

CITY OF CENTRAL, COLORADO
NOTICE OF A SPECIAL MEETING of the CITY COUNCIL to be held on
Friday, June 19, 2015 @ 5:00 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 website, the City Hall bulletin board and at the Post Office the Friday prior to the Council meeting.

5:00pm Council Meeting

1. Call to Order.
2. Roll Call.

Mayor	Ron Engels
Mayor ProTem	Kathy Heider
Council members	Shirley Voorhies
	Glo Gaines
	Judy Laratta
3. Pledge of Allegiance
4. Additions and/or Amendments to the Agenda.
5. Conflict of Interest.

SECOND READING AND PUBLIC HEARING –

7. Ordinance No. 15-05: An ordinance of the City Council, acting as the governing body of the Central City Transportation Enterprise (the "Enterprise"), authorizing the Enterprise to enter into a loan agreement and related documents with the Colorado Department of Transportation for a principal amount not to exceed \$1,521,693 and an interest rate not to exceed 2.5%. (Adame)

ADJOURN. Next Council meeting July 7, 2015.

Posted 6/15/15



AGENDA ITEM #7

CITY COUNCIL COMMUNICATION FORM

FROM: Abigail R. Adame, Finance Director

DATE: June 19, 2015

ITEM: Ordinance 15-05: AN ORDINANCE OF THE CITY COUNCIL, ACTING AS THE GOVERNING BODY OF THE CENTRAL CITY TRANSPORTATION ENTERPRISE AUTHORIZING THE ENTERPRISE TO ENTER INTO A LOAN AGREEMENT AND RELATED DOCUMENTS WITH THE COLORADO DEPARTMENT OF TRANSPORTATION FOR A PRINCIPAL AMOUNT NOT TO EXCEED \$1,521,693 AND AN INTEREST RATE NOT TO EXCEED 2.5%

NEXT STEP: Make a motion to adopt Ordinance 15-05.

ORDINANCE
 MOTION
 INFORMATION

- I. **REQUEST OR ISSUE:** The City Council has determined a need for a loan to ensure adequate cash flow for current transportation-related projects as such the Transportation Enterprise Fund has requested a loan from the SIB in the amount of \$1,521,693.
- II. **RECOMMENDED ACTION / NEXT STEP:** Make a motion to adopt Ordinance 15-05.
- III. **FISCAL IMPACTS:** The Colorado Department of Transportation and the City have agreed to the terms and conditions of a loan agreement and related documents for a principal amount of \$1,521,693, at a rate interest of 2.5% payable from revenues available to the Transportation Enterprise Fund.
- IV. **BACKGROUND INFORMATION:**
 - The anticipated use of the loan proceeds are for the Storm Water Drainage Master Plan, Central City Parkway Repairs, Nevada Street Retaining Wall

Repairs and the Central City Parkway Rock Fall Mitigation projects.

V. **LEGAL ISSUES:** None.

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

VII. **SUMMARY AND ALTERNATIVES:**

City Council has the following options:

- (1) Adopt Ordinance No. 15-05, as presented;
- (2) Direct staff to make revisions to the Ordinance and schedule consideration of the Ordinance on a future City Council agenda; or
- (3) Reject or deny the ordinance.

Attachments:

- Ordinance 15-05

**CITY OF CENTRAL, COLORADO
ORDINANCE NO. 15-05**

**AN ORDINANCE OF THE CITY COUNCIL, ACTING AS THE
GOVERNING BODY OF THE CENTRAL CITY TRANSPORTATION
ENTERPRISE (THE "ENTERPRISE"), AUTHORIZING THE
ENTERPRISE TO ENTER INTO A LOAN AGREEMENT AND
RELATED DOCUMENTS WITH THE COLORADO DEPARTMENT OF
TRANSPORTATION FOR A PRINCIPAL AMOUNT NOT TO EXCEED
\$1,521,693 AND AN INTEREST RATE NOT TO EXCEED 2.5%**

WHEREAS, the City Council, as the governing body of the Central City Transportation Enterprise (the "**Enterprise**") has determined that a need exists for a loan to ensure adequate cash flow for current transportation-related projects; and

