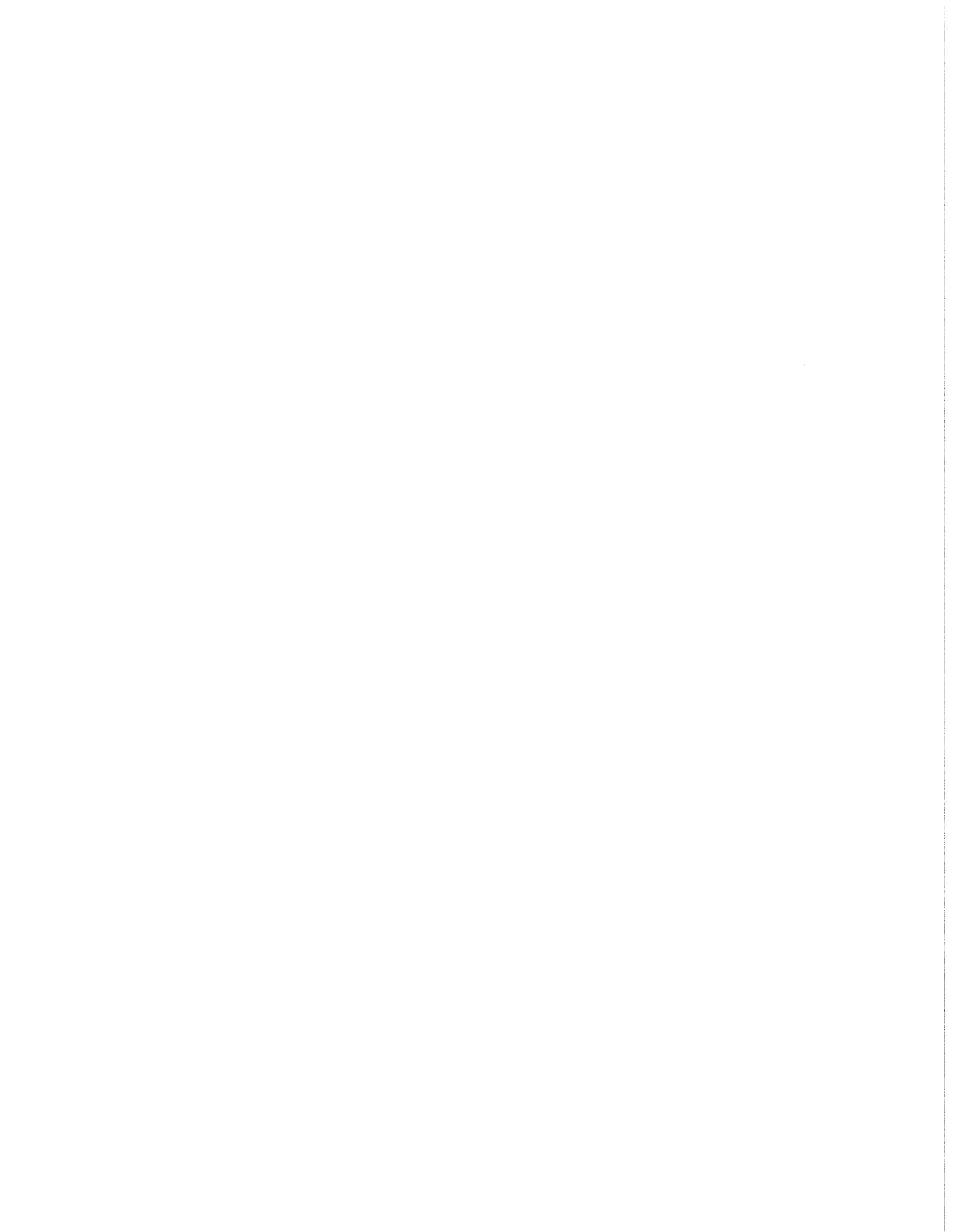
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Ronald E. Engels, Mayor

**ATTEST:**

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Reba Bechtel City Clerk





## AGENDA ITEM # 9

### CITY COUNCIL COMMUNICATION FORM

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**TO:** Mayor Engels and Members of City Council  
**FROM:** Marcus McAskin, Assistant City Attorney  
**DATE:** December 4, 2012  
**ITEM:** Resolution No. 12-15

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ORDINANCE  
 MOTION / RESOLUTION  
 INFORMATION

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- I. **REQUEST OR ISSUE:** Beginning January 1, 2013, the Central City Business Improvement District (the "CCBID") will assume operational responsibility for the shuttle service. Currently, the City provides the shuttle service pursuant to that certain agreement for the operation of a transportation shuttle service dated December 21, 2010, by and between the City and Colorado Coach Transportation, LLC (the "Agreement"). In order to document the transfer of operational responsibility from the City to the CCBID, the parties have prepared an assignment.

Consideration of Resolution No. 12-15 was continued from the November 20, 2012 City Council meeting.

- II. **RECOMMENDED ACTION / NEXT STEP:** The proposed assignment for the operation of a transportation shuttle service (the "Assignment") is attached to the proposed Resolution as **Exhibit A**. City Council may approve the Assignment to memorialize the terms under which the Agreement will be assigned to the CCBID effective January 1, 2013.
- III. **FISCAL IMPACTS:** The CCBID and Colorado Coach Transportation, LLC will enter into a new stand alone agreement effective January 1, 2013, which new agreement will replace and supersede the Agreement in its entirety. The City will continue to fund operation of the shuttle service through funds generated by the transportation device fee and other available

revenues. There are no substantive fiscal impacts associated with approval of the Assignment.

IV. **BACKGROUND INFORMATION:** See I., Request or Issue, above.

V. **LEGAL ISSUES:** None.

VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** N/A

VII. **SUMMARY AND ALTERNATIVES:** City Council may approve the Resolution or table the item for further discussion and consideration.

**CITY OF CENTRAL, COLORADO  
RESOLUTION NO. 12-15**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO APPROVING THE ASSIGNMENT OF AGREEMENT FOR THE  
OPERATION OF A TRANSPORTATION SHUTTLE SERVICE**

WHEREAS, the City and Colorado Coach Transportation, LLC (the "Contractor") entered into that certain agreement for the operation of a transportation shuttle service dated December 21, 2010 (the "Agreement"); and

WHEREAS, the Agreement was amended by that certain First Amendment dated as of December 20, 2011, and by that certain Second Amendment dated as of February 9, 2012; and

WHEREAS, the First Amendment to the Agreement specifically contemplated the assignment of the Agreement by the City to the Central City Business Improvement District (the "CCBID"); and

WHEREAS, the City desires to assign the Agreement to the CCBID; and

WHEREAS, as set forth in the Assignment, the Contractor will continue to perform the transportation shuttle services in calendar year 2013 pursuant to and in accordance with that certain agreement by and between the Contractor and the CCBID having an effective date of January 1, 2013, a copy of which is attached to the Assignment as **Exhibit 1**, which agreement is intended to amend, supersede and replace the Agreement in its entirety.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF CENTRAL, COLORADO, THAT:**

**Section 1.** The City Council hereby approves the Assignment attached to this Resolution as **Exhibit A**, authorizes the City Manager, in consultation with the City Attorney, to make such changes as may be needed to correct any nonmaterial errors or language that do not increase the obligations of the City, and authorizes the Mayor to execute the Assignment on behalf of the City.

**Section 2.** **Effective Date.** This Resolution shall take effect upon its approval by the City Council.

ADOPTED THIS 4<sup>th</sup> DAY OF DECEMBER, 2012.

**CITY OF CENTRAL, COLORADO**

By: \_\_\_\_\_  
Ronald E. Engels, Mayor

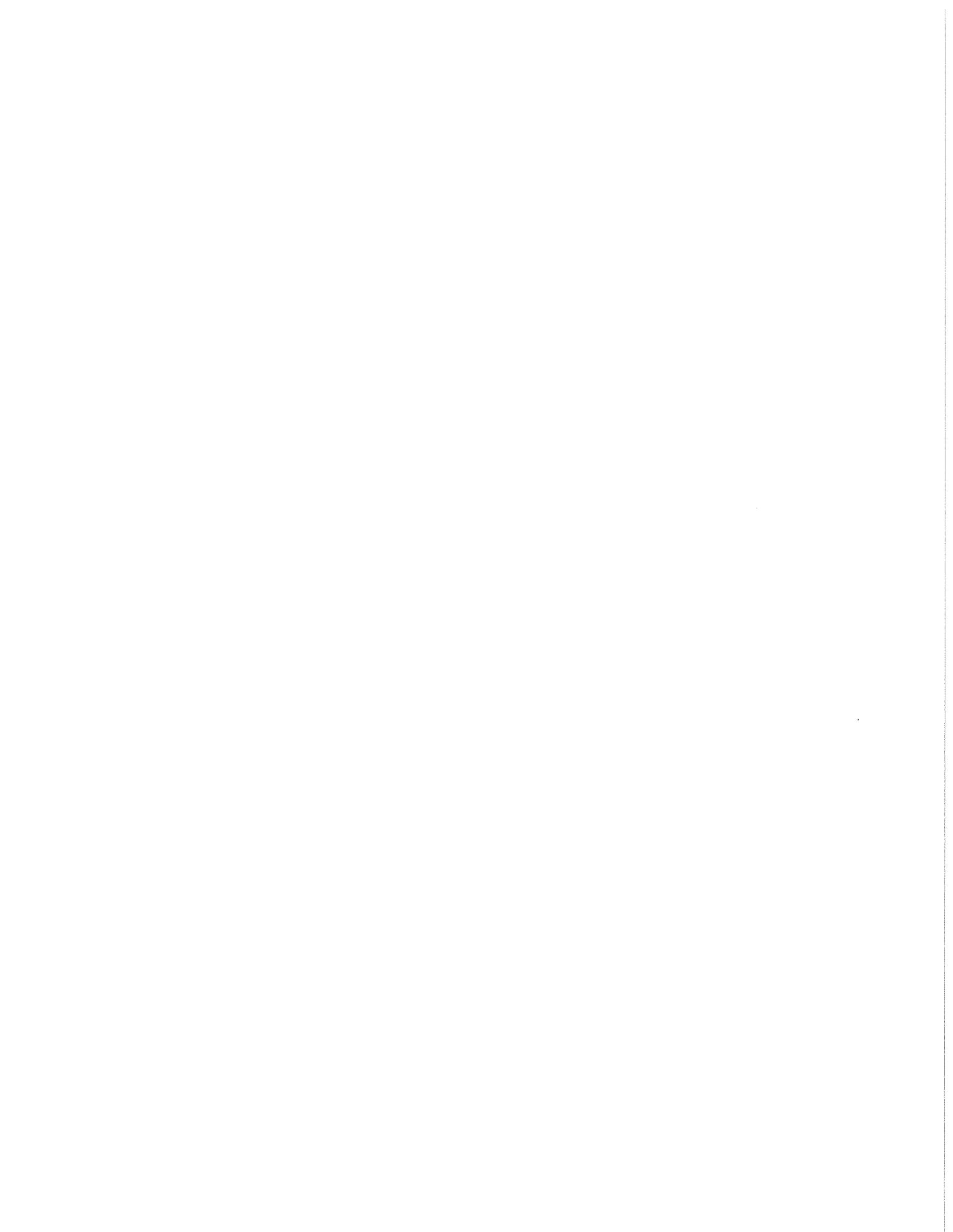
**ATTEST:**

By: \_\_\_\_\_  
Reba Bechtel City Clerk

**APPROVED TO FORM:**

By: \_\_\_\_\_  
Linda C. Michow, City Attorney

**EXHIBIT A**  
**ASSIGNMENT**



**ASSIGNMENT OF AGREEMENT FOR THE OPERATION OF A  
TRANSPORTATION SHUTTLE SERVICE**

This Assignment of Agreement for the Operation of a Transportation Shuttle Service (“Assignment”) is entered into by and among the **CITY OF CENTRAL**, a home rule municipal corporation of the State of Colorado (the “City”), the **CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“CCBID”), and **COLORADO COACH TRANSPORTATION, LLC**, a Colorado limited liability company, having a principal office address of 2080 Pearl Howlett Road, Longmont, Colorado 80504 (the “Contractor”), effective as of January 1, 2013 (the “Effective Date”).

**RECITALS**

A. On or about December 21, 2010, the City and the Contractor entered into that certain agreement for the operation of a transportation shuttle service (the “Agreement”). The Agreement was amended by that certain First Amendment dated as of December 20, 2011, and by that certain Second Amendment dated as of February 9, 2012. The Services described in the Agreement are currently being provided to the City by the Contractor.

B. The First Amendment extended the term of the Agreement through December 31, 2012 and amended the Agreement to specifically set forth the Contractor’s consent to the assignment of the Agreement by the City to the CCBID.

C. As contemplated in Section 8.4 of the Agreement, the City and the CCBID have entered into an intergovernmental agreement memorializing the City’s and CCBID’s respective obligations regarding the operational and funding responsibilities of the City and the CCBID pertaining to the shuttle services.

D. The City and the Contractor agree to the CCBID assuming the City’s role as the contracting party for the transportation shuttle system, and accordingly, wish to assign to the CCBID, as of the Effective Date, certain of the City’s interests in and to the Agreement.

E. It is the CCBID’s intent that the Contractor will continue to perform the Services in calendar year 2013 pursuant to and in accordance with that certain agreement by and between the Contractor and the CCBID having an effective date of January 1, 2013, a copy of which is attached to this Assignment as **Exhibit 1** (the “CCBID – Contractor Agreement”), which is intended to amend, supersede and replace the Agreement in its entirety.

In consideration of the above recitals and the mutual promises and covenants contained herein, the Parties agree as follows:

1. The Contractor agrees that the City may assign to the CCBID all of the City’s rights and obligations to be performed under the Agreement on and after the Effective Date only, but not prior thereto as provided in this Assignment, and that such assignment

shall be effective as of January 1, 2013.

2. The Parties agree that the Contractor will continue to provide the Services on and after January 1, 2013 in accordance with the CCBID – Contractor Agreement. The CCBID – Contractor Agreement shall amend, supersede and effectively replace the Agreement with respect to the performance of Services on and after the Effective Date.
3. City Representations. As of the date of this Assignment, the City represents and warrants that: (a) the Agreement is in full force and effect and has not been modified, except as by and through the First Amendment and Second Amendment; (b) the City’s interest in the Agreement is free and clear of any prior assignment and of any encumbrance; (c) the City has good right and lawful interest in the Agreement; and (d) to the City’s knowledge there are no defaults under the Agreement.
4. Contractor Representations. As of the date of this Assignment, the Contractor represents and warrants that: (a) the Agreement is in full force and effect and has not been modified, except as by and through the First Amendment and Second Amendment; and (b) to the Contractor’s knowledge there are no defaults under the Agreement.
5. CCBID Representations. The CCBID represents and warrants that the execution of this Assignment has been authorized by the CCBID’s Board of Directors.
6. This Assignment shall be governed by and construed in accordance with the laws of the State of Colorado.
7. Nothing in this Assignment shall modify or affect any provisions of the Agreement, except as specifically set forth herein.
8. This writing constitutes the entire understanding between the Parties with respect to the matters herein described. Except as otherwise expressly provided herein, the provisions of this Assignment may not be waived, altered, amended, or repealed, in whole or in part, except with the written approval of the Parties hereto.

IN WITNESS WHEREOF, the City, the CCBID and the Contractor have executed this Assignment as of the dates set forth below.

**CITY OF CENTRAL, COLORADO**

By: \_\_\_\_\_  
Ronald E. Engels, Mayor



**Exhibit 1**

CCBID – Contractor Agreement

**AGREEMENT BY AND BETWEEN THE CENTRAL CITY BUSINESS  
IMPROVEMENT DISTRICT AND COLORADO COACH TRANSPORTATION, LLC  
FOR THE OPERATION OF A TRANSPORTATION SHUTTLE SERVICE**

This Agreement is entered into this \_\_\_ day of \_\_\_\_\_, 2012 by and between the CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (“CCBID”), and COLORADO COACH TRANSPORTATION, LLC, a Colorado limited liability company, having a principal office address of 2080 Pearl Howlett Road, Longmont, Colorado 80504 (the “Contractor”).

WHEREAS, the Contractor and the City of Central (“City”) entered into that Agreement for the Operation of a Transportation Shuttle Service dated December 21, 2010, including a First Amendment and Second Amendment (the “City Agreement”), whereby the City contracted with the Contractor to operate a transportation shuttle system through December 31, 2012; and

WHEREAS, the City, Contractor, and CCBID have entered into that Assignment of Agreement for the Operation of a Transportation Shuttle Service effective January 1, 2013 whereby the City and the Contractor agree to CCBID assuming the City’s role as the contracting party for the transportation shuttle system; and

WHEREAS, the CCBID desires to contract with the Contractor to operate a transportation shuttle system; and

WHEREAS, the operation of a transportation shuttle system is authorized by the CCBID’s operating plan, as submitted to and approved by the City; and

WHEREAS, the Contractor has the technical expertise necessary to manage and operate the transportation shuttle system.

NOW THEREFORE, in consideration for the mutual promises herein, the parties agree as follows:

**1. Term / Termination.**

1.1. Term. This Agreement shall commence on January 1, 2013 and shall remain in effect for a twelve (12) month period, ending December 31, 2013, unless sooner terminated as set forth below. The CCBID and the Contractor may agree to extend this Agreement for five (5) additional one (1) year periods with each extension to be exercised on an annual basis at the discretion of the CCBID and the Contractor. The CCBID and the Contractor will annually renegotiate the cost of these services. Failure to achieve cost reconciliation in any given year will result in termination of the Agreement.

1.2. Termination. Either party hereto has the right to terminate this Agreement at any time, with or without cause, and without further liability, upon ninety (90) days prior written notice to the other party. The CCBID may also terminate the Agreement, upon ten (10) days

prior notice, if the funding provided by the City is for the services furnished hereunder is not available due to any budget constraint of the City.

## 2. Scope of Work.

In accordance with federal and state law, and the standards set forth herein, the Contractor shall provide transportation services benefitting the property owners located within the CCBID and the general public.

2.1. Scope. Contractor's Scope of Work shall be referred to as "**Exhibit A**," which is attached hereto and by this reference incorporated herein. The services described in **Exhibit A**, together with the terms set forth in this Agreement, shall constitute all of the work to be provided by Contractor under the terms of this Agreement and shall be hereinafter referred to as the "Services". Contractor and the CCBID specifically contemplate that Contractor shall strictly abide by the terms and conditions set forth in **Exhibit A**.

2.2. General Public. In accordance with the work set forth in **Exhibit A**, Services shall be available to the general public. The Services may be operated on a modified fixed route with checkpoint deviation to provide equivalent service as required under the Americans with Disabilities Act of 1990 ("ADA").

2.3. Compliance Requirements. Contractor will provide Services subject to the requirements of the ADA and the drug and alcohol program requirements of 49 C.F.R. Parts 40 and 655.

## 3. Compensation.

3.1. Rates. The rates for the term of this Agreement are based on the monthly, flat rates provided by the Contractor and accepted by the CCBID as shown in **Exhibit B**.

3.2. Invoices. Contractor shall invoice the CCBID on a monthly basis for the Services provided. Contractor shall submit invoices to the CCBID by the 5<sup>th</sup> day of the month for the previous month's service (the "Submittal Deadline"). The Contractor shall also submit a copy of all invoices to the City. Invoices submitted after the Submittal Deadline may not be processed until the following month or may result in delayed payments to the Contractor.

3.3. Payment Terms. The CCBID shall pay Contractor within thirty (30) days of receipt of Contractor's invoice. The Contractor acknowledges and agrees that the City may pay Contractor's invoices directly, as contemplated in an intergovernmental agreement by and between the City and the CCBID. The Contractor specifically agrees to accept payment directly from the City during the term of this Agreement.

3.3.1. Disputed Invoices. In the event the CCBID or the City disputes any portion of Contractor's invoice, the CCBID or the City shall notify Contractor in writing within fourteen (14) days of receipt of Contractor's invoice. The CCBID or the City shall

pay the undisputed portion of the invoice within thirty (30) days of receipt of Contractor's invoice.

3.3.2. Dispute Resolution. Contractor and the CCBID shall meet within fourteen (14) days of Contractor's receipt of the CCBID's notice of disputed invoice to negotiate a resolution to the dispute.

#### **4. Service Requirements.**

4.1. Reporting. Contractor shall report to the CCBID monthly the following statistics: total hours; total miles; accidents; threatened litigation or claims; and number of passengers transported on a daily basis (the "Monthly Report").

4.2. Fares. It is currently contemplated by the CCBID that the Service shall be operated free of charge to the public using such Service. Contractor shall not collect any money or fare from passengers, unless specifically authorized in writing by the CCBID.

4.3. Changes in Service. Upon the CCBID's reasonable request and advance written notice of no less than two (2) weeks, Contractor shall make modification to routes and schedules, subject to a corresponding increase or decrease in compensation as determined by the Parties.

4.4. Driver Documents and Inspection. Contractor will have on file and to the extent permitted by law shall, upon request, make available to the CCBID the following documentation for each driver retained to perform services under this Agreement:

4.4.1. Proof of valid driver's license;

4.4.2. Current Department of Motor vehicle record report; and

4.4.3. Audit testing record to verify compliance with FTA Drug and Alcohol Testing.

#### **5. Accident and Incident Reporting.**

5.1. Reporting Accidents and Incidents. Contractor shall report all accidents and incidents involving or resulting from its Services by providing the CCBID, a copy of the incident/accident report(s) submitted by drivers to Contractor, or through other mutually acceptable forms. Contractor shall require any driver involved in any incident or accident while engaged in the Services to provide a report of such incident or accident to Contractor. For purposes of this Agreement, "accident" means vehicle damage (excluding purely mechanical failure) that requires towing from the scene, and/or damage resulting in law enforcement agencies responding to the scene. For purposes of this Agreement, "incident" refers to injuries to and/or complaints from passengers or others related to the Services, whether in connection with an accident or not.

5.2. Law Enforcement Reports from Contractor. Contractor shall request a copy of any incident or accident report arising from the Services that are prepared by law enforcement officers. Contractor shall promptly provide the CCBID with a copy of all reports regarding Contractor's incidents or accidents in which a vehicle is involved. Such reports shall be submitted to the CCBID within twenty-four (24) hours of Contractor's receipt of the report.

5.3. Contractor Internal Reports. Copies of incident and accident reports involving vehicles, drivers, and/or passengers arising from the Services, prepared by the Contractor, shall be provided to the CCBID within twenty-four (24) hours of Contractor's preparation or receipt of the report.

## **6. Liability and Indemnification.**

6.1. Intent. It is not the intent of either party to incur liability for the negligent operations, acts, or omissions of the other party or its agents or employees. Rather, as set forth hereinafter, each of the parties hereto assumes full responsibility for the negligent operations, acts, and omissions of its own employees, agents, contractors, and licensees, and each party hereto shall be indemnified, defended and held harmless only against the negligent operation, acts, and omissions of the employees, agents or contractors of the other party. Nothing herein shall be construed as a waiver of the limitations and protections afforded the CCBID by the Colorado Governmental Immunity Act.

6.2. Contractor. Contractor agrees and acknowledges that it is responsible for any and all liabilities, obligations, damages, penalties, claims, costs and expenses, including, without limitation, reasonable attorney's fees, paid or incurred as the result of or in connection with (i) any breach by Contractor, its agents, subcontractors, employees, or licensees, of any term, covenant or condition of this Agreement, or (ii) the carelessness, negligence, recklessness, or intentional acts or omissions of Contractor, its agents, subcontractors, employees, or licensees. To the full extent allowed by law, if any action or proceeding is brought against CCBID, by reason of any such claim, upon written notice from the CCBID, Contractor shall, at its own expense, indemnify, defend and hold CCBID harmless against such claims, demands, actions or proceedings with counsel approved by the CCBID in writing, and Contractor shall indemnify and hold CCBID harmless from and against any such settlement, award, or judgment resulting therefrom.

6.3 City Agreement. The CCBID shall have no responsibility or liability for services performed under or compensation payable pursuant to the City Agreement. The Contractor releases and indemnifies the CCBID for any claims asserted against the CCBID arising under or out of the City Agreement.

## **7. Insurance.**

7.1. Forms and Amounts. Contractor shall carry insurance, and provide written proof thereof to the CCBID, in the following minimum amounts:

7.1.1. Workers' Compensation. Contractor shall provide workers' compensation insurance or shall undertake a program of self-insurance pursuant to the laws of the State of Colorado.

7.1.2. Comprehensive General Liability. Contractor shall maintain coverage of not less than One Million Dollars (\$1,000,000.00) per occurrence for personal injury and property damage liability. Such liability shall contain provision insuring the contractual liability.

7.1.3. Automobile. Contractor shall maintain a Comprehensive Automobile Insurance Policy written on an occurrence basis, in a form and substance reasonably acceptable to the CCBID. The Comprehensive Automobile Insurance Policy must provide coverage for all owned, hired, rented and non-owned automobiles. The Comprehensive Automobile Insurance Policy must be written with a combined single limit of liability for not less than One Million Dollars (\$1,000,000.00) for each occurrence of bodily injury and/or property damage.

7.2. Additional Insured. All Contractors' insurance policies required or provided for by this Agreement shall name the CCBID, its Board members, and its employees as additional insureds.

7.3. Primary. The insurance policies required by the terms of this Agreement shall be primary in relation to any other insurance that may apply, for Services performed by or on behalf of Contractor.

7.4. Cancellation & Notice. Should any of the above-described policies be canceled before the expiration date thereof, the issuing company shall so notify the CCBID in writing at least thirty (30) days in advance of such cancellation or expiration. The certificates of insurance for the above-described policies shall include at least a thirty (30) day notice of cancellation clause.

## **8. Additional Terms and Conditions**

8.1. Limitation of Funding. Service is contingent upon funds being made available to CCBID by the City from the collection of certain gaming device fees and then appropriated by the City and CCBID at their sole discretion. In the event that funding is eliminated or decreased by the City at any time, the CCBID shall have the right to terminate this Agreement upon ten (10) days notice or to negotiate an amendment of this Agreement in accordance with the terms hereof.

8.2. Independent Contractor. In performing under this Agreement, Contractor shall act at all times as an independent contractor. Nothing contained in this Agreement shall be construed or applied to create the relationship of principal and agent, or of employer and employee, between Contractor and the CCBID. Employees of Contractor shall not under any circumstances be considered employees of the CCBID.

8.3. Subcontracts. Contractor shall not enter into subcontracts for the performance of the duties and responsibilities of the Contractor identified in **Exhibit A** without the prior written consent of the CCBID.

8.4. Assignment of Interests. Neither this Agreement nor any interest herein shall be assigned or transferred by Contractor without authorization in writing by the CCBID. Such consent shall not release Contractor from its liability for the performance of the obligations of this Agreement, unless otherwise specifically agreed in writing.

