



REGULAR MEETING AGENDA

City of Black Hawk City Council
211 Church Street, Black Hawk, CO

November 12, 2014
3:00 p.m.

RINGING OF THE BELL:

1. CALL TO ORDER:
2. ROLL CALL & PLEDGE OF ALLEGIANCE:
3. AGENDA CHANGES:
4. CONFLICTS OF INTEREST: (Council disclosures are on file w/City Clerk & Sec. of State)
5. PUBLIC COMMENT: *Please limit comments to 5 minutes
(Notify the City Clerk if you wish to address Council on items not on the agenda)*
6. APPROVAL OF MINUTES: October 22 , 2014 and November 5, 2014
7. PUBLIC HEARINGS:
 - A. CB23, An Ordinance Approving a Mutual Aid Agreement Between the City of Black Hawk and the Gilpin Ambulance Authority
 - B. CB24, An Ordinance Amending the Black Hawk Municipal Code by the Addition thereto of a New Section 2-134 Concerning the Creation of a Violations Bureau
 - C. CB25, An Ordinance Amending Section 304 of the City of Black Hawk Employee Handbook
8. ACTION ITEMS:
 - A. Resolution 82, A Resolution Approving the License Agreement Between the City of Black Hawk and Edward E. Smith, Shirley J. Smith, Sherell J. Smith, Gregory Street LLC, and Smithloch LLC, as Owners of the Properties located at 125, 131, 135, and 141 Gregory Street (**Recommend Tabling Item Indefinitely**)
 - B. Resolution 88, A Resolution Making Findings of Fact in Support of the Decision to Deny the Appeal of the Decision by the Community Planning and Development Administrator Regarding 101 Hillside Street
 - C. Resolution 89, A Resolution Making Findings of Fact in Support of the Decision to Deny the Appeal of the Decision by the Community Planning and Development Administrator Regarding 171 Marchant Street
 - D. Resolution 90, A Resolution Adopting and Entering into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and Taking Other Actions in Connection Therewith
 - E. Resolution 91, A Resolution Approving the Restructuring of the Information Technology Division and Approving the Associated Job Description
9. CITY MANAGER REPORTS: Request for Authorization to Dispose of Fire Department Equipment
10. CITY ATTORNEY:
11. EXECUTIVE SESSION:
12. ADJOURNMENT:

MISSION STATEMENT

The mission of the City of Black Hawk is to progressively provide cost effective programs and services of the highest quality to the community

City of Black Hawk
City Council Minutes
October 22, 2014

George Works, with family ties to Black Hawk for over 70 years, rang the bell.

1. CALL TO ORDER: The regular meeting of the City Council was called to order at 3:00 p.m. by Mayor Spellman Wednesday, October 22, 2014.

2. ROLL CALL: Present were: Mayor Spellman, Aldermen Armbright, Bennett, Johnson, Midcap, Moates, and Torres.

Staff present: City Attorney Hoffmann, City Manager Lewis, Police Chief Cole, Fire Captain Brian Cheek, City Clerk/Administrative Services Director Greiner, Finance Director Hillis, Public Works Director Isbester, Community Planning and Development Administrator Linker, and Deputy City Clerk Martin.

PLEDGE OF ALLEGIANCE: Mayor Spellman led the meeting in the recitation of the Pledge of Allegiance.

3. AGENDA CHANGES: Deputy City Clerk Martin explained there were no changes to the agenda.

4. CONFLICTS OF INTEREST: City Attorney Hoffmann asked Council to declare any Conflicts of Interest on any issue appearing on the agenda this afternoon other than those previous disclosures and conflicts that have already been disclosed and are on file with the City Clerk and Secretary of State. There were no conflicts noted from City Council.

City Attorney Hoffmann asked the audience if there were any objections to any member of Council voting on any issue on the agenda this afternoon. The audience had no objections.

5. PUBLIC COMMENTS: Deputy City Clerk Martin explained no one had signed up for public comments.

6. APPROVAL OF MINUTES October 8, 2014

MOTION TO APPROVE

Alderman Armbricht **MOVED** and was **SECONDED** by Alderman Johnson to approve the Minutes of the meeting as presented.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

7. PUBLIC HEARINGS:

A. 101 Hillside Street –
Appeal on a decision
by the Community
Planning & Development
Administrator

Mayor Spellman read the title and opened the public hearing.

Planning and Development Administrator Linker explained the intent of the submittal. On September 19, 2014 staff received an appeal of a denial for several items related to the Historical Restoration and Community Preservation Site Work Program. Linker said the appeal was processed in accordance with the City's Municipal Code. All relevant information was contained in the packet.

Applicant George Works, of Dallas, Texas, was present to describe his request. Mr. Work's had requested repair/replacement of his rock wall and fence surrounding his home, as well as funds to control erosion at the rear of the house. The City has approved funding to repair select areas of the rock wall; however funds to control erosion and other areas of the rock wall have been denied at this time, and the application can be returned to the queue.

Alderman Torres suggested looking into other means of controlling rock falls, as rock walls have proved not to be very efficient.

Alderman Midcap asked for the outcome of Mr. Work's original grant request from August 2011. Linker explained that the applicant was never approved under the Historic Rock Wall Restoration Program as funding was no longer available. Staff had asked Mr. Works to reapply under the current program.

MOTION TO DENY APPEAL

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to support staff's decision to **DENY** the appeal submitted by the property owner for full funding of his grant requests. City Attorney Hoffman said there would be Findings of Fact prepared for the next meeting to memorialize Council's motion.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

B. 171 Marchant
Street – Appeal on
a decision by the
Community Planning
& Development
Administrator

Mayor Spellman read the title and opened the public hearing.

Planning and Development Administrator Linker explained the intent of the submittal. On September 19, 2014 staff received an appeal of a denial for several items related to the Historical Restoration and Community Preservation Site Work Program. Linker said the appeal was processed in accordance with the City's Municipal Code. All relevant information was contained in the packet.

Applicant George Works, of Dallas, Texas, was present to describe his request. Mr. Works said there were two different issues to discuss. First were the several improvements, which include the retaining rock wall, fence, stairs and water intrusion into the house. Staff found only the stairs to be eligible under the grant program, and Mr. Works suggested possibly realigning the stairs for an easier, lower cost repair. Linker added that any reconfiguration would need review by the Historical Preservation Committee. The remaining items may be returned to the queue. Staff suggested further investigation by an engineer for the bowing on the front wall along Marchant Street. Mr. Works felt this was a dangerous bow, and Mayor Spellman noted that if it did come down to an emergency, there are emergency grant monies available.

Secondly, Mr. Works wanted to let Council know of his two vacant lots behind his house if Council were to be interested in negotiations in order to add to the City's green space.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on 171 Marchant Street – Appeal on a decision by the Community Planning and Development Administrator open and invited anyone wanting to address the Board either “for” or “against” the proposed appeal to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

Alderman Midcap thanked Linker and Consilium Partners for their in-depth reports and said he especially appreciated the historical photographs.

MOTION TO DENY APPEAL

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to support staff's decision to **DENY** the appeal submitted by the property owner for full funding of his grant requests. City Attorney Hoffman said there would be Findings of Fact prepared for the next meeting to memorialize Council's motion.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

C. CB21, An Ordinance Amending Section 2-132 of the Black Hawk Municipal Code Concerning the Imposition of Court Costs to Cover the Costs of Insuring Community Service

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann explained that this ordinance would pass on the cost to the City of obtaining insurance for those defendants that are sentenced to community service.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB21, An Ordinance Amending Section 2-132 of the Black Hawk Municipal Code Concerning the Imposition of Court Costs to Cover the Costs of Insuring Community Service open and invited anyone wanting to address the Board either "for" or "against" the proposed ordinance to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

MOTION TO APPROVE

Alderman Moates **MOVED** and was **SECONDED** by Alderman Armbright to approve Ordinance 2014-21, An Ordinance Amending Section 2-132 of the Black Hawk Municipal Code Concerning the Imposition of Court Costs to Cover the Costs of Insuring Community Service.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

D. CB22, An Ordinance Approving the FTA Section 5311 Grant Agreement Between the

Colorado Department
of Transportation,
Division of Transit and
Rail and the City of
Black Hawk

Mayor Spellman read the title and opened the public hearing.

Public Works Director Isbester explained that he had applied for this grant in November of 2013, it was awarded in April of 2014, and the contracts have just been received. The grant will be used to purchase a mini-wheel loader.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB22, An Ordinance Approving the FTA Section 5311 Grant Agreement Between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

**MOTION TO
APPROVE**

Alderman Armbricht **MOVED** and was **SECONDED** by Alderman Johnson to approve Ordinance 2014-22, An Ordinance Approving the FTA Section 5311 Grant Agreement Between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

8. ACTION ITEMS:

E. Resolution 81, A
Resolution Approving
the License Agreement
Between the City of
Black Hawk and Lochsmith,
Inc. as Owner of the
Property Located at
120 Main Street

Mayor Spellman read the title.

Planning and Development Administrator Linker explained that a condition of the Wild Card Casino’s (Lochsmith, Inc.) Comprehensive Sign Plan, which was approved on May 28, 2014, was to conduct a survey of any projecting signs into the City’s right-of-way. The survey did show an encroachment of one projecting blade sign. The applicant has fulfilled all of the requirements of the license agreement.

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 81, A Resolution Approving the License Agreement Between the City of Black Hawk and Lochsmith, Inc. as Owner of the Property Located at 120 Main Street.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

F. Resolution 82, A Resolution Approving the License Agreement Between the City of Black Hawk and Edward E. Smith, Shirley J. Smith, Sherell J. Smith, Gregory Street LLC, and Smithloch LLC, as Owners of the Properties Located at 125, 131, 135, and 141 Gregory Street

Mayor Spellman read the title.

Planning and Development Administrator Linker explained that there were changes made to the agreement as per the applicant. Staff has recommended continuing this item to the November 12 meeting.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Torres to continue Resolution 82, A Resolution Approving the License Agreement Between the City of Black Hawk and Edward E. Smith, Shirley J. Smith, Sherell J. Smith, Gregory Street LLC, and Smithloch LLC, as Owners of the Properties Located at 125, 131, 135, and 141 Gregory Street to November 12, 2014.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

G. Resolution 87, A Resolution Approving Bicycle Permit Application Fee

Mayor Spellman read the title.