WHEREAS, the Colorado State Infrastructure Bank ("**SIB**") is a revolving fund administered by the Colorado Department of Transportation ("**CDOT**") with the ability to make loans to public and private entities for the funding of public transportation projects within the state; and

WHEREAS, the Enterprise has requested a loan from the SIB in the amount of \$1,521,693 for eligible transportation projects; and

WHEREAS, in accordance with Section 5.8 of the Home Rule Charter of the City, every act creating an indebtedness requires approval by ordinance; and

WHEREAS, CDOT and the City have agreed to the terms and conditions of a loan agreement and related documents for a principal amount of \$1,521,693 at a rate of interest of 2.5% payable from revenues available to the Enterprise, in substantially the form attached hereto as Exhibit A (collectively the "**Loan Agreement**"); and

WHEREAS, the City Council, as the governing body of the Enterprise, has reviewed the form of the Loan Agreement and has found the terms and conditions thereof acceptable.

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

Section 1. The City Council of the City of Central, acting in its capacity as the governing body of the Enterprise, finds that the meetings at which this ordinance was considered and adopted were properly noticed and conducted as open meetings in accordance with Colorado law.

Section 2. The terms of said Loan Agreement are in the best interests of the Enterprise for the acquisition of funding for transportation-related projects, as more specifically described therein.

Section 3. The City Council, as the governing body of the Enterprise, designates and confirms that the Mayor has the authority to execute and deliver the Loan Agreement and any related documents necessary to the consummation of the transactions contemplated by the Loan Agreement in substantially the form attached hereto as **Exhibit A** for and on behalf of the Enterprise. The Mayor, in consultation with the City Attorney, may make such non-material changes to the Loan Agreement as necessary or desirable and that do not materially increase the obligation(s) of the Enterprise, such approval to be conclusively evidenced by the execution and delivery of the Loan Agreement.

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. 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 2nd day of June, 2015, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the _____ meeting of the City Council of the City of Central on the ___ day of _____, 2015.

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 _____, 2015.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on _____, 2015.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel City Clerk

Exhibit A
Loan Agreement

LOAN AGREEMENT

THIS LOAN AGREEMENT (“LOAN AGREEMENT”), is made this _____ day of _____, 2015 by and between the State of Colorado for the use and benefit of THE COLORADO DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the “Lender”, and the Central City Transportation Enterprise established by the City of Central, Colorado, by City Council Resolution 2015-11, Colorado, hereinafter referred to as the “Borrower.”

FACTUAL RECITALS:

1. The Colorado State Infrastructure Bank (CO SIB) is a revolving fund administered by the Colorado Department of Transportation with the ability to make loans to public and private entities for the formation of public transportation projects within the state; and
2. The General Assembly has passed legislation that made certain provisions for the CO SIB and established within the CO SIB, a highway account, a transit account, an aviation account and a rail account; and
3. The Transportation Commission has adopted rules, pursuant to 43-1-113.5, CRS, regarding the CO SIB; and
4. The Borrower has requested a loan from the CO SIB in the amount of \$1,521,693 for an eligible transportation project or purchase as described in Rule III, section 2, 2CCR 605-1, (CO SIB Rules); and
5. The Transportation Commission has approved the loan request and authorized the Lender to make a loan to the Borrower from the CO SIB in the amount of \$1,521,693; and
6. Authority exists in the law and a sufficient unencumbered balance thereof remains available in Fund 715 to lend to the Borrower; and
7. This Agreement is executed under the authority of Sections 29-1-203, 43-1-110, and 43-1-113.5 C.R.S., as amended, and by resolution of the City Council of the City of Central Colorado acting in its capacity as the governing body of the Central City Transportation Enterprise.