8.5 Force Majeure. Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incident of fire, flood, or strike; acts of God; acts of the federal or state Government; war or civil disorder; violence or the threat thereof; commandeering of material, products, plants, or facility by the Federal or state government; or national or local fuel shortage. Performance shall be excused when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is beyond the reasonable control of, and is not due to the fault or negligence of the party not performing.

8.6. Audit. The records, books, documents, data, and accounting and operating procedures as related specifically to the performance of this Agreement are subject to audit and examination by the CCBID and its representatives, the City, the U.S. Department of Transportation, the Comptroller General of the United States, and the State of Colorado for three (3) years from the date of final payment under this Agreement. Such audit shall be conducted after reasonable notice to Contractor and at Contractor's account center in Colorado where such records shall be maintained.

8.7. Severability. If any provision of this Agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the Agreement; and each provision of the Agreement shall be and is deemed to be separate and severable from each other provision.

8.8. Modification. Any provision of this Agreement may be modified, changed, altered or deleted upon written agreement between the CCBID and Contractor.

8.9. Disputes. Disputes arising out of this Agreement between the CCBID and/or Contractor shall first be taken to the chief executive officers of the parties to this Agreement for the purpose of attempting in good faith to resolve the dispute. If the parties are not able to resolve the dispute, they shall each have the right to pursue all remedies permitted by law. In the event either party retains the services of an attorney to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and expenses.

8.10. Jurisdiction and Venue. This Agreement and all documents associated with this Agreement shall be construed and interpreted in accordance with the law of the State of Colorado. The CCBID and Contractor hereby consent and submit to the exclusive jurisdiction of

the Gilpin County District Court of the State of Colorado for adjudication of any suit, right or cause of action arising under or in connection with this Agreement.

8.11. Notices. Any notices required to be given pursuant to the terms and provisions of this Agreement shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each party at the addresses which follow or to such other addresses as the parties may hereinafter designate in writing:

CCBID: Central City Business Improvement District  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

cc: Collins, Cockrel & Cole  
Attn: Paul Cockrel  
390 Union Boulevard, Suite 400  
Lakewood, CO 80228

Contractor: Colorado Coach Transportation, LLC  
2080 Pearl Howlett Road  
Longmont, CO 80504

cc: Charles Kimball  
Kimball & Nespor, P.C.  
5400 Ward Road, Building III, Suite 150  
Arvada, CO 80002

Any such notice shall be deemed to have been given, if mailed as provided herein, as of the date mailed.

8.12 Illegal Alien Workers. Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement or contract with a subcontractor who knowingly employs or contracts with an illegal alien to perform work under the Agreement. Execution of this Agreement by Contractor shall constitute a certification by Contractor that it does not knowingly employ or contract with any illegal alien and that Contractor has participated or attempted to participate in the Basic Pilot Employment Verification Program administered by the United States Department of Homeland Security, ("Basic Pilot Program") in order to confirm the employment eligibility of all employees who are newly hired for employment in the United States.

8.12.1. Contractor shall:

8.12.1.1. Confirm or attempt to confirm the employment eligibility of all employees who are newly hired for employment in the United States through participation in the Basic Pilot Program. Contractor shall apply to participate in the Basic Pilot Program every three (3) months until all Contractor requirements

under this Agreement are completed or until Contractor is accepted into the Basic Pilot Program, whichever occurs earlier.

8.12.1.2. Not utilize the Basic Pilot Program procedures to independently undertake pre-employment screening of job applicants.

8.12.1.3. Require any subcontractor to certify that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under the Agreement. If Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, Contractor shall:

8.12.1.3.1. Notify the subcontractor and the CCBID within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

8.12.1.3.2. Terminate the subcontract with the subcontractor if within three (3) days of receiving notice from Contractor, the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

8.12.1.4. Comply with any reasonable request by the Department of Labor and Employment ("Department") made in the course of an investigation by the Department.

8.12.2. If Contractor violates any provision of this Section, the CCBID may terminate the Agreement immediately, Contractor shall be liable to the CCBID for the CCBID's actual and consequential damages resulting from such termination, and the CCBID shall report such violation by Contractor to the Colorado Secretary of State as required by law.

IN WITNESS WHEREOF, the CCBID and Contractor have caused this Agreement to be executed by their respective officers duly authorized to do so.

**CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT**

By: \_\_\_\_\_  
President



**EXHIBIT A**  
**SCOPE OF WORK**

1. DAYS/HOURS OF SERVICE. Passengers will be picked up at points designated by the City according to the following schedule:

10 a.m. to 12 a.m., Sundays through Thursdays; and 10 a.m. to 2 a.m., Fridays and Saturdays.

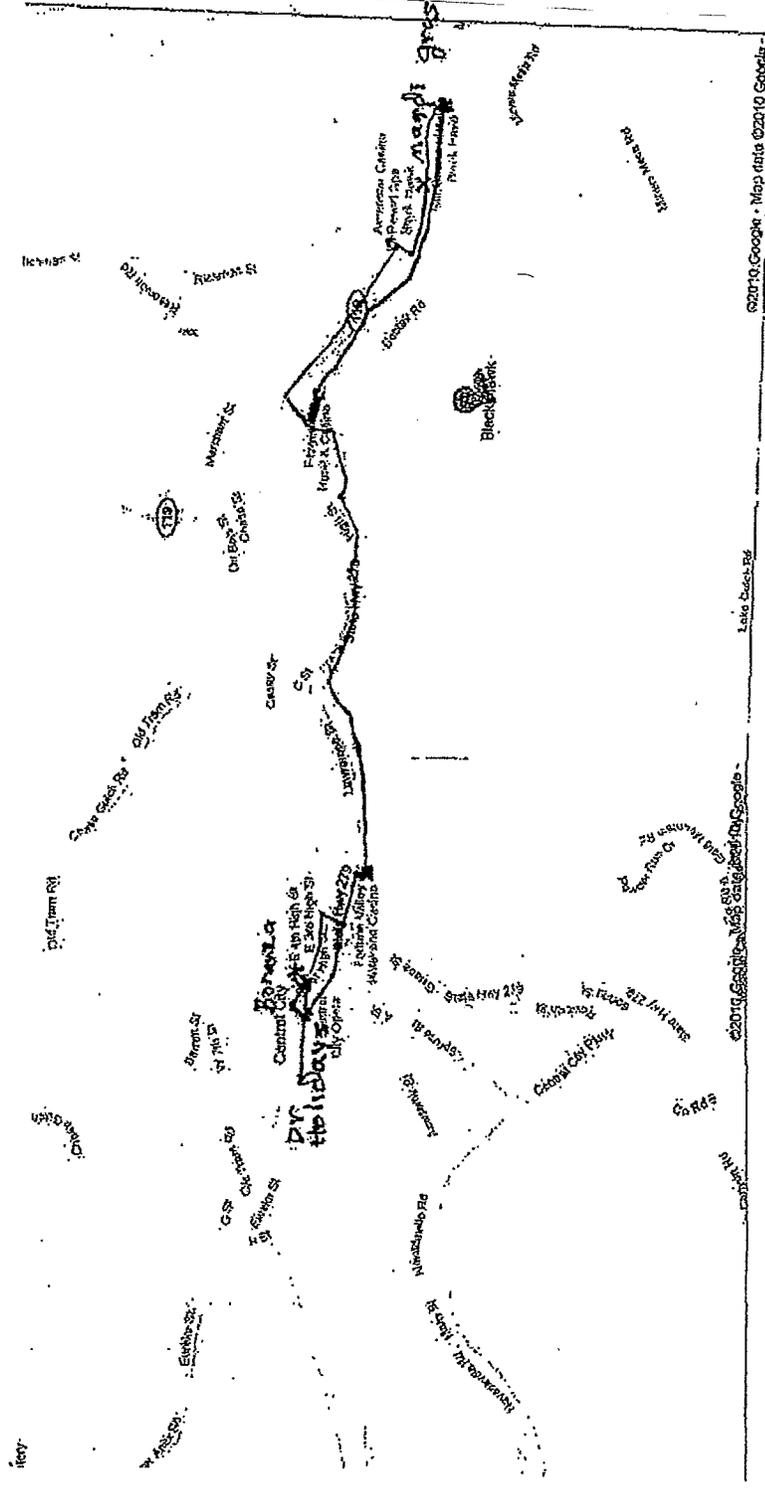
Contractor and its drivers shall not interfere with Black Hawk buses arriving or departing at designated bus stops in Black Hawk.

2. SERVICE AREA. Central City and Black Hawk according to the attached map, attached hereto as **Exhibit A-1**, as may be amended by the Parties.
3. INCLEMENT WEATHER. In the event that weather conditions are such that service must be suspended temporarily to ensure the safety of the passengers and drivers, the Contractor shall immediately contact the CCBID Manager or designee. Contractor shall make best efforts to notify casino management and passengers of weather related delays to the service.
4. COMPLAINTS. The Contractor shall make written record of all written complaints from passengers and other relating to the Service provided herein. Contractor shall investigate all complaints and, within fourteen (14) days following actual receipt of a complaint, provide a written response to the person making the complaint and shall provide a copy of the complaint and the response to City.
5. DRIVERS. Contractor shall employ drivers duly licensed by the State of Colorado to transport the passengers provided for under this Agreement. Contractor shall use three (3) drivers on a daily basis with available back-up assistance as deemed necessary by the Contractor.
  - Contractor shall train all drivers in accordance with Contractor's training program for drivers providing similar transit services.
  - All drivers will be trained in accordance with the federal laws and the laws of the State of Colorado.
  - Contractor shall comply with drug and alcohol screening requirements of all employees in safety sensitive positions in compliance with federal law.
  - All drivers shall wear a uniform issued by the Contractor at all times while in service, and shall, at all times when visible to bus passengers, be neatly groomed and dressed.

- The Contractor shall have the exclusive right to hire, train and terminate drivers and other Contractor personnel. The CCBID shall have the option to request the Contractor assign drivers to other contract service based on the need to maintain customer service levels consistent with a resort community.
  - Drivers shall be trained in and practice appropriate radio communications.
  - Upon request of the CCBID, Contractor will provide the CCBID with a summary of driver training.
6. VEHICLES. Contractor will supply two buses licensed in the State of Colorado, both of which will have lift equipment that is ADA accessible. Both vehicles will carry a minimum of fourteen (14) passengers plus wheel chair capacity.
- Contractor shall not materially alter the appearance of the buses.
  - Contractor shall ensure the buses it operates are neat, clean and properly maintained to assure the safety and comfort of all passengers.
7. MAINTENANCE. The Contractor shall provide all maintenance and repair of the buses; provided, however, that the CCBID shall wrap the buses with identifying information of the shuttle service, at CCBID's cost.
8. FUEL. The City of Central shall supply fuel for the buses and submit invoices to Contractor for repayment.
9. STORAGE OF BUSES. Contractor shall provide parking facilities for the buses.
10. QUALITY STANDARDS. In addition to all other federal state and local transit agency requirements, the following quality standards shall apply to the Contractor:
- Contractor will provide prompt and timely service in accordance with the schedule in the Agreement.
  - Contractor drivers will be courteous and respectful to all passengers at all times.
  - Contractor drivers shall contact the local law enforcement agency rather than deal directly with a disruptive passenger.
  - Contractor drivers shall obey all traffic laws of the State of Colorado, Gilpin County and Cities of Black Hawk and Central.

11. LICENSES AND PERMITS. During the term of this agreement, Contractor shall obtain all necessary licenses and permits required to operate a public transit service. If the Contractor is required to pay any fees associated with a license or permit, other than the PUC approval, Contractor and the CCBID shall negotiate in good faith regarding compensation. All Contractor drivers shall obtain and maintain a current Commercial Driver's License with passenger endorsement.

EXHIBIT A-1  
SERVICE AREA MAP



**EXHIBIT B  
CONTRACTOR COMPENSATION**

	Month	# of Days	Total
<b>2013</b>	January	31	\$34,230.82
	February	28	\$30,918.16
	March	31	\$34,230.82
	April	30	\$33,126.60
	May	31	\$34,230.82
	June	30	\$33,126.60
	July	31	\$34,230.82
	August	31	\$34,230.82
	September	30	\$33,126.60
	October	31	\$34,230.82
	November	30	\$33,126.60
	December	31	\$34,230.82

**Annual Amount:      \$403,040.30**



# AGENDA ITEM # 10

## CITY COUNCIL COMMUNICATION FORM

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**TO:** Mayor Engels and Members of City Council  
**FROM:** Marcus McAskin, Assistant City Attorney  
**DATE:** December 4, 2012  
**ITEM:** Resolution No. 12-16

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ORDINANCE  
 MOTION / RESOLUTION  
 INFORMATION

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- I. **REQUEST OR ISSUE:** Via Ordinance 12-12, the City Council has extended the \$5.00 per month per gaming device fee (the "Marketing Fee") for calendar year 2013. The City's existing intergovernmental agreement with the Central City Business Improvement District (the "CCBID") dated April 20, 2012 (the "IGA") must be amended in order to reflect the extension of the Marketing Fee and to establish the terms and conditions under which the CCBID will use the funds generated by the Marketing Fee in 2013 to accomplish the joint advertising and marketing goals of the City and the CCBID.

Consideration of Resolution No. 12-16 was continued from the November 20, 2012 City Council meeting.

- II. **RECOMMENDED ACTION / NEXT STEP:** The proposed First Amendment to the IGA (the "First Amendment") is attached to the proposed Resolution as **Exhibit 1**. City Council may approve the First Amendment to memorialize the terms under which the CCBID will utilize the funds generated by the Marketing Fee in 2013.
- III. **FISCAL IMPACTS:** The City implemented the Marketing Fee in 2011 (for collection and use in 2012); there are no fiscal impacts with the Council's extension of the Marketing Fee for 2013 or with the approval of the First Amendment.

IV. **BACKGROUND INFORMATION:** See I., Request or Issue, above.

V. **LEGAL ISSUES:** As set forth above, the IGA is dated April 20, 2012. The IGA is scheduled to terminate on December 31, 2012 and Paragraph 4.C. of the IGA requires that any amendment to the IGA be set forth in writing and executed by both the City and the CCBID.

Substantive provisions of the First Amendment include:

- Marketing Fee revenues may only be used by the CCBID for costs and expenses associated with implementing the 2013 Marketing Plan or other costs and expenses approved by the City Manager in writing;
- Acknowledgment that the City's existing Shuttle Service Agreement (with Colorado Coach Transportation, LLC) will be assigned to the CCBID but that a portion of the funds generated by the City's existing transportation device fee (of \$22.08 per device per month) will continue to be used to fund the operation of the shuttle service; and
- Acknowledgment that the City will pay some agreed-upon portion of the CCBID's additional estimated costs associated with overseeing the CCBID – Shuttle Operator Agreement.
- At the November 20, 2012 Council meeting, Mr. Joe Behm, representing the CCBID, requested City Council to consider paying the CCBID \$18,000 per year (\$1,500 per month) to offset the CCBID's estimated additional costs associated with managing the CCBID – Shuttle Operator Agreement. City Council requested a more detailed cost breakdown.
- Mr. Behm has supplied the following estimates to the City:

Legal / admin / accounting	\$400.00 per month
Insurance	\$2,000.00 annually
Research / guest satisfaction Surveys	\$3,000.00 annual
Total:	\$9,800.00 annually

The CCBID is therefore requesting \$10,000 in additional funding from the City. Based on this request, paragraph 1.D. has been added to the First Amendment as follows:

**D. Management Fee.** For the term of the CCBID – Shuttle Operator Agreement, the City shall pay to CCBID the sum of \_\_\_\_\_ per month (the "Management Fee") for management of the Shuttle Services. The Management Fee is intended to offset the CCBID's additional direct and indirect legal, accounting, and other costs and expenses that the CCBID is anticipated to incur in overseeing the Shuttle Operator and managing the CCBID – Shuttle Operator Agreement.

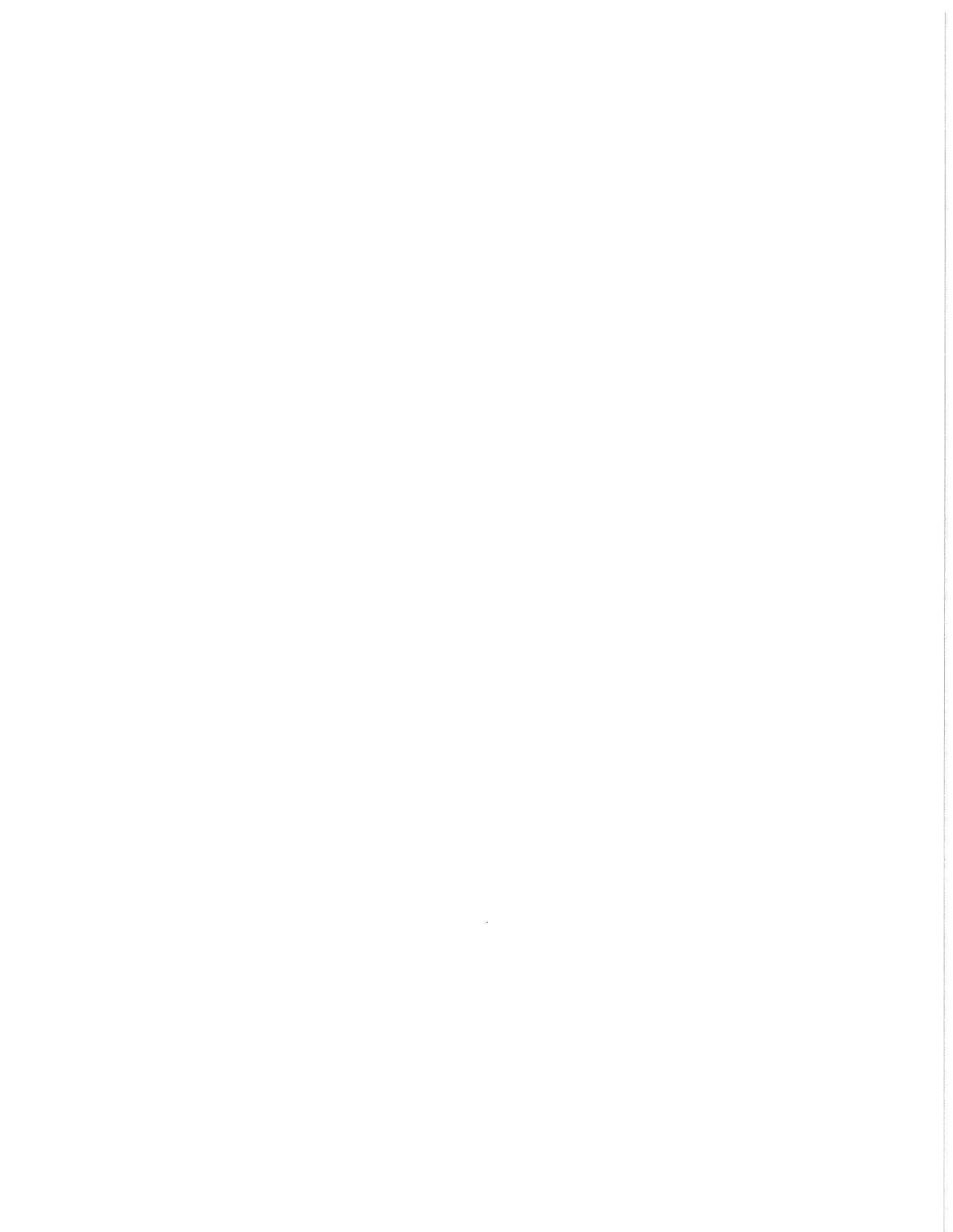
**The monthly dollar figure has been specifically left blank, as this is an issue for City Council to discuss and decide at the December 4, 2012 meeting.**

Should Council approve the \$10,000 funding request, the monthly figure to be inserted into the First Amendment would be \$833.33.

- The term of the First Amendment runs through December 31, 2013, and that any extension of the Marketing Fee must be extended through future legislative action of City Council.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES: N/A**

**VII. SUMMARY AND ALTERNATIVES: City Council may approve the Resolution or table the item for further discussion and consideration.**



**CITY OF CENTRAL, COLORADO  
RESOLUTION NO. 12-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO APPROVING THE FIRST AMENDMENT TO INTERGOVERNMENTAL  
AGREEMENT BY AND BETWEEN THE CITY OF CENTRAL AND THE CENTRAL  
CITY BUSINESS IMPROVEMENT DISTRICT**

WHEREAS, the City of Central is authorized to enter into contracts for lawful purposes for the protection of the health, safety, and welfare; and

WHEREAS, following the City Council's adoption of Ordinance 11-16, the City and the Central City Business Improvement District (the "CCBID") entered into that certain Intergovernmental Agreement dated April 20, 2012 related to the funding of certain of the costs related to the CCBID's 2012 Marketing Plan (the "IGA"); and

WHEREAS, pursuant to Ordinance 11-16 (the "Prior Ordinance"), the City authorized a one year increase in its device fee of \$5.00 per gaming device for each calendar month (the "Marketing Fee") in order to assist with the funding of the CCBID's marketing and advertising efforts; and

WHEREAS, the Prior Ordinance contemplated that the Marketing Fee could be extended by legislative action of City Council; and

WHEREAS, the City Council has, through Ordinance 12-12 dated November 20, 2012, extended the Marketing Fee for calendar year 2013; and

WHEREAS, the City Council desires to authorize an amendment to the IGA in order to establish the terms and conditions by which the revenues collected by the City from the Marketing Fee will be remitted to the CCBID, and to memorialize the continuing joint advertising and marketing efforts of the City and the CCBID; and

WHEREAS, the City desires to extend the term of the IGA through December 31, 2013; and

WHEREAS, the CCBID desires to continue to provide certain advertising and marketing services during calendar year 2013 in accordance with the terms and conditions of the First Amendment to the IGA, a copy of which is attached to this Resolution and is incorporated herein by reference (the "First Amendment").

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF CENTRAL, COLORADO, THAT:**

**Section 1.** The City Council hereby approves the First Amendment attached to this Resolution as **Exhibit 1**, authorizes the City Manager, in consultation with the City Attorney, to make such changes as may be needed to correct any nonmaterial errors or language that do not

increase the obligations of the City, and authorizes the Mayor to execute the First Amendment on behalf of the City.

**Section 2.** **Effective Date.** This Resolution shall take effect upon its approval by the City Council.

ADOPTED THIS 4<sup>th</sup> DAY OF DECEMBER, 2012.

**CITY OF CENTRAL, COLORADO**

By: \_\_\_\_\_  
Ronald E. Engels, Mayor

**ATTEST:**

**APPROVED TO FORM:**

By: \_\_\_\_\_  
Reba Bechtel City Clerk

By: \_\_\_\_\_  
Linda C. Michow, City Attorney

**EXHIBIT 1**

**FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT**



**FIRST AMENDMENT TO:**

**INTERGOVERNMENTAL AGREEMENT  
BY AND BETWEEN THE CITY OF CENTRAL AND THE  
CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT**

**THIS FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT** (“Amendment”) is made and effective as of the 1<sup>st</sup> day of January, 2013, (the “Effective Date”) by and between **THE CITY OF CENTRAL**, a home rule municipal corporation (the “City”) and the **CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“CCBID”), collectively referred to herein as the “Parties.”

RECITALS

**WHEREAS**, the Parties entered that certain Intergovernmental Agreement dated April 20, 2012 related to the funding of certain of the costs related to the CCBID’s 2012 Marketing Plan (the “Agreement”); and

**WHEREAS**, the Agreement is scheduled to terminate on December 31, 2012; and

**WHEREAS**, Paragraph 4.C. of the Agreement requires that any amendment to the Agreement be set forth in a writing duly authorized and executed by the Parties; and

**WHEREAS**, pursuant to Ordinance No. 11-16, enacted by the City in December of 2011 (the “Prior Ordinance”), the City authorized a one year increase in its device fee of \$5.00 per gaming device for each calendar month (the “Marketing Fee”) in order to assist with the funding of the CCBID’s marketing and advertising efforts; and

**WHEREAS**, the Prior Ordinance contemplated that the Marketing Fee could be extended by legislative action of City Council; and

**WHEREAS**, pursuant to Ordinance No. 12-12, adopted by the City Council on November 20, 2012 (the “Ordinance”), the City Council has extended the Marketing Fee for calendar year 2013; and

**WHEREAS**, the Parties desire to enter into this Amendment to establish the terms and conditions by which the revenues collected by the City from the Marketing Fee will be remitted to the CCBID and to memorialize the continuing joint advertising and marketing efforts of the Parties; and

**WHEREAS**, the City currently imposes and collects a monthly gaming device fee in the amount of \$22.08 per month (the “Transportation Fee”) to fund transportation services and improvements for the City; and

**WHEREAS**, the Parties further desire to enter into this Amendment to memorialize the City's and the CCBID's respective obligations regarding the operational and funding responsibilities of the City and the CCBID related to the provision of shuttle services by Colorado Coach Transportation, LLC (the "Shuttle Operator"); and

**WHEREAS**, on or about December 21, 2012, the City and the Shuttle Operator entered into an agreement for the operation of a transportation shuttle service (the "Shuttle Service Agreement"); and

**WHEREAS**, the City, CCBID and Shuttle Operator have agreed upon the form of an agreement assigning the Shuttle Service Agreement to the CCBID effective as of January 1, 2013; and

**WHEREAS**, it is the CCBID's current intent that the Shuttle Operator will continue to perform the transportation shuttle services (the "Shuttle Services") in calendar year 2013, pursuant to and in accordance with that certain agreement by and between the Contractor and the CCBID having an effective date as of January 1, 2013 (the "CCBID – Shuttle Operator Agreement").

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

#### COVENANTS AND AGREEMENTS

**1. Scope of Amendment.**

**A. CCBID Marketing and Advertising Plan.** In 2013, the CCBID shall undertake the advertising and marketing plan and services detailed in **EXHIBIT A** (the "2013 CCBID Marketing Plan"). The 2013 CCBID Marketing Plan shall be provided by the CCBID to the City on or before April 30, 2013. Once received by the City, the 2013 CCBID Marketing Plan shall be attached to this Amendment as **EXHIBIT A**.

**B. City to Fund Portion of CCBID Marketing Plan.** The City shall endeavor to remit all revenues collected from the Marketing Fee to the CCBID within thirty (30) days following the receipt of the same in order to fund those certain services and activities detailed in the 2013 CCBID Marketing Plan. The Parties acknowledge and agree that based upon the total number of gaming devices within the City as of the Effective Date of this Amendment, which number of gaming devices is subject to change based on market conditions beyond the City's control, the Marketing Fee is expected to generate approximately One Hundred Forty Thousand Dollars (\$140,000) in revenue to the City during calendar year 2013. The Marketing Fee revenues remitted by the City to the CCBID during the term of this Amendment shall be used by the CCBID: (1) only for costs and expenses directly associated with implementing the 2013 CCBID Marketing Plan attached to this Agreement as **EXHIBIT A**; or (2) costs and expenses authorized by the City Manager in writing that are consistent with the intent and purpose of the

CCBID Marketing Plan. The City shall be entitled to withhold revenues collected from the Marketing Fee until such time as the 2013 CCBID Marketing Plan has been received by the City and incorporated into this Agreement as EXHIBIT A.