City Attorney Hoffmann explained that a previously approved ordinance adding bicycling event permits required an application fee to be set by Resolution.

Alderman Moates suggested adding language to make the fee non-refundable.

MOTION TO APPROVE

Alderman Moates **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 87, A Resolution Approving Bicycle Permit Application Fee, with the addition of the words “non-refundable” before the word “bicycle”.

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

9. CITY MANAGER REPORTS:

City Manager Lewis asked for guidance on disposing of a non-operating air compressor valued at \$1,000 to sell or use for a trade-in. Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to dispose of the asset, all were in favor.

The Budget Work Session is confirmed for November 5 at 1:00 p.m., and Council will hold their regularly scheduled meeting on November 12. December 3 and 10 are reserved for Council meetings, yet only one is needed to approve the budget.

10. CITY ATTORNEY:

City Attorney Hoffmann recommended item number 5 for executive session for specific legal issues related to determining positions and development strategy for negotiations and instructing negotiators.

11. EXECUTIVE SESSION:

MOTION TO ADJOURN INTO EXECUTIVE SESSION

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to adjourn into Executive Session at 3:40 p.m. to hold a conference with the City’s Attorney to receive legal advice on specific legal questions pursuant to C.R.S., § 24-6-402(b) and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiations, pursuant to C.R.S., § 24-6-402(e).

MOTION PASSED

There was no discussion and the motion **PASSED** unanimously.

MOTION TO ADJOURN

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the executive session at 3:52 p.m.

MOTION PASSED There was no discussion and the motion **PASSED** unanimously.

12. ADJOURNMENT: Mayor Spellman declared the Regular Meeting of the City Council closed at 3:52 p.m.

Melissa Greiner
City Clerk

David D. Spellman
Mayor

DRAFT



**City of Black Hawk
City Council**

November 5, 2014

MEETING MINUTES

1. **CALL TO ORDER:** The Special Meeting of the City Council was called to order on Wednesday, November 5, 2014 at 1:00 p.m. by Mayor Spellman.

2. **ROLL CALL:** Present were: Mayor Spellman, Aldermen Armbright, Bennett, Johnson, Midcap, Moates, and Torres.

Staff present: City Attorney Hoffmann, City Manager Lewis, Police Chief Cole, City Clerk/Administrative Services Director Greiner, Finance Director Hillis, Public Works Director Isbester, Community Planning and Development Administrator Linker, Fire Chief Taylor, and Deputy City Clerk Martin.

- PLEDGE OF ALLEGIANCE:** Mayor Spellman led the meeting in the recitation of the Pledge of Allegiance.

3. **CONFLICTS OF INTEREST:** City Attorney Hoffmann explained this was not needed as there were no action items on the agenda.

4. **PUBLIC COMMENTS:** Deputy City Clerk Martin explained no one had signed up for public comments.

5. **EXECUTIVE SESSION:** City Attorney Hoffmann recommended item numbers 1 and 5 for Executive Session.

**MOTION TO
ADJOURN INTO
EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 1:02 p.m. to consider the purchase, acquisition, lease, transfer, or sale of real personal or other property, pursuant to C.R.S., § 24-6-402(4)(a) and to determine positions relative to matters that may be subject to negotiations, develop

a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S., § 24-6-402(4)(e).

MOTION PASSED There was no discussion and the motion **PASSED** unanimously.

MOTION TO ADJOURN Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the executive session at 2:00 p.m.

MOTION PASSED There was no discussion and the motion **PASSED** unanimously.

12. ADJOURNMENT: Mayor Spellman declared the Regular Meeting of the City Council closed at 2:00 p.m.

Melissa Greiner
City Clerk

David D. Spellman
Mayor

COUNCIL BILL 23

ORDINANCE 2014-23

**AN ORDINANCE APPROVING
A MUTUAL AID AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND THE
GILPIN AMBULANCE
AUTHORITY**

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB23

ORDINANCE NUMBER: 2014-23

**TITLE: AN ORDINANCE APPROVING A MUTUAL AID AGREEMENT
BETWEEN THE CITY OF BLACK HAWK AND THE GILPIN
AMBULANCE AUTHORITY**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK,
GILPIN COUNTY:

Section 1. The City of Black Hawk hereby approves the Mutual Aid Agreement between the City of Black Hawk and the Gilpin Ambulance Authority, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, and authorizes the Mayor to execute the same on behalf of the City.

Section 2. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, 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 Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: IGA for Mutual Aid with Gilpin Ambulance Authority

RECOMMENDATION: Recommend City of Black Hawk to sign agreement

SUMMARY AND BACKGROUND OF SUBJECT MATTER: Currently we are operating jointly without a mutual aid agreement in place. While this has not impacted our operation this document provides the legal documentation to support our current structure.

MOTION: Motion to approve an IGA for Mutual Aid between the City of Black Hawk and the Gilpin Ambulance Authority

FUNDING SOURCE: N/A

WORKSHOP DATE: N/A

ESTIMATED DATE OF PROJECT COMPLETION: November 12, 2014

ORIGINATED BY: Don Taylor, Fire Chief/Emergency Manager

STAFF PERSON RESPONSIBLE: Don Taylor, Fire Chief/Emergency Manager

DOCUMENTS ATTACHED: Yes

RECORD: []Yes []No

CITY ATTORNEY REVIEW: []Yes []No []N/A INITIALS _____

SUBMITTED BY:

REVIEWED BY:



Don Taylor Fire Chief/Emergency Manager

Jack D. Lewis, City Manager

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT FOR MUTUAL AID BETWEEN FIRE DEPARTMENTS

THIS AGREEMENT, made by and between the CITY OF BLACK HAWK, a Colorado home rule municipality, (the “City”) and the Gilpin Ambulance Authority (the “Authority”).

RECITALS

A. Intergovernmental agreements to provide functions or services, including the sharing of costs of such services or functions, by political subdivisions of the State of Colorado are specifically authorized by Section 29-1-203, C.R.S.

B. The parties hereto are each authorized to lawfully provide, establish, maintain and operate emergency services.

C. Each of the parties hereto maintains emergency equipment.

D. It is in the best interest of each of the parties that it may have service of and from the other party to aid and assist it in the purpose of responding to emergencies.

E. Establishment of a mutual aid agreement will serve a public purpose and will promote the safety, security and general welfare of the inhabitants of the parties.

NOW THEREFORE, IT IS MUTUALLY AGREED by and between each of the parties as follows:

1. Provisions of Article 5, Title 29, Colorado Revised Statutes, as amended, are incorporated herein by this reference. The statute shall control in the event of a conflict between the statute and this Agreement.

2. It is understood and agreed that this Agreement would provide for the joint exercise by the parties of the function or service provided herein, but would not establish a separate legal entity to do so, nor would it constitute any party as an agent of any other party for any purpose whatsoever. This Agreement shall provide only for sharing of in-kind services and costs by the parties toward the establishment of a common mutual goal.

3. For and in consideration of the promises of the parties hereto, each agrees with the other that in the event there are incidents or circumstances that require mutual aid to be provided; whether because of the nature of the emergency or otherwise, each agrees, subject to the limitations herein set forth, to aid and assist the other, by causing and permitting their department and its equipment to be used in responding to emergencies, and the need for such aid and assistance, subject, however, to the following limitations:

a. Each of the agreeing parties may be excused from making its equipment or service available to any of the other in the event of the need of the emergency equipment or the need of the personnel of such party within the territorial area of such party or any other party, or their prior use at any place, or in the event that the terms of Article 8 apply, which decision of availability shall be made by the department requested to give mutual aid, and which decision shall be conclusive in its sole discretion.

b. It is understood and agreed that each party's performance shall be subject to appropriation of funds by its City Council or other legislative body and payment of such funds into the treasury of such party.

c. Mutual aid response by any party beyond the political boundary of the responding party is hereby deemed to be approved by the respective executive and legislative governing bodies, managers and chiefs of the parties and such response shall require no further approval by responsible official of any party.

4. Notwithstanding anything to the contrary contained within this Agreement, Black Hawk agrees not to provide any fire service through mutual aid within the Central City Growth Area, as that term is defined in that Intergovernmental Agreement dated September 29, 1999 (the "Growth IGA"), unless Black Hawk is dispatched to the Central City Growth Area at the request of Central.

5. Each party shall, at all times, be responsible for its own costs incurred in the performance of this Agreement and shall not receive any reimbursement from any other party, except for third party reimbursement under Article 8.

6. Each party waives all claims and causes of action against all of the other parties for compensation, damages, personal injury or death occurring as a consequence, direct or indirect, of the performance of this Agreement.

7. Each party shall be expected to maintain its equipment and organize its emergency response method with both personnel and equipment to the extent necessary to cope with the ordinary and routine emergencies arising within its boundaries and for which the party is organized.

8. Each party agrees that it will reasonably pursue any legal reimbursement possible, pursuant to state or federal laws, for incidents, including but not limited to hazardous materials incidents, occurring within its jurisdiction, on behalf of all parties responding and, upon full or partial payment by the responsible entity, will distribute the reimbursement received in a fair and equitable manner to assisting parties based on their documented expenses for the involved incident.

9. Nothing contained in this Agreement, and no performance under this Agreement by personnel of the parties hereto shall in any respect alter or modify the status of officers, agents, or employees of the respective parties for purposes of workman's compensation or their benefits or entitlement, pension, levels or types of training, internal discipline, certification, or rank procedures, methods, or categories, or for any purpose, or condition or requirement of employment. Workman's compensation coverage shall be as structured in C.R.S. 29-5-109.

10. It is understood and agreed by the parties hereto that if any part, term or provision of the Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

11. Each and every term, provision, or condition herein is subject to and shall be construed in accordance with the provisions of Colorado law, the charters or bylaws of the various parties, and the ordinances, resolutions and regulations enacted pursuant thereto.

12. This Agreement shall be binding upon the successors and assigns of each of the parties hereto, except that no party may assign any of its rights or obligations hereunder, without the prior written consent of all of the other parties.

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

14. Any party hereto may terminate this Agreement with or without cause upon thirty (30) days prior written notice to each of the others.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____ day of _____, _____.