NOW, THEREFORE, IT IS HEREBY AGREED THAT:

ARTICLE I
LOAN AND CLOSING

Section 1.01. Loan and Promissory Note. The Lender hereby agrees to loan \$1,521,693 (the “principal amount of the Loan”) to the Borrower and the Borrower agrees to pay the Lender the principal amount of the Loan plus interest on the terms described herein (collectively, the “Loan”). The Borrower’s obligation to pay the Lender the principal of and interest on the Loan is evidenced by a promissory note (the “Note”) in the form attached as Exhibit A.

Section 1.02. Closing. The Lender shall deliver the principal amount of the Loan to the fiduciary agent (the “Escrow Agent”), described in the form attached as Exhibit B (“the Escrow Agreement”), by means of a financial instrument or transfer acceptable to the Lender (referred to as the “Closing”) on a date mutually agreed to by the Borrower and the Lender (such date is referred to as the “Closing Date”)

ARTICLE II
LOAN OBLIGATIONS

Section 2.01. Principal and Interest Payments. The Borrower shall pay to the Lender the principal amount of the Loan plus accrued interest on such principal amount on _____ (the “Maturity Date”) or an earlier date on which the Loan is prepaid in accordance with Section 2.04 hereof (a “Prepayment Date”).

Section 2.02. Lender Invoice and Reports. The Lender shall forward an invoice, that includes the amount of principal and interest that shall be due, to the Borrower at least thirty days before the next scheduled payment is due.

Section 2.03. Interest. Interest shall accrue on the principal amount of the Loan from the Closing Date through the day preceding the Maturity Date or Prepayment Date at the Interest Rate (defined below), computed on the basis of a 360-day year of twelve 30-day months.

Section 2.04. Interest Rate. “Interest Rate” means the rate of interest established and adopted by resolution by the Colorado Transportation Commission pursuant to 2 CCR 605-1, Rule V (2). The Interest rate for this Loan shall be two and a half percent (2.5%).

Section 2.05. Optional Prepayment. The Borrower, at its option, may prepay the Loan in whole by paying the Lender the outstanding principal amount of the Loan, plus accrued interest to the Prepayment Date as selected by the Borrower (Prepayment).

Section 2.06. Resource Pledge for Repayment. The Borrower’s obligation to pay the principal and interest on the Loan and any other amounts payable by the Borrower hereunder (the “Loan Obligations”) are extraordinary limited obligations of the Borrower payable with annual Transportation Fees from

gaming devices within the City as set forth in Article V of Chapter 6 of the City of Central Municipal Code, together with any other revenues in Borrower's enterprise fund, subject to annual appropriation by the City Council of the City of Central, Colorado acting as the governing body of Borrower (Repayment Source(s)).

Section 2.07. Repayment Schedule. The Borrower shall make equal installments of \$173,866.76 to the Lender each year beginning _____, and each year thereafter for ten consecutive years further described in the form attached as Exhibit C (the "Repayment Schedule").

Section 2.08. Remittance. All loan payments shall be made payable to the Colorado Department of Transportation, and sent to the Lender's accounting branch at 4201 East Arkansas Avenue, Rm. 212, Denver, CO 80222, or to such other place or person as may be designated by the Lender in writing.

ARTICLE III LOAN ACCOUNT

Section 3.01. Creation of Loan Account. A Loan account (the "Loan Account" or "Escrow Fund") is hereby created by the Escrow Agent for the purpose of funding the Storm Water Drainage Master Plan, Central City Parkway Repairs, Nevada Street Retaining Wall Repairs, and Central City Parkway Rock Fall Mitigations described in Exhibit D (the "Scope of Work"), all of which are transportation and related improvements and repairs within the authority of the Borrower. The Loan Account shall be held and administered by the Escrow Agent in accordance with the provisions of this Agreement and the Escrow Agreement. In the event of any conflict between this Agreement and the Escrow Agreement, this Agreement shall prevail.

Section 3.02. Deposits to Loan Account. There shall be deposited into the Loan Account: a) the proceeds of the Loan; b) earnings from the investment of moneys in the Loan Account; and c) other moneys delivered to the Escrow Agent that the Borrower directs the Escrow Agent to deposit into the Loan Account.