**C. Assignment of Shuttle Service Agreement.** The Shuttle Service Agreement and all rights and responsibilities for the Shuttle Services to be provided thereunder after the effective date of such assignment, but not prior thereto, shall be assigned to the CCBID in accordance with that certain Assignment of Agreement for the Operation of a Transportation Shuttle Service by and between the City, CCBID and the Shuttle Operator, and having an effective date as of January 1, 2013 (the "Assignment"). For the term of the CCBID – Shuttle Operator Agreement, the CCBID shall forward copies of the Shuttle Operator's invoices to the City's Finance Director within five (5) business days of receipt, and the City shall remit all funds collected from the Transportation Fees or other available revenues of the City to pay the amount of the invoice provided to CCBID directly to the Shuttle Operator within ten (10) business days of receipt of the invoice, unless otherwise notified by CCBID in writing, in order that CCBID may fully timely satisfy its obligations to the Shuttle Operator under the Assignment and the CCBID – Shuttle Operator Agreement.

- i. Disputed Invoices. In the event the City disputes any portion of the Shuttle Operator's invoice, the City shall notify the CCBID and the Shuttle Operator in writing within fourteen (14) days of receipt of the Shuttle Operator's invoice from the CCBID, and the CCBID shall thereafter notify the Shuttle Operator of such dispute in accordance with the controlling provisions of the CCBID- Shuttle Operator Agreement.
- ii. Dispute Resolution. If requested in writing by the City's Finance Director or City Manager, the CCBID and the Shuttle Operator shall meet in order to negotiate a resolution to any pending payment dispute between the CCBID and the Shuttle Operator. The City Finance Director or City Manager, or his or her designee, shall be authorized to attend the meeting.
- iii. Prior Shuttle Services. CCBID shall have no responsibility for or liability arising out of the Shuttle Operator's performance of Shuttle Services and payments therefor prior to the Effective Date. The City and the Shuttle Operator shall release, defend, satisfy and discharge CCBID from any and all claims or liabilities that may be asserted against CCBID in this regard.

**D. Management Fee.** For the term of the CCBID – Shuttle Operator Agreement, the City shall pay to CCBID the sum of [REDACTED] per month (the "Management Fee") for management of the Shuttle Services. The Management Fee is intended to offset the CCBID's additional direct and indirect legal, accounting, and other costs and expenses that the CCBID is anticipated to incur in overseeing the Shuttle Operator and managing the CCBID – Shuttle Operator Agreement

**2. Term.** This Amendment shall be effective as of the Effective Date and shall terminate on December 31, 2013. As set forth in the Ordinance, the Marketing Fee is currently scheduled

to sunset on December 31, 2013, and may only be extended by an ordinance duly considered and adopted by the City Council. Accordingly, should the Marketing Fee be extended via legislative action of the City Council, the Parties reserve the right to enter into a subsequent amendment of the Agreement to extend the term beyond December 31, 2013. Any subsequent amendment extending the term beyond December 31, 2013, shall require the CCBID to provide the City with: (a) an updated marketing and advertising plan and shall require reporting requirements substantially similar to those set forth in paragraph 3 below; and (b) a copy of the agreement between the CCBID and the Shuttle Operator for the Shuttle Services to be provided in calendar year 2014, which agreement shall clearly show the proposed monthly expenses for Shuttle Services in 2014.

**3. Reporting of Use of Marketing Fee Revenues by CCBID.** On or before January 31, 2014, the CCBID shall cause to be prepared and delivered to the City a written report of the expenditure and application of all Marketing Fee revenues actually received by the CCBID during 2013, together with a statement of the year-end balance of all such unexpended revenues, if any, held by the CCBID. Such report shall identify the particular purpose and application of each expenditure and the report shall evidence the CCBID's conformance with the requirements of paragraph 1.B. of this Amendment. In the event that the City determines that the report fails to evidence the CCBID's conformance with the requirements of 1.B. of this Amendment, the City may demand in writing that the CCBID submit to the City a supplement to the report which supplement shall contain additional documentation, invoices, and receipts to evidence that the Marketing Fee revenues have been used in accordance with the terms of this Agreement. If any unexpended Marketing Fee revenues remain at the end of the term of this Amendment, such unexpended funds shall be used by the CCBID in accordance with a separate written agreement by and between the City and the CCBID. If the Parties are unable to agree on the use of any unexpended revenues, the same shall be returned by the CCBID to the City on or before March 15, 2014. Nothing in this Amendment shall alter the CCBID's requirement to file the written report required by paragraph 3 of the Agreement with the City on or before January 31, 2013 (with respect to the use of Marketing Fee revenues received by the CCBID during 2012).

**4. No Further Amendments.** All provisions of the Agreement not expressly amended herein remain in full force and effect.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Amendment on the date(s) set forth below.

THE SIGNATURE PAGE FOLLOWS.

**CITY OF CENTRAL, COLORADO**

\_\_\_\_\_  
Ronald E. Engels, Mayor

Date of execution: \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Reba Bechtel, City Clerk

**CENTRAL CITY BUSINESS IMPROVEMENT  
DISTRICT**

\_\_\_\_\_  
President

Date of execution: \_\_\_\_\_, 2012

ATTEST:

\_\_\_\_\_  
Secretary

**EXHIBIT A**

2013 CCBID Marketing Plan

*[To be provided to the City on or before April 30, 2013]*



# AGENDA ITEM #11

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Linda Michow, City Attorney  
Shannon Flowers, Finance Director

**DATE:** November 29, 2012

**ITEM:** Ordinance 12-18 An Ordinance of the City Council of the City of Central Colorado Amending Certain Provisions of Chapter 4 of the Municipal Code Concerning Revenue and Finance

**NEXT STEP:** Make a motion to approve Ordinance 12-18 and set a public hearing on the same for December 18, 2012 at 7:00 p.m.

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ORDINANCE  
 MOTION  
 INFORMATION

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- I. **REQUEST OR ISSUE:** The City Council is being asked to consider Ordinance 12-18 which amends certain provisions and sections of Chapter 4 regarding revenue and finance. As Council is aware, over the course of the year and a half staff and legal counsel have been reviewing the Municipal Code to clean up obsolete provisions, create administrative efficiencies and simplify language and cross referencing so that staff, residents and businesses can more easily access the regulations set forth in the Code. The changes and amendments contained in Ordinance 12-18 do so for Chapter 4 of the Municipal Code.

The changes and revisions contemplated in Ordinance 12-18 were reviewed by Council at a work session on July 17, 2012. At that work session Council asked that legal counsel determine whether or not food stamps were included under Section 4-54 as exempt items. Section 4-54(n) has been added to include a food stamp exemption. Language has been added to Section 4-47 to formalize the City's existing practices regarding the collection of sales and lodging tax on complimentary meals and rooms.

Attached is a copy of Ordinance 12-18 that shows all changes that have been made to the existing language in Chapter 4. The most significant changes proposed under Ordinance 12-18 are to the sections specific to the Procurement of Goods and Services (beginning

with Section 4-241). As Council is aware, the existing procurement and bidding procedures in Chapter 4 are extremely confusing, at times contradictory and cumbersome to adhere to. For this reason, staff and legal counsel have simplified these sections and included a chart that easily identifies what purchasing requirements shall be followed within certain budgetary ranges.

- II. **RECOMMENDED ACTION / NEXT STEP:** Make a motion to approve Ordinance 12-18 and set a public hearing on the same for December 18, 2012 at 7:00 p.m.
  
- III. **FISCAL IMPACTS:** Fiscal impacts are not expected to be significant as the changes to interest rate collections are minor and the Ordinance does not affect any practices currently in place regarding sales, use or lodging tax collection. The changes to the Procurement of Goods and Services sections will not have any direct financial impacts but will allow staff to obtain good pricing and potential cost savings when purchasing goods and services thereby saving the City money.
  
- IV. **LEGAL ISSUES:** The City is authorized under its home rule charter and Title 31 of the Colorado Revised Statutes to adopt and amend ordinances in furtherance of governmental administration and the City's police powers.
  
- V. **CONFLICTS OR ENVIRONMENTAL ISSUES:** N/A
  
- VI. **SUMMARY AND ALTERNATIVES:** City Council has the following options:
  - (1) Adopt Ordinance No. 12-18 on first reading, and schedule for public hearing and second reading for final adoption, as may or may not be amended;
  
  - (2) Direct staff to make revisions to the Ordinance and schedule consideration of the Ordinance on a future City Council agenda for first reading; or
  
  - (3) Reject or deny the Ordinance.



**CITY OF CENTRAL, COLORADO  
ORDINANCE 12-18**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO AMENDING CERTAIN PROVISIONS OF CHAPTER 4 OF THE  
MUNICIPAL CODE CONCERNING REVENUE AND FINANCE**

**WHEREAS**, the City of Central (“City”) is authorized under its home rule charter and Title 31 of the Colorado Revised Statutes to adopt and amend ordinances in furtherance of governmental administration and the City’s police powers; and

**WHEREAS**, the City Council previously codified the ordinances of the City via Ordinance No. 94-3 into the Municipal Code; and

**WHEREAS**, in furtherance of the public health, safety and welfare of the City of Central, the City Council wishes to update the Municipal Code, chapter by chapter, to create administrative efficiencies and to reflect current City practices and policies; and

**WHEREAS**, the City Council has considered revisions to Chapter 4 of the Municipal Code in a Council study session on July 17, 2012; and

**WHEREAS**, said revisions to Chapter 4 include but are not limited to; and

**WHEREAS**, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law; and

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL,  
COLORADO THAT:**

**Section 1.** The following sections of Chapter 4 of the Central City Municipal Code are hereby amended to read as follows, with strike through to show deleted text and underline to show new text:

**Sec. 4-4        Establishing interest rate on obligations owed to City.**

(a)        The City of Central shall be entitled to ~~interest at the rate of one percent (1%) per month on all past due obligations, which are past due for more than thirty days, and to~~ interest at the rate of one and one-half percent (1.5%) per month on all past due obligations which remain past due for more than sixty days. Such interest ~~may~~ shall be applied to all past due obligations, including but not limited to all fees, taxes, contractual obligations, penalties, and other obligations or right to receive payment or reimbursement.

(b)        In the event that a law of the State of Colorado or the United States provides for a higher rate of interest, Central City shall be entitled to such higher rate.

~~**Sec. 4-24. Maintenance Fund established.**~~

~~There is hereby created a special fund designated the Historic Structure Minimum Maintenance Revolving Fund, from which Fund shall be paid any costs and expenses incurred by the City in connection with the repair, alteration or preservation of any dangerous rated building and into which Fund shall be deposited.~~

- ~~(1) Such sums as may be recovered by the City as reimbursement for costs and expenses of repair, alteration or improvement of historical buildings and rated structures which are unsafe or dangerous;~~
- ~~(2) Such other sums as may by ordinance be appropriated to or designated as revenue of such Fund;~~
- ~~(3) All fines imposed and collected under Chapter 18, Article VI of this Code;~~
- ~~(4) Gifts, donations and other charitable contributions.~~

**Sec. 4-43. Renewal of license.**

- (a) It shall be the sole responsibility of each licensee to submit a renewal application with a renewal fee as set by City Council resolution on or before January 15 of each year, granted that his or her business is in operation and is ~~still~~ liable to collect, report and submit taxes to the City.
- (b) In the event that a business fails to renew its license prior to January 31 of each year, a fine equal to fifty five percent (50%) of the license fee last tax remitted will be charged upon the business's account and must be paid prior to the issuance of any license or retail sale. A notice stating the assessment of the fine and non-renewal of license will be mailed to the business by February 15 each year.

**Sec. 4-46. Sales tax levy.**

(a) There is levied and there shall be collected and paid a four percent (4%) tax upon on all sales and services as specified in Sections 4-47 and 4-48 of this Article.

~~(a)~~ in accordance with the following schedule:

~~(b)~~

<del>Amount of Sale</del>	<del>Tax</del>
<del>\$0.01 through \$0.15</del>	<del>No tax</del>
<del>0.16 through 0.37</del>	<del>\$0.01</del>
<del>0.38 through 0.59</del>	<del>0.02</del>
<del>0.60 through 0.81</del>	<del>0.03</del>
<del>0.82 through 1.00</del>	<del>0.04</del>

~~(e)~~

~~(d) On sales in excess of one dollar (\$1.00), the tax shall be four percent (4%) on each full dollar of the sales price plus the tax shown in the above schedule for the applicable fractional part of a dollar upon each sales price.~~

(e)(b) ~~(b)~~—The retailer shall add the tax imposed thereto to the sales of charge of the item sold, showing such tax as a separate and distinct item, and when added, such tax shall constitute a part of such price or charge, shall be a debt from the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as other debts.

(c) It is unlawful for any vendor to absorb or advertise the intent to absorb the tax imposed by the provisions of this Article, or to directly or indirectly reflect in any manner that the total charge including the tax is not greater than the total charge would be if the tax was not imposed.

(1) Nothing herein contained shall be deemed to prohibit any retailer selling malt, vinous or spirituous liquors by the drink from including in the sales price any tax levied under this Article.

(2) No retailer selling malt, vinous or spirituous liquors by the drink shall advertise or hold out to the public in any manner, directly or indirectly, that the tax levied by this Section is not considered as an element in the sale price to the consumer.

(d) No person other than the City may enrich himself or herself or gain any benefit from the collection or payment of such tax.

**Sec. 4-47. Property and services taxed.**

There is levied and there shall be collected and paid a tax in the amount stated in Section 4-46 as follows:

(a) All sales of tangible personal property at retail within the City or transactions made with vendors and/or persons within the City. All retail sales are consummated at the place of business of the retailer.

(b) All charges for service within the City for telephone and telegraph service and televised audio and video messages carried by wire or cable, whether furnished by public or private corporations or enterprises.

(c) All charges within the City for gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption not constituting a wholesale sale, upon steam when consumed or used by the purchaser and not resold in original form, whether furnished or sold by municipal, public or private corporations or enterprises.

(d) All amounts paid for all meals, foods, beverages and liquors, including complimentary meals, food, beverages and liquor, furnished in any restaurant, eating house, hotel, drugstore, club and resort or at any such place at which meals food or drinks are sold to the public.

(e) All charges for pay cable or subscription television, including charges for services, installation, connection or other similar charge.

(f) Automotive vehicles sold, leased or rented in the City.

- (g) Pre-written and/or pre-packaged computer programs or software.

**Sec. 4-48. Lodging tax.**

- (a) In addition to the property and services listed above and any applicable sales tax imposed, there is hereby imposed a three percent (3%) tax in accordance with the following schedule upon the entire amount charged for the furnishing of rooms or accommodation units.:

<i>Amount of Sale</i>	<i>Tax</i>
\$0.01 through \$0.37	No tax
-0.38 through 0.59	\$0.01
-0.60 through 0.81	-0.02
-0.82 through 1.00	-0.03

~~On sales in excess of one dollar (\$1.00), the tax shall be three percent (3%) on each full dollar of the sales price plus the tax shown in the above schedule for the applicable fractional part of a dollar upon each sales price.~~

- (b) Issuance of a sales tax license to any vendor shall also be considered a license to collect, report and remit lodging tax.
- (c) All provisions set out in this Article shall apply to the collection, reporting, remittance and delinquency of lodging tax.

**Sec. 4-54. Exempt sales.**

The taxes levied in Sections 4-46, 4-48 and 4-49 shall not apply to the items listed below. The list of exemptions shall not be increased by implication or similarity. Furthermore, the burden of proving that any retailer or vendor is exempt from collecting the tax on any goods and paying the same to the City or from making returns, shall be on the retailer or vendor under such reasonable requirements or proof as the Finance Department may prescribe.

- (a) All sales to the United States government, to the State, its departments and institutions, the political subdivisions thereof in the governmental capacities only.
- (b) All sales to religious, charitable and eleemosynary functions and activities.
- (c) All sales which the City is prohibited from taxing under the Constitution or laws of the United States or the State; provided, however, that the exemptions provided herein shall stand on their own and separate accord, and shall not be affected by the provisions of the state's sales tax exemption provisions.
- (d) All sales of cigarettes.
- (e) All sales of prescription drugs and prosthetic devices.

- (f) All sales of commodities which are taxed under the provisions of the Motor Fuel Tax of 1933, as amended.
- (g) Newspapers as legally defined in Section 24-70-102, C.R.S.
- (h) All sales of tangible personal property to a public utility doing business both within and outside the City, for use in its business outside the City, even though delivery thereof is made within the City.
- (i) All sales of farm machinery, farm machinery parts, livestock, poultry, livestock and poultry feeds and drugs, seeds and fertilizers to purchasers for use outside the City even though delivery is made within the City. Trucks and lawn and garden equipment are not to be considered as farm machinery.
- (j) All permits, licenses, service charges, and fines and assessments, for benefit or penalty, charged by and in accordance with this Code.
- (k) All sales of personal property; provided that such sales are infrequently conducted, that the sale occurs at the residence of the owner, and that the property to be sold was originally purchased for use by members of the household where such sale is being conducted.
- (l) All sales by churches, clubs, lodges, parent-teacher associations, student organizations, youth organizations and organizations chartered by the State as nonprofit corporations; provided that such sales are infrequently conducted, that no regular place of sale is maintained and that all proceeds from such sales are used for the activities of the organization conducting the sale.
- (m) Modified or customized computer programs or software; but not including pre-written computer programs or software.

~~(n)~~ All sales of food purchased with food stamps.

**Sec. 4-114. Property having a fair market value of ~~ten~~ thousand dollars or more.**

Property having a fair market value of ~~ten~~ thousand dollars (\$10,000.00) or more per item shall be sold at public sale, either upon written, sealed bids or public auction, as may be determined by the Sales Agent, ~~to be advertised by notice placed in at least one (1) issue of a newspaper of general circulation published in the City or region not less than seven (7) days nor more than fourteen (14) days prior to such sale.~~ Nothing herein contained shall prevent the placement and giving of such additional notice as may be determined to be desirable by the Sales Agent.

**Sec. 4-115. Property having a fair market value of less than ~~ten~~ thousand dollars.**

Property having a fair market value of less than ~~ten~~ thousand dollars (\$10,000.00) per item may be sold in the open market at public or private sale without bid advertisement and without observing the procedure prescribed by Section 4-114 relating to written, sealed bids, in the discretion of the Sales Agent.

**Sec. 4-119. Notice of intent.**

~~Before any property declared to be excess or surplus is sold, the Sales Agent shall cause to be posted within the City at such locations as have been previously designated for posting, not less than seven (7) days prior to sale, a notice of intent to dispose of property. Such notice shall list and describe the items to be sold and indicate that any interested party may contact the Sales Agent and shall contain the address and telephone number of the office of the Sales Agent.~~

**Procurement of Goods and Services**

**Sec. 4-241. Purpose.**

The City's policy is to promote government efficiency, transparency, and wise and economical use of public funds to ensure that the City's money is used to best serve the public interest. All procurement shall be accomplished in compliance with applicable and mandatory state and federal law. As a home rule municipality, the City's Purchasing Policy shall supersede any state law or requirements which are in conflict with this Policy unless such state requirement is applicable to home rule municipalities by law.

**Sec. 4-242. Scope.**

The City's Purchasing Policy applies to all Purchases by the City, unless otherwise specified by ordinance, resolution, other policy, or exempted under Section 4-243. Notwithstanding this Policy, the City shall comply with the requirements of any procurement or purchasing process obligation in any applicable and mandatory federal law or any funding or other agreement that requires specific purchasing procedures or requirements. No procurement, regardless of the amount, shall be initiated without annual appropriated funds.

**Sec. 4-243. Exemptions.**

The following Purchases are exempt from this Policy:

- (a) Small Dollar Purchase – Purchases where the estimated total cost of the items or services is Five Thousand Dollars (\$5,000) or less may be made directly by the City Manager or his or her designee. Although these purchases are exempt, competition is encouraged to ensure best value for products and services.
- (b) Professional Services – Although a competitive process is preferred, services provided by those who possess a high degree of professional or specialized skill such as accountants, public finance specialists, architects, engineers and attorneys may be exempt from this Policy. Such service providers must meet the minimum qualifications and standards for providing the service.
- (c) Extensions – Extension of existing contracts may be negotiated when a vendor offers to extend under the same conditions and at the same or lower price and such extension is in the best interest of the City. Contract extensions are limited to two one year terms.
- (d) Sole Source - Purchases that are obtainable, for practical purposes, only from a single or sole source due to distribution rights, intellectual property or other exclusive rights as determined by the City Manager upon a finding that, after reasonable inquiry, there is a single or sole provider of such goods or services within the local or general area. Sole source purchases in excess of \$30,000 for goods or services shall be approved by City Council.

(e) Cooperative Purchasing – Purchases made through Cooperative Purchasing arrangements which combine the requirements of two or more political entities to obtain the advantages of volume purchase, reduction in administrative expenses, or other public benefits also known as “piggybacking” on other governmental agreements.

(f) Government Purchases - Purchases from federal, state or other local government units.

(g) Employment - Employment agreements or employee services, including short term contract employees as may be needed from time to time.

(h) Emergency Purchases - Emergency Purchases shall extend to contracts for goods or services where time is of the essence for performance of the contract and the increased time to bid the contract would substantially impair the performance of the contract and/or result in an increased cost of performance. In emergency situations, the City Manager has authority to make all necessary expenditures resulting from the emergency, upon consultation with City Council.

(i) Purchases of water rights or interests in real property.

**Sec. 4-244. Purchasing Policy.**

The City Council is authorized to adopt a purchasing policy consistent with the terms herein by resolution. The purchasing policy adopted by City Council is subject to the following bidding thresholds and purchasing procedures:

<u>Purchasing Range *</u>	<u>Purchasing Process</u>	<u>Purchasing Approval Level of Authorization</u>	<u>Purchasing Requirements</u>	<u>Other Requirements</u>
<del>2</del> \$0-\$5,000	Small Dollar – Exempt	City Manager or designee	Buyer’s best judgment	No written contract is required
<del>6</del> \$5,001 to \$25,000	Simple Procurement	City Manager	Minimum of two written or oral quotes	Written contract or purchase order
<del>6</del> \$25,001 and above	Formal Procurement	City Manager Recommendation and City Council Motion or Resolution	Sealed competitive bidding	Written contract signed by Council

Contracts with the City for goods and services, unless otherwise provided for herein, shall be awarded to the lowest responsive, responsible bidder. If the City Manager determines that no bids adequately meet

~~the City's needs or in the event the City decides, for whatever reason, not to let a contract, all bids may be rejected. Each bid, with the name of the bidder, shall be entered of record, and each record, with the successful bid, if any, indicated, shall be preserved for a period of five (5) years and open to public inspection. Bid, for the purpose of this Article, shall mean a non-negotiable response to a request identifying a precise scope of work, including defined goods and/or services being provided, a specific time for providing such goods and/or services and a specific cost for providing such goods and/or services. Bond for the proper performance of each contract may be required or waived in the discretion of the City Manager unless specifically required by Charter. If a bond is required, the form and legal sufficiency shall be subject to the approval of the City Attorney. (Ord. 99-1 §1, 1999)~~

**~~Sec. 4-242. Sealed bids.~~**

~~(a) Bidding procedures.~~

~~(1) Formal procedure. Formal advertisement by publication shall precede the awarding of any contract for goods and services, which is estimated to amount to Twenty five Thousand Dollars (\$25,000.00) or more. Such advertisement or notice shall give the specification of the goods and services to be purchased or refer to the standards and specifications therefor established pursuant to this Article and shall state the amount of bond, if any, required. All bids in response to such advertisements or notices shall be submitted in duplicate in sealed form and shall be publicly opened at the time specified in the advertisement or notice. After examination and tabulation, the results shall be subject to inspection by competing bidders.~~

~~(2) Informal procedure. Any contract for goods and services which is estimated to amount to less than Twenty five Thousand Dollars (\$25,000.00) may be awarded by informal procedure upon notice calculated to inform potential bidders in a manner calculated to achieve maximum economy to the City. However, no contract or purchase may be subdivided to avoid the requirements of Subsection (1) or any other provision of this Article.~~

~~(b) Evaluation of bids. Bids may be evaluated by the City Manager, or his designee, not including members of City Council. The records required to be maintained herein shall include the identity of the persons or agencies that evaluated the contract bids, the written recommendation for the award of the contract and the basis for the recommendation. If the basis for the recommendation is the lowest bid, the records shall show the computations, assumptions, etc., upon which the decision was based. If the recommendation is for award of a contract to a bidder who did not submit the lowest bid on a finding that the lower bids were not responsive or the lower bidders were not responsible, the records shall show a full documentation of the reasons for disqualifying the lower bid or bidders.~~

~~(c) Award.~~

~~(1) Contracts for \$25,000.00 or more. All such contracts shall be presented to City Council with the recommendation of the City Manager. Council shall approve any such contract by motion or resolution, and the Mayor shall sign the contract in his official capacity.~~

~~(2) Contracts for less than \$25,000.00 shall be approved by the City Manager and shall be signed by the City Manager in his official capacity.~~

**~~Sec. 4-243. Contracts not subject to bidding procedures.~~**

~~(a) The City Manager, upon prior approval of City Council, may forego the bidding procedures in SECTIONS 4-241 and 4-242 above when purchasing the following items:~~

~~(1) Goods and services which, when determined by the City Council that the use of competitive sealed bidding is not practicable or not advantageous to the City, may be acquired by competitive sealed proposals pursuant to SECTIONS 4-245 and 4-246 below; or~~

~~(2) Services required by reason of preferences based on professional advice unless specifically required by the Code or other ordinances. If the amount of such contract is less than \$25,000, the City Manager may award the contract, and sign for the City in his official capacity. If the amount is \$25,000 or more, the City Council must award the contract, and the Mayor must sign for the City in his official capacity.~~

~~(b) While attempting to obtain maximum economy for the City, the City Manager may forego the bidding procedures in SECTIONS 4-241 and 4-242 above when purchasing the following items:~~

~~(1) Goods indispensable to the City, when a bona fide emergency exists;~~

~~(2) Goods and services estimated to amount to Five Thousand Dollars (\$5,000.00) or less. (Ord. 99-1 §3, 1999)~~

**Sec. 4-244. Responsibility of bidders and offerors.**

~~(a) In determining whether a bidder or offeror is responsible, the following shall be considered:~~

~~(1) The ability, capacity and skill of the bidder or offeror to perform the contract or provide the services required;~~

~~(2) Whether the bidder or offeror can perform the contract or provide the service promptly and within the time specified without delay or interference;~~

~~(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder or offeror;~~

~~(4) The quality of the bidder's or offeror's performance of previous contracts or services;~~

~~(5) The previous and existing compliance by the bidder or offeror with laws and ordinances relating to the contract or service;~~

~~(6) The sufficiency of the financial resources and ability of the bidder or offeror to perform the contract or provide the service;~~