CITY OF BLACK HAWK

BY: _____
David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

GILPIN AMBULANCE AUTHORITY

BY: _____
President

ATTEST:

**COUNCIL BILL 24
ORDINANCE 2014-24
AN ORDINANCE AMENDING
THE BLACK HAWK
MUNICIPAL CODE BY THE
ADDITION THERETO OF A
NEW SECTION 2-134
CONCERNING THE CREATION
OF A VIOLATIONS BUREAU**

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

COUNCIL BILL NUMBER: CB24

ORDINANCE NUMBER: 2014-24

TITLE: AN ORDINANCE AMENDING THE BLACK HAWK MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW SECTION 2-134 CONCERNING THE CREATION OF A VIOLATIONS BUREAU

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. The Black Hawk Municipal Code is amended by the addition thereto of a new Section 2-134, entitled "Violations Bureau," which shall read as follows:

Sec. 2-134. Violations Bureau.

(a) Creation. There is hereby created a Violations Bureau within the Municipal Court. The Court is authorized to establish by order the procedures by which a person may answer a charge of the violations set forth in this Section by paying a fine, pleading guilty in writing and waiving a hearing through a mail-in process.

(b) Penalty assessment notices.

(1) The Municipal Court is specifically authorized through the Violations Bureau to process penalty assessment notices, and the Police Department is specifically authorized to issue penalty assessment notices in accordance with this Section. This Section shall not be interpreted to require the Police Department to issue a penalty assessment for the violations set forth herein, where a summons and complaint requiring a court appearance might otherwise be issued as provided by this Code.

(2) The penalty assessment notice issued by the Police Department shall be a summons and complaint containing identification of the alleged offender, specification of the offense and the applicable fine as set forth in subsection (c) of this Section 2-134 of this Code, a requirement that the offender pay the fine or appear to answer the charge as set forth in the summons and complaint and a waiver of the right to a hearing on the offense specified on the summons and complaint.

(3) If the person issued a penalty assessment notice hereunder chooses to acknowledge his or her guilt, he or she may pay the specified fine to the

Violations Bureau within the time specified in the notice. If he or she chooses not to acknowledge his or her guilt, he or she shall appear as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that set forth in the notice of the offense for which he or she was found guilty, but customary court costs and surcharges may be assessed in addition to the fine.

(4) Nothing herein shall be interpreted to restrict the enforcement authority of peace officers, and said peace officers shall retain all enforcement authority authorized by law, including but not limited to detaining and arresting violators.

(c) Designation of violations and penalties.

(1) A penalty assessment may be issued for a first violation within the City of Black Hawk of the following sections of this Code not involving bodily injury or restitution, pursuant to the following schedule:

\$50.00 fine plus court costs and surcharges.

- Sec. 7-60. Attachment to dog collar or harness.
- Sec. 8-7. Unnecessary idling of delivery and commercial vehicles.
- Sec. 10-133. Panhandling.

\$75.00 fine plus court costs and surcharges.

- Sec. 7-22. Littering public or private property.
- Sec. 7-52. License Required.
- Sec. 7-54. Rabies inoculation required.
- Sec. 7-69. Running at large prohibited.
- Sec. 7-74. Noisy dogs prohibited.
- Sec. 8-46. Shuttle driver regulations.
- Sec. 8-111. Restricted streets.
- Sec. 10-24. Limitations on deliveries within the Gaming District.
- Sec. 10-25. Construction-related deliveries.

Sec. 10-28. Prohibited use of skateboards, bicycles, in-line skates, roller skates, motor scooters, motor bicycles or other similar devices on public sidewalks.

Sec. 10-131. Disturbing the peace – motor vehicle.

Sec. 11-2. Removal of snow and ice from sidewalks.

\$100.00 fine plus court costs and surcharges.

Sec. 7-153. General smoking restrictions.

Sec. 10-144(b) Possession of marijuana (public use).

Sec. 10-144(d) Possession of marijuana (drug paraphernalia).

Sec. 10-145. Open container and re-corking exception.

Sec. 10-168. Missiles.

\$150.00 fine plus court costs and surcharges.

Sec. 10-128. Urination and defecation in public.

Sec. 10-142. Alcohol-related violations. However, if the defendant is under eighteen (18) years of age, a penalty assessment shall not be issued and a mandatory court appearance shall be required.

Sec. 10-144.5 Possession of Marijuana (Under twenty (21) years of age). However, if the defendant is under eighteen (18) years of age, a penalty assessment shall not be issued and a mandatory court appearance shall be required.

(2) The specific violations and penalties set forth in this subsection shall apply to first offenses only, and regardless of the general penalty set forth in Article IV of Chapter 1 or other provisions of this Code, said first offenses shall be considered civil offenses. They shall be of an administrative nature and a judgment of conviction shall not carry the same stigmatizing or condemnatory significance as criminal penalties. First offenses for the specific violations set forth in this subsection shall not be subject to criminal sanctions, including but not limited to imprisonment. If a violation set forth in this subsection is considered criminal elsewhere in the Code, the Municipal Court shall not report a conviction for a first offense pursuant to this Article to the Colorado Bureau of Investigation or other law enforcement agency as it otherwise would for criminal convictions.

(d) Right to hearing.

Nothing in this Section 2-134 shall be deemed to disqualify a person from having the right to a hearing and a trial to the extent otherwise permitted by law.

(e) Plea bargains by mail.

Nothing in the enactment of this Section shall prevent the Municipal Court from offering plea bargains by mail for offenses which are both within or without the authority of the Violations Bureau to process, for which a summons and complaint is issued. Any such plea bargains offered by mail shall be specifically authorized by the Municipal Prosecutor, and shall include a recitation of the alleged violator's constitutional rights and a Plea of Guilty and Waiver of Appearance form providing the person receiving the offer with a choice of pleading guilty and waiving a court appearance, or appearing in the Municipal Court on the date specified in the plea bargain offer. Said plea bargain shall include the imposition of any administrative costs and surcharges otherwise required by ordinance.

Section 2. To the extent that the fine schedule set forth in Section 1 of this Ordinance conflicts with any schedule of fines adopted by the Black Hawk Municipal Court, the fine schedule set forth herein shall control.

Section 3. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, 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 Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance amending Section 2-134 of the Black Hawk Municipal Code concerning the creation of “penalty assessments” for municipal violations in the Black Hawk Municipal Court.

RECOMMENDATION: Staff recommends the following motion to the Mayor and Board of Aldermen:

MOTION OF APPROVAL to approve Council Bill 24 an ordinance amending Section 2-134 of the Black Hawk Municipal Code creating “penalty assessments” for specific municipal code violations.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The Municipal Court staff recommends the creation of “penalty assessments” for specific municipal code violations. The proposed ordinance allows offenders who commit first time violations of specific municipal ordinances to pay fines and applicable court costs without appearing in court. Offenders cited for “penalty assessments” would acknowledge guilt and pay fines within a specific time period or appear in Municipal Court. This process would especially be helpful in situations where the offender is unlikely to commit a second offense or the offender resides outside Gilpin County. A police officer could still order an offender into court or make an arrest in situations where the officer felt a court appearance or arrest was more appropriate. Cases involving personal injury or restitution would still require a court appearance.

The implementation of this ordinance would likely reduce the municipal court docket; increase timely payments of fines for minor violations; reduce the issuance of warrants for offenders failing to appear in court; reduce the court preparation time for the municipal court clerk; and result in a more efficient municipal court process. The new ordinance would hold offenders responsible for their behavior and reduce the work load for municipal court staff. The City Attorney drafted the attached ordinance amending Section 2-134 of the Municipal Code to allow penalty assessments.

FUNDING SOURCE: N/A

WORKSHOP DATE: N/A

ORIGINATED BY: Sally Canady, Municipal Court Clerk

STAFF PERSON RESPONSIBLE: Sally Canady, Municipal Court Clerk

DOCUMENTS ATTACHED: Council Bill 24

CITY ATTORNEY REVIEW: [X]Yes []No []N/A INITIALS_____

SUBMITTED BY: Stephen Cole, Chief of Police



Melissa Greiner
Assistant to the City Manager
for Administration



Jack D. Lewis
City Manager

COUNCIL BILL 25
ORDINANCE 2014-25
AN ORDINANCE AMENDING
SECTION 304 OF THE CITY OF
BLACK HAWK EMPLOYEE
HANDBOOK

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

COUNCIL BILL NUMBER: CB25

ORDINANCE NUMBER: 2014-25

TITLE: AN ORDINANCE AMENDING SECTION 304 OF THE CITY OF BLACK HAWK EMPLOYEE HANDBOOK

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. Pursuant to Article VIII, Section 18 of the City of Black Hawk Home Rule Charter, Section 304 of the City of Black Hawk Employee Handbook is hereby amended to read as follows:

304 HOLIDAYS

Holiday pay will be calculated based on the employee's straight-time wage (as of the date holiday time is taken) times the number of hours used. Eligible employee classifications:

Full-time employees
Introductory full-time employees

Holiday Bank: Holiday leave is provided to enable employees to enjoy periodic respite from their regular duties. Eligible employees shall be afforded the opportunity to take holiday leave.

Amount, Accrual, and Usage: Eligible employees are provided a Holiday Bank of 104 hours per year at the beginning of each year. If an eligible employee is hired during the year, they will receive the number of holiday bank hours left during the remainder of that year. Holiday Banks must be used within the year earned and cannot be carried over from one year to the next. Paid holiday leave may be used in minimum increments of one-half (1/2) hour.

Records of Leave: The Finance Department shall maintain records of annual leave and its use. Each Department Director shall develop and maintain a leave schedule for their employees.

Effect of Holidays and Vacations: When a legal holiday falls during an employee's scheduled vacation, such holiday shall first be charged to the holiday bank and if no hours remain in the holiday bank then charged to his annual vacation leave.

Floating Holiday: Eligible employees may designate ~~sixteen (16)~~ twenty four (24) hours during a calendar year as a floating holiday, to be used as a paid time off. Floating Holiday time may be used in minimum one-half (1/2) hour increments following receipt of supervisory approval.

The City will grant holiday time off to eligible employees on the holidays listed below:

~~Employee Birthday~~

New Year's Day (January 1)

Martin Luther King, Jr. Day (third Monday in January)

Presidents' Day (third Monday in February)

Memorial Day (last Monday in May)

Independence Day (July 4)

Labor Day (first Monday in September)

Veterans' Day (November 11)

Thanksgiving (fourth Thursday in November)

Day after Thanksgiving

Christmas Eve (December 24)

Christmas (December 25)

New Year's Eve (December 31)

A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday.