Section 3.03. Uses of and Loan Account. Moneys in the Loan Account shall be used, subject to Section 3.05 hereof, to the pay project costs associated with the Scope of Work, as directed by the Borrower.

Section 3.04. Total Actual Project Cost. At the completion of the Scope of Work, the total actual allowable cost of the projects that constitute the Scope of Work shall be equal to or greater than the principal amount of the Loan. If at the completion of the projects that constitute the Scope of Work, the total actual allowable cost of such projects is less than the principal amount of the Loan, the Escrow Agent shall return the loan surplus created by this situation to the Lender. The Lender shall then make all

necessary adjustments to the Repayment Schedule.

Section 3.05. Limit on Withdrawals from Loan Account upon Event of Default. Notwithstanding any other provision of this Agreement or the Escrow Agreement, if an Event of Default has occurred, and so long as it is continuing, the Borrower shall not withdraw moneys from the Loan Account without express written consent of the Lender. The Lender will provide immediate written notice to the Borrower and the Escrow Agent of each event of Default.

Section 3.06. Investment of Moneys in Loan Account. Moneys in the Loan Account shall be invested by the Escrow Agent as directed by the Lender as provided in paragraph 3 of the Escrow Agreement.

ARTICLE IV

REMEDIES IN EVENT OF DEFAULT

Section 4.01. Event of Default. Any of the following shall constitute an "Event of Default" under this Agreement: a) failure by the Borrower to pay the principal and interest on the loan in accordance with Section 2.01 and Exhibit C hereof; b) failure of the Borrower to pay any other Loan Obligation not referenced in clause (a) above within thirty days of its receipt of written notice that the payment is due; c) failure of the Borrower to comply with any other of its covenants in this Agreement not referenced in (a) and (b) above for a period of thirty days after written notice, specifying such failure and requesting remedy; and d) any misrepresentation by the Borrower in this Agreement that materially adversely affects the ability of the Borrower to repay the Loan Obligations.

Section 4.02. Remedies. Whenever any Event of Default shall have occurred and be continuing, the Lender may take one or any combination of the following remedial steps: a) file any suit, action or special proceeding to collect the unpaid Loan Obligations; b) enforce any provision of this Loan Agreement by equitable remedy, including, but not limited to, by specific performance, writ of mandamus or other injunctive relief; and c) take whatever actions at law or in equity may appear necessary or desirable to enforce its rights under this Loan Agreement. In the event of any failure of Borrower to meet its Loan Obligations hereunder, the Lender may request, and if so requested Borrower shall direct, all Transportation Fees from gaming devices within the City as set forth in Article V of Chapter 6 of the City of Central Municipal Code to be paid to Lender in an amount sufficient to make any payment due pursuant to Section 2.07 and Exhibit C. In addition to the foregoing remedies, which are not exclusive, Lender's approval shall be required prior to the issuance of any new parity obligations by Borrower during the term of this Agreement.

Section 4.03. Remedies Neither Exclusive Nor Waived. No remedy under Section 4.02

hereof is intended to be exclusive, and each such remedy shall be cumulative and in addition to the other remedies. No delay or failure to exercise any remedy shall be construed to be a waiver of an Event of Default.

Section 4.04. Waivers. The Lender may waive any Event of Default and its consequences. No waiver of any Event of Default shall extend to or affect any subsequent or any other then existing Event of Default.

ARTICLE V GENERAL PROVISIONS

Section 5.01. All federal and state statutes, regulations, specifications, administration checklists, directives, procedures, documents, and publications that are specifically identified and/or referenced in this Loan Agreement, together with all exhibits and attachments and addenda to this Loan Agreement, are incorporated herein by this reference as terms and conditions of this Loan Agreement as though fully set forth.

Section 5.02. The Lender reserves the right to inspect the completed projects that constitute the Scope of Work or any completed portion thereof in which loan proceeds pursuant to this Agreement were applied. Notwithstanding any consents or approvals given by the Lender for the project, the Lender will not be liable or responsible in any manner for the structural design, details or construction of any improvements or structures described in Exhibit D that are designed or constructed by the Borrower using the Loan.