~~(7) The quality, availability and adaptability of the goods and services to the particular use required;~~

~~(8) The ability of the bidder or offeror to provide future maintenance and service for the use of the subject of the contract;~~

~~(9) The ability of the bidder or offeror to be bonded in an appropriate amount to insure completion of the contract.~~

~~(10) Any other circumstances which will affect the bidder's or offeror's performance of the contract.~~

~~(b) In addition to the authority for rejection found in Section 4-241 of this Article, the City Manager shall have the authority to reject all bids and proposals or any portions thereof when the interest of the~~

~~City and the public will be served thereby. All such decisions will be supported by a written determination made by the City Manager.~~

~~(e) No bidder or offeror shall be considered responsible if in default on the performance of any other contract with the City or in the payment of any taxes, licenses or other moneys due to the City. (Ord. 99-1 §4, 1999)~~

**~~Sec. 4-245. Competitive sealed proposal.~~**

~~(a) When the City Council, after recommendation by the City Manager, determines in writing that the use of competitive sealed bidding is not practicable or not advantageous to the City, a contract may be entered into by use of the competitive sealed proposals method. The word "practicable" denotes a situation which justifies a determination that a given factual result can occur. A typical determination would be whether or not there is sufficient time or information to prepare a specification suitable for competitive sealed bidding. "Advantageous" connotes a judgmental assessment of what is in the City's best interests. Illustrations include determining:~~

~~(1) Whether or not to utilize a fixed price or cost type contract under the circumstances;~~

~~(2) Whether quality, availability or capacity is overriding in relation to price in procurement of research and development, technical or other complex goods or services;~~

~~(3) Whether the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priority should be given these requirements in the best interest of the City;~~

~~(4) Whether the marketplace will respond better to a solicitation permitting not only a range of alternative proposals but evaluation and discussion of them before making the award;~~

~~(5) Whether the uncertainty OR technical difficulty of the proposed contract would require a design-build contract rather than a fixed price or cost type contract.~~

~~(b) What is practicable may not necessarily be beneficial to the City. Consequently, the terms practicable and advantageous are used in this SECTION to avoid a possibly restrictive interpretation of the authority to use competitive sealed proposals. (Ord. 99-1 §5, 1999)~~

**~~Sec. 4-246. Procedure for competitive sealed proposals.~~**

~~(a) Procurements of the following are eligible for award by competitive sealed proposals:~~

~~(1) Goods and services identified in SECTION 4-243(a) above; and~~

~~(2) Professional services unless otherwise provided for by the Code or other ordinances; and~~

~~(3) City improvements.~~

~~(b) Initiation of procurement pursuant to this SECTION shall be solicited through a request for proposals or a request for qualifications.~~

~~(c) Public notice shall be given and shall include the proposal title, place, date and time of proposal opening.~~

~~(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be maintained containing the name of each offeror and shall be open for public inspection after the award of the contract in the office of the Purchasing Agent in the same manner as are other public records.~~

~~(e) The request for proposals or qualifications shall state evaluation factors and their relative importance.~~

~~(f) After proposal opening, interviews may be conducted with the highest ranked responsible offeror or offerors for the purpose of clarification and to assure full understanding of, and responsiveness to, solicitation requirements. An offeror is a person or entity who submits a competitive sealed proposal. Offerors selected for interview shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submissions and prior to award in order to reflect clarifications in the proposal's scope of work or contract amount. In conducting interviews, neither the City nor any officer, employee or committee thereof, shall disclose any information derived from proposals submitted by competing offerors.~~

~~(g) The contract shall be awarded with reasonable promptness by written notice to the responsible offeror whose proposal is determined in writing to be most advantageous to the City, taking into consideration the evaluation factors set forth in the request for proposals or qualifications. No other factors or criteria shall be used in the evaluation.~~

~~(h) The City Manager is authorized to negotiate the final price and precise scope of work with the selected offeror. Nonetheless, the City Council must approve the final contract which must be signed by the Mayor in his official capacity.~~

~~(i) Request for proposals or qualifications. Proposals shall be solicited through a request for proposals or qualifications.~~

~~(j) Public notice. Public notice of the request for proposals shall be given in accordance with accepted municipal bid advertising procedures.~~

~~(k) Receipt of proposals. No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.~~

~~(l) Evaluation factors. The request for proposals or qualifications shall state the relative importance of price and other evaluation factors.~~

~~(m) Discussion with responsible offerors and revisions to proposals. As provided in the request for proposals or qualifications, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.~~

~~(n) Award. Award shall be made to the responsible offeror whose proposal is determined by resolution of City Council to be the most advantageous to the City taking into consideration price and the~~

~~evaluation factor set forth in the request for proposals. No other factor or criteria shall be used in the evaluation. The contract file shall contain the resolution, which shall include the basis on which the award is made. (Ord. 99-1 §6, 1999)~~

~~**Sec. 4-247. Single or limited source procurement.**~~

~~For contracts under \$25,000.00, the City Manager may, after conducting a good faith review of available sources, award a contract without competition; for contracts of \$25,000.00 or more, the City Council may, with the advice of the City Manager after his good faith review, award a contract without competition. The City Manager shall write a memorandum of his decision, which shall contain findings that there is only one source, or a limited number of sources for the required goods, service or construction item, and, if awarded as an emergency contract, shall state the nature of the emergency that existed at the time of the award. The City Manager shall conduct negotiations, as appropriate, as to price, delivery and terms, which shall be included in the memorandum to Council. A record of single and limited source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract and the identification number, if any, of each contract file.~~

**Sec. 4-266. Establishment of accounts.**

The Finance Director shall establish separate accounts within the Capital Improvement Fund for each of the fees imposed under the provisions of this Article, into which shall be deposited all fees collected for each such category of capital improvement. Interest earned on each such account shall be considered funds of the account and shall be used solely for the purposes authorized for such funds as provided herein. The Finance Director shall establish adequate financial and accounting controls to ensure that fees disbursed from each such account are utilized solely for the purposes authorized. [The Finance Director shall comply with applicable state law regarding publication of impact fee account information.](#)

**Section 2. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 3. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 4. Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

**INTRODUCED AND READ** by title only on first reading at the regular meeting of the City Council of the City of Central on the \_\_\_\_ day of \_\_\_\_\_, 2012, at Central City, Colorado.

**CITY OF CENTRAL, COLORADO**

\_\_\_\_\_  
Ronald E. Engels, Mayor

Approved as to form:

\_\_\_\_\_  
Linda C. Michow, City Attorney

ATTEST:

\_\_\_\_\_  
Reba Bechtel, City Clerk

**PASSED AND ADOPTED** on second reading, at the regular meeting of the City Council of the City of Central on the \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF CENTRAL, COLORADO**

\_\_\_\_\_  
Ronald E. Engels, Mayor

ATTEST:

\_\_\_\_\_  
Reba Bechtel, City Clerk

**POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY** in the Weekly Register Call newspaper on \_\_\_\_\_, 2012.

**POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING]** in the Weekly Register Call newspaper on \_\_\_\_\_, 2012.

**CITY OF CENTRAL, COLORADO**

\_\_\_\_\_  
Ronald E. Engels, Mayor

ATTEST:

\_\_\_\_\_  
Reba Bechtel City Clerk





## AGENDA ITEM #12

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Shannon Flowers, Finance Director

**DATE:** November 29, 2012

**ITEM:** Ordinance 12-19, An Ordinance of the City Council of the City of Central, Colorado Amending Certain Provisions of Article II of Chapter 6 of the Central City Municipal Code; Specifically Fees and Charges Related to Avoidable or False Alarms

**NEXT STEP:** Make a motion to approve Ordinance 12-19 and set a public hearing for the same on December 18, 2012 at 7:00 p.m.

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ORDINANCE  
 MOTION  
 INFORMATION

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I. **REQUEST OR ISSUE:** In conjunction with the Municipal Code revisions that staff and legal counsel have been doing over the past year, staff has been removing any specific fees and/or charges from the Code itself and incorporating them into the Comprehensive Fee Schedule instead. Ordinance 12-19 accomplishes this for Chapter 6 specific to avoidable and false alarms.

A resolution to include the revised fees for avoidable and false alarms on the Comprehensive Fee Schedule will be presented to Council for consideration upon adoption of Ordinance 12-19 following second reading.

II. **RECOMMENDED ACTION / NEXT STEP:** Make a motion to approve Ordinance 12-19 and set a public hearing on the same for December 18, 2012 at 7:00 p.m.

III. **FISCAL IMPACTS:** There are no fiscal impacts related to the adoption of Ordinance 12-19 if Council approves the abovementioned Resolution incorporating the fees onto the Fee Schedule.

IV. **BACKGROUND INFORMATION:** Please see the attached Ordinance

V. **LEGAL ISSUES:** The City Attorney has drafted and reviewed the Ordinance and there are no legal issues.

VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** None

VII. **SUMMARY AND ALTERNATIVES:**

1. Make a motion approving Ordinance 12-19 and set a public hearing for December 18, 2012 at 7:00 p.m.
2. Make a motion approving Ordinance 12-09 with revisions and set a public hearing for December 18, 2012 at 7:00 p.m.
3. Table this item

**CITY OF CENTRAL, COLORADO  
ORDINANCE 12-19**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO AMENDING CERTAIN PROVISIONS OF ARTICLE II OF  
CHAPTER 6 OF THE CENTRAL CITY MUNICIPAL CODE; SPECIFICALLY  
FEES AND CHARGES RELATED TO AVOIDABLE OR FALSE ALARMS**

**WHEREAS**, the City of Central is a home rule municipality that is authorized, pursuant to its Home Rule Charter, the Colorado Constitution and state law, to adopt ordinances in furtherance of the health, safety and welfare of the City's inhabitants; and

**WHEREAS**, in furtherance of the public health, safety and welfare of the City of Central, the City Council adopted Article II of Chapter 6 of the Municipal Code titled "Alarm System" through the passage of Ordinance No. 275 in 1991 (the "Prior Ordinance"); and

**WHEREAS**, the Prior Ordinance established certain excessive use fees and fees for false alarms (collectively, the "Fees"); and

**WHEREAS**, the Fees have not been updated for over 20 years; and

**WHEREAS**, City staff is recommending that the Fees not be specifically set forth in Article II of Chapter 6 of the Municipal Code, but rather be included in the City's fee schedule that is adopted by City Council and amended from time to time; and

**WHEREAS**, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO THAT:**

**Section 1.** Section 6-28 of Article II of Chapter 6, titled "Revocation of permit" is hereby amended to read as follows in its entirety:

**Sec. 6-28. Revocation of permit.**

- (a) An alarm user permit shall be revoked whenever twenty-five (25) or more avoidable alarms are recorded for a system in any one (1) permit year. The alarm user may reinstate a revoked permit by: payment of all applicable excessive use fees, as imposed pursuant to Section 6-29; payment of a reinstatement fee in an amount set forth in the City's fee schedule; and by submission of proof that modifications have been made to the alarm system to reduce the number of avoidable alarms.
- (b) An alarm user permit shall be revoked whenever excessive use fees have not been previously paid within one (1) year of the occurrence of an avoidable

alarm about which the alarm user has been issued an excessive use fee notice.

**Section 2.** Section 6-29 of Article II of Chapter 6, titled “Notice of excessive use fees” is hereby amended to read as follows in its entirety:

**Sec. 6-29. Notice of excessive use fees.**

- (a) The City shall notify an alarm user in writing, by means of first class mail sent to the address listed on the permit application, when an alarm user has had two (2) avoidable alarms during a permit year. Such notice of excessive use shall inform the alarm user that additional avoidable alarms will subject the alarm user to specific fees set forth and referenced in the City’s fee schedule. Any and all fees imposed pursuant to this Section shall be due to the City within thirty (30) days following the date on which the fee is imposed by the City on an alarm user. Failure of any alarm user to remit the outstanding fee(s) to the City within the applicable period shall constitute a prohibited act under this Code, subject to the general penalty provisions in Section 1-72 of this Code. At the end of the permit year, the City shall notify each alarm user in writing, by means of first class mail sent to the address listed on the permit application, of any outstanding fees due to the City under this Section, if not previously paid.
- (b) The Chief of Police and the City Clerk shall issue rules, regulations or procedures governing the number and type of any additional notices of excessive use.
- (c) Owners of new alarms will be allowed a ten (10) day grace period from issuance of the alarm user permit before any avoidable alarms are recorded by the City for excessive use fee purposes.

**Section 3.** Section 6-33 of Article II of Chapter 6, titled “Permit for police alert alarms; charges for false alarms” is hereby amended to read as follows in its entirety:

**Sec. 6-33. Permit for police alert alarms; charges for false alarms.**

- (a) Permit for police alert alarms. No person shall own, use, lease, operate or maintain a police alert alarm within the City unless such person shall have first obtained a permit from the City Clerk. The permit application shall contain such information as the City Clerk, with the advice of the Chief of Police, shall require. In order for a police alert alarm to be eligible for response by the police, the user of such alarm must submit as part of his or her permit application a signed release and waiver granting permission for entry into premises by the police, which release and waiver shall be acceptable in form to the City Attorney. No police alert alarm permit may be renewed unless the user has paid all outstanding false police alert alarm charges imposed under Subsection (b) below. No release and waiver shall be renewed unless the user signs a new release and waiver at the time of renewal.

- (b) False hold-up and false police alert alarm charges. Activation of hold-up alarms or police alert alarms shall be deemed an intentional act for which a fee shall be imposed, in the specific amount(s) set forth and referenced in the City's fee schedule. Failure of any person to remit the outstanding fee(s) to the City by the applicable due date shall constitute a prohibited act under this Code, subject to the general penalty provisions in Section 1-72 of this Code.

**Section 4. Codification Amendments.** The codifier of Central City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Central City Municipal Code.

**Section 5. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 6. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 7. Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

**INTRODUCED AND READ** by title only on first reading at the regular meeting of the City Council of the City of Central on the 4<sup>th</sup> day of December, 2012, at Central City, Colorado.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

Approved as to form:

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Linda C. Michow, City Attorney

ATTEST:

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Reba Bechtel, City Clerk

**PASSED AND ADOPTED** on second reading, at the regular meeting of the City Council of the City of Central on the 18<sup>th</sup> day of December, 2012.

**CITY OF CENTRAL, COLORADO**

---

Ronald E. Engels, Mayor

ATTEST:

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Reba Bechtel, City Clerk

**POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY** in the Weekly Register Call newspaper on December 6, 2012.

**POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING]** in the Weekly Register Call newspaper on December 18, 2012.

**CITY OF CENTRAL, COLORADO**

---

Ronald E. Engels, Mayor

ATTEST:

---

Reba Bechtel City Clerk



# AGENDA ITEM # 13

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Greg Thompson, CDD  
**DATE:** December 4, 2012  
**ITEM:** Ordinance 12-20 - Historic Preservation Commission Membership

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ORDINANCE  
 MOTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

The City Council is being asked to consider Ordinance No. 12-20 on first reading. The purpose of the Ordinance is to amend the Municipal Code to indicate who can be on the Historic Preservation Commission. At this time, there are restrictions on who can serve on the Planning Commission. No such restrictions currently exist for HPC members.

**II. RECOMMENDED ACTION / NEXT STEP:**

Review and approve Ordinance No. 12-20 on first reading with any amendments as proposed by City Council and schedule for second reading and public hearing.

**III. FISCAL IMPACTS:**

None.

**IV. BACKGROUND INFORMATION:**

Treating the membership of the HPC and the PC similarly seems appropriate.

**V. LEGAL ISSUES:**

The City is authorized to enact Ordinance No. 12-20 pursuant to its home rule authority.

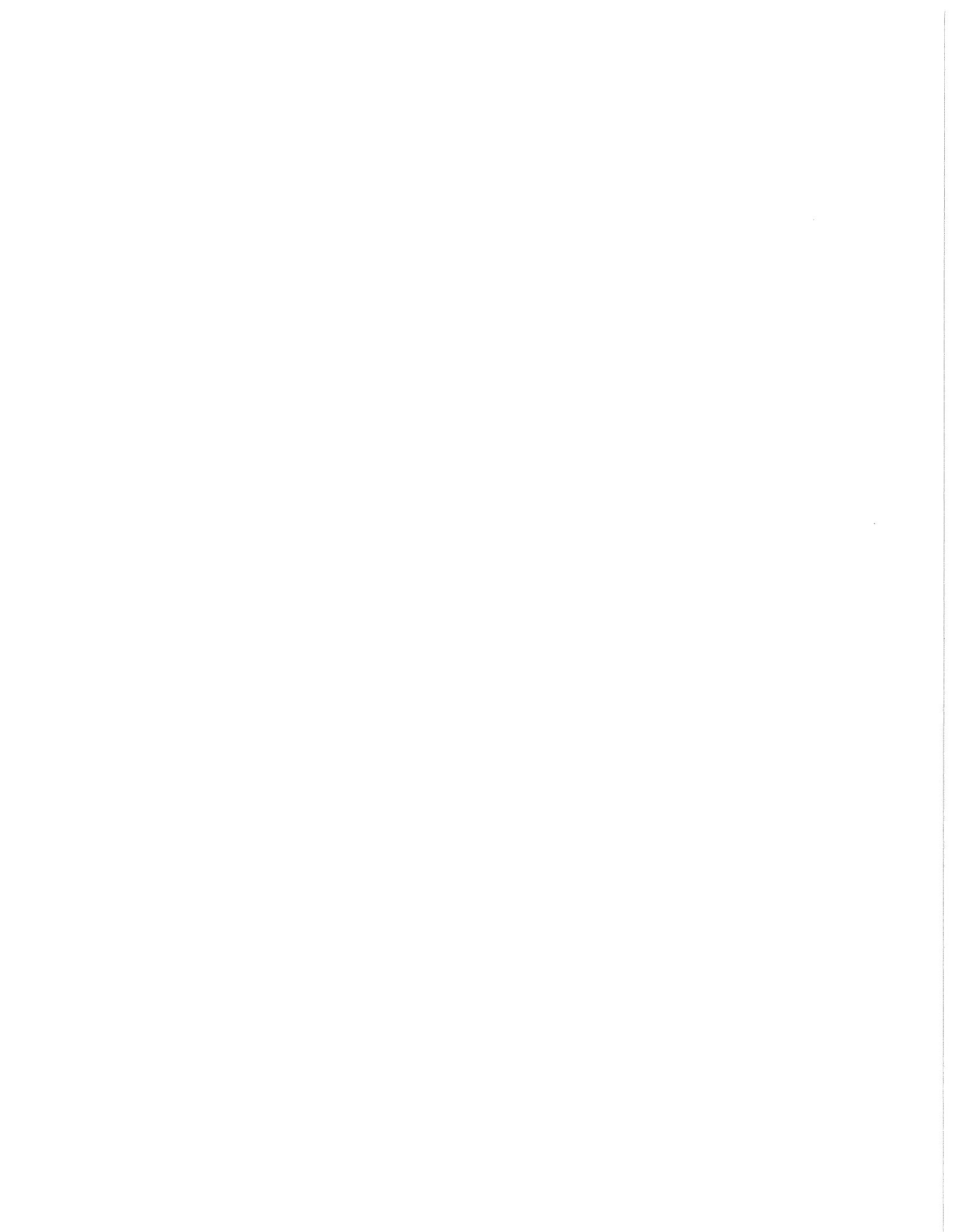
**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.

**VII. SUMMARY AND ALTERNATIVES:**

Council may take one of the following actions:

1. Approve Ordinance No. 12-20 on first reading, as may or may not be amended, and schedule for second reading and public hearing;
2. Direct staff to make revisions to the Ordinance and schedule consideration of the Ordinance on a future City Council agenda for first reading; or
3. Reject or deny the ordinance.



**CITY OF CENTRAL, COLORADO  
ORDINANCE 12-20**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL  
COLORADO AMENDING CERTAIN PROVISIONS OF ARTICLE VI OF  
CHAPTER 2 OF THE CENTRAL CITY MUNICIPAL CODE REGARDING  
HISTORIC PRESERVATION COMMISSION MEMBERSHIP**

**WHEREAS**, the City of Central is a home rule municipality that is authorized, pursuant to its Home Rule Charter, the Colorado Constitution and state law, to adopt ordinances in furtherance of the health, safety and welfare of the City's inhabitants; and

**WHEREAS**, in furtherance of the public health, safety and welfare of the City of Central, the City Council wishes to update the Municipal Code, chapter by chapter, to create administrative efficiencies and to reflect current City practices and policies; and

**WHEREAS**, said revisions to Chapter 2 include membership for the Historic Preservation Commission; and

**WHEREAS**, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO THAT:**

**Section 1.** Section 2-121 of Chapter 2 of the Municipal Code is hereby amended to read as follows, with strike through to show deleted text and underline to show new text:

There is hereby created an Historic Preservation Commission, hereinafter called the "Commission." Commencing on January 1, 2013, the Commission shall consist of five regular (5) members and one (1) alternate member. A person serving in a position as an alternate shall have the right to participate in all meetings of the Commission to the same extent as a regular member, except that a person serving in the position of alternate shall not be entitled to vote on any matter, unless such alternate member is temporarily assigned by the Chairperson of the Commission in the event of an absence or conflict of interest of a regular member during all or any portion of a meeting of the Commission. When assigned to fill a regular position during a meeting, the alternate member shall assume all rights, duties and obligations of the regular member during the period of assignment. Assignment shall terminate upon the earlier of the return of the regular member to the meeting or the adjournment of the meeting. No person shall be a member of the Historic Preservation Commission who is also a member of the City Council, the Mayor, an employee of the City or who holds any other city municipal office, whether elected or appointed.

**Section 2. Codification Amendments.** The codifier of Central City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Central City Municipal Code.

**Section 3. Full Force and Effect.** Except as amended herein, all remaining provisions of Chapter 2 of the Municipal Code shall remain in full force and effect.

**Section 4. Severability.** Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

**Section 5. Repeal.** Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

**INTRODUCED AND READ** by title only on first reading at the regular meeting of the City Council of the City of Central on the 4<sup>th</sup> day of December, 2012, at Central City, Colorado.

**CITY OF CENTRAL, COLORADO**

\_\_\_\_\_  
Ronald E. Engels, Mayor

Approved as to form:

\_\_\_\_\_  
Linda C. Michow, City Attorney

ATTEST:

\_\_\_\_\_  
Reba Bechtel, City Clerk

**PASSED AND ADOPTED** on second reading, at the regular meeting of the City Council of the City of Central on the 18<sup>th</sup> day of December, 2012.

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

**ATTEST:**

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Reba Bechtel, City Clerk

**POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on December 6, 2012.**

**POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on December 20, 2012.**

**CITY OF CENTRAL, COLORADO**

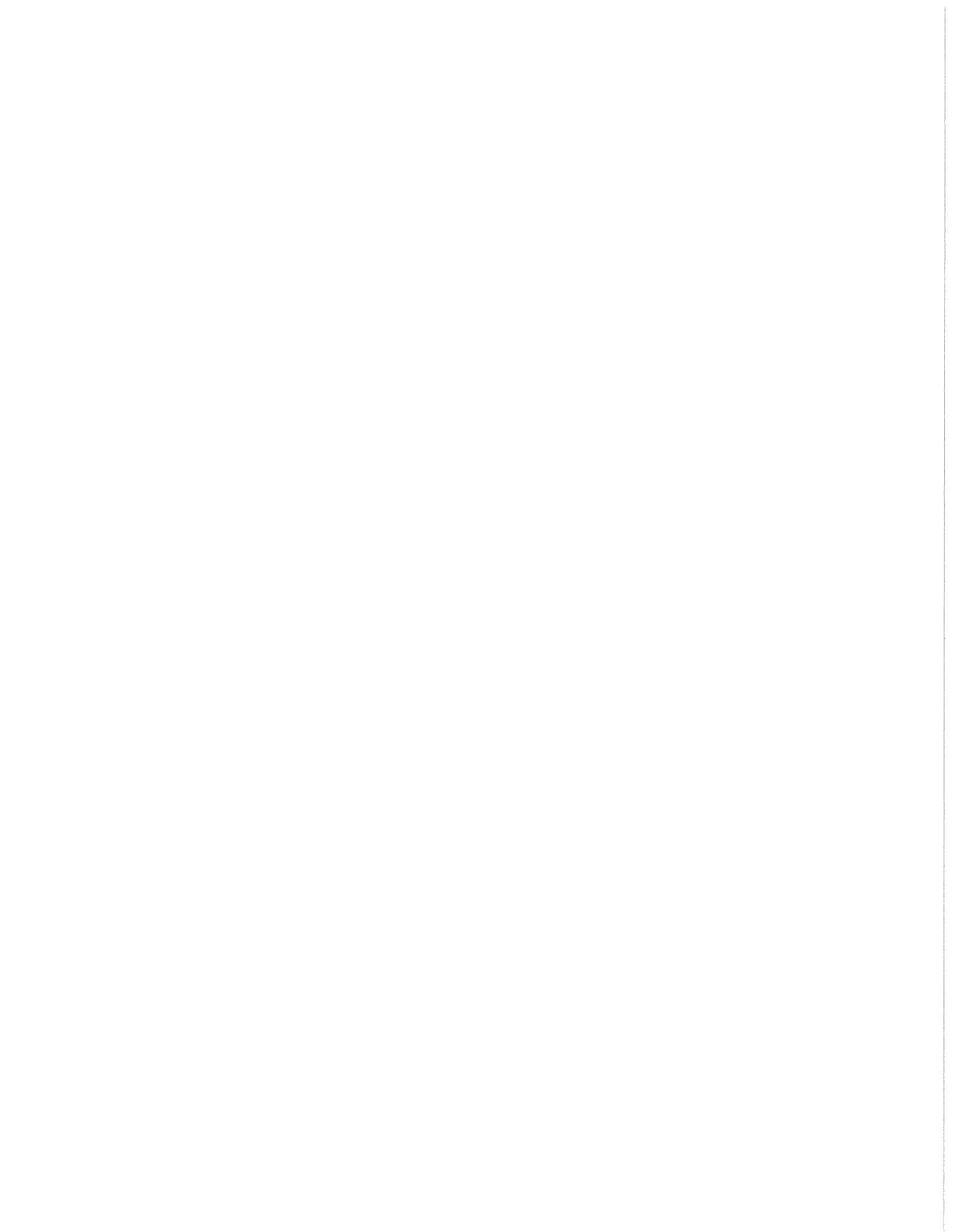
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Ronald E. Engels, Mayor

**ATTEST:**

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Reba Bechtel City Clerk





## AGENDA ITEM # 14

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Alan Lanning, City Manager

**DATE:** 12/4/2012

**ITEM:** Hillside Garage Geotech Survey Work

**NEXT STEP:** Council Motion

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ORDINANCE  
 MOTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

As discussed at the 11/20/2012 work session, the Council indicated it would like to see a request to fund the initial Geotech investigation work for a proposed Hillside Parking Garage. The request was made on behalf of the Hillside Garage Working Group and is a necessary step in the overall development of the project and critical for future design and planning.