If an eligible non-exempt employee is required to work on a holiday, they will receive "Holiday Pay," which is defined as one-and-one-half (1½) their regular rate for the actual hours worked, up to the amount of hours recognized for that holiday (eight [8] hours for a full day). All hours worked on a holiday in excess of the recognized hours will be paid at the employee's straight-time rate.

Eligible non-exempt employees may elect to work on a designated holiday and retain their holiday hours to use another day, with prior permission from their supervisor. However, in such case the employee is not eligible for "Holiday Pay" and will be paid at their straight-time rate.

Essential personnel, including uniformed fire department personnel, police officers, dispatchers, and Public Works personnel who are necessary for the operation of the City will receive "Holiday Pay" for the recognized holiday hours if their shifts start on the holiday and they work the number of hours recognized for that holiday.

ALL holiday leave must be used by the end of the calendar year. In unusual circumstances, any essential personnel may request to carry forward up to twenty-four (24) hours of holiday leave, to be used in the first quarter of the following year. The City Manager upon recommendation of the Department Director may approve the request.

Upon termination of employment, the remaining scheduled holiday hours for the year will be deducted from the employee's Holiday bank. If the deduction results in a negative Holiday bank balance, such hours will be deducted from the employee's final leave paycheck at straight-time rate. Any remaining Floating Holiday hours will be paid in the employee's final leave paycheck at straight-time.

Section 2. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, 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 Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Employee Handbook Amendment

RECOMMENDATION: Staff recommends the following motion to the Mayor and Board of Aldermen:

MOTION TO APPROVE an Ordinance Amending Section 304 of the City of Black Hawk Employee Handbook.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: Staff recommends converting the "Employee Birthday" holiday to a "Floating Holiday" clarifying any confusion on whether or not an employee should be paid premium time when their regularly scheduled work shift falls on their birthday.

If an eligible non-exempt employee is required to work on a holiday, they will receive "Holiday Pay," which is defined as one-and-one-half (1½) their regular rate for the actual hours worked, up to the amount of hours recognized for that holiday (eight [8] hours for a full day). All hours worked on a holiday in excess of the recognized hours will be paid at the employee's straight-time rate.

AGENDA DATE: November 12, 2014

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Melissa Greiner, Administrative Services Director

DOCUMENTS ATTACHED: N/A

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Melissa Greiner
Administrative Services Director



Jack D. Lewis,
City Manager

RESOLUTION 82-2014
A RESOLUTION
APPROVING THE
LICENSE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
EDWARD E. SMITH,
SHIRLEY J. SMITH,
SHERELL J. SMITH,
GREGORY STREET LLC,
AND SMITHLOCH LLC, AS
OWNERS OF THE
PROPERTIES LOCATED
AT 125, 131, 135, AND 141
GREGORY STREET

**(Recommend Tabling Item
Indefinitely)**

**RESOLUTION 88-2014
A RESOLUTION MAKING
FINDINGS OF FACT IN
SUPPORT OF THE
DECISION TO DENY THE
APPEAL OF THE
DECISION BY THE
COMMUNITY PLANNING
AND DEVELOPMENT
ADMINISTRATOR
REGARDING 101
HILLSIDE STREET**

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

Resolution No. 88-2014

TITLE: A RESOLUTION MAKING FINDINGS OF FACT IN SUPPORT OF THE DECISION TO DENY THE APPEAL OF THE DECISION BY THE COMMUNITY PLANNING AND DEVELOPMENT ADMINISTRATOR REGARDING 101 HILLSIDE STREET

WHEREAS, the City Council of the City of Black Hawk acting as the Board of Appeals pursuant to Section 16-326 of the Black Hawk Municipal Code (the “City Council”) conducted a hearing on the appeal of the decision of the Community Planning and Development Administrator partially denying the request for a Site Work Component Grant submitted by property owner George W. Works, the owner of property located at 101 Hillside Street (the “Property Owner”);

WHEREAS, the City Council at the October 22, 2014, hearing took evidence and heard arguments regarding the basis for the appeal of the decision regarding a request to construct or repair a stabilization wall or some other form of mitigation behind the residence located at 101 Hillside Street; and

WHEREAS, following the hearing, the City Council directed that certain Findings of Fact be drafted for its consideration denying the appeal, but allowing the Property Owner to be placed in the queue for future consideration in the City’s Historic Restoration and Community Preservation Grant Program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BLACK HAWK, COLORADO, THAT:

Section 1. The recitals set forth above are hereby incorporated herein by this reference.

Section 2. The City Council hereby makes the following findings of fact:

A. The City Council finds and determines that based on the evidence presented there is no basis under the current Historic Restoration and Community Preservation Grant Program (the “Program”) for consideration of that portion of the Site Work Component Grant that was denied by the Community Planning and Development Administrator based on conditions existing as of the date of the hearing; and

B. The City Council further finds under the existing Program that there is no basis for taking such a grant request outside of the normal protocols set forth in the Program.

Section 3. The City Council therefore DENIES the appeal submitted by the Property Owner.

Section 4. The City Council further directs that the Community Planning and Development Administrator place that portion of the request for a Site Work Component Grant submitted by the Property Owner that was denied herein in the normal queue for future consideration by the City Council based on the date of the receipt of the initial grant request, in conformance with the Program.

Section 5. Nothing in this decision shall be deemed to prevent the Property Owner from submitting a future request in the event circumstances demonstrably change in such a manner to require immediate emergency consideration by the City Council.

RESOLVED AND PASSED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

**RESOLUTION 89-2014
A RESOLUTION MAKING
FINDINGS OF FACT IN
SUPPORT OF THE
DECISION TO DENY THE
APPEAL OF THE
DECISION BY THE
COMMUNITY PLANNING
AND DEVELOPMENT
ADMINISTRATOR
REGARDING 171
MARCHANT STREET**

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

Resolution No. 89-2014

TITLE: A RESOLUTION MAKING FINDINGS OF FACT IN SUPPORT OF THE DECISION TO DENY THE APPEAL OF THE DECISION BY THE COMMUNITY PLANNING AND DEVELOPMENT ADMINISTRATOR REGARDING 171 MARCHANT STREET

WHEREAS, the City Council of the City of Black Hawk acting as the Board of Appeals pursuant to Section 16-326 of the Black Hawk Municipal Code (the “City Council”) conducted a hearing on the appeal of the decision of the Community Planning and Development Administrator partially denying the request for a Site Work Component Grant submitted by property owner George W. Works, the owner of property located at 171 Marchant Street (the “Property Owner”);

WHEREAS, the City Council at the October 22, 2014, hearing took evidence and heard arguments regarding the basis for the appeal of the decision regarding a request to construct or repair a stabilization wall or some other form of mitigation behind the residence located at 171 Marchant Street; and

WHEREAS, following the hearing, the City Council directed that certain Findings of Fact be drafted for its consideration denying the appeal, but allowing the Property Owner to be placed in the queue for future consideration in the City’s Historic Restoration and Community Preservation Grant Program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BLACK HAWK, COLORADO, THAT:

Section 1. The recitals set forth above are hereby incorporated herein by this reference.

Section 2. The City Council hereby makes the following findings of fact:

A. The City Council finds and determines that based on the evidence presented there is no basis under the current Historic Restoration and Community Preservation Grant Program (the “Program”) for consideration of that portion of the Site Work Component Grant that was denied by the Community Planning and Development Administrator based on conditions existing as of the date of the hearing; and

B. The City Council further finds under the existing Program that there is no basis for taking such a grant request outside of the normal protocols set forth in the Program.

Section 3. The City Council therefore DENIES the appeal submitted by the Property Owner.

Section 4. The City Council further directs that the Community Planning and Development Administrator place that portion of the request for a Site Work Component Grant submitted by the Property Owner that was denied herein in the normal queue for future consideration by the City Council based on the date of the receipt of the initial grant request, in conformance with the Program.

Section 5. Nothing in this decision shall be deemed to prevent the Property Owner from submitting a future request in the event circumstances demonstrably change in such a manner to require immediate emergency consideration by the City Council.

RESOLVED AND PASSED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

**RESOLUTION 90-2014
A RESOLUTION
ADOPTING AND
ENTERING INTO THE
TRUST AGREEMENT FOR
THE COLORADO
FIREFIGHTER HEALTH
AND CIRCULATORY
BENEFITS TRUST AND
TAKING OTHER ACTIONS
IN CONNECTION
THEREWITH**

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

Resolution No. 90-2014

TITLE: A RESOLUTION ADOPTING AND ENTERING INTO THE TRUST AGREEMENT FOR THE COLORADO FIREFIGHTER HEALTH AND CIRCULATORY BENEFITS TRUST AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, under state law, specifically, Part 3 of Article 5 of Title 29, Colorado Revised Statutes (C.R.S.), an employer as defined therein is required to maintain certain firefighter heart and circulatory malfunction benefits in accordance with and subject to the requirements and limitations of said Part 3; and

WHEREAS, in order to provide such benefits, an employer, which includes the City of Black Hawk (the “City”) is authorized to participate in a multiple employer health trust; and

WHEREAS, the Board of Aldermen has authority under Article XIV, Section 18(2)(a) of the Colorado Constitution, and Sections 10-3-903.5, 29-1-201, *et seq.*, and 29-5-302, C.R.S., as amended, to participate with other employers in a multiple employer health trust for the provision of such benefits and for related claims handling, risk management, and other functions and services related to such benefits; and

WHEREAS, the Board of Aldermen has reviewed the Trust Agreement for the Colorado Firefighter Heart and Circulatory Benefits Trust, a copy of which is attached hereto as Exhibit A, by and through which the Members (as defined therein) desire to establish a trust (the “Trust”) and provide a benefit plan that provides firefighter heart and circulatory malfunction benefits consistent with the provisions of Part 3 of Article 5 of Title 29, C.R.S., as specified in the Colorado Firefighter Heart and Circulatory Malfunction Benefits Plan (the “Plan”); and

WHEREAS, the Members intend that the Trust, together with the Plan, shall constitute an irrevocable trust exempt from taxation under Internal Revenue Code Section 115; and

WHEREAS, the Board of Aldermen finds that membership and participation in the Trust and Plan would be in the best interests of the City, its employees and its taxpayers; and

WHEREAS, the Board of Aldermen by this enactment desires to adopt and enter into the Trust Agreement for the Colorado Firefighter Heart and Circulatory Benefits Trust, and to take other actions in connection therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BLACK HAWK, COLORADO, THAT:

Section 1. The Board of Aldermen hereby approves the contract entitled Trust Agreement for the Colorado Firefighter Heart and Circulatory Benefits Trust, a copy of which is attached hereto as Exhibit A and incorporated into this Resolution by this reference (the “Trust Agreement”).