Section 5.03. Neither the commitment of CO SIB funds to the Borrower through this Loan Agreement nor any other security or debt financing instrument issued or executed in connection with the Loan to the Borrower shall constitute a commitment, guarantee, or obligation of the United States.

Section 5.04. This Loan Agreement may be terminated as follows:

(a) Termination for Cause. If, through any cause, the Borrower shall fail to fulfill, in a timely and proper manner, its obligations under this Loan Agreement, or if the Borrower shall violate any of the covenants, agreements, or stipulations of this Loan Agreement, the Lender shall thereupon have the right to terminate this Loan Agreement for cause by giving written notice to the Borrower of its intent to terminate and at least thirty (30) days opportunity to cure the Event of Default or show cause why termination is otherwise not appropriate. In the event of termination, the Borrower shall return any funds that have been disbursed to the Borrower as part of the Loan and any accrued interest thereon within 45 days of the date of termination. Notwithstanding above, the Borrower shall not be relieved of liability to the Lender for any damages sustained by the Lender by virtue of any breach of the Loan Agreement by

the Borrower.

(b) Termination for Convenience. The Lender may terminate this Loan Agreement at any time the Lender determines that the purposes of the distribution of funds under the Loan Agreement would no longer be served by completion of the Scope of Work. The Lender shall effect such termination by giving written notice of termination to the Borrower and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. Upon termination pursuant to this paragraph, Escrow Agent shall return to Lender all undisbursed funds.

(c) Termination Due to Loss of Funding. The parties hereto expressly recognize that the Loan is made to the Borrower with federal and/or State funds which are available to the Lender for the purposes of making a loan for the Scope of Work described in Exhibit D herein, and therefore, the Borrower expressly understands and agrees that all its rights, demands and claims to the Loan arising under this Loan Agreement are contingent upon availability of such funds to the Lender. In the event that such funds or any part thereof are not available to the Lender, the Lender may immediately terminate or amend this Loan Agreement.

Section 5.05. This Loan Agreement is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this Loan Agreement on the effective date of such change as if fully set forth herein. Except as specifically provided otherwise herein, no modification of this Loan Agreement shall be effective unless agreed to in writing by both parties in an amendment to this Loan Agreement that is properly executed and approved in accordance with applicable law.

Section 5.06. To the extent that this Loan Agreement may be executed and performance of the obligations of the parties may be accomplished within the intent of the Loan Agreement, the terms of this Loan Agreement are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. The waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.

Section 5.07. This Loan Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written contract executed and approved pursuant to the State Fiscal Rules.

Section 5.08. Except as herein otherwise provided, this Loan Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 5.09. If a conflict occurs between the provisions of this Loan Agreement proper and the attachments hereto, the priority to be used to resolve such a conflict shall be as follows:

- 1) The Colorado State Infrastructure Bank Rules and Regulation 2CCR 605-1
- 2) The Escrow Agreement
- 3) This Loan Agreement proper
- 3) Other contract attachments and exhibits

Section 5.10. It is expressly understood and agreed that the enforcement of the terms and conditions of this Loan Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Loan Agreement shall give or allow any such claim or right of action by any other or third person on such contract. It is the express intention of the parties that any person or entity other than the parties receiving services or benefits under this Loan Agreement be deemed to be an incidental beneficiary only.

Section 5.11. The Borrower assures and guarantees that it possesses the legal authority to enter into this Loan Agreement. The Borrower warrants that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Loan Agreement and to bind the Borrower to its terms. The person(s) executing this Loan Agreement on behalf of the Borrower warrants that they have full authorization to execute this Loan Agreement. The Borrower covenants that it will annually request an appropriation in an amount sufficient to make payments pursuant to Section 2.07 and Exhibit C, it being expressly understood by the parties that the City Council of the City of Central, acting as the governing body of Borrower, retains authority, in its sole and absolute discretion, to appropriate sums necessary to make payments on the Loan Obligation.