**II. RECOMMENDED ACTION / NEXT STEP:**

Our recommendation is a Council motion to approve the attached funding proposal.

**III. FISCAL IMPACTS:**

The total fiscal impact is \$51,500. Funds are available from designated reserves.

**IV. BACKGROUND INFORMATION:**

The Hillside Garage Working Group has been meeting for the past 3 months,

working to determine if a garage project is feasible. The process began with a BBC economic impact assessment earlier in 2012 and the Working Group began with the BBC recommendations. The Geotech initial survey is necessary to continue the process and allow for architectural and engineering work over the next few months, culminating in a project that can be funded through a municipal bond, with a goal of beginning construction in 2013.

**V. LEGAL ISSUES:**

None.

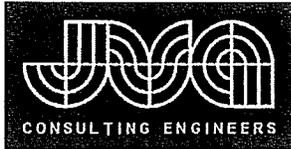
**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.

**VII. SUMMARY AND ALTERNATIVES:**

Council may take one of the following actions:

1. Approve the resolution as requested.
2. Reject the resolution as written.
3. Direct staff to pursue an alternative approach.



JVA, Incorporated  
1319 Spruce Street  
Boulder, CO 80302  
Ph: 303.444.1951  
Fax: 303.444.1957  
Toll Free: 877.444.1951

November 19, 2012

Mr. Alan Lanning, City Manager  
City of Central  
141 Nevada Street  
Central City, Colorado 80427

Web site:  
[www.jvajva.com](http://www.jvajva.com)

E-mail:  
[info@jvajva.com](mailto:info@jvajva.com)

Reference: Hillside Parking Garage - Letter Agreement for Initial Investigation  
JVA Job No. 1910.15c

Dear Alan:

JVA, Inc. (JVA) has prepared this letter agreement with the City of Central (City) for an initial investigation of a new parking structure called the Hillside Parking Garage located south and east of Spring and Gregory Streets. After our initial meetings and discussions with both City staff and Mike Sickbert, the project architect who has produced a concept level design, we believe we have a full understanding of the scope of work involved. Based on preliminary conceptual designs, the anticipated project cost is approximately \$15M, excluding land acquisition efforts. The estimated scope and fees below are for the project referenced above that, in general, includes a new 484 space, four level parking structure, the partial demolition and rehabilitation of the Pythias commercial building, and three overhead pedestrian bridges spanning the streets to connect with casinos and the parking structure.

This letter details the scope of services to complete the various initial investigations required for this project, including new topographic survey and geotechnical and environmental investigations. As the City Engineer, JVA will provide also management services for the project, and coordinate the involvement of the subcontractors required for the project and coordination with City staff.

We have outlined the following Scope of Work and propose to bill for these efforts in general accordance with our ongoing engineering services agreement.

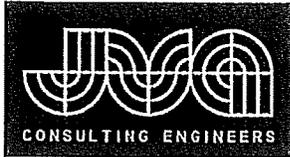
## **SCOPE OF WORK**

The scope of services below is based on our discussions and meetings to date, and review of the information available. It is understood that JVA will employ a surveyor and geotechnical engineering subconsultant to complete the initial investigation tasks. We have not included the traffic study, legal counsel, or real estate professionals at this time.

Based on this information and our understanding of the design efforts required for parking structure projects, our team services anticipated for this project include the following detailed tasks:

### **Initial Investigation**

1. JVA will initiate the services of our surveyor, Flatirons Surveying, to obtain the topographic and boundary information required. Topographic surveying will focus on the area required for the parking structure and slope stabilization, as well as finished floor



information on the adjacent buildings where pedestrian bridges will be located. Flatirons is concerned about the property information available, and numerous conflicting ownership interests. They would like to add the boundary survey work as an additional service, and track this effort on a time and materials basis. We are pleased to discuss this option with City staff. Flatirons could also provide LIDAR imaging of these buildings to coordinate the bridge locations for an additional fee.

2. JVA will initiate the geotechnical engineering efforts by Kumar & Associates to obtain a formal geotechnical engineering report that will address the existing soil conditions and provide slope stabilization and pavement recommendations for the new parking lot structure. Due to the steep terrain, borings will be very difficult and take place along the railroad grade above the site. Drilling of the borings, the greatest cost factor, will consist of over 500' in 6 borings. We expect that City staff will assist in gaining access to the affected properties for both survey and geotechnical crews. Kumar will provide a detailed letter report to summarize their recommendations for pavement construction and structures and recommend shoring and stabilization methods. Typical soils analysis and groundwater level information will be provided in the report. The geotechnical engineer will attend a design coordination meeting to address structural design and slope stabilization alternatives.
3. Kumar will also complete a Phase I environmental assessment of the site, with an asbestos survey of the three existing buildings scheduled for demolition. Any mitigation is assumed to be performed by a specialized contractor during construction and not included with our efforts as the design team.

## **BASIS OF PAYMENT**

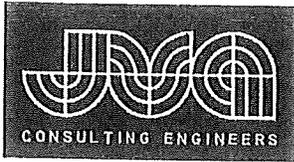
The basis of payment for the scope of work described above will be monthly billings based on the Time and Materials completed to date, in accordance with our engineering services agreement, and includes our estimated mileage and printing expenses for the design team. This amount will not be exceeded without written authorization of the CLIENT.

Parking Structure Design Services	
Initial Investigation (survey, geotech, environmental)	\$ 51,500
<b>TOTAL Design Services</b>	<b>\$ 51,500</b>

These fees are based upon the above assumptions and discussion to date. Changes to the project scope including, but not limited to, major site plan revisions including additional parking area or outside site development, overall site utility or electrical capacity studies, offsite street or utility design and other specifically excluded items in this letter will be considered additional services and may require extension of the time scheduled for our work.

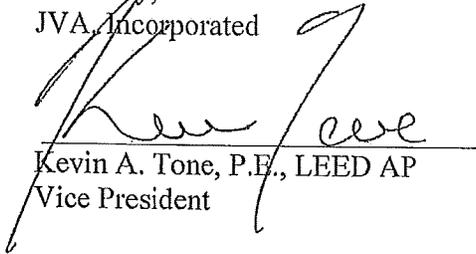
## **SCHEDULE**

JVA and our design team will work with the CLIENT to complete the work in a timely manner in preparation for subsequent design of the parking structure. Our intent is to complete field working and provide a status update no later than December 31, 2012.



If you are in agreement with the scope in this letter, please indicate by signing below and returning a copy to this office as our authorization to proceed. All of us look forward to working with the City on this project and continuing to build upon our positive past relationships.

Sincerely,  
JVA, Incorporated

  
Kevin A. Tone, P.E., LEED AP  
Vice President

Accepted by:  
CITY OF CENTRAL

  
City Manager 11-21-12  
Title Date





## AGENDA ITEM # 15

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Mayor Ron Engels

**DATE:** 12/4/2012

**ITEM:** EOY Staff Bonus

**NEXT STEP:** Council Motion

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ORDINANCE  
 MOTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

As the fiscal year 2012 draws to a close, I would as Mayor, propose an EOY Bonus for staff.

**II. RECOMMENDED ACTION / NEXT STEP:**

My recommendation would be a Council motion to support and approve one of the EOY bonus levels attached.

**III. FISCAL IMPACTS:**

The total fiscal impact is dependent upon Council's direction, but could be in one of the ranges designated on the attachment. The fiscal impact could range from \$13,400 to \$32,100 depending upon Council's desire and staffing and including the City's portion of taxes.

**IV. BACKGROUND INFORMATION:**

Staff did not receive either a Cost of Living Adjustment for 2012, nor any merit increase. Our improved financial condition, improved operations and project management efficiencies warrant a discussion.

**V. LEGAL ISSUES:**

None.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.

**VII. SUMMARY AND ALTERNATIVES:**

Council may take one of the following actions:

1. Approve a motion for funding.
2. Reject any EOY funding.
3. Direct staff to pursue an alternative approach.

	\$ 500	\$ 700	\$ 750	\$ 1,000	\$ 1,100	\$ 1,200	
Adler, Whitney	300	420	450	600	660	720	
Allen, Gary	500	700	750	1,000	1,100	1,200	
Barnhardt, Karen	200	280	300	400	440	480	
Bechtel, Reba	500	700	750	1,000	1,100	1,200	
Behring, Aaron	500	700	750	1,000	1,100	1,200	
Berghahn, Melvin	500	700	750	1,000	1,100	1,200	
Blake, Diane	200	280	300	400	440	480	
Braccio, Joe	500	700	750	1,000	1,100	1,200	
Britton, Justin	500	700	750	1,000	1,100	1,200	
Callendar, Tim	500	700	750	1,000	1,100	1,200	
Douglas, Mark	500	700	750	1,000	1,100	1,200	
Flowers, Shannon	500	700	750	1,000	1,100	1,200	
Godin, Fred	500	700	750	1,000	1,100	1,200	
Griffith, R. Shawn	500	700	750	1,000	1,100	1,200	
Hough, John	500	700	750	1,000	1,100	1,200	
Kidd, Al	400	560	600	800	880	960	
Kisselman, Kent	500	700	750	1,000	1,100	1,200	
Krelle, Terry	500	700	750	1,000	1,100	1,200	
Lanning, Alan	500	500	750	1,000	1,100	1,200	
Larson, Darla	300	420	450	600	660	720	
McLain, Travis	500	700	750	1,000	1,100	1,200	
Miller, Richard	500	700	750	1,000	1,100	1,200	
Moore, Cindy	500	700	700	1,000	1,100	1,200	
Sevigny, Frank	500	700	700	1,000	1,100	1,200	
Taylor, Carlton	500	700	750	1,000	1,100	1,200	
Thomas, Russell	500	700	750	1,000	1,100	1,200	
Thompson, Greg	500	700	750	1,000	1,100	1,200	
Warner, Caleb	50	70	75	100	110	120	

**TOTAL AMOUNT**            12,450            17,230            18,575            24,900            27,390            29,880

FICA/MD                      952                1,318                1,421                1,905                2,095                2,286

**TOTAL COST**                13,402            18,548            19,996            26,805            29,485            32,166





## AGENDA ITEM #16

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Shannon Flowers, Finance Director

**DATE:** November 27, 2012

**ITEM:** Resolution 12-18 A Resolution Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Originally Appropriated in the 2012 Budget for the City of Central

**NEXT STEP:** Make a motion to adopt Resolution 12-18, A Resolution Appropriating Additional Sums of Money to Defray Expenses in Excess of Amounts Originally Appropriated in the 2012 Budget for the City of Central

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ORDINANCE  
 MOTION  
 INFORMATION

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- I. **REQUEST OR ISSUE:** The City's 2012 Budget was adopted under Ordinance 11-14 on November 1, 2011. The adoption of Ordinance 11-14 legally appropriated money for the expenses shown in the budget and authorized staff to use funds for those purposes. Throughout the year staff and Council may re-allocate funding from line items or departments as necessary to meet the needs of the City but if it becomes necessary to exceed a Fund's overall appropriated expense amount Council must appropriate additional money. This additional appropriation is also referred to as a Supplemental Budget Appropriation.

During 2012, five of the City's funds had unanticipated expenditures, or expenditure-like transactions that make it necessary to adopt a Supplemental Budget Appropriation. Resolution 12-18 appropriates additional money for these funds so that the City will remain in compliance with statutory budget law.

- II. **RECOMMENDED ACTION / NEXT STEP:** Make a motion to adopt Resolution 12-18.

III. **FISCAL IMPACTS:** Five of the City's funds require supplemental budget appropriations due to unanticipated expenses throughout the year. The funds and amounts of additional appropriations needed are shown below.

	<u>Original</u>	<u>Revised</u>	<u>Increase</u>
General Fund	\$4,102,148	\$4,577,647	\$475,499
Historic Preservation	\$ 406,625	\$ 916,625	\$510,000
Debt Service Fund	\$ 700,875	\$ 705,875	\$ 5,000
Conservation Trust Fund	\$ 0	\$ 7,456	\$ 7,456
Water	\$ 689,715	\$ 789,715	\$100,000
<b>Total Increase in Appropriations</b>			<b>\$1,097,955</b>

The requested increases in allocations for all funds are reflective of the 2012 year-end projections shown in the 2013 Adopted Budget with the exception of the JVA parking garage work in the amount of \$51,500. Therefore, if adopted, the parking garage expenses will decrease the General Fund 2013 beginning fund balance by \$51,500. All other supplemental changes will not have an impact on the beginning balances used for the 2013 Budget. A brief description of each fund's requested increase is shown below.

General Fund	Additional Legal Expenses	73,000
	BBC Parking Study (Reimbursed)	55,000
	JVA Parking Garage Work	51,500
	BID Marketing/Events (Reimbursed)	135,000
	PD PT/FT Officer	21,199
	PD Vehicle Maintenance	6,000
	PD Emergency Equipment	12,000
	CCP Crack Filling	11,301
	Fire Truck Maintenance	15,000
	PD Vehicle Lease Recognition	95,499
	<u>Total</u>	<u>\$ 475,499</u>
Historic Preservation	Ennovate Contract	489,773
	Sidewalk Work	7,000
	Contingency for Outstanding Projects	13,227
	<u>Total</u>	<u>\$ 510,000</u>
Debt Service	Treasurer's Fees	3,850
	Interest on Short Term Loan	1,150
	<u>Total</u>	<u>\$ 5,000</u>
Conservation Trust	Benches for Streetscape	2,540
	Fish for Chase Gulch	4,916
	<u>Total</u>	<u>\$ 7,456</u>
Water	Reclass of Employee from PW	43,000
	Additional Legal & Engineering	52,000
	Chemicals	5,000
	<u>Total</u>	<u>\$ 100,000</u>
<b>TOTAL REQUESTED INCREASE IN ALLOCATIONS</b>		<b>\$ 1,097,955</b>

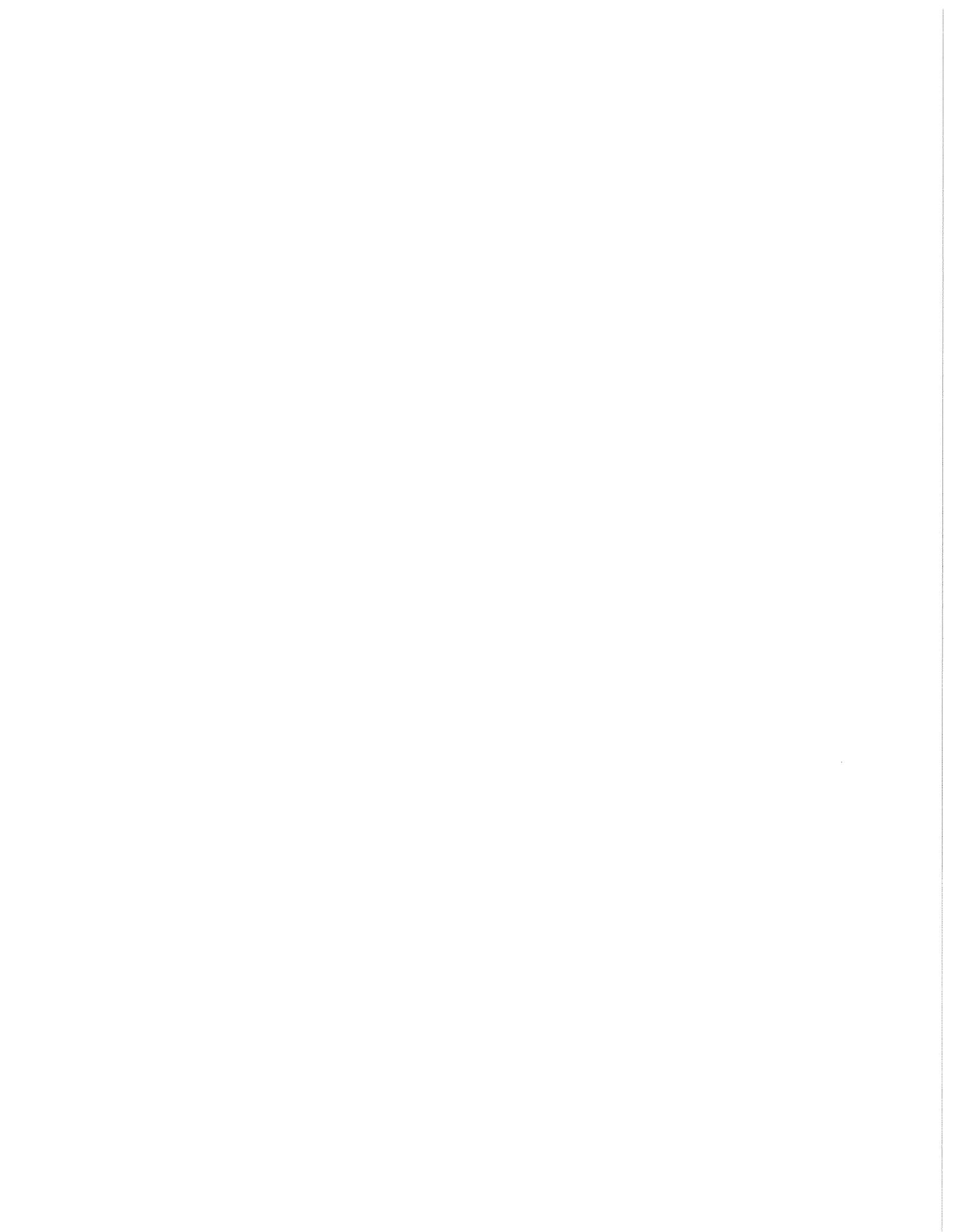
**IV. BACKGROUND INFORMATION:**

**V. LEGAL ISSUES:** Adoption of Resolution 12-18 is necessary to ensure that the City remains in compliance with state budget laws. Not formally appropriating additional funding could put the City in violation of TABOR as well as other state laws.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:** None

**VII. SUMMARY AND ALTERNATIVES:**

1. Adopt Resolution 12-18 as presented.
2. Adopt Resolution 12-18 with amendments.



**CITY OF CENTRAL, COLORADO  
RESOLUTION NO. 12-18**

**A RESOLUTION APPROPRIATING ADDITIONAL SUMS OF MONEY TO  
DEFRAY EXPENSES IN EXCESS OF AMOUNTS ORIGINALLY APPROPRIATED  
IN THE 2012 BUDGET FOR THE CITY OF CENTRAL**

**WHEREAS**, the City Council of the City of Central, Colorado adopted the 2012 budget via Ordinance 11-14 ; and

**WHEREAS**, the City Council is authorized pursuant to Section 10.10 of the Home Rule Charter to amend the budget after it is adopted; and

**WHEREAS**, there have been certain increases to expenditures that could not be anticipated when the 2012 Budget was adopted; and

**WHEREAS**, the City Council desires to amend the 2012 Budget and to appropriate additional funds for such increased expenditures.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO;**

**Section 1.** The City Council hereby amends the 2012 Budget for the following funds as follows:

	<u>Original</u>	<u>Amended</u>
• General Fund	\$4,102,148	<b>\$4,577,647</b>
• Historic Preservation Fund	\$ 406,625	<b>\$ 916,625</b>
• Debt Service Fund	\$ 700,875	<b>\$ 705,875</b>
• Conservation Trust Fund	\$ 0	<b>\$ 7,456</b>
• Water Fund	\$ 689,715	<b>\$ 789,715</b>

**Section 2.** The City Council hereby approves the following Supplemental Appropriations:

• General Fund	\$475,499
• Historic Preservation Fund	\$510,000
• Debt Service Fund	\$ 5,000
• Conservation Trust Fund	\$ 7,456
• Water Fund	\$100,000

**Section 3.** This Resolution is effective upon adoption by City Council.

**ADOPTED THIS 4<sup>th</sup> DAY OF DECEMBER, 2012.**

**CITY OF CENTRAL, COLORADO**

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Ronald E. Engels, Mayor

ATTEST:

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Reba Bechtel, City Clerk



## AGENDA ITEM # 17

### CITY COUNCIL COMMUNICATION FORM

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**FROM:** Kent Kisselman, Operations Director

**DATE:** December 4, 2012

**ITEM:** Resolution 12-19; A Resolution Approving Professional Services Agreement with JVA, Inc.

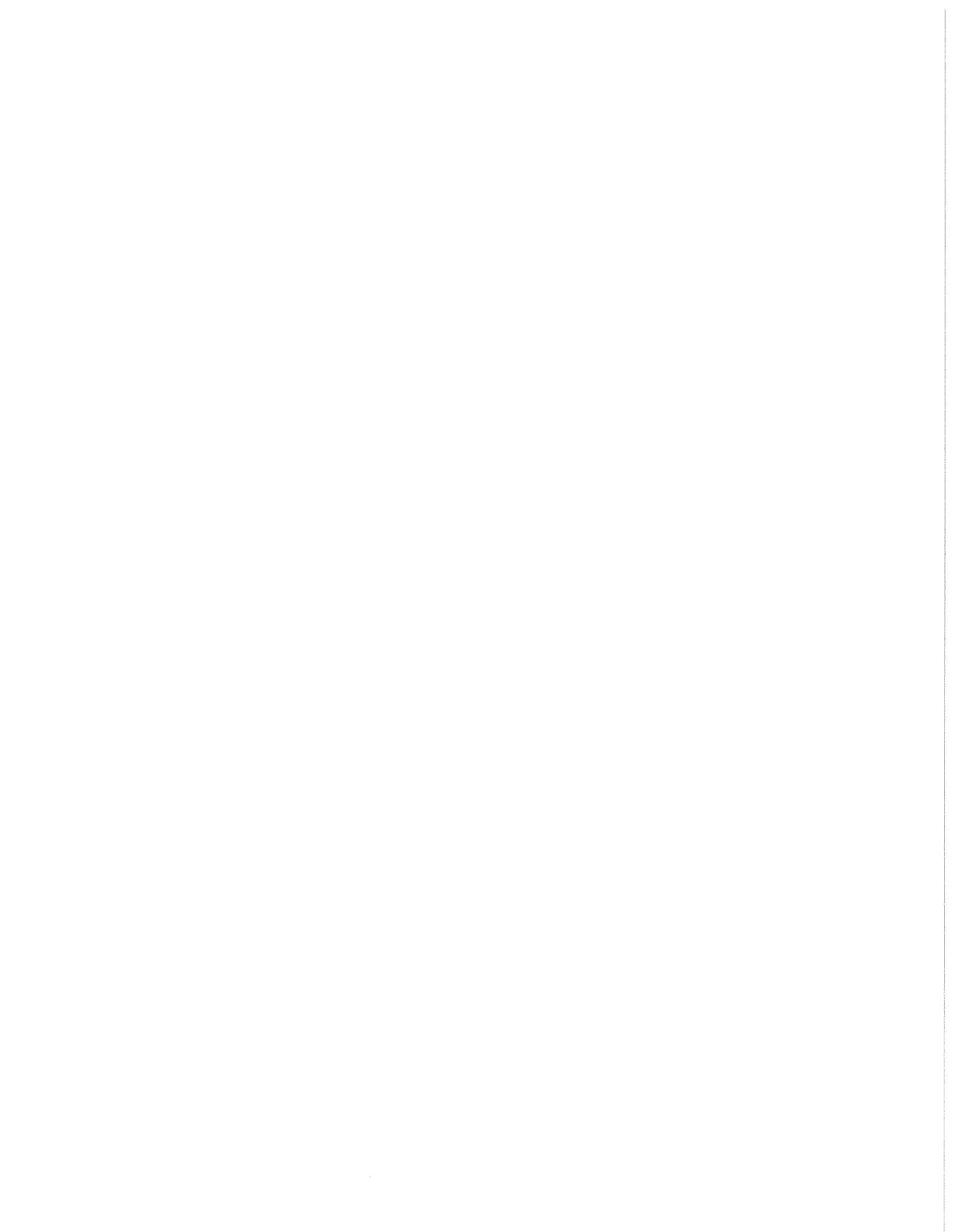
**NEXT STEP:** A motion to approve Resolution 12-19; A Resolution Approving Professional Services Agreement with JVA Inc.

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ORDINANCE  
 MOTION  
 INFORMATION

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- I. REQUEST OR ISSUE:**  
Staff is requesting Council to approve the Professional Services Agreement for JVA, Inc.
- II. RECOMMENDED ACTION / NEXT STEP:**  
Our recommendation is to approve the PSA for JVA.
- III. FISCAL IMPACTS:**  
There is no retainer fee for this agreement. Fees are collected based on the on call services provided – see the agreement for further details and billing rates.
- IV. BACKGROUND INFORMATION:**  
JVA Inc. is an engineering firm located in Boulder with satellite offices in Winter Park and Ft. Collins. JVA has been working with the City for the last year, assisting with projects, developing standards and grant writing. Staff is pleased with the services and would like to continue the agreement for services.
- V. LEGAL ISSUES:**  
None
- VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**  
None
- VII. SUMMARY AND ALTERNATIVES:**  
Council may take one of the following actions:
- Approve as presented
  - Deny
  - Amend



**CITY OF CENTRAL, COLORADO  
RESOLUTION NO. 12-19**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL,  
COLORADO APPROVING A PROFESSIONAL SERVICES AGREEMENT  
WITH JVA, INC. FOR ENGINEERING SERVICES**

WHEREAS, the City of Central is authorized to enter into contracts for lawful purposes for the protection of the health, safety, and welfare; and

WHEREAS, the City Council of the City of Central, Colorado, desires to retain an engineer to assist in on-call basic and project-specific engineering services; and

WHEREAS, the City Council desires to retain JVA, Inc. ("Contractor") to provide such services; and

WHEREAS, the Contractor represents that it is qualified to perform the services requested by the City.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, THAT:**

**Section 1.** The City Council hereby approves the attached professional services agreement with JVA, Inc. and authorizes the Mayor to execute said agreement, as provided in the attached **Exhibit A**.

**Section 2.** **Effective Date.** This Resolution shall take effect upon its approval by the City Council.

ADOPTED THIS 4<sup>th</sup> DAY OF DECEMBER, 2012.

**CITY OF CENTRAL, COLORADO**

By: \_\_\_\_\_  
Ronald E. Engels, Mayor

**ATTEST:**

**APPROVED TO FORM:**

By: \_\_\_\_\_  
Reba Bechtel, City Clerk

By: \_\_\_\_\_  
Linda C. Michow, City Attorney

**EXHIBIT A**  
**PROFESSIONAL SERVICES AGREEMENT**  
**JVA, INC.**

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES  
OF CITY ENGINEER**

THIS AGREEMENT FOR PROFESSIONAL SERVICES (this "Agreement") is made as of this 4th day of December 2012, between the City of Central, (the "CITY") and JVA, Inc., a Colorado corporation ("ENGINEER").

**Recitals**

WHEREAS, the CITY desires to obtain general engineering services on both an "As Needed" basis and work-order "Project Specific" basis from a licensed, professional engineer; and

WHEREAS, ENGINEER has held itself out to the CITY as having the requisite expertise and experience to provide such services; and

WHEREAS, the CITY wishes to engage ENGINEER for the provision of general engineering services;

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Agreement**

**ARTICLE 1  
ENGINEER'S RESPONSIBILITIES**

1.1 The CITY hereby engages ENGINEER to provide general engineering services in the form of technical engineering and/or engineering support services ("Professional Services") to the CITY on an "As Needed" basis ("Basic Services") and/or a "Project Specific" basis ("Work-Order Services").