Section 2. The Board of Aldermen further authorizes and directs the Mayor to execute the Trust Agreement on behalf of the City.

Section 3. The Board of Aldermen directs that staff transmit to the Colorado Firefighter Heart and Circulatory Benefits Trust (the “Trust”), to the Trust Committee, executed and attested copies of this Resolution and such Trust Agreement.

Section 4. The Board of Aldermen designates Melissa Greiner, Administrative Service Director, as its initial Member Representative to the Trust and designates Gina Romero, HR Generalist, as its initial Alternate Representative to the Trust, such persons having the addresses stated below.

City of Black Hawk
P. O. Box 68
Black Hawk, Colorado 80422

Section 5. The Board of Aldermen understands that, with the adoption of this Resolution and subject to the terms of the Trust Agreement, the City becomes a Member of the Trust, with its participation to commence effective as of the date determined in accordance with the Trust Agreement.

RESOLVED AND PASSED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Requirement to participate in the Firefighter Heart & Circulatory Benefits Trust formed to cover entities' liability under Part 3, Article 5 of Title 29, Colorado Revised Statutes (CRS).

RECOMMENDATION: Staff recommends the following motion to the Mayor and Board of Aldermen:

MOTION TO APPROVE the Resolution Adopting and Entering into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and Taking Other Actions in Connection Therewith.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The Firefighter Heart & Circulatory Benefits Trust was formed to cover entities' liability under Part 3, Article 5 of Title 29, Colorado Revised Statutes (CRS). This new statute requires any full time firefighter with continuous, full-time employment with an employer for at least five (5) years be provided a defined level of benefits for certain Heart and Circulatory malfunctions. A state reimbursement fund has been established through the *Department of Local Affairs* (DOLA). Entities must certify their number of eligible firefighters and submit specific documents to participate in the program.

AGENDA DATE: November 12, 2014

WORKSHOP DATE: N/A

FUNDING SOURCE: Funding to be provided by the City of Black Hawk and reimbursed by DPLA.

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Melissa Greiner, Administrative Services Director

DOCUMENTS ATTACHED: Information Sheet from Joe DePaepe, Program Administration

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Melissa Greiner
Administrative Services Director



Jack D. Lewis,
City Manager

Colorado Firefighter Heart and Circulatory Benefits Trust (CFH Trust):

We would like to take this opportunity to inform you about the CFH Trust which was formed to cover your entity's liability under Part 3, Article 5 of Title 29, Colorado Revised Statutes (CRS). This new statute requires any full time firefighter with continuous, full-time employment with an employer for at least five (5) years be provided a defined level of benefits for certain Heart and Circulatory malfunctions. A state reimbursement fund has been established through the *Department of Local Affairs* (DOLA). Entities must certify their number of eligible firefighters and submit specific documents to participate in the program.

To learn more about the CFH Trust's formation and who can participate, as well as how DOLA will administer the program for eligible firefighters, please review the Trust's [Frequently Asked Questions](#) (FAQ).

A website has been created at www.cfhtrust.com to 1) make available information concerning this Trust; 2) comment on the intent of the coverage under the new statute; and 3) make available public information from DOLA, who is requesting comments from stakeholders, on their proposed implementation of the reimbursement process available in December. Documents currently posted are:

- FAQ about the TRUST, the process, and DOLA
- Comments on the intent of the new statute establishing the employer's Liability
- DOLA draft copies of proposed process and forms for reimbursement
- Members' governing body Resolution to join the Trust
- Intergovernmental Agreement (IGA) to join the Trust
- Checklist on how to properly complete the IGA and Resolution
- Member's Nomination for Trustee form
- Description of heart test available to asses heart and circulatory conditions

There is an open nomination process for Trustees that comes from the participating membership. Appointments are then made by the State Fire Chiefs. We currently have four Chiefs and one Professional Firefighter representative who have been participating as Steering Committee members to bring us to this point, and all but one will be eligible to serve as Trustees. We have one Chief position and two (2) new Trustee positions open. The two new positions are for non-firefighter personnel from Member organizations. It has been suggested that the new position nominees have a background in Accounting, Human Resources, Finance, Risk Management,

Law, or Public Service to round out the Trust's overall makeup. We are currently in need of two organizations who can implement the IGA and Resolution by November 20 so that we can establish the Trust in order to conduct business. If your organization is willing to help us out in the formation of the CFH Trust, please contact any member of the Steering Committee, or myself for further details:

- John Bales, Chief Golden Fire: JBales@cityofgolden.net
- Don Lombardi, Chief West Metro Fire Rescue: DLombardi@westmetrofire.org
- Matthew Love, Chief Cimarron Hills Fire Department: mlove@cimarronhillsfire.org
- Mike Rodgers, **President** CPFF: rogersm1@q.com
- Eric Tade, Chief Denver: Eric.Tade@Denvergov.org
- Joe DePaepe, Program Administration: jdepaepe@mcgriff.com

Regards,

A handwritten signature in black ink, appearing to read "Joe DePaepe". The signature is written in a cursive, flowing style.

Joe DePaepe

EXHIBIT A

TRUST AGREEMENT

FOR

**COLORADO FIREFIGHTER HEART AND CIRCULATORY
BENEFITS TRUST**

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TRUST AGREEMENT

THIS TRUST AGREEMENT (this “Agreement”) is entered into on this ____ day of _____, 2014 (the “Effective Date”) by and between the undersigned Colorado governmental entities (who, together with and any other Colorado governmental entities that becomes a participating Member under this Trust, are collectively the “Members”) and the undersigned trustees constituting the “Trust Committee” for the Trust, as defined herein (the “Trust Committee”).

WITNESSETH:

WHEREAS, the Members are exempt from federal income tax under the Internal Revenue Code of 1986, as amended, as a state or territory of the United States, or any political subdivision, municipality or agency thereof, or an agency of such political subdivision or municipality (including any corporation owned or controlled by any state or territory of the United States or by any political subdivision, municipality, or agency); and

WHEREAS, the Members desire by and through this Agreement to provide a benefit plan that provides heart and circulatory malfunction benefits consistent with the provisions of Part 3 of Article 5 of Title 29, Colorado Revised Statutes (C.R.S.), as specified in the Colorado Firefighter Heart and Circulatory Malfunction Benefits Plan (the “Plan”); and

WHEREAS, the Members desire for the Trust to accept funds that shall from time to time be paid over to the Trust Committee in accordance with the terms of this Agreement, together with the earnings and profits thereon, if any, and to hold the funds in trust (the “Trust”) and to make disbursements from the Trust in accordance with the provisions of this Agreement and the Plan; and

WHEREAS, the Members desire to appoint the Trust Committee as a trustee to hold and administer the assets of the Plan in accordance with this Agreement; and

WHEREAS, the Trust Committee has agreed to serve as trustee of the trust established under this Agreement; and

WHEREAS, the Members intend that the Trust hereby established, together with the Plan, shall constitute an irrevocable trust exempt from taxation under Internal Revenue Code Section 115; and

WHEREAS, the Members intend that the Trust hereby established, together with the Plan, shall constitute a multiple employer health trust for the purpose of Part 3 of Article 5 of Title 29, C.R.S.;

NOW, THEREFORE, the Members and the Trust Committee hereby mutually covenant and agree as follows:

ARTICLE I DEFINITIONS

The following words and phrases, when used herein with an initial capital letter, shall have the meanings set forth below unless a different meaning plainly is required by the context. Any reference to a section number shall refer to a section of this Agreement unless otherwise specified.

- 1.1 **Administrator** means the person, committee or entity appointed by the Trust Committee to serve as plan administrator of the Plan. The Administrator shall be retained by the Trust Committee and shall administer the Plan pursuant to an administrative services agreement entered into between the Administrator and the Trust Committee.
- 1.2 **Authorized Investment** means and is limited to those investments that are defined as permissible for investment of public funds in Section 24-75-601 et seq. C.R.S., as in effect from time to time.
- 1.3 **Beneficiary** means any person designated under the terms of the Plan to receive benefits payable upon the death of a Participant.
- 1.4 **Code** means the Internal Revenue Code of 1986, as amended.
- 1.5 **Custodian** means Wells Fargo Bank, N.A., which shall serve as custodian for the Trust Fund. To the extent any assets are held by any custodian other than Wells Fargo Bank, N.A., such party shall also be considered a Custodian for the Trust.
- 1.6 **Fiscal Year** means the accounting year of the Trust, which shall commence on January 1 and end on December 31 of each year, except that the first year shall commence on the Effective Date and shall end on the immediately following December 31.
- 1.7 **Investment Committee** means the person, committee or entity appointed in accordance with the terms of the Trust to make and effect investment decisions under the Plan and Trust. Unless the Trust Committee appoints an Investment Committee, the Trust Committee shall be deemed to be the Investment Committee.
- 1.8 **Investment Fund** means any of the separate funds established by the Investment Committee for the investment of Plan assets.
- 1.9 **Investment Manager** means any person, corporation or other organization or association appointed by the Trust Committee pursuant to the terms of Section 4.3 to manage, acquire or dispose of the assets of an Investment Fund.
- 1.10 **Members or Member** means those governmental employers listed on Exhibit A and any other governmental employer that becomes a participating Member under this Trust pursuant to Article VIII, below.