Section 5.12. The Borrower shall maintain all books, documents, papers, accounting records and other evidence pertaining to the projects that constitute the Scope of Work or any cost incurred, and if requested by the Lender, make such materials available to the Lender for three years from the execution date of this Loan Agreement.

Section 5.13. This Loan Agreement shall not be deemed valid until the Controller of the State of Colorado or such assistant as he may designate shall have approved it.

Section 5.14. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

Section 5.15. Indemnity: To the extent authorized by law the Borrower shall indemnify, save, and hold harmless the Lender against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Borrower, or its employees,

agents, subcontractors, or assignees pursuant to the terms of this Loan Agreement. No term or condition of this Loan Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, Section 24-10-101 et seq. C.R.S. or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. as applicable, as now or hereafter amended.

Section 5.16. The Borrower agrees to comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.

Section 5.17. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Loan Agreement. Any provision of this Loan Agreement, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this Loan Agreement to the extent that the agreement is capable of execution.

At all times during the performance of this Loan Agreement, the Borrower shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

Section 5.18. The signatories aver that, to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

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

APPROVED:
CYNTHIA H. COFFMAN
Attorney General

STATE OF COLORADO
JOHN HICKENLOOPER, Governor

By _____
Assistant Attorney General

By _____
Executive Director
DEPARTMENT OF TRANSPORTATION

ATTEST: (SEAL)

CENTRAL CITY TRANSPORTATION
ENTERPRISE

By _____

By _____
Ron Engels, Mayor, on behalf of the City
Council of the City of Central acting as the
governing body of the Borrower

Federal Employer Identification Number:

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS24-30-202 requires that the State Controller approve all contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

ROBERT JAROS, CPA, MBA, JD
State Controller

By _____
LILIYA GERSHMAN
Department Controller

Date _____

Exhibit A
NOTE

\$ 1,521,693

For VALUE RECEIVED, The Central City Transportation Enterprise, an enterprise of the City of Central, Colorado (The Maker) promises to pay to Colorado Department of Transportation (the Holder) the principal sum of \$1,521,693 with interest from date at the rate of 2.50% per annum on the balance from time to time remaining unpaid. The said principal and interest shall be payable in lawful money of the United States of America at 4201 East Arkansas Avenue, Rm. 212, Denver, CO 80222 or at such place as may hereafter be designated by written notice from the Holder to the Maker hereof, on the date and in the manner following:

The Maker shall make equal installments of \$173,866.76 to the Lender each year beginning _____, and each year thereafter for nine consecutive years.

CENTRAL CITY TRANSPORTATION
ENTERPRISE

By: _____

Ron Engels, Mayor, on behalf of the City Council of the City of Central acting as the governing body of the Borrower

Attest: _____

Exhibit B
ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of _____, 2015, is hereby entered into by and between the Central City Transportation Enterprise, an enterprise of the City of Central, Colorado, a political subdivision duly organized and existing under the laws of the State of Colorado (the "Borrower"), and Colotrust acting as escrow agent (the "Escrow Agent").

WHEREAS, Borrower and Colorado Department of Transportation acting as Lender (the "Lender") have entered into a Loan Agreement dated _____ (the "Loan Agreement"); and

WHEREAS, under the Loan Agreement, the Lender will provide a loan for funding the acquisition, equipping and constructing a Storm Water Drainage Master Plan, Central City Parkway Repairs, Nevada Street Retaining Wall Repairs, and Central City Parkway Rock Fall Mitigations (the "Project") in the sum of \$1,521,693, to be available in periodic draws for the payment of the costs of such acquisition; and

WHEREAS, the Borrower and the Lender now desire to provide for the safekeeping, investment and disbursement of such monies advanced by the Lender;

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

1. There is hereby created and established with the Escrow Agent an irrevocable escrow fund designated for the Borrower (the "Escrow Fund" or "Loan Account") to be held in the custody of the Escrow Agent separate and apart from other funds of the Escrow Agent or Lender.

2. The Lender shall, as of _____ deposit into the Escrow Fund the sum of \$1,521,693 representing the principal amount of the obligation of the Borrower under the Loan Agreement.