1.1.1 Technical engineering services provided within the parameters of the Professional Services may include, but not be limited to, the following types of activities: engineering feasibility studies, preliminary and detailed final designs, design reviews, evaluating and preparing drawings and specifications packages, bid analysis and procurement, construction management services, start up, training, preparation of operations and management manuals, and plan reviews. These services are available in the areas of civil engineering (water supply treatment and distribution, wastewater collection and treatment and stormwater management) and structural engineering.

1.1.2 Support services provided within the parameters of the Professional Services may include, but not be limited to, the following types of work: permitting, regulatory compliance, field investigations, stream bank and channel restoration, revegetation, surface water and groundwater sampling and monitoring, water and wastewater engineering and design services, construction monitoring, hydrologic investigations, land use and master planning, transportation planning, noise analyses, cultural and historical resources investigations, recreation facility and park designs, hazardous materials management and remediation, stormwater management, wetlands and riparian areas management, wetland design services, geology and slope stability evaluations, mitigation designs, water quality protection and management, computer-aided design (CAD) and geographical information system (GIS) services, and fish and wildlife studies, including habitat development and management.

1.1.3 Products of these services may include, but not be limited to, technical reports, literature reviews, maps, preliminary and detailed plans, construction record document preparation and/or review, design specifications, feasibility studies, data analyses, cost estimates, evaluations, visual simulations, and presentations to the CITY staff, CITY Mayor, CITY Council members, or their designated

representatives, or third parties as approved by the CITY pursuant to Section 1.4 such as Gilpin County and Colorado Department of Public Health and Environment.

1.2 Notwithstanding any other provision of this Agreement, all personnel assigned by ENGINEER to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of ENGINEER for all purposes. Neither ENGINEER nor any employee thereof shall make any representation that they are a CITY employee for any purpose. ENGINEER is an independent contractor responsible for the means and methods used in performing the Professional Services under this Agreement. The CITY shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the ENGINEER or the ENGINEER'S employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: workers' compensation; disability, injury, or health; professional liability, errors and omissions; or retirement account contributions.

1.3 The Professional Services and all documents prepared for the CITY by ENGINEER shall conform to all applicable federal, state and local laws, rules, regulations, ordinances, codes, and orders.

1.4 Other than sharing information with designated third parties as previously directed by the CITY, no information obtained by ENGINEER within the scope of this Agreement shall be disclosed by ENGINEER to third parties without prior written consent of the CITY or pursuant to a lawful court order directing such disclosure. All of ENGINEER's communications to or with the CITY's other independent professionals shall be through or with the knowledge of the CITY. Similarly, all communications between any independent professionals with whom ENGINEER has contracted to perform services for the CITY and the CITY's independent professionals shall be through or with the knowledge of the CITY.

1.5 The CITY shall coordinate the ENGINEER's Professional Services with the services of others involved in a project. The CITY shall be the general administrator and coordinator of the professional services that the CITY may engage independently for a project, and shall facilitate the exchange of information among the other independent professionals retained by the CITY for the project as necessary for the coordination of their services.

1.6 ENGINEER shall give prompt written notice to the CITY whenever the ENGINEER observes or otherwise becomes aware of any development or circumstance that affects the scope or timing of the ENGINEER's services, or any defect or nonconformance in the work of any contractor affecting the CITY and/or the CITY's infrastructure.

1.7 In performing the Work, the ENGINEER shall use that degree of care and skill ordinarily exercised under similar circumstances by members of the same profession working in the Denver-Boulder metropolitan area. ENGINEER represents to the CITY that the ENGINEER is, and its employees performing such Work are, properly licensed and/or registered within the State of Colorado for the performance of the Work (if licensure and/or registration is required by applicable law) and that the ENGINEER and employees possess the skills, knowledge, and abilities to competently, timely, and professionally complete the Work in accordance with this Agreement. The ENGINEER shall perform the Work in accordance with this Agreement and shall promptly inform the CITY concerning ambiguities and uncertainties related to the ENGINEER's performance that are not addressed by the Agreement.

## **ARTICLE 2 CITY'S RESPONSIBILITIES**

2.1 The CITY's requests for services from ENGINEER will be made on one of two bases: (i) As Needed Basic Services or (ii) Project Specific Work Order Services.

2.1.1 Requests for Basic Services may be more general in nature and need not be tied to a particular Project. Basic Services can be initiated by communications between the CITY Operations Director, or his designee(s), with the contract engineer via email, phone, written or verbal direction.

2.1.2 Each request for Project Specific Work-Order Services (which will be developed either by the CITY and/or by the ENGINEER under the direction of the CITY) will be tied to a particular project ("Project") and supported by a concise statement of the engineering or environmental work to be performed or a description of the desired engineering or environmental service to be provided by

ENGINEER (the "Project Statement"). The Project Statement will include hourly estimate with a top set "not to exceed number" and a schedule to complete the "Work" to be performed or the services to be provided by the (the "Work"). The Project Statement cost estimate with a not to exceed amount and schedule for completing the Work will be approved by the CITY.

2.2 For each Project for which ENGINEER will perform the Work, the CITY shall do the following in a timely manner so as not to delay the Work:

2.2.1 Provide to the ENGINEER all criteria and full information as to the CITY's requirements for the Project, including design objectives and constraints; space, capacity and performance requirements; flexibility and expandability in scope; and any budgetary limitations; and copies of all design and construction standards which the CITY will require to be included in the drawings and specifications prepared by ENGINEER (the "Drawings and Specifications").

2.2.2 Make available to the ENGINEER any and all drawings, specifications, schedules and other information, interpretations and data that have been prepared by or on behalf of the CITY, which are available to the CITY and which the CITY considers pertinent to ENGINEER's responsibilities hereunder, specifically including, but not limited to the existing geotechnical reports, surveys, and electronic data. The CITY shall, at its expense, furnish information and progress reproductions of the CITY's work and that of others assigned to any particular project as may be required for the orderly performance of ENGINEER's services.

2.2.3. Arrange for ENGINEER's access to public and private property as required for ENGINEER to perform the Work. ENGINEER shall notify CITY if access to any property has been denied or refused so that the CITY can seek to obtain said access.

2.2.4. Give prompt written notice to the ENGINEER whenever the CITY observes or otherwise becomes aware of any development or circumstance that affects the scope or timing of the ENGINEER's services, or any defect or nonconformance in the work of any contractor affecting the Project.

2.2.5. Advise the ENGINEER of the identity of other independent professional associates participating in the design or administration of any particular project and the scope of their services.

2.2.6. The information and services to be provided by the CITY under this Article 2 will be without cost to ENGINEER.

### **ARTICLE 3 TERM OF AGREEMENT**

This Agreement is effective until December 31, 2013. The Agreement may only be extended at the request of and upon written authorization of the CITY and with the consent of the ENGINEER. The length of an extension will be specified at the time the extension is authorized. The Agreement may be terminated pursuant to the provisions of Article 5 set forth hereafter.

### **ARTICLE 4 PAYMENTS TO ENGINEER**

#### **4.1 Amount of Compensation**

4.1.1 Basic Services will be invoiced monthly on a time and expense basis. Each invoice shall state with particularity the projects worked on, nature of the services performed and the hours devoted to such services for the previous month. The CITY will pay ENGINEER within thirty (30) days of its receipt of a valid invoice. The CITY shall pay ENGINEER for all Basic Services, inclusive of all overhead costs, based on the standard rates provided with attached "**Exhibit A**"

The hourly rates include all costs incurred by ENGINEER for insurance, overhead, phone, computer, internet, and cell phone. The CITY will also reimburse ENGINEER for reasonable pre-approved direct expenses related to the Basic Services including travel time, copies, and mileage at the IRS rate.

4.1.2 Work-Order Services will be invoiced monthly based on progress made per the Project Statement. The invoice shall state whether the work related to the Project has been completed. The CITY will pay ENGINEER within thirty (30) days of its receipt of a valid invoice, so long as the total amount invoiced for a Project does not exceed the authorized lump sum amount in the Project Statement. The lump sum amount in the Project Statement includes direct project expenses, all subcontracted professional services and all overhead costs. The rate for other professionals will be included in the Project Statement. These hourly rates include all costs incurred by ENGINEER for insurance, overhead, phone, computer, internet, cell phone, tolls, parking, and mileage. Other direct costs, which shall be included in the Project Statement, not included in the hourly rate shall be invoiced to the CITY with the hourly charges and must be agreed to in advance by both parties.

4.1.3 If the CITY objects to any monthly invoice submitted by ENGINEER or any portion thereof, the CITY shall so advise ENGINEER in writing giving its reasons therefore. Payment of any invoice by the CITY shall not imply approval or acceptance by the CITY of the invoiced services.

## **ARTICLE 5 GENERAL CONSIDERATIONS**

### **5.1 Termination.**

5.1.1 This Agreement shall terminate on December 31, 2013, or upon the CITY's providing ENGINEER with seven (7) days advance written notice, whichever occurs first. This Agreement may also be terminated by the CITY for cause, including but not limited to ENGINEER's failure to perform the Professional Services required for reasons that are not beyond ENGINEER's control or ENGINEER's breach of any of the terms or conditions of this Agreement. In the case of termination for cause, ENGINEER shall be deemed to be in default and the CITY may terminate this Agreement immediately and shall have no obligation to make any further payment to ENGINEER. If the Agreement is terminated for the CITY's convenience, by the CITY's issuance of written notice of termination, the CITY shall pay ENGINEER the reasonable value of all services previously authorized and completed prior to the date of termination. If, however, ENGINEER has substantially or materially breached this Agreement, the CITY shall have any remedy or right of set-off available at law and equity. The CITY shall not be obligated to pay ENGINEER any termination expenses.

5.1.2 The obligation to provide further services under this Agreement may be terminated by ENGINEER upon thirty (30) days written notice to the CITY in the event of substantial failure by the CITY to perform in accordance with the terms hereof through no fault of ENGINEER.

5.1.3 Suspension of Work. The CITY may suspend the ENGINEER'S performance of the Work at the CITY'S discretion and for any reason by delivery of written notice of suspension to the ENGINEER. Upon such notice of suspension, the ENGINEER shall immediately cease performance of the Work except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather); or (2) for the submission of an invoice for Work performed prior to the date of suspension in accordance with this Agreement.

5.2 Reuse of Document. The CITY acknowledges that the documents created by ENGINEER in its performance of the Professional Services, including but not limited to Drawings, designs, Specifications, reports, and incidental work or materials (the "Work Product"), are instruments of professional service. Nevertheless, copies of the Work Product shall be provided to the CITY and other contractors and subcontractors shall be authorized to use and reproduce applicable portions of the Work Product that are appropriate to use in the execution of their work. In addition to providing hard copies of the Work Product, ENGINEER shall provide to the CITY electronic versions of the Work Product in the format directed by the CITY. The Work Product shall become the property of the CITY upon completion or the termination of this Agreement. However, such documents are not intended or represented by ENGINEER to be suitable for reuse by the CITY or others on extensions or modifications of any Project. Any such reuse without specific written verification and adaptation by ENGINEER for the specific purposes intended will be at user's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's independent professional associates or consultants.

### 5.3 Records

5.3.1 Fiscal records of ENGINEER pertinent to ENGINEER's compensation and payments under this Agreement will be kept in accordance with generally accepted accounting practices and will not be disposed of by ENGINEER until after sixty (60) days prior written notice to and subsequent approval of such disposal by the CITY.

5.3.2 ENGINEER shall maintain all records (fiscal and other) and design calculations on file in legible form. A copy of these records shall be available to the CITY at ENGINEER's reasonable expense and the originals shall not be disposed of by ENGINEER until after sixty (60) days prior written notice and subsequent approval of such disposal by the CITY.

5.3.3 ENGINEER's records and design calculations will be available for examination and audit during normal business hours with five (5) days prior written notice.

### 5.4 Insurance

5.4.1 ENGINEER agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by ENGINEER pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.

5.4.2 At a minimum, ENGINEER shall procure and maintain, and shall cause any subcontractor of ENGINEER to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the CITY. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

5.4.2.1 Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one hundred thousand dollars (\$100,000) each accident, one hundred thousand dollars (\$100,000) disease – policy limit, and one hundred thousand dollars (\$100,000) disease – each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

5.4.2.2 Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision, and shall be endorsed to include the CITY and the CITY's officers, employees, and consultants as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

5.4.2.3 Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.

5.4.2.4 Automobile liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.

5.4.3 Any insurance carried by the CITY, its officers, its employees, or its consultants shall be excess and not contributory insurance to that provided by ENGINEER. ENGINEER shall be solely responsible for any deductible losses under any policy.

5.4.4 ENGINEER shall provide to the CITY a certificate of insurance, completed by ENGINEER's insurance agent, as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify this Agreement and shall

provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days prior written notice has been given to the CITY. The CITY reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

5.4.5 Failure on the part of ENGINEER to procure or maintain the insurance required herein shall constitute a material breach of this Agreement upon which the CITY may immediately terminate this Agreement, or at its discretion, the CITY may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the CITY shall be repaid by ENGINEER to the CITY upon demand, or the CITY may offset the cost of the premiums against any monies due to ENGINEER from the CITY.

## 5.5 Indemnification.

5.5.1 ENGINEER agrees to indemnify and hold harmless the CITY, its officers, insurers, volunteers, representatives, employees and assigns from and against all claims, liability, damages, losses, expenses and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, which arise out of or are in any manner connected with this Agreement or the Professional Services (including any Project) to the extent that such injury, loss, or damage is caused by the act, omission, error, professional error, mistake, negligence, or other fault of ENGINEER, any subcontractor of ENGINEER, or any officer, employee, representative, or agent of ENGINEER or of any subcontractor of ENGINEER, or which arise out of any worker's compensation claim of any employee of ENGINEER or of any employee of any subcontractor of ENGINEER. In any and all claims against the CITY or any of its officers, insurers, volunteers, representatives, agents, employees or assigns, by any employee of ENGINEER, any subcontractor of ENGINEER, anyone directly or indirectly employed by any of them or anyone for whose act any of them may be liable, the indemnification obligation under this Section 5.5.1 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for ENGINEER or any subcontractor under worker's compensation actions, disability benefit acts or other employee benefit acts.

5.5.2 In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of the CITY and ENGINEER, they shall be borne by each party in proportion to its negligence. The indemnification provided by this Section 5.5. shall in no way be limited by the minimum required insurance identified above. This section is limited by Section 5.13 and Colorado law.

## 5.6 Professional Responsibility

5.6.1 ENGINEER represents that it is qualified to perform the Professional Services, holds all professional licenses required by law to perform the Professional Services, and has all requisite corporate authority to enter into this Agreement.

5.6.2 The Professional Services shall be performed by ENGINEER in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms performing the same or similar type of work in the State of Colorado.

5.6.3. ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by ENGINEER under this Agreement. ENGINEER shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the CITY for construction costs caused by errors and omissions which fall below the standard of professional practice.

5.6.4. Approval by the CITY of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve ENGINEER of responsibility for technical adequacy of Professional Services. Neither the CITY's review, approval, or acceptance of, nor payment for, any of the Professional Services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

5.6.5. The CITY has hired ENGINEER for its professional expertise, but recognizes there may be engineering requirements outside ENGINEER's area of expertise that may require the employment of subcontractors. Upon request, ENGINEER shall furnish to the CITY a list of proposed subcontractors, and ENGINEER shall not employ a subcontractor to whose employment the CITY reasonably objects. All contracts between ENGINEER and subcontractors shall conform to this Agreement.

5.7 Nondiscrimination and Affirmative Action. In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.8 Confidentiality. All services performed by the ENGINEER, including but not limited to all drafts, data, correspondence, proposals, reports and estimates compiled or composed by the ENGINEER, pursuant to this Agreement, are for the sole use of the CITY, its contractors, agents and employees. Neither the documents nor their contents shall be released by any party, or any third party, other than the CITY, without the prior written consent of the CITY. In addition, ENGINEER shall not grant any interviews or make any written or oral statements to any news media representatives regarding the Project nor publish any article or make any presentation concerning the Project or services performed by ENGINEER without the prior written consent of the CITY.

5.9 Governing Law and Venue. This agreement shall be governed by the laws of Colorado and any legal action concerning the provisions hereof shall be brought in Gilpin County, Colorado.

5.10. Binding Effect. The CITY and ENGINEER each bind itself, its successors and assigns to the other party to this Agreement with respect to all rights and obligations under this Agreement.

5.11 Assignment. Neither the CITY nor ENGINEER shall assign, sublet or transfer any rights under or interest in this Agreement (including, but not limited to, moneys that may become due or moneys that are due) without the written consent of the other, except to the extent that an assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.12. No Third Party Beneficiaries. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the CITY and ENGINEER and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the CITY and ENGINEER and not for the benefit of any other party.

5.13. Governmental Immunity. The CITY, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently one hundred fifty thousand dollars (\$150,000) per person and six hundred thousand dollars (\$600,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101, *et seq.*, as amended, or otherwise available to the CITY and its officers or employees.

5.14 No Multiple Fiscal Year Obligation. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20. Notwithstanding any other provision of this Agreement, the CITY's obligations under this Agreement are subject to annual appropriation by the City Council of the CITY. Any failure of the City Council annually to appropriate adequate monies to finance the CITY's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to ENGINEER of any failure to appropriate such adequate monies.

5.15 No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the CITY shall not constitute a waiver of any of the other terms or obligation of this Agreement.

5.16. Integration. This Agreement and any attached exhibits constitute the entire Agreement between ENGINEER and the CITY, superseding all prior oral or written communications.

5.17 Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

If to the CITY:                   City of Central  
  141 Nevada Avenue  
  Central City, CO 80427  
  Attn: Kent Kisselman  
  Telephone: 303.582.2521  
  E-mail: opdirector@cityofcentral.co

If to ENGINEER:                 JVA, Inc.  
  1319 Spruce Street  
  Boulder, CO 80302  
  Attn: William A. Raatz  
  Telephone: 303.444.1951  
  E-mail: wraatz@jvajva.com

5.18 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

5.19 Modification. This Agreement may only be modified upon written agreement of the parties.

5.20 Rights and Remedies. The rights and remedies of the CITY under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the CITY's and the ENGINEER's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

5.21 Certification; Prohibition on Employing or Contracting with Illegal Aliens.

5.21.1. ENGINEER hereby certifies that at the time of executing this Agreement it does not knowingly employ or contract with an illegal alien and that it has participated or attempted to participate in the Basic Pilot Program in order to verify that it does not employ any illegal aliens.

5.21.2. ENGINEER shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to ENGINEER that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services.

5.21.3. ENGINEER has verified or attempted to verify through participation in the Basic Pilot Program that ENGINEER does not employ any illegal aliens and, if ENGINEER is not accepted into the Basic Pilot Program prior to entering into this Agreement, that ENGINEER shall apply to participate in the Basic Pilot Program every three (3) months until ENGINEER is accepted or this Agreement for services has been completed, whichever is earlier.

5.21.4 ENGINEER is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

5.21.5 If ENGINEER obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, ENGINEER shall be required to: (a) notify the subcontractor and the CITY within three (3) days that ENGINEER has actual knowledge that the

subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to C.R.S. Section 8-17.5-102 (2) (III) (A) the subcontractor does not stop employing or contracting with the illegal alien; except that ENGINEER shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

5.21.6. ENGINEER shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Section 8-17.5-102 (5).

5.21.7. Any violation of provisions 5.21.1. through 5.21.6, above, shall be deemed to be a material breach of this Agreement and the CITY may immediately terminate this Agreement for cause. If this Agreement is so terminated, ENGINEER shall be liable for actual and consequential damages to the CITY pursuant to C.R.S. Section 8-17.5-102(3) and the CITY shall notify the office of the Secretary of State of such violation/termination.

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

**JVA, Incorporated.**

By: \_\_\_\_\_  
Kevin A. Tone, P.E., Vice President

**CITY OF CENTRAL**

BY: \_\_\_\_\_  
Ronald E. Engels, Mayor

ATTEST: \_\_\_\_\_  
Reba Bechtel, City Clerk

**EXHIBIT A**  
**BILLING RATES**



# AGENDA ITEM # 18

## CITY COUNCIL COMMUNICATION FORM

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**FROM:** Linda C. Michow, City Attorney

**DATE:** November 29, 2012

**ITEM:** Resolution 12-20 Concerning the Adoption of a New Employee Handbook

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ORDINANCE  
 RESOLUTION/MOTION  
 INFORMATION

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- I. **REQUEST OR ISSUE:** The City Council requested that the City Attorney revise the existing employee handbook, which was last prepared in 2004 under the previous City administration. After receiving substantial input from both City Council and staff, the City Attorney is presenting the attached Employee Handbook for City Council's consideration.
- II. **RECOMMENDED ACTION / NEXT STEP:** The City Attorney City recommends approval of Resolution No. 12-20, which will adopt the proposed Employee Handbook effective immediately.
- III. **BACKGROUND INFORMATION:** The City's Employee Handbook was last reviewed and adopted in its current form in 2004, with minor revisions made in 2007. Since that time, there have been changes in federal and state employment laws and the types of issues that arise in the modern workplace. Moreover, City management identified several areas in the existing handbook that either add to the cost of City operations or complicate the administration of personnel matters. The City Attorney has prepared the attached Employee Handbook, which contains updated guidelines to reflect accurately the City's expectations of its staff, streamline personnel matters, and provide the City with maximum flexibility in managing City employees in order to accomplish the goals of the City.

The City Attorney previously recommended that City employees should have the opportunity to review and comment on the proposed Employee Handbook. City employees received the proposed Handbook on November 26, 2012 and were

notified that they could provide comments or input related thereto to the City Finance Director or to City Council at its regular meeting on December 4, 2012.

City Council and staff have determined that it is appropriate to consider the proposed Employee Handbook at the December 4 meeting in order to implement the updated Handbook in time for calendar year 2013. However, City Council has also determined that it requires additional time to evaluate the City's current practices regarding paid sick and vacation leave for eligible City employees. As a result, the proposed Employee Handbook does not address or change those practices at this time. The City Council may evaluate and change those practices at a later date, as the proposed Handbook merely refers employees to the Finance Director for information regarding sick and vacation leave.

- IV. **LEGAL ISSUES:** There are no new legal issues to address regarding the Employee Handbook at this time.
- V. **CONFLICTS OR ENVIRONMENTAL ISSUES:** None
- VI. **SUMMARY AND ALTERNATIVES:** The City Attorney recommends that the City Council adopt the attached Employee Handbook by approving Resolution No. 12-20. Alternatively, City Council could request further revision of the proposed Employee Handbook to be brought back for its consideration or decide to proceed under the existing Employee Handbook.

**CITY OF CENTRAL, COLORADO  
RESOLUTION NO. 12-20**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL  
ADOPTING A NEW EMPLOYEE HANDBOOK**

**WHEREAS**, pursuant to Section 2-171 of the City of Central Municipal Code, the City Council is authorized to adopt by resolution personnel policies and procedures applicable to all employees of Central City; and

**WHEREAS**, the City has previously adopted personnel policies, including the existing City of Central Employee Handbook adopted in 2004 and amended in 2007 pursuant to Resolutions 04-07, 07-07, and 11-07; and

**WHEREAS**, City Council directed the City Attorney to propose a new Employee Handbook for its consideration; and

**WHEREAS**, the existing Employee Handbook provides paid sick and vacation leave to eligible City employees; and

**WHEREAS**, the City desires to evaluate its current practices related to paid sick and vacation leave for City employees separately and therefore is considering a proposed Employee Handbook that does not address or change those practices with the understanding that it will evaluate and determine the City's practices for such leave at a later date; and

**WHEREAS**, each City employee received a draft of the proposed Employee Handbook on November 26, 2012 and was granted the opportunity to review and provide relevant responses or input on the draft to City Council at its regular meeting held December 4, 2012 or to the City Finance Director in advance of that meeting; and

**WHEREAS**, the City desires to rescind the existing Employee Handbook as amended and to approve the attached Employee Handbook applicable to City employees.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, THAT:**

**Section 1.** The City Council hereby adopts the City of Central Employee Handbook, attached hereto.

**Section 2.** This Resolution shall take effect immediately upon adoption, and City

staff is directed to take all steps necessary to implement the Employee Handbook.

**ADOPTED THIS 4<sup>th</sup> DAY OF DECEMBER, 2012.**

**CITY OF CENTRAL, COLORADO**

By: \_\_\_\_\_  
Ronald E. Engels, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Reba Bechtel, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Linda C. Michow, City Attorney

**CITY OF CENTRAL**  
**EMPLOYEE HANDBOOK**

**CITY OF CENTRAL**  
**EMPLOYEE HANDBOOK**

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## Chapter 1: Purpose, Scope, and Authority

### IMPORTANT

Welcome to employment with the City of Central. This Employee Handbook (“Handbook”) applies to all non-elected employees of the City unless superseded by specific terms of a separate employment agreement adopted by and duly executed on behalf of the City Council. However, it does not apply to elected officials, including the Mayor and City Council, nor does it apply to City contractors or members of any appointed Boards or Commissions of the City. This Handbook supersedes all existing policies and practices except the City’s Code of Ethics, found in Article IV of Chapter 2 of the Municipal Code. Whenever the masculine or feminine is used in these policies, it is not intended to reflect gender, but is used only for administrative convenience.

Employment with the City is entered into voluntarily, and the employee is free to resign at any time. Temporary employees and employees in probationary status are at-will, and the City may terminate the employment relationship with such employees at any time, with or without prior notice, warning, procedure, or formality, for any reason or no reason. If an employee is not in a temporary or probationary status, the City may terminate the employment relationship at any time in accordance with the provisions of the City’s Charter.

The guidelines in this Handbook are not a contract between the City and any of its employees, do not impose any legally enforceable obligations upon the City, and should not be relied upon as binding, inflexible promises by the City.

The guidelines in this Handbook have been developed at the discretion of management and the City Council. The City reserves the right to change or rescind these guidelines and to determine the application of these guidelines to specific circumstances at any time and in its sole discretion. The City further reserves the right to alter or eliminate any compensation or benefits that it provides to its employees.

No employee or agent of the City Council is authorized to modify these guidelines by agreement, oral representation, practice, custom, or habit.

## **1.10 AUTHORITY OF CITY COUNCIL AND CITY MANAGER**

The City Manager is the administrative officer of the City. Section 7.3 of the City's Charter vests the City Manager with the responsibility for the proper administration of the City's affairs and the City Manager is required to perform, among other tasks, the following duties:

- a. hire and remove the managers of all City departments and assume responsibility for the operation and performance of all City departments;
- b. hire, suspend, transfer, and remove employees, after the recommendation of the appropriate department manager;
- c. offer employment and transfer on the basis of executive and administrative ability and training and experience;
- d. administer the City's budget; and
- e. establish, consolidate, or abolish administrative departments in accordance with federal, state, and local law and to exercise supervision and control over such departments unless otherwise provided by ordinance.