- 1.11 **Member Representative** means that person who has been designated in writing by a Member as its representative to the Trust.
- 1.12 **Participant** means an employee or former employee of the Member.
- 1.13 **Plan** means the Colorado Firefighter Heart and Circulatory Benefits Plan set forth in Part 3 of Article 5 of Title 29, Colorado Revised Statutes, and in the Plan Summary of Benefits as such Plan may be amended from time to time.
- 1.14 **Trust** means the trust established by this Agreement.
- 1.15 **Trust Committee** means the Trust Committee appointed pursuant to Section 3.1 of this Trust Agreement, acting as a group or body.
- 1.16 **Trust Fund** means the total amount of cash and other property held in the Trust under this Agreement.
- 1.17 **Trustee** means the Trust Committee members and their successors as provided by this Agreement.

ARTICLE II ESTABLISHMENT OF THE TRUST

- 2.1 **Trust Established.** The Members hereby establish with the Trust Committee, as a funding medium for the Plan, a Trust consisting of the Trust Fund and such earnings, profits, increments, additions and appreciation thereto and thereon as may accrue from time to time.
- 2.2 **Limit of Interest - Impossibility of Diversion.** It shall be impossible at any time for any part of the Trust to be used for or diverted to purposes other than for the exclusive benefit of the Participants and Beneficiaries covered under the Plan, except that the payment of taxes and administration expenses may be made from Trust funds as hereinafter provided. Funds of the Trust may not be transferred to any other account or fund of a Member.
- 2.3 **Trust Committee's Acceptance.** The Trust Committee accepts the Trust hereby created and agrees to perform the duties hereby required of the Trust Committee.

ARTICLE III TRUSTEES AND SUCCESSOR TRUSTEES

- 3.1 **Trustees.** The Trust shall be administered by the Trust Committee. The Trust Committee shall be comprised of seven (7) individual Trustees; provided, however, that the Trust Committee shall be deemed duly constituted and may commence operations of the Trust upon seating of and execution of this Agreement by four (4) initial Trustees. Each Trustee must be a Participant and current employee of a Member, except as provided below. Trustees shall be

appointed by the Board of Directors of the Colorado State Fire Chiefs (“CSFC Board”) from among the following:

- (a) One Trustee who is a Member Representative from a fire district or fire authority serving an area having less than thirty thousand (30,000) in population;
- (b) One Trustee who is a Member Representative from a fire district or fire authority serving an area having more than thirty thousand (30,000) in population;
- (c) One Trustee who is a Member Representative from a municipality having less than thirty thousand (30,000) in population;
- (d) One Trustee who is a Member Representative from a municipality having more than thirty thousand (30,000) in population;
- (e) One Trustee who is a Participant and officer of the Colorado Professional Firefighters Association (“CPFF”), who is designated for appointment by CPFF; and
- (f) Two Trustees who are Member Representatives from two other Members of any size or type, who are elected or appointed officials or employees of the Member and are not firefighters eligible for participation in the Plan.

Nominations for Trustees from the Members and CPFF shall be made by elected governing body of the Member (i.e., district board of directors, city council, CPFF Board of Directors) and be submitted to the CSFC Board at such time as the CSFC Board may provide. Terms of the Trustees shall be two-year, overlapping terms or until their successors have been appointed, except that among the initial Trustees, four of them shall serve an initial term of two years and three of them shall serve an initial term of one year as set for below so as to establish the staggering of terms. The term shall begin on a January 1, and end at midnight on a December 31, except that the initial undersigned Trustees’ terms shall begin upon the formation of the Trust.

A vacancy shall occur on the Trust Committee when a Trustee (1) submits a written resignation to the Trust Committee; (2) dies; (3) ceases to be a Participant; (4) ceases to be a Member Representative, except in the case of the CPFF Trustee to whom such requirement (4) does not apply; (5) fails to attend three consecutive regular meetings of the Trust Committee without the Committee having entered upon the record its proceedings an approval for an additional absence or absences, except that such additional absence or absences shall be excused for temporary mental or physical disability or illness; or (6) is convicted of a felony. Any vacancy on the Trust Committee shall be filled by appointment by the CSFC Board for the unexpired portion of the term. Upon appointment and written acceptance thereof, a successor Trustee shall have all the title, rights, powers and privileges and duties conferred or imposed upon the initial or predecessor Trustee.

3.2 **Successor Trustees.** No successor Trustee need examine the accounts, records and acts of any previous Trustee of any allocation of the Trust assets, nor shall such successor Trustee be

responsible for any act or omission to act on the part of any previous Trustee. All Trustees and their successors from time to time acting under this Agreement shall have all the rights, powers and duties of the initial Trustees named in this Agreement, unless this Agreement is amended to provide otherwise.

3.3 **Compensation.** The Trustees shall receive no compensation for their services rendered under this Agreement other than any compensation as an employee of a particular Member. The Trust Committee may adopt policies to reimburse Trustees for actual meeting expenses and attendance at the Trust Committee meetings and other properly incurred expenses on Trust matters.

3.4 **Chair and Officers; Sub-Committees.** The officers of the Trust Committee shall be the chair, vice chair and secretary. The officers shall be appointed by the Trust Committee from among its members. Appointment of officers shall occur at the first meeting of the Trustee Committee each year. The Trust Committee may establish sub-committees necessary or appropriate to the exercise of its powers.

3.5 **Meetings.** The Trust Committee shall determine the time and place of its regular meetings. Special meetings of the Trust Committee may be called by the chair or by three (3) Trustees. The Trustees shall be provided with at least ten (10) days prior written notice designating the time, place and agenda of a regular meeting and three (3) days prior written notice designating the time, place and agenda of any special meeting. The manner of giving notice of meetings may include, without limitation, service by electronic mail to the Trustee's e-mail address. Regular and special meetings of the Trust Committee may be held by telephone or electronic (internet-based) conference call. Any meeting at which all Trustees are present in person, or concerning which all Trustees have waived notice in writing, shall be a valid meeting without the requirement to provide any notice.

3.6 **Proxy.** Any Trustee may duly authorize in writing another Trustee to cast a vote on one (1) or more specific matters to be voted on at a meeting, on behalf of such Trustee. Any such written authorization must specify the matter or matters and be given for a specific meeting and may not carry over to subsequent meetings.

3.7 **No Delegates.** A Trustee and/or the Trustee's Member Representative may not appoint a delegate to serve in his or her place.

3.8 **Quorum and Voting.**

- (a) To constitute a quorum at any regular or special meeting of the Trust Committee and for any action to be valid at such meeting, there must be present in person or by proxy at least four (4) of the seven (7) Trustees.
- (b) Valid actions at meetings at which a quorum is present require the affirmative vote of a simple majority of those Trustees present and voting, except where an absolute majority is expressly required. Each Trustee shall cast his or her vote on each matter upon which action is taken, except where abstention from voting is

required because of conflict of interest.

- (c) To approve the following items, an absolute majority vote (as defined below) is required:
 - (1) Annual budget;
 - (2) Incurring any debt other than liabilities in the ordinary course of business; and
 - (3) Settling any litigation involving the Plan or Trust.

An absolute majority vote is the affirmative vote of at least four (4) Trustees.

3.9 **Action without a Meeting.** Any action that may be taken at a meeting of the Trust Committee may be taken without a meeting upon the written consent of a sufficient number of the Trustees otherwise required to approve such action at a meeting and shall be effective on the date of the last consent, unless two (2) or more Trustees object to taking the action without a meeting. A copy of such written consent, signed by the Trustees, shall be provided within ten (10) days of the effective date of the consent to each Trustee. Consent may be signified by a signature of the Trustee on a written consent or by an electronic means, such as an affirmative email response to a request for confirmation of favorable action on a matter, approval of a specific resolution, etc.

3.10 **Conflicts of Interest.** Trustees should avoid the appearance of impropriety. A Trustee shall exercise care that the Trustee's independent judgment in the discharge of Trust Committee responsibilities is not impaired as a result of conflicts between the interests of the Trust and the Trustee's own financial interests or personal interests, or the financial interests or personal interests of the members of the Trustee's family or associates. A Trustee shall not vote or decide upon any matter relating solely to himself or herself or vote in any case in which his or her individual right or claim to any benefit under the Plan is particularly involved or in which he or she otherwise has a conflict of interest. In the event that a Trustee believes that he or she has a conflict of interest, the Trustee shall disclose the conflict to the Trust Committee and shall refrain from participating in the matter to which the conflict relates. The minutes of the meeting where the disclosure is made shall reflect the disclosure and the fact of the Trustee having abstained from participation in the matter. A Trustee shall not use confidential information acquired in the course of the performance of Trust Committee responsibilities to further that Trustee's own financial interests or personal interests, or the financial interests or personal interests of the members of the Trustee's family or associates.

3.11 **Office Location and Meeting Place.** All meetings of the Trust Committee shall be held at a place designated at least annually by the Trust Committee, or the chair, if the Trust Committee is unable to reach an agreement regarding a meeting location. The Trust shall have its principal office at 433 S. Allison Parkway, Lakewood, CO 80226.

3.12 **Agent for Service of Legal Process.** The designated agent for service of legal process

shall be Samuel J. Light, Light Kelly, P.C. 101 University Blvd., Suite 210, Denver, Colorado 80206, or any successor agent as the Trust Committee shall designate.

3.13 **Rules and Regulations.** The Trust Committee shall have the power at any regular or special meeting to adopt bylaws, rules, regulations and policies for the administration of the Trust, and for the conduct of the affairs of the Trust Committee. Any bylaws, rules, regulations and policies of the Trust Committee shall be consistent with the written provisions of the Trust Agreement, and shall be binding upon all persons dealing with the Trust and upon any and all persons claiming any benefits under the Plan.

ARTICLE IV DUTIES OF TRUST COMMITTEE

4.1 **Duties.** It shall be the duty of the Trust Committee:

- (a) **Receipt of Contributions.** To receive any contributions paid to it under this Agreement in cash or in other property acceptable to the Trust Committee. The Trust Committee shall not be responsible for the calculation or collection of any contribution required to be paid by the Member to the Trust under the Plan, but shall be responsible only for property actually received by it pursuant to this Agreement.
- (b) **Management of Funds.** To hold, invest, reinvest, manage and administer (except as otherwise provided herein) all contributions so received, together with the income therefrom and any other increment thereon, for the benefit of Participants and their Beneficiaries in accordance with the terms of this Agreement.
- (c) **Payments.** To direct payments under the Plan; provided, however, that the Trust Committee may rely upon the directions received from the Administrator, and the Administrator hereby indemnifies the Trust Committee from any loss, claim, damage or liability, including legal expenses, that may arise in connection with the Trust Committee's acting upon such direction.
- (d) **Appointment of Administrator.** To appoint such person, committee or entity as the Trust Committee shall determine to serve as Administrator of the Plan, and to contract with the Administrator for provision of its services. The Trust Committee shall have the power to terminate the appointment of the Administrator upon written notice with or without cause.
- (e) **Appointment of Investment Committee.** To appoint as the Investment Committee such person, committee or entity as the Trust Committee shall determine to make and effect investment decisions under the Plan and Trust; provided, however, that the Trust Committee may appoint itself as the Investment Committee.