3. Monies held in the Escrow Fund shall be promptly invested and reinvested by the Escrow Agent, at the written direction of the Lender, in any security or deposit account authorized by law. No investment shall be made in a security maturing later than the date on which Borrower reasonably anticipates needing such funds for the payment of the costs of the Project. Borrower shall notify the Escrow Agent as to the dates on which funds are needed for disbursement and the estimated amount of each such disbursement and the Escrow Agent may rely upon this information in connection with all investment or reinvestment of funds.

4. All interest earnings from such investment shall be remitted to Borrower periodically, as mutually agreed upon by Borrower and the Escrow Agent. In such event, Borrower shall use such amounts to pay loan payments next owing under the Loan Agreement. Unless otherwise agreed by the

Borrower and the Escrow Agent, the Escrow Fund shall be held in a _____, and it shall earn interest at the daily rate established by the Escrow Funds.

5. The Escrow Agent shall disburse funds from the Escrow Fund upon receipt of a written request and certification from Borrower, approved in writing by Lender, setting forth the following: (1) the amount to be disbursed, (2) the address to which such funds are to be forwarded, (3) a brief description of the purpose of the payment, and (4) a statement that the expenditure for which disbursement is requested was properly incurred in connection with the acquisition of the Project and that the amounts being paid pursuant to that disbursement were not subject to a previous draw. The request shall contain as attachments the bills, receipts, invoices, or other documents acceptable to Escrow Agent evidencing the amount and purposes for which the disbursement is requested. Borrower agrees to submit to the Escrow Agent such disbursement request in form and substance satisfactory to the Escrow Agent pursuant to the Requisition Certificate attached hereto in Exhibit A and such other documents and certificates as the Escrow Agent may reasonably request to evidence the proper expenditure of the monies in the Escrow Fund for the purposes of acquiring the Project. The Escrow Agent has no duty to ascertain the correctness of any documents submitted in connection with any direction to disburse funds.

6. Upon making the final disbursement as provided in Section 5 of this Agreement, the Escrow Agent shall pay to Lender any balance on deposit in the Escrow Fund

7. In the event that an Event of Default occurs under the Loan Agreement, upon notice from Lender of such default, the Escrow Agent shall forthwith disburse all monies on deposit in the Escrow Fund to the Lender. The Borrower agrees that in the event such transfer to the Lender is to be made, it shall pay immediately and directly to the Lender an amount equal to all expenses, legal fees and other costs incurred by the Lender in connection with the enforcement of this Escrow Agreement.

8. This Agreement may be modified or amended only with the written consent of all parties hereto and the Lender.

9. In the event of the Escrow Agent's failure to account for any of the funds received by it, said funds shall be and remain the property of the Borrower in trust for the purposes set forth in this Agreement. Such funds shall be impressed with a trust for the amount thereof and the Borrower shall be entitled to a preferred claim upon such assets until such identification is made.

10. This Agreement shall terminate when all transfers required to be made with respect to the Escrow Fund by the Escrow Agent under the provisions hereof shall have been made. In the event that all amounts held by the Escrow Agent hereunder shall have not been expended as provided therein by the date that is three (3) years from the date of this Agreement, this Agreement shall terminate and such

unexpended amounts shall be remitted to the Lender. In such event, the Borrower shall use such amounts to pay loan payments next owing under the Loan Agreement.

11. If any one or more of the covenants or agreements provided in this Agreement on the part of the Escrow Agent or the Borrower to be performed shall be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

12. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

13. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado

IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of _____, 20_____.