Section 7.5 of the City's Charter prohibits City Council, its members, and its committees from participating in the following activities:

- a. employing or taking part in the employment of any person to any position with the City;
- b. removing or taking part in the removal of any person from employment with the City;
- c. affecting the pay, hours, or conditions of employment of any employee of the City;
- d. directing any employees to perform any City business or work, or to stop performing any City business or work; or
- e. interfering with any City employee in the performance of that employee's City work.

## **1.20 ADMINISTRATIVE PROCEDURES**

The City Manager may adopt, amend, or rescind written administrative procedures, rules, or regulations consistent with this handbook. The Finance Director will retain copies of all such procedures.

### **Chapter 2: Recruitment and Hiring**

## **2.10 EQUAL EMPLOYMENT OPPORTUNITY**

The City extends equal employment opportunity to all qualified individuals without regard to race, color, religion, creed, national origin, ancestry, age, sex, sexual orientation, disability, veteran or military status, political affiliation, group membership or any other status or characteristic protected by law. This provision governs all aspects of employment, including, without limitation, recruitment, hiring, job assignment, compensation, evaluation, promotion, discipline, termination and access to benefits and training.

Any employees with questions or concerns about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisors or other

appropriate individuals in accordance with the City's complaint process as set forth in this Handbook. Employees can raise concerns and make reports without fear of reprisal. Anyone found engaging in unlawful discrimination or retaliation will be subject to disciplinary action, up to and including termination of employment.

## **2.20 APPLICATIONS AND BACKGROUND CHECKS**

All applicants for a position with the City shall complete an employment application. It is the policy of the City to check the employment references of all applicants.

The City may ask applicants to provide written authorization to the City for background checks. Any misrepresentations, falsifications, or material omissions in any of this information or data provided to the City in the application process may result in the City's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

## **2.30 PRE-EMPLOYMENT MEDICAL EXAMINATIONS AND DRUG TESTING**

To help assure that applicants are able to perform the essential functions of the job or that employees are able to perform their duties safely, the City may require individuals to undergo medical examinations.

After the City has offered employment to an applicant for a designated job category, a medical examination may be performed at the City's expense by a health professional of the City's choice. The offer of employment and assignment to duties will be contingent upon satisfactory completion of the examination. For selected positions, psychological examinations may also be administered.

The City conditions every offer of City employment on the successful passing of a blood or urine screen for the current presence of alcohol or illegal drugs. The City will not hire any applicant who fails to take and pass this screen.

## **2.40 NEPOTISM**

To avoid conflicts of interest and the appearance of impropriety, the City will not employ close relatives or intimate acquaintances of persons serving as a member of the City Council. In addition, the City will not employ persons in close relationships with City employees in certain circumstances. This policy applies to all City employees as well as to all applicants for City employment.

For purposes of this Section, the following definitions apply:

"City Council" means any person elected or appointed to serve as Mayor or a member of the City Council.

“Close relative” means persons related as follows:

1. By blood: children, parents, siblings, half-siblings, grandparents, and grandchildren.
2. By marriage: spouse, stepparent, stepchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
3. By law: Adoptive parent/child/sibling relationships, foster parent/child/sibling relationships, and guardianship relationships.

“Intimate acquaintance” means either a person with whom an elected official or employee has a romantic or sexual relationship or a domestic partner of an elected official or employee.

The City will not employ close relatives or intimate acquaintances of members of the City Council. In addition, the City will not employ close relatives or intimate acquaintances of current City employees where:

- a. One of the parties would directly or indirectly exercise supervisory authority over the other, which includes appointment, management, disciplinary, or dismissal authority over the other;
- b. One of the parties would audit, verify, receive, or be entrusted with money received or handled by the other in the course of employment;
- c. One of the parties would have access to confidential material that creates improper or inappropriate access to that material by the other, including but not limited to payroll, personnel records, and other personal information; or
- d. Other circumstances exist that might lead to a potential conflict between the parties or a conflict between the interest of one or both parties and the best interests of the City, as determined by the City.

Supervisory authority shall be interpreted to include all levels of supervisors within the chain of command up to and including the City Manager and is not limited to the immediate supervisor. The City Manager will make the final determination as to whether a violation of this policy exists, and may waive this provision if he or she finds that the waiver will serve the best interests of the City.

Employees are required to report a change in the nature of their relationship with another employee or member of the City Council to the City Manager immediately if that change puts them in potential or actual violation of this policy. Failure to do so shall subject all affected employees to disciplinary action up to and including termination from employment. If two employees become closely related or become intimate acquaintances and they are in violation of this policy, the City reserves the right to either arrange a transfer or change in position or

duties so that such a violation does not exist, to require the resignation of one of the affected employees, or to terminate one of the affected employees from City employment.

If a person who is a close relative or an intimate acquaintance of to a City employee is elected or appointed to serve as a member of the City Council, the elected official will not be required to step down from his or her position. However, the City reserves to right to make appropriate changes regarding the affected employee by requiring the resignation of the affected employee or terminating the affected employee from City employment.

All remedial action, modifications, or other arrangements made by an employee or the City that are required to avoid the conflicts prohibited by this policy must take effect within thirty (30) calendar days of the conflict arising.

### **Chapter 3: Employment Status and Records**

#### **3.10 EMPLOYMENT STATUS AND CATEGORIES**

Each employee is designated as either **NON-EXEMPT** or **EXEMPT** from federal and state wage and hour laws. Non-exempt employees may be entitled to compensation for overtime under the specific provisions of federal and state laws. Exempt employees are excluded from overtime provisions of federal and state wage and hour laws.

In addition to the above categories, each employee will belong to one or more of the following employment categories:

**Full-Time** employees are those who are not in a temporary or probationary status and who are regularly scheduled to work the City's full-time schedule.

**Part-Time** employees are those who are regularly scheduled to work less than 40 hours a week.

**Probationary** employees are those whose performance is being evaluated to determine whether further employment in a specific position with the City is appropriate. Employees who satisfactorily complete the probationary period will be notified of their new employment classification. The City can terminate probationary employees for any reason or no reason and without notice during the probationary period, and without application of any pre- or post-termination procedures.

**Temporary** employees who are hired for positions known to be of limited duration are considered temporary employees. A position is considered to be of limited duration if it is reasonably expected at the time the position is filled that the position will terminate in the foreseeable future, even though the precise termination date may not be known. The City can terminate temporary employees for any reason or no reason and without notice during the course of their employment, and without application of any pre- or post-termination procedures. Any extension of the duration of the temporary employment beyond any initially stated period does not in any way imply a change in employment status.

Temporary employees may be entitled to overtime compensation as provided in these guidelines and under federal and state law.

**Contractual** employees fall directly under the provisions of their specific contract.

**Flextime** permits certain full-time exempt employees to follow a work schedule that may differ from the City's standard business hours. Flextime requests will be reviewed on a case-by-case basis by the employee's supervisor and approved by the City Manager.

### **3.20 PROBATIONARY PERIOD**

All new employees who are not employed in a temporary or seasonal capacity must serve a probationary period of six (6) months or longer as may be determined necessary by the City Manager. Notwithstanding this provision, all peace officers who are new employees of the Central City Police Department must serve a probationary period of one (1) year or longer, as may be determined necessary by the Police Chief. Employees serving their initial probationary period with the City are employed at the will of the City and may be given additional probationary time, reclassified, transferred, demoted, or discharged for any reason. An employee will remain on probationary status unless and until the City notifies him that he has satisfactorily completed the initial probationary period and is considered a regular employee.

During the probationary period, the employee will accrue leave time beginning on the first day of employment. Employees cannot use the time accrued until successful completion of the probationary period unless the City Manager or the employee's immediate supervisor approves such use. The City will not pay employees for any accrued leave if their employment with the City terminates before successful completion of the probationary period.

Employees who have successfully completed an initial probationary period and are reclassified, promoted, or transferred within the City must complete a secondary probationary period of six (6) months or longer as may be determined necessary by the City Manager with each reassignment to a new position. Management may, in its sole discretion, remove reassigned employees from the new position at any time during the secondary probationary period. Such employees may be allowed to return to his or her former job or to a comparable job for which the employee is qualified, depending on the availability of such positions and the City's needs.

### **3.30 OUTSIDE EMPLOYMENT**

Employees may hold outside jobs as long as they continue to meet the performance standards of their jobs with the City. Employees should consider the impact that outside employment may have on their health and physical endurance. All employees will be judged by the same performance standards and will be subject to the City's scheduling demands, regardless of any outside work requirements.

If the City determines that an employee's outside work interferes with performance or the ability to meet the requirements of the City as they are modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain with the City.

Employees are also subject to the Conflicts of Interest section of this Handbook and the Code of Ethics in Article IV, Chapter 2 of the City Municipal Code.

### **3.40 VOLUNTEER FIREFIGHTERS**

City employees desiring membership in the Central City Volunteer Fire Department must obtain written approval from their immediate supervisor and the Fire Chief. Each request will be reviewed based upon appropriateness and ability of the City to schedule regular work activities during fire calls.

When City employees who are members of the Central City Volunteer Fire Department are called into service, they will be under the authority of the Fire Chief. Volunteers must notify their immediate supervisor of the fact that they are on firefighting duty. Volunteers are released from firefighting duty upon notification from the Fire Officer in charge. Volunteers must follow the Fire Department rules, regulations, policies and procedures when performing Fire Department duties.

A City employee who is injured in the line of duty as a fire department employee may be eligible for appropriate workers' compensation benefits.

### **3.50 PERSONNEL RECORDS**

#### **Records Maintenance**

The City maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, résumé, records of training, documentation of performance and salary increases, and other employment records.

It is the responsibility of each employee to notify the City promptly of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments or certifications, and other such status reports should be accurate and current at all times.

#### **Access to Information in Personnel Files**

Personnel files are the property of the City, and access to the information they contain is restricted. With reasonable advance notice, employees may review their own personnel files in the City's offices and in the presence of an individual appointed by the City to maintain the files. Generally, only supervisors and management personnel of the City who have a legitimate reason to review information in a file are allowed to do so. However, the City will abide by all requirements of the Colorado Open Records Act, Section 24-72-201, *et seq.* C.R.S., as amended.

Employees who want the City to release any of the contents of their personnel file to a third party must file a written request that designates the documents to be released and the person or entity to which the records are to be released and that absolves and indemnifies the City from any liability, claims, and demands resulting from such release.

## **Chapter 4: Compensation**

### **4.10 COMPENSATION**

It is the City's desire to compensate employees accurately and to do so in compliance with all applicable state and federal laws. The City prohibits improper deductions from employee compensation. However, mistakes can happen. Employees should immediately review their pay stubs for accuracy. If an employee believes a mistake has occurred or has any question regarding their compensation, they should use the reporting procedure outlined below. The City will promptly will make any correction that is necessary.

Employees who believe their wages have been subjected to any improper deductions or whose pay does not accurately reflect all hours worked should report their concerns to the Finance Director immediately. Every report will be fully investigated and corrective action will be taken. In addition, the City prohibits any form of retaliation against individuals who report alleged violations of this policy or who cooperate with the City. Any form of retaliation in violation of this policy may result in disciplinary action, up to and including termination.

### **4.20 WORK WEEK AND PAY PERIODS**

Each employee's work week consists of a seven-day period beginning and ending at midnight Friday unless otherwise specified in writing by an authorized representative of the City. Employees are paid every other Friday. Each paycheck will include earnings for all work performed through the end of the previous bi-weekly payroll period.

If a regularly scheduled pay day falls on a day off, the City will typically issue paychecks on the last day of work before the regularly scheduled payday.

### **4.30 TIMEKEEPING**

Employees who are exempt from the provisions of the Fair Labor Standards Act will receive a salary that is intended to compensate them for all hours that they work for the City. In general, this salary will not be subject to deductions for variations in the quantity or quality of the work such employees perform.

All non-exempt employees are required to record accurately all of the time in which they perform work for the City, including, but not limited to, the time that they actually begin and end their shift and any departure from work for personal reasons.

It is the employee's responsibility to sign his or her time record to certify the accuracy of all time recorded. The supervisor will review and then initial the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both employee and supervisor must verify the accuracy of the changes by initialing the time record.

Employees must immediately report any mistake in their time records to their supervisor or to the Finance Director, even if the error is discovered after pay for a particular pay period has been received.

Employees are prohibited from filling out time sheets ahead of time and must not complete the time sheet by simply writing down their work schedule. Altering, falsifying, tampering with time records, failure to report known errors, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

#### **4.40 OVERTIME AND COMPENSATORY TIME**

The City may require employees to work overtime. All overtime worked must be approved in advance by an authorized representative of the City. Failure to work assigned overtime or working unauthorized overtime may result in disciplinary action, up to and including termination of employment.

Employees who are not exempt from the Fair Labor Standards Act will be compensated for hours actually worked in excess of forty (40) hours during the work week. To the extent that any provision of this guideline conflicts with the Fair Labor Standards Act, the Fair Labor Standards Act shall govern.

**NOTE: CITY POLICE OFFICERS MAY BE SUBJECT TO A WORK PERIOD THAT IS DIFFERENT FROM OTHER CITY EMPLOYEES AND MAY NOT BE ELIGIBLE FOR OVERTIME AFTER WORKING 40 HOURS DURING A WORK WEEK. POLICE OFFICERS MUST ADHERE TO THE TIMEKEEPING AND OVERTIME POLICIES ESTABLISHED BY THE POLICE DEPARTMENT.**

In the case where an employee is absent for all or a portion of the work week on paid time off and is then required to report to work on a regularly scheduled day off, the employee will be eligible for overtime worked in excess of 40 hours paid time. If a non-exempt employee is on vacation and is called in to appear on behalf of the City on a court case, the employee will be credited with the full vacation time and receive time-and-a-half for court time. (Example: a police officer takes two weeks off totaling 80 hours and is called in for a court appearance that takes four (4) hours. The employee would be credited for 80 hours of leave and four (4) hours of straight time paid at time-and-a-half for the appearance in court.)

In agreeing to work for the City, employees agree to accept compensatory time in compensation for overtime actually worked when deemed appropriate by the City. Employees who work overtime will, at the City's discretion, receive either overtime pay or compensatory time off in compliance with the Fair Labor Standards Act.

Employees are not permitted to accumulate more than 24 hours of compensatory time and in no case more than the maximum allowed by the Fair Labor Standards Act. Any employee may be directed to use accrued but unused compensatory time where he or she has accumulated the maximum permissible number of hours or, in the alternative, the employee may be precluded from earning additional compensatory time until compensatory time is used. At any time, the City may, in its discretion, pay an employee for some or all of their accumulated compensatory time. In that case, the employee will receive their regular hourly rate of pay for each hour of compensatory time the City pays out. Upon termination of employment, employees shall be compensated for any unused compensatory time.

#### **4.50 PAY DEDUCTIONS AND SETOFFS**

The law requires that the City make certain deductions from every employee's compensation. Among these are applicable federal, state and local income taxes. The City also must deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base." The City matches the amount of Social Security taxes paid by each employee.

The City may offer programs and benefits beyond those required by law. Eligible employees may voluntarily authorize payroll deductions to cover the costs of participating in these programs.

Pay setoffs are pay deductions taken by the City, usually to help pay off a debt or obligation to City or others. State law authorizes the City to make deductions from a final paycheck to cover the amount of money or the value of property that has not been properly paid back or returned to the City at the time employment ends. If the final paycheck is insufficient to cover all City property that is not returned or that has been lost or damaged while in an employee's care, the City may seek to recover additional amounts from the employee. All questions regarding deductions from a paycheck should be addressed to the Finance Director.

#### **4.60 BUSINESS-RELATED EXPENSES**

The City will reimburse employees for reasonable business expenses incurred while performing City business. City-related travel may be authorized at the City Manager's discretion and must be approved in advance by the supervisor.

### **Chapter 5: Benefits**

Unless otherwise specified in this Handbook or in benefit plans, all regularly employed full-time employees are eligible for the following benefits and leave. Part-time employees may be eligible for leave time; see the City's Finance Director for details.

As a public entity, Central City is subject to the federal Family and Medical Leave Act ("FMLA"). However, because the City employs less than fifty (50) employees, City employees are not eligible for FMLA leave at this time.

#### **5.10 HEALTH AND RETIREMENT BENEFITS**

The City may, in its discretion, provide an array of health and disability benefits for employees. Please consult the City Finance Director for details regarding your eligibility and options regarding available benefits.

The City requires all employees except police officers and fire fighters to pay into Social Security in accordance with federal regulations. In addition, the City has established a voluntary 401(a) pension program. The City also provides employees the opportunity to defer current income and taxes through deductions into a 457 Plan. For more information concerning eligibility and other details concerning these plans, please consult the City Finance Director.

Employees who are on leave shall continue to be responsible for timely payment of their portion of appropriate premiums for all insurance benefits.

## **5.20 HOLIDAYS**

The following are declared holidays: New Year's Eve, New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and the day after, Christmas Eve, Christmas Day, President's Day, Columbus Day, and Veterans Day.

**Observance of Holidays.** For full-time employees working Monday through Friday, holidays falling on Saturday will be observed on the preceding Friday and those falling on Sunday will be observed on the following Monday. For full-time employees on a workweek other than Monday through Friday, the department head will designate how holidays will be observed.

Holiday pay is only paid for days that an employee is required to be at work. Any employee that calls in sick the day before or the day after a holiday will not be paid for the holiday unless the employee provides written verification from a health care provider that the employee was, indeed, ill.

**Holiday Worked.** A full-time employee who is required to work on a holiday listed above will be paid for each hour worked at her or his regular rate, and will be paid 8 hours of holiday pay calculated at her or his regular rate.

## **5.30 VACATION**

The City may, in its discretion, provide vacation time off with pay to eligible employees to provide opportunities for rest, relaxation, and personal pursuits. Please consult the City Finance Director for details regarding your eligibility and options regarding paid vacation leave.

## **5.40 SICK LEAVE**

The City may, in its discretion, provide sick time off with pay to eligible employees for periods of temporary absence due to illnesses, injuries, or other medical reasons. Please consult the City Finance Director for details regarding your eligibility and options regarding paid sick leave.

## **5.50 SICK LEAVE DONATION PROGRAM**

The City may offer sick leave and other disability or injury leave programs that provide income protection for employees who suffer job-related or non-job related injuries or illnesses that result in time off from work. However, when an employee encounters unexpected hardships and the available programs and benefits are not sufficient, the City has a donation program which provides other City employees with the opportunity to donate their sick leave for use by other employees. If donated time is not used, the time will be pro-rated back to those employees that donated the time. For more details on this program, please see the Finance Director.

## **5.60 EMERGENCY FAMILY LEAVE**

Full-time employees will be granted up to three (3) days of emergency family leave with pay in the event of a death or serious illness or accident in their immediate family or other relative with whom the employee shares a special relationship, at the City Manager's discretion.

A full-time employee may request emergency family leave under similar emergency circumstances and the employee's department head or the City Manager is authorized to determine whether all, a portion, or none of the requested leave can be granted.

A full-time employee who needs additional leave following three days of emergency family leave in a calendar year will be expected to use available accrued leave after consulting with the employee's department head.

Part-time and temporary employees may request time off without pay in cases of emergency.

## **5.70 LEAVE OF ABSENCE**

Personal leaves of absence without pay may be granted to any employee at the discretion of their department head and with the approval of the City Manager.

Personal leaves of absence are granted for specific reasons. All personal leaves must be approved in advance by an employee's department head, unless an emergency makes prior approval impossible.

An employee's unauthorized failure to return from a personal leave of absence as scheduled will be considered an abandonment of the employee's job and will be treated as if the employee voluntarily quit.

## **5.80 JURY DUTY/COURT TIME**

Employees who are called to jury duty or subpoenaed as a witness must notify their department director as soon as possible. Such employees will be excused from work to report for this important civic duty. If not selected as a juror, or if not called as a witness, employees must return to work without delay.

An employee called as a witness on his or her own behalf for a personal lawsuit, or in a lawsuit arising from other employment, or in a lawsuit involving matters outside of the employee's employment with the Central City, shall not be granted paid leave for such court appearance, but may be granted a personal leave of absence, as described above.

## **5.90 MILITARY LEAVE**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Colorado law. Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable.

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible.

Employees on military leave for up to thirty (30) days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and applicable Colorado law.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed, or in a comparable position, depending on the length of military service, in accordance with USERRA. To the extent required by USERRA, a returning employee will be treated as though he or she were continuously employed by the City for purposes of determining benefits based on length of service.

#### **5.100 EDUCATIONAL FINANCIAL ASSISTANCE**

The City encourages employees to further their education in subject areas that benefit the City and their own positions or future positions. Employees must contact their supervisors prior to the semester or program for which they are requesting reimbursement and the City will reimburse the employee upon proof of completion and satisfactory grades ("C" or better if grades are provided).

Course work must be relevant to current or future job duties and in the case of degree course work, the degree must be relevant to the employee's current duties with the City.

Regular employees may receive up to \$1,000 in any six (6) month period, up to a maximum of \$1,500 in any calendar year. Funds are available on a first-come, first-serve basis and cannot exceed the annual total budgeted by the City Council for all employees. Employees who voluntarily resign their employment with the City within twelve (12) months from receipt of any financial assistance shall reimburse the City for the full amount of such financial assistance received from the city during the twelve (12) months preceding the resignation.

#### **5.110 LICENSURE ASSISTANCE**

The City will pay for all licenses and certifications required of employees to conduct their job duties as defined in their job descriptions. Employees should contact their supervisor for payment or reimbursement.

#### **5.120 MEMBERSHIP DUES**

The City encourages employees to belong to organizations relating to their job duties. Employees must contact their supervisor to obtain approval for payment of annual membership dues, which shall be subject to annual appropriation.

## **Chapter 6: Work Environment**

### **6.10 WORK SCHEDULES AND ATTENDANCE**

The normal work schedule for all exempt employees is eight (8) hours a day, five (5) days a week. The normal work schedule for all nonexempt employees is eight (8) hours a day, five (5) days a week. Regular part-time, nonexempt employees will work a schedule as directed by the supervisor. A work schedule may also be defined as ten (10) hours a day, four (4) days a week, or alternative shifts in accordance with Section 7(k) of the Fair Labor Standards Act. Some employees may be required to serve in an "on-call" status as a part of their regular duties. Such employees must abide by all City procedures governing on-call status.

Supervisors will advise employees of the times their schedules will normally begin and end. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Flextime scheduling is available in some cases to allow exempt employees to vary their starting and ending times each day within established limits. Employees should consult their supervisors for details.

The City expects employees to be reliable and to be punctual in reporting for scheduled work. City employees who cannot avoid being late to work or are unable to work as scheduled must notify their supervisor as soon as possible in advance of the anticipated tardiness or absence. Poor attendance and excessive absences may lead to disciplinary action, up to and including termination of employment.

In the event an unauthorized, unexcused or unexplained absence in excess of three (3) days occurs, the employee is deemed to have abandoned the position and resigned from City employment.

### **6.20 EMERGENCY CLOSINGS**

At times, emergencies such as severe weather, fires, or power failures, can disrupt City operations. In extreme cases, these circumstances may require the closing of a work facility as determined by the Mayor, City Manager, or their designee. Employees shall follow all administrative procedures in the event that such a closing occurs.

### **6.30 SAFETY**

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards cause hazardous or dangerous situations, or fail to report or remedy such situations (if appropriate) may be subject to disciplinary action, up to and including termination of employment.

#### **6.40 MEDICAL EXAMINATIONS**

Current employees may be required to take medical examinations to determine their fitness for duty. Such examinations will be scheduled at reasonable times and intervals and performed at the City's expense.

Information on an employee's medical condition or history will be kept separate from other employee information and maintained confidentially.

#### **6.50 WORKPLACE ACCIDENTS, INJURY, AND ILLNESS**

All employees are required to report any employment-related illness or accident involving any injury or property damage whatsoever to their immediate supervisor as soon as possible, but no later than **24 hours** after the incident occurs or illness begins. If the immediate supervisor is not available, employees should report the incident to the Finance Director. Failure to report any such incident promptly may result in disciplinary action up to and including termination.

#### **6.60 VIOLENCE-FREE WORKPLACE**

The City is committed to preventing workplace violence and to maintaining a safe work environment. Conduct that threatens, intimidates, or coerces another employee, or a member of the public at any time will not be tolerated.

Employees should report all threats of (or actual) violence, both direct and indirect, as soon as possible to their immediate supervisor or the City Manager. This includes threats by employees, as well as threats by citizens, vendors, solicitors, or other members of the public. Employee reports should be as specific and detailed as possible.

All suspicious individuals or activities should also be reported as soon as possible to a supervisor and/or the City Manager. Employees should not place themselves in peril. Employees who see or hear a commotion or disturbance in the workplace should not try to intercede. If appropriate, employees should call 911.

The City will promptly and thoroughly investigate all reports of threats of (or actual) violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as is practical. In order to maintain workplace safety and the integrity of its investigation, the City may suspend employees, either with or without pay, pending investigation.

Anyone determined to be responsible for threats of (or actual) violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.

The City encourages employees to bring their disputes or differences with other employees to the attention of their supervisors or the City Manager before the situation escalates into potential violence. The City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns.

## **6.70 APPEARANCE AND ATTIRE**

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.

City employees required to wear uniforms on the job will be provided a uniform allowance and may be provided a cleaning allowance subject to budget appropriations.

Employees should consult their immediate supervisor if they have any questions about what constitutes appropriate attire or any other uniform requirements.

## **6.80 DRUGS AND ALCOHOL**

The City is concerned about the adverse effects of drug abuse on employees' job performance, health, and safety. To foster a drug-free, healthful, and safe work environment for all, and as a federal grant recipient, the City is adopting the following policy in accordance with the federal Drug-Free Workplace Act.

The City strictly prohibits the manufacture, distribution, use or possession on City premises of alcoholic beverages of any kind and drugs other than those prescribed by a physician or obtained from a legal over-the-counter source. Employees are expected to use prescription or legal over-the-counter drugs in an appropriate manner and dosage and are expected to know whether the appropriate use of such drugs may impair their ability to perform their jobs safely and competently.

*Notwithstanding anything in state law to the contrary, employees are advised that marijuana remains an illegal controlled substance under federal law and constitutes an illegal drug for purposes of these guidelines. City employees are prohibited from using, possessing, or being impaired by or under the influence of marijuana while performing work for the City. The City also prohibits the possession, consumption, use, display, transfer, distribution, sale, transportation, and cultivation of marijuana on City premises or in City vehicles.*

The City conditions every offer of City employment on the successful passing of a blood or urine test for the current presence of illegal drugs. The City will not hire any applicant who fails to take and pass this test.