ARTICLE V INVESTMENT OF TRUST ASSETS

5.1 General Investment Power/Investment Funds.

- (a) **Authority of Investment Committee.** Except as provided in Sections 5.2 and 5.3, the Investment Committee shall have all authority and responsibility for the management, disposition and investment of the Trust Fund, and the Trust Committee shall comply with directions of the Investment Committee. The Investment Committee shall not issue any directions that are in violation of the terms of the Plan or this Agreement.
- (b) **Investment Funds.** The Trust may be divided into one or more separate Investment Funds, the number, makeup and description of which shall be determined from time to time by the Investment Committee. The Trust Committee shall implement, terminate, value, transfer to and from and allocate the gains, losses and expenses among the Investment Funds in accordance with the proper directions of the Investment Committee, the Administrator, or their delegates, and, to the extent applicable under the terms of this Agreement, the directions of Investment Managers.
- (c) **Funding Policy.** The Trust Committee shall have responsibility for selecting or establishing and carrying out a funding policy and method, consistent with the objectives of the Plan. The Trust Committee shall be responsible for the proper diversification of the Trust Fund, for the prudence of any investment of Trust assets consistent with State law, for compliance with statutory limitations on the amount of investment in securities, and for assuring that any such investments meet the requirements of State law.

5.2 Investment Managers.

- (a) **Appointment.** The Investment Committee may, but shall not be required to, appoint one or more Investment Managers to manage the assets of all or any one or more of the Investment Funds. Each such Investment Manager shall be either (i) registered as an investment adviser under the Investment Advisers Act of 1940; (ii) a bank, as defined in such Act; or (iii) an insurance company qualified to perform the services of Investment Manager under the laws of more than one state. The Investment Committee shall obtain from any Investment Manager so appointed by it a written statement acknowledging (i) that such Investment Manager is or on the effective date of its appointment will become a fiduciary with respect to the Trust assets under its management; (ii) certifying that such Investment Manager has the power to manage, acquire or dispose of Trust assets in the manner contemplated by the contract or other written instrument by which its appointment is or will be effected; and (iii) certifying that it is either an investment adviser, a bank or an insurance company which is qualified to be appointed as an Investment Manager under this Agreement.

- (b) **Contractual Arrangement.** The Investment Committee shall enter into a written contract or agreement with each such Investment Manager in connection with its appointment as such, and such contract shall be subject to such terms and conditions and shall grant to the Investment Manager such authority and responsibilities in the management of the applicable Investment Fund assets as the Investment Committee deems appropriate under the circumstances. Without limiting the generality of the foregoing, such contract may establish investment objectives for the assets of the Investment Fund(s) under the management of the Investment Manager and may limit the types of assets that may be acquired or held by such Investment Fund(s).
- (c) **Trust Committee's Duties.** With respect to each Investment Fund the management of which has been delegated to an Investment Manager, the Trust Committee shall follow and carry out the instructions of the appointed Investment Manager with respect to the acquisition, disposition and reinvestment of assets of such Investment Fund, including instructions relating to the exercise of all ownership rights in such assets.
- (d) **Failure to Direct.** In the event that an appointed Investment Manager shall fail to direct the Trust Committee with respect to investment of all or any portion of the cash held in an Investment Fund under its management, the Trust Committee shall invest such cash only when and as directed by the Investment Committee.
- (e) **Termination of Appointment.** The Investment Committee shall have the power to terminate the appointment of an Investment Manager upon written notice with or without cause. Upon the termination of the appointment of an Investment Manager, the Investment Committee shall (i) appoint a successor Investment Manager with respect to the Investment Fund(s) formerly under the management of the terminated Investment Manager, (ii) direct the Trust Committee to merge or combine such Investment Fund(s) with other Investment Fund(s) or Trust assets, or (iii) direct the Trust Committee to invest the assets of such Investment Fund as the Investment Committee deems appropriate in accordance with the existing funding policy.

5.3 **Manner and Effect of Directions.**

- (a) **Delegation of Authority to Custodian.** The Custodian is delegated the authority and responsibility for receiving and carrying out the directions of the Trust Committee, the Administrator, the Investment Committee, any Investment Manager or their designees. With respect to any assets held by a party other than Trust Committee, the Trust Committee is authorized and directed to delegate to the Custodian the authority and responsibility for receiving and carrying out the directions of the Investment Committee, any Investment Manager or their designees. The Trust Committee is authorized and directed to enter into such

agreements with another Custodian as are deemed necessary or appropriate to effect such delegation.

- 5.4 **Authorization of Designee(s).** The Administrator and the Investment Committee may each appoint one or more designees to act on their behalf. If a designee (or designees) is appointed, the appropriate committee shall furnish the Trust Committee with written documentation of the appointment and a specimen signature of each designee. The Trust Committee shall be entitled to rely upon such documentation until the Trust Committee is otherwise notified in writing.

ARTICLE VI POWERS OF TRUST COMMITTEE

- 6.1 **General Authority.** In accordance with the directions of the Investment Committee and any Investment Managers as provided in Article V, the Trust Committee shall receive, hold, manage, convert, sell, exchange, invest, reinvest, disburse and otherwise deal with the assets of the Trust, including contributions to the Trust and the income and profits therefrom, without distinction between principal and income and in the manner and for the uses and purposes set forth in the Plan and as hereinafter provided.
- 6.2 **Specific Powers.** In the management of the Trust, the Trust Committee shall have the following powers in addition to the powers customarily vested in trustees by law and in no way in derogation thereof; provided, all such powers shall be exercised only upon and in accordance with the directions of the Investment Committee and, to the extent applicable, any duly appointed Investment Managers:
- (a) **Purchase of Property.** With any cash at any time held by it, to purchase or subscribe for any authorized investment (as defined in Section 6.3) and to retain the same in trust.
 - (b) **Disposition of Property.** To sell, exchange, transfer or otherwise dispose of any property at any time held by it.
 - (c) **Retention of Cash.** To hold cash without interest in administrative accounts for contribution and distribution processing in such amounts as may be reasonable and necessary for the proper operation of the Plan and the Trust.
 - (d) **Exercise of Owner's Rights.** The Members acknowledge and agree that the Trust Committee shall have the right or power to vote proxies appurtenant to securities that it holds. The Members acknowledge and agree that the Trust Committee shall have the power to make any review of, or consider the propriety of, holding or selling any assets held in the Trust Fund in response to any tender offer, conversion privilege, rights offering, merger, exchange, public offering and/or any proxy action for any of such assets.

- (e) **Registration of Investments.** To cause any stock, bond, other security or other property held as part of the Trust to be registered in its own name or in the name of one or more of its nominees; provided, the books and records of the Trust Committee shall at all times show that all such investments are part of the Trust.
- (f) **Borrowing.** To the extent permitted by State law and at the direction of the Investment Committee, to borrow or raise money for the purposes of the Trust in such amounts, and upon such terms and conditions, as determined by the Investment Committee; and, for any sum so borrowed, to issue its promissory note as Trust Committee and to secure the repayment thereof by pledging all or any part of the Trust Fund to the extent permitted by State law; and no person lending money to the Trust Committee shall be bound to see to the application of the money lent or to inquire into the validity, expediency or propriety of any such borrowing.
- (g) **Purchase of Contracts.** To apply for, purchase, hold, transfer, surrender and exercise all incidents of ownership of any insurance, re-insurance, excess or stop loss insurance or annuity contract that the Trust Committee determines or the Investment Committee directs it to purchase or that is necessary or appropriate to carrying out the purposes of the Plan. The Trust Committee shall endeavor to obtain stop loss insurance to provide coverage for payment of benefits under the Plan above specified per claim and aggregate limits, provided such stop loss coverage can be obtained at a reasonable cost as determined by the Trust Committee.
- (h) **Execution of Instruments.** To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments, which may be necessary or appropriate to carry out the powers herein granted.
- (i) **Settlement of Claims and Debts.** To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal or administrative proceedings and to represent the Trust in all suits and legal and administrative proceedings.
- (j) **Establish Rules and Polices.** To establish, to the extent consistent with this Agreement and the Plan, rules and policies necessary or appropriate to the administration of the Trust or the carrying out of the powers herein granted;
- (k) **Trustee Insurance.** To purchase on behalf of the Trust Committee and the Investment Committee, trustees' errors and omissions insurance or similar coverage in such amounts as are recommended by a licensed insurance broker for benefit plans and a trust of similar size and purpose.
- (l) **Risk Management.** To establish reasonable risk management policies and procedures.

- (m) **Delegation.** To delegate in writing fiduciary responsibilities or ministerial powers and duties to such officers, agents, representatives and independent contractors as determined desirable, provide such delegation does not conflict with the provisions of this Agreement or the Plan.
- (n) **Employment of Agents, Advisers and Counsel.** To employ suitable agents, actuaries, auditors, accountants, investment advisers, brokers and counsel, and to pay their reasonable expenses and compensation.
- (o) **Appointment of Custodian.** The Trust Committee shall designate a custodian to hold Trust assets. The Trust Committee may change the custodian upon an affirmative vote of four (4) Trustees.
- (p) **Power to do any Necessary Act.** To do all acts which it may deem necessary or proper and to exercise any and all powers under the Plan and this Agreement upon such terms and conditions as it may deem in the best interests of the Trust.

6.3 **Authorized Investments.**

- (a) **General Definition.** “Authorized investment” as used in this Article VI shall mean and be limited to those investments that are defined as permissible for investment of public funds in Section 24-75-601 et seq. C.R.S., as in effect from time to time.
- (b) **Responsibility for Compliance.** The responsibility for determining whether any investment of Trust assets complies with the terms of this Agreement and applicable law shall lie solely with the Trust Committee.