CENTRAL CITY TRANSPORTATION ENTERPRISEAS BORROWER

By: _____

Ron Engels, Mayor, on behalf of the City Council of the City of Central acting as the governing body of the Borrower

Attest: _____

Colotrust
AS ESCROW AGENT

By: _____

Authorized Representative
Its: Assistant Vice President

ACKNOWLEDGED AND APPROVED BY:

COLORADO DEPARTMENT OF TRANSPORTATION, as Lender

By:
Chief Financial Officer or designee

EXHIBIT A to ESCROW AGREEMENT
Requisition Certificate

Date:
COLOTRUST
999 18th Street, Suite 1230
Denver, CO 80202

RE: Disbursement of Funds Pursuant to Escrow Agreement/Loan Agreement
between Colorado Department of Transportation and City of Central

Dear Escrow Agent:

Pursuant to the terms of the Escrow Agreement dated _____, between the City of Central, Colorado and Colotrust, which is a part of the Loan Agreement between the Colorado Department of Transportation (Lender) and the City of Central, Colorado (Borrower) dated _____, please disburse the sum of \$_____, payable to the City of Central for payment of expenses associated with (describe purpose of payment) which expenses were properly incurred as part of the Project funded under the Loan Agreement.

Sincerely,

Abigail Adame
Finance Director, Central City

Approved:

Colorado Department of Transportation

Exhibit C

REPAYMENT SCHEDULE

	Payment Due Dates	Annual Payment Amounts	Interest	Principal	Outstanding Balance
1		173,866.76	38,042.33	135,824.43	1,385,868.57
2		173,866.76	34,646.71	139,220.05	1,246,648.52
3		173,866.76	31,166.21	142,700.55	1,103,947.97
4		173,866.76	27,598.70	146,268.06	957,679.91
5		173,866.76	23,942.00	149,924.76	807,755.15
6		173,866.76	20,193.88	153,672.88	654,082.27
7		173,866.76	16,352.06	157,514.70	496,567.57
8		173,866.76	12,414.19	161,452.57	335,115.00
9		173,866.76	8,377.88	165,488.88	169,626.12
10		173,866.76	4,240.65	169,626.12	(0.00)

Exhibit D

SCOPE OF WORK

Storm Water Drainage Master Plan (\$185,000): Central City has two separate major drainage basins. The main basin is approximately 220 acres and directs runoff towards the city center. The second basin is approximately 1,900 acres and collects and redirects water to a supply reservoir to the north. Streetscapes, Storm Water Management, and Erosion Control are significant operational and environmental water quality issues for the City. Central City Parkway creates substantial runoff and erosion control issues through the City, due to its lack of storm water infrastructure. The proposed storm water drainage infrastructure will help mitigate runoff issues and flooding while also enhancing the quality of the storm water collected in the basins. The Central City Transportation Enterprise ("Enterprise") has applied for a SIB loan in order to assist the City with the match portion of a Water Quality Improvement Fund (WQIF) grant received in 2013 to develop and implement a Storm Water Master Plan and Design.

Central City Parkway Repairs (\$56,639): In September 2013, Colorado experienced flooding all over the state, including Central City and its major thoroughfare, Central City Parkway. The City has been awarded a FEMA grant to repair the damage caused to the roadway and is seeking the necessary amount of grant match in order to complete the repairs. The Enterprise is requesting a loan in the amount of the required grant match for this repair project.

Nevada Street Retaining Wall Repairs (\$650,003): Repairs to the Nevada Street Retaining Wall to be undertaken by the Enterprise will include all necessary labor, supervision, equipment, tools, and materials to repair the existing wood and rock retaining wall located adjacent to Nevada Street and the Big T parking lot. Work includes but is not limited to the construction of a new shot-crete retaining wall; concrete curb and gutter; installation of tie back anchors; and replacement asphalt paving.

Central City Parkway Rock Fall Mitigation (\$630,000): Central City Parkway experienced a rock slide in August of 2014. The initial slide amount was 1200-1500 cubic yards, which were immediately removed by Hammerlund Construction. After removing the initial debris, the City contracted Yeh and Associates and Flatirons construction to construct a long term remediation and mitigation plan. The City subsequently contracted Hammerlund to remove roughly 30,000 cubic yards of soil and rock, as described by the design elements of the survey outlined in the remediation and mitigation plan. The City offset the cost of the work by performing the hauling of debris and providing traffic control; reducing the cost of the total removal project by almost half. The requested SIB loan would be utilized by the Enterprise to reimburse the City for the City's out of pocket expenses already incurred for these transportation-related mitigation improvements.