No employee is permitted to report for duty during regular working hours or while representing the City if illegal drugs are present in their system or while under the apparent influence of alcohol or illegal drugs to the slightest degree. The City reserves the right to require as a condition of continued employment that an employee submit to drug and/or alcohol testing whenever the City has reasonable suspicion that an employee is under the influence of illegal drugs or alcohol during working hours or while representing the City.

If the City is not able to refer an employee for immediate drug or alcohol testing, the City reserves the right to discipline an employee in its sole discretion whenever the City has a

reasonable suspicion that an employee has reported to work while impaired or under the apparent influence of illegal drugs or alcohol, or has evidence that the employee has taken alcohol or drugs while on duty or within a period of time prior to reporting for duty that would reasonably allow the conclusion that the employee was under the influence upon reporting for duty. Any violation of this guideline will subject an employee to discipline, up to and including immediate discharge.

Circumstances that may constitute a basis for determining reasonable suspicion include, but are not limited to:

- a. A pattern of abnormal or erratic behavior;
- b. Information or recent drug use provided by a reliable and credible source;
- c. Direct observation of drug or alcohol use, drug purchase, sale, or transfer;
- d. Presence of a physical symptom of drug or alcohol use (such as glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes);
- e. An accident involving a City vehicle, personal injury, or property damage estimated at or above \$100.00;
- f. Violent behavior;
- g. Possession of alcohol or drugs;
- h. Excessive absenteeism.

The City may require drug testing of employees engaged in safety- or security-sensitive functions. Tests shall be conducted in accordance with legal requirements.

Any employee who is convicted or pleads no contest under any criminal drug statute regarding a violation occurring on the job or in the workplace shall notify the City of the conviction or plea within five days. A conviction includes a finding of guilty, a plea of nolo contendere, and/or the imposition of a sentence by any judicial body responsible for determining violations of federal or state criminal drug statutes. Failure to so notify the City may result in termination of employment.

## **6.90 SMOKING**

City employees are prohibited from smoking in any building owned or operated by the City and in any vehicle owned or leased by the City. In addition, employees must not smoke in the designated non-smoking areas outside of buildings owned or operated by the City.

## **6.100 USE OF CITY PROPERTY**

Employees are responsible for all property, materials, or written information issued to them or in their possession or control. Employees must return all City property immediately upon request

or upon termination of employment. All employees will be required to sign a written agreement authorizing the City to withhold from the employee's check or final paycheck the cost of any items that are not returned when required. The City may also take all action deemed appropriate to recover or protect its property.

The City Manager or his designee must authorize an employee to use a City-owned vehicle in advance. City-owned vehicles are to be used for official business only, and all employees shall follow all administrative procedures related to the use of City-owned vehicles.

## **Chapter 7: Employee Conduct**

### **7.10 GENERAL RULES**

The City expects all employees to conduct themselves to act in the best interests of the City and its constituents. Employees are required to observe all rules, guidelines, operating procedures, and directives of the City and the City Manager. Employees are also required to behave with courtesy and respect toward other City employees and members of the public.

Specific rules or guidelines described in this Handbook are not intended to be an exhaustive list of all prohibited behavior. Rather, this Handbook addresses some common and serious potential problems. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment, and may subject the employee to civil or criminal penalties.

- Theft or inappropriate removal or possession of City property or property of any other employee.
- Falsification of benefit claim records, timekeeping records, work orders, employment applications, purchase orders, work reports or any other record, report or form.
- Working under the influence of alcohol or illegal drugs.
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating employer-owned vehicles or equipment.
- Use of legal medicines or substances that compromise the employee's ability to operate City equipment or vehicles safely.
- Fighting or threatening violence in the workplace which provokes or is likely to provoke a fight either on or off the job.
- Boisterous or disruptive activity in the workplace.
- Negligence, carelessness, or improper conduct leading to damage of employer-owned property or conduct that affects the effective and efficient delivery of City services.
- Insubordination or other disrespectful conduct by refusal to perform work assigned, work emergency overtime, or comply with a verbal or written instruction of any authorized City supervisor; or refusal to cooperate in investigations of accidents or employee

misconduct when the employee is involved or has relevant information.

- Violation of safety or health rules or failure to report accurately any incident, accident, or personal injury occurring on the job.
- Sexual or other unlawful harassment.
- Possession of dangerous and unauthorized materials, such as explosives or firearms, in the workplace. Excessive absenteeism, tardiness, or any absence without notice.
- Wasting time/disregarding job duties, loitering and/or neglecting work during work hours.
- Unauthorized absence from work station during the workday without showing good cause.
- Unauthorized use of telephones, mail system, or other employer-owned equipment.
- Unauthorized disclosure of confidential information.
- Abuse or unauthorized use of City computer systems including Internet communications.
- Violation of this Handbook, other personnel or administrative policies and procedures, or Department operating rules and regulations.
- Unsatisfactory performance or conduct.
- Abuse of position by accepting favors or gifts or using one's position to secure appointments or advantage for oneself or one's relatives.
- Abusive language which tends to interfere with efficient operations of City business, or verbal interference with job performance of other employees, including but not limited to verbal threats, intimidation or coercion, directed toward fellow employees, supervisors or citizens.
- Carelessness resulting in injury to coworkers, the public or to one's own safety.
- Conviction of any crime involving physical violence or theft, if the conviction would tend to affect the employee's performance or ability to perform the job; or conviction of driving under the influence of alcohol or drugs, if the conviction would tend to affect the employee's performance or ability to perform the job; or conviction of State misdemeanors or felonies or Federal offense.
- Making or publishing false, vicious or malicious statements concerning any employee, supervisor, administrator, elected official or the government of the City or engaging in conduct designed to create discord with such individuals.
- Engaging in or conducting any discriminatory act, conduct, or activity within the scope of employment which discriminates directly or indirectly against any person or class of persons on the basis of age, sex, race, creed, national origin, disability, or other protected class.

- Other acts or omissions which negatively affect the City.

## **7.20 HARASSMENT AND COMPLAINT PROCEDURE**

The City prohibits any harassment of its employees on the basis of sex, race, color, national origin, ethnicity, disability, religion, age, or sexual orientation. All employees and supervisors are expected to comply with this policy and take appropriate measures to ensure that such conduct does not occur.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other inappropriate oral, written or physical conduct of a sexual nature when:

- a. submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- c. such conduct has the purpose or effect of substantially interfering with an individual's job performance or creating an intimidating, hostile or offensive employment environment.

The types of behaviors that constitute sexual harassment may include:

- Unwelcome sexual flirtations, advances or propositions;
- Derogatory, vulgar or graphic written or oral statements regarding one's sexuality, gender, or sexual experience;
- Unnecessary touching, patting, pinching or attention to an individual's body;
- Physical assault;
- Unwanted sexual compliments, innuendoes, suggestions, or jokes; or
- The display of sexually suggestive pictures or objects.

Sexual harassment may be obvious or subtle. It may also include behavior that might be acceptable in some settings outside of work. Just because a comment might be okay at a private party or on an athletic field does not mean that it is okay at work.

Harassment based on race, color, national origin, ethnicity, disability, religion, age or sexual orientation consists of verbal or other conduct relating to any of those characteristics which has the purpose or effect of creating an intimidating, hostile or offensive working environment; which has the purpose or effect of substantially or unreasonably interfering with an individual's work performance; or which otherwise adversely affects an individual's employment opportunities.

Any employee who believes he or she has been the victim of prohibited harassment or who has observed or knows about such harassment involving a City employee, a City official, a vendor or contractor, or a visitor to the City's offices must report the harassment to either his or her immediate supervisor, the City Clerk or to the City Manager. If for some reason an employee is uncomfortable discussing this matter with any of the individuals listed, that employee must

report the alleged harassment to a person in a position to take corrective action against the harasser, including, if necessary, members of the City Council.

**Employees are encouraged to report the harassment promptly so that the City can take the appropriate steps to investigate and resolve the complaint.**

Upon notification of prohibited harassment, a supervisor shall notify the City Manager. The City will investigate every complaint of harassment promptly. Investigations of reported harassment and the results of such investigations will be kept confidential to the extent possible, given the need for a complete and fair investigation. An investigation may include interviews with the parties involved in the incident, and, if necessary, with individuals who may have observed the incident or conduct or who have other relevant knowledge.

Employees shall not be subject to retaliation for making good faith complaints, reports of prohibited harassment, or for participating in an investigation truthfully and in good faith.

If the investigation substantiates the complaint, the City shall take such disciplinary action against the harassing party as it deems necessary and appropriate, including warning, suspension, or immediate discharge.

### **7.30 EMPLOYEE CONCERNS**

The City encourages healthy and appropriate communication between employees and City management. Employees who have a problem, dispute, or concern that they believe the City can help solve should discuss that issue with their supervisor or the City Manager, as appropriate. Normally, this discussion should occur *within three (3) to five (5) days* of the incident or concern, or in as timely a manner as possible in order to enhance the City's ability to resolve the concerns while they are fresh in everyone's minds. The City retains the discretion to investigate any problems or concerns that are brought to its attention as appropriate.

Problems or concerns related to discipline or termination from City employment shall be handled exclusively in accordance with the City's Home Rule Charter and any related guidelines or procedures promulgated by the City Manager.

### **7.40 RECORDING PROHIBITED**

Effective communication between employees, co-workers, and supervisors is important to maintaining a productive and harmonious workplace. The City prohibits all employees from recording conversations with co-workers in the workplace by any method, including, but not limited to, audiotape recording, digital recording, and video recording. Notwithstanding this prohibition, the City Manager may, in his or her discretion, authorize the recording of a particular conversation based upon the needs and best interests of the City. Employees who violate this guideline may be subject to discipline up to and including termination of employment.

### **7.50 CONFIDENTIALITY**

City employees may be provided with, have access to, or otherwise learn about information that was provided to the City with the expectation that it would not be disclosed to the public. The

City expects its employees not to discuss or disclose confidential information on or off the job. Confidential information may include, but is not limited to, the following types of information:

- Financial information provided by a citizen, employee, or a business, such as that included in a tax return or in a bid for a public contract.
- Real estate appraisals.
- Engineering and other feasibility studies.
- Environmental studies and reports.
- Directions to anyone negotiating a contract for the City and any contract terms that are under negotiation.
- Information regarding threatened or pending lawsuits against the City.
- All discussions and correspondence with the City Attorney or any other attorney that is representing the City for any reason.
- Drafts of internal memoranda or correspondence that have not yet been finalized and approved.
- Information about internal investigations that have not been completed.
- Anything that is described or marked as "CONFIDENTIAL."

Employees who have questions about whether information is confidential must speak to their supervisor or department head before they disclose it.

#### **7.60 CONFLICTS OF INTEREST**

In order to promote public confidence in the City, employees must ensure that their actions present neither a conflict of interest nor the appearance of a conflict of interest. Employees are required to comply with applicable provisions of Article IV, titled "Code of Ethics," of Chapter 2 of the Municipal Code. Any employee who knows or reasonably should know that he or she has a potential conflict of interest must disclose the potential conflict to his or her immediate supervisor. Employees should direct any additional questions regarding this requirement to their immediate supervisor. The City Manager is charged with interpreting this provision.

The City reserves the right to take appropriate action, including dismissal from employment, against employees that violate the Code of Ethics. Furthermore, the City reserves the right to take appropriate action, including dismissal from employment, in response to off-duty conduct of employees which:

- (a) Relates to a bona fide occupational requirement or is reasonably and rationally related to the employment activities and responsibilities of the employee; or
- (b) Is necessary to avoid a conflict of interest or the appearance of such a conflict with any of the employee's responsibilities.

#### **7.70 ELECTRONIC MEDIA, INTERNET, AND TELEPHONIC DEVICES**

All City computers, devices, and other resources, including cellular phones, must be used in a responsible, efficient, ethical and legal manner. Failure to adhere to this guideline may result in

revocation of access privileges and may result in disciplinary action up to and including termination of employment.

Employee use of City computers and other devices, including cellular phones, must be consistent with the objectives of the City. Transmission or access of any material in violation of any federal or state law or regulation is prohibited, as is transmission or access of non-work-related material, except incidental use. Solicitation, gambling, harassment, accessing sexually-oriented material, and violating copyright or intellectual property rights are specifically prohibited. The City reserves the right to determine what use of City computers and other devices, including cellular phones, is appropriate.

**Internet transactions and e-mail and text messages are not private.** The City Manager or department heads may monitor, review, store, and disclose these transactions and messages at any time, for any reason without notice to the user. Employees are informed that their transactions, correspondence, or text messages may be a public record under state law and may be subject to public inspection. Except as provided herein, City employees are prohibited from accessing another employee's electronic mail without the express consent of the employee. All City employees are advised that electronic mail messages can be retrieved even if they have been deleted and that statements made in electronic mail communications can form the basis of various legal claims against the individual author or the City.

Security on the City's computer network is a high priority. The City is to be notified of known or suspected security problems. Any user identified as a security risk, or as having a history of problems with other computer systems, may be denied access to the Internet.

Vandalism will result in cancellation of privileges. Vandalism is defined as any malicious attempt to harm or destroy data of another user, or any agencies or other networks that are connected to the Internet. This includes, but is not limited to, the uploading or creation of computer viruses.

Without specific permission from the City, employees are prohibited from accessing fee services via the Internet. If such services are accessed, the employee will be responsible for any fee or cost involved.

All employees shall be required to agree in writing to the conditions of this guideline, and to such other terms and conditions as the City may require, as a condition to use of City computers and other devices, including cellular phones.

## **7.80 SOCIAL MEDIA**

City employees may not use City resources or work time to sign up for or access personal social media accounts. The City may monitor all business-related employee use of social media, as well as any non-business related use that occurs on City work time or using City resources.

Employees may not speak as a representative of the City in the course of their personal use of social media. In cases where an employee's personal use of social media may be perceived as being on behalf of the City, such as if an employee identifies themselves as a City employee or

is widely known to be a City employee, an employee shall include a visible disclaimer on their account to inform other users that their opinions are their own and do not represent those of the City. The City Manager shall be charged with interpreting this provision.

Employees who engage in personal use of social media outside of work may not use the trademark, logo, or name of the City or that of any City department or program, nor may they use their affiliation with the City in association with that personal use. All other City policies and guidelines apply in the social media context.

An employee's personal use of social media that is business-related may subject that employee and their personal account to all of the City's policies and guidelines, including, but not limited to, disclosure of records subject to the Colorado Open Records Act. Employees are advised that their conduct on social media may also reflect upon their fitness to perform their jobs. For purposes of this guideline, "business-related" means:

- a. use of an employee's City e-mail address, position title, or official capacity; or
- b. personal use that:
  - i. relates to a bona fide occupational requirement that is reasonably and rationally related to the employee's employment activities or affiliation with the City; or
  - ii. may create a conflict of interest or the appearance of a conflict of interest.

## **7.90 DISCIPLINE**

All employees are subject to discipline at the discretion of their supervisors, department heads, and the City Manager. The City retains the right to take such disciplinary action as it deems appropriate in any given circumstance, up to and including termination of employment. Such disciplinary action shall be administered as each circumstance requires, and the City retains the right to administer such discipline at any time and in any manner that it deems appropriate. The supervisor or City Manager imposing the discipline shall prepare a written report of the discipline, which shall be placed in the employee's personnel file.

Discipline may include verbal and written warnings, written reprimands, suspensions with or without pay, demotions, and termination. Pursuant to Section 7.9 of the City's Charter, employees who are suspended without pay, demoted, or terminated will receive a pre-termination hearing. The City Manager is authorized to promulgate guidelines and procedures, consistent with the City's Home Rule Charter and ordinances, as are reasonably necessary and appropriate to implement this section of the Handbook. Any supervisor or managerial employee that fails to follow such guidelines or procedures may also be subject to disciplinary action.

This section shall not be construed to require "progressive discipline," which, for purposes of this Handbook, shall be defined as a required sequence of discipline beginning with the least severe and progressing to the next more severe discipline, up to and including termination.

## **Chapter 8: Separation from Employment**

### **8.10 GENERAL**

An employee may separate from employment by resignation, layoff, disciplinary termination, or retirement. All separated employees should consult with the Finance Director regarding final payment and continuation of benefits.

### **8.20 LAYOFF/FURLOUGH**

The City reserves the right to layoff or furlough employees for reasons of efficiency, economy, lack of work, or for such other reason as the City Council deems sufficient. Employees who are laid off may be eligible to continue health and dental insurance, if any, at their own expense as required by federal and state law.

### **8.30 REFERENCE REQUESTS**

Only the Finance Director may respond to requests for references pertaining to a current or former City employee. The Finance Director shall not provide any information concerning an employee's employment status in response to such a request, except the employee's beginning and ending dates of City employment, positions held with the City, and ending salary.

**EMPLOYEE HANDBOOK**

**ACKNOWLEDGEMENT**

I, \_\_\_\_\_, acknowledge that I have received a copy of the 2013 Central City Employee Handbook. I accept responsibility for reviewing and understanding the Handbook. I understand that the Employee Handbook is subject to change and interpretation and that nothing in the Handbook is intended to or shall have the effect of creating an express or implied employment contract. I further understand that I have had the opportunity to review the Handbook, to ask questions I may have, and that I can in the future ask questions or request clarification regarding the Handbook.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

DATE: November 29, 2012

TO: Alan Lanning, City Manager  
Mayor & Council

FROM: Shannon Flowers, Finance Director/Treasurer

Following is an update of the Finance Department's activities from Thursday, November 15<sup>th</sup> through Thursday November 29<sup>th</sup>, 2012.

- Worked with City Attorneys to finalize Employee Handbook, handed out notice of revisions to employees
- Began November bank reconciliation
- Worked with Operations Director and City Manager to complete Energy and Mineral Impact Grant application
- Prepared Supplemental Budget Appropriation calculations and information for Council
- Met with Finance Clerk and accounting software representative about possibilities of water bill payment online
- Assisted Operations Director and Clerk with holiday decorations
- Worked with credit card vendor to transfer all activities to CO Biz Bank
- Continued to work with Plotter vendor on acquisition
- Reviewed city vendors who tax id numbers in preparation for 1099 issuances at year end
- Ordered all required tax forms for year end
- Prepared check listing for Council
- Processed Bi-weekly payroll and all associated tax and retirement filings
- Finance Clerk Processed Accounts Payable
- Finance Clerk processed Accounts Receivable and prepared weekly deposits
- Finance Clerk administered Court



## City Clerk's Office

**To:** City Manager Alan Lanning, Mayor Engels, and City Council

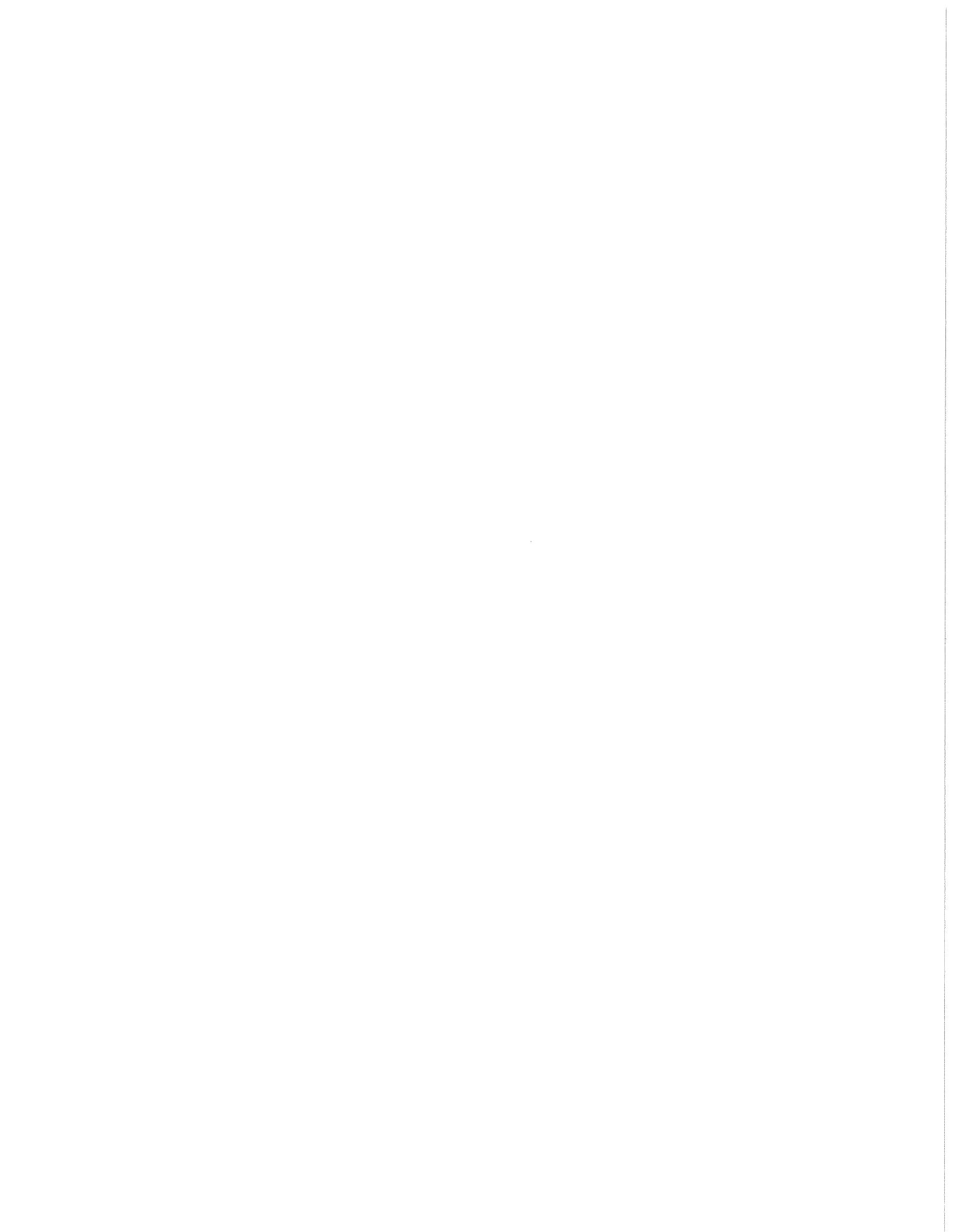
**From:** Reba Bechtel, City Clerk

**Date:** December 4, 2012

**Re:** Bi-weekly Report

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- Council minutes from November 20 completed
- Packet prep for the December 4 Council meeting
- Thank you to the PW staff for all their extra attention to the holiday decorating! The crew refurbished old decorations and even took initiative to decorate beyond what has been done in recent years. (lighted garland on the railing at City Hall and nice ornaments on the tree)
- Lunch meeting with neighboring clerks: and a follow-up on the Georgetown meter project is that in response to citizen concerns, they have pushed back the install date to next fall while they look for some grant money,...they also have an election in April with 4 Council seats and the Mayor up for election.





CITY OF CENTRAL  
Public Works Department  
Kent Kisselman, P.E., Director

November 2012

**Special points of interest:**

- ◆ Welcome new Council members Gloria Gaines and Kathy Heider and thanks to Rita Lee and Bob Giancola for their dedicated service to the community.
- ◆ Thanks to Reba for her help with the xmas decorations. Specifically ordering the ribbons, wrapping the gifts, and finding the lighted horse and carriage for a good price.
- ◆ Public Works will be placing an advertisement for the new 50-50 (water—streets) person and look forward to having that person on board beginning in January. We will also be hiring a new MS I, as an existing employee is moving out of town.

**Personal Message:** Would just like to once again thank our Public Works folks. We have assembled quite a group and they continue to work hard, improve operations, and due what they can to make Central City a place folks want to be. Really excited about what we can do in 2013.

# PUBLIC WORKS DEPARTMENT

## We bought a ZOO!!!

Public Works Department has gone through all the existing Christmas decorations and we found wreaths, the staff refurbished the wreaths and placed them along Main Street. We are also working on placing new rope lighting on the existing candy canes and tress that go on the large light poles. They should be up the first week of December. The new live tree is up along with a new horse and carriage the department purchased this year.



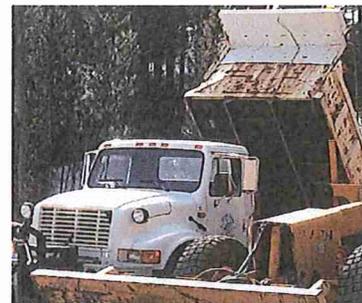
With help from the Fire Department the old City dump burning is complete and we are now making plans to rehab the area.

We completed and submitted the Energy and Mineral grant application with respect to the resurfacing of the Parkway. Thanks to Alan, Shannon, Reba and JVA for their assistance with the application. The grant awards will be announced in April, 2013.

The sidewalk; along Gregory's east side in now complete, the parking spaces have been removed due to the curbs relation to the sidewalk. This is a safety concern if cars were allowed to park here, therefore the curb has been painted yellow and a no parking sign has been put up.

Staff spent several days at the Cemetery cutting up fallen trees and debris. Grading and drainage improvements are being completed along Academy and 4th Street. Damaged guardrail along Virginia Canyon was fixed.

We continue to improve our efficiency and provide staff with the items and tools to be more productive. We also continue to try and save money by investing time to fix our older equipment. Our



1995 dumptruck had a rusted box, we spent \$1000 dollars to sand-blast and repaint the box. The truck runs well and now it looks like a new dump-truck.



The water meter project is nearly complete, we only have a two left to install. We will begin reading meters this month for the residents and working with Shannon and Whitney to implement the reads. Congratulations to Shawn, Royce, Cindy, Tim and the rest of the public works for a job well done.

With the completion of the Master Water plan (to be presented on Dec. 18) we are preparing for CIP projects in 2013. Shawn and staff continue efforts to keep our plant running and providing clean safe drinking water. This includes updating PRV's and installing a new meter at the plant.

Please contact Kent Kisselman with any PW related issues you may have, communication is the key to success. Have a great month!

[opdirector@cityofcentral.co](mailto:opdirector@cityofcentral.co)  
303-598-1936 day cell



# Memo

To: Mayor, City Council, and City Manager  
From: Greg Thompson, Community Development Director  
Subject: Community Development Department Summary  
Date: December 4, 2012

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The Community Development Department/Historic Preservation Office took the following actions and participated in the following events since the last summary was created:

1. Met with a variety of citizens and discussed their property plans.
2. Responded to complaints received.
3. Administered the building permit function for the City.
4. Got clarification from Centurylink on the location of their fiber lines from their facility on Spring Street.
5. Met with Linda Buckley, CDOT representatives, Casino owners, concerned residents, and City Manager to learn about CDOT's plans for rail/monorail up the I-70 corridor and how it relates to Central City.
6. Met with the Hillside Parking Garage design team to discuss next steps.
7. Participated in a telephone conference call to discuss Xcel light pole banners.
8. Met with two applicants for the next HPC meeting and discussed their plans.
9. Researched property ownership of Central City property in two different locations. Looked at mining claim ownership as well as surface ownership. Went to the County Assessors office to clarify questions.
10. Discussed CDOT's plans for the blasting portion of the Twin Tunnels project.