ARTICLE VII CONTRIBUTIONS TO THE TRUST FUND

7.1 **Member Contributions.** Subject to the limitations of this Agreement, each Member shall pay or cause to be paid contributions to the Trust at such times and in the amounts determined by the Trust Committee as are necessary to ensure funding of the Trust is sufficient, that operation of the Trust is not hazardous to the public or Participants or which the Trust Committee otherwise deems beneficial to protect the financial condition of the Trust. The Trust Committee shall establish Member contributions consistent with this Agreement, the Plan and any guidelines consistent with this Agreement and the Plan as established by the Trust Committee from time-to-time.

7.2. **Contributions on Annual Basis; Rate Structure.** The contribution rate structure for Member contributions shall provide for contributions to be made on an annual basis. Contributions shall be sufficient to fund the projected benefits and applicable expenses for the Participants receiving benefits under the Plan.

7.3 **Failure to Make Contributions.**

- (a) If any Member fails to make its Member contribution to the Trust within thirty (30) business days after the date on which they are due, such contributions shall bear interest from the date due at the rate of return for the three (3) month LIBOR rate set on the date when such contribution was first due plus one percent (1%), compounded monthly.
- (b) Any other Member may, with the consent of the Administrator, make the contribution on behalf of the delinquent Member and, such amount shall become a debt of the delinquent Member to the contributing Member.
- (c) The Trust Committee has the right, upon an affirmative vote of four (4) Trustees, with any Trustees from a Member in default excluded from the vote, should the delinquent Member not cure the delinquency within thirty (30) calendar days after the Administrator provides written notice to the Member of its delinquency, to terminate:
 - (1) such Member's participation in the Plan and Trust at the end of an additional thirty (30) calendar day notice period or the end of the Plan year of the Member's delinquency, if earlier, if such delinquency is not cured, and
 - (2) upon such termination, no claims submitted by Participants of the delinquent Member for benefits subsequent to the date of the termination, shall be paid by the Trust.
- (d) The Trust Committee also has the right, upon an affirmative vote of four (4) Trustees, with any Trustees from the Member in default excluded from the vote, to notify the Participants of such delinquent Member that such Member's participation in the Plan and Trust has been or will be terminated.
- (e) Nothing herein, however, shall relieve the delinquent Member of its responsibility for benefits payable to its Participants.

7.4 **TABOR Compliance.** This Agreement does not create a multiple fiscal year direct or indirect debt or other financial obligation. All financial obligations of a Member under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. No Member's contribution for any Fiscal Year shall exceed the annual contribution billed for such Fiscal Year unless additional funds for payment thereof have been appropriated by the Member.

7.5 **State Funding.** For benefits required under Section 29-5-302, C.R.S., no Member shall be required without its consent to make a contribution for a Fiscal Year in excess of the amount of state funding paid or payable to the Member under Section 29-5-302(11), C.R.S. for that Fiscal Year. There is reserved to the Members and to the Trust the right set forth in Section 29-

5-302(12) C.R.S., providing that if, at any time, the state funding provided for the benefit required by Section 29-5-302, C.R.S. is insufficient to cover the cost of the benefit, then the requirements of Section 29-5-302, C.R.S. to maintain the benefit shall become optional pursuant to Section 29-1-304.5 C.R.S. The Trust Committee may establish guidelines consistent with this Agreement governing any exercise of the right under said Section 29-5-302(12), C.R.S.

7.6 **Reports.** The Trust Committee shall provide reports needed for purposes of administration of this Agreement and the Plan.

ARTICLE VIII

PARTICIPATION, WITHDRAWAL AND OBLIGATIONS OF MEMBERS

8.1 **Participation in Trust by Members.** The initial participating Members in the Trust are as set forth on Exhibit A. Additional Members may participate in the Trust subject to the approval of the Trust Committee, which participation shall be effective as of the beginning of the next Fiscal Year or such other date as determined by the Trust Committee. Participation in the Trust is limited to those employers who are governmental entities participating for purposes of Part 3 of Article 5 of Title 29, C.R.S. The Trust Committee reserves the right to require a new participating Member at the time of joining the Trust to contribute to the reserves of the Trust or to make such other appropriate financial contribution as determined by the Trust Committee. The Trust Committee may reject requested participation by any additional Member for any reason. To participate in the Trust, a Member must properly adopt and enter into this Trust Agreement, which shall be evidenced by providing to the Trust Committee (i) a certified copy of the resolution or ordinance of the governing body of the Member approving and entering into this Trust Agreement, and (ii) a signed counterpart original of this Trust Agreement duly executed by presiding officer of the governing body or other authorized officer of the Member.

8.2 **Withdrawal by Member.** A Member may withdraw from participation in the entire Trust on the following terms and conditions:

- (a) Except as provided in this section, any Member which intends to withdraw from participation in the Trust must give at least ninety (90) days advance written notice to the Trust Committee. Upon a Member's withdrawal from the Trust, any Trustees who are employees of such Member shall no longer serve as Trustees.
- (b) Upon withdrawal, the Member shall be deemed to have withdrawn from participation in the entire Trust. Upon the effective date of withdrawal, the Member's Participants shall cease to participate in the Plan, provided, that if required by law, a Participant's benefits may be extended pursuant to, if and to the extent applicable, the terms and provisions of the Plan, including those Participants who have filed a claim for or are receiving benefits under the terms of the Plan prior to the effective date of the Member's withdrawal, in which case benefits shall continue subject to the withdrawing Member's payment of required contributions.
- (c) Upon withdrawal, the Trust Committee also has the right to notify the Participants

of such withdrawing Member that such Member's participation in the Plan and Trust has ceased or will cease.

- (d) In the event of a Member's withdrawal pursuant to this section, such withdrawing Member shall have no right to any of the assets, income or reserves of the Trust at any time, nor shall such Member have any right to a refund or rebate of any of its contributions to the Trust.

8.3 **Successors and Assigns.** Upon approval of the Trust Committee, a participating Member may transfer or assign its participation in the Trust to any successor in interest, whether by merger, consolidation, reorganization, restructuring, transfer of employees, or dissolution, creation or consolidation of Member entities or governing boards or otherwise.

8.4 **Powers of Members.** In addition to powers herein vested in the Members, the Members shall have the power to:

- (a) Amend the Trust Agreement by a two-thirds (2/3) vote of the Members present at a meeting. Written notice of any proposed amendment shall be provided to each Member at least forty-five (45) days in advance of any vote on the amendment.
- (b) Terminate the Plan and disburse its assets by a two-thirds (2/3) vote of all Members, pursuant to such notice and in keeping with such procedure as shall be established by the Trust Committee. In the case of such a vote, termination of the Plan shall be pursuant to provisions of Article X.

8.5 **Meetings of the Members.** Meetings of the Members shall be held as follows:

- (a) Members shall meet at least once annually at a time and place to be set by the Trust Committee, with notice mailed to each Member at least thirty (30) days in advance.
- (b) Special meetings of the Members may be called by the Trust Committee upon its own motion and shall be called by the Trust Committee upon written request of thirty (30) percent of the Members, with notice mailed to each Member at least thirty (30) days in advance.
- (c) The chair of the Trust Committee shall preside at the meetings; the vice chair shall preside in the absence of the chair.
- (d) Thirty percent (30%) percent of the Members shall constitute a quorum to conduct business.
- (e) Except for action to terminate the Plan, proxy voting shall be allowed, pursuant to such procedures as the Trust Committee may determine. Each Member shall be entitled to one vote on each issue, to be cast by its Member Representative.

8.6 **Member Obligations.** In addition to the other provisions, hereof, each Member shall have the obligation to:

- (a) Pay all contributions or other payments to the Trust at such times and in such amounts as shall be established by the Trust Committee. Any delinquent payments shall be paid with interest pursuant to a policy established by the Trust Committee and uniformly applied.
- (b) Designate in writing a Member Representative and one or more alternates for the Members' meetings. The Representative and any alternate shall be an employee of the Member, and may be changed from time to time. Any alternate may exercise all the powers of the Representative during a Member meeting in the absence of the Member Representative.
- (c) Allow the Trust Committee and Administrator and their agents reasonable access to records of the Member as required for the administration of Plan and Trust.
- (d) Cooperate fully with the Trust Committee and Administrator and their agents in matters relating to the administration of the Plan and Trust and the administration and coordination of benefits under the Plan.
- (e) Allow the Trust Committee to make decisions regarding, and to designate attorneys to represent the Member in, the investigation, settlement and litigation of any claim within the scope of benefits furnished through the Plan.
- (f) Comply with the benefits administration, claims handling and related policies established by the Trust Committee.

ARTICLE IX ADMINISTRATION

9.1 **Accounting.**

- (a) **Books and Records.** The Administrator generally shall be responsible for keeping accurate and detailed records of all investments, receipts and disbursements and other transactions hereunder, including such specific records as shall be required by law and such additional records as may be agreed upon in writing between the Administrator and the Trust Committee. All books and records relating thereto shall be open to inspection and audit at all reasonable times by any person or persons designated by the Administrator, the Member, or the Investment Committee. The Trust Committee shall promptly provide copies of such books or records to any persons designated by the Administrator.
- (b) **Accounting.** Following the close of each Plan year of the Plan, or more frequently as the Trust Committee and the Administrator may agree, the Trust Committee, with the assistance of the Administrator, shall cause to be prepared a

written statement setting forth all investments, receipts, disbursements and other transactions effected during such year or during the period beginning as of the close of the last preceding year. Except as may be required by statute or by regulations published by State or federal government agencies with respect to reporting and disclosure, as may be required pursuant to the terms of the Plan or this Agreement or as reasonably may be requested by a majority of the Members or the Investment Committee, no person shall have the right to demand or to be entitled to any further or different accounting by the Trust Committee.

- (c) **Release.** Except with regard to claims of breach of fiduciary duty, upon the expiration of 90 days from the date of presentation to the Members of such annual or other statement, the Trust Committee shall forever be released and discharged from any liability or accountability to anyone as respects the propriety of its acts or transactions shown in such account, except with respect to any acts or transactions as to which, within such 90-day period, a Member whose interest is affected by such act or transaction shall file with the Trust Committee its written disapproval. In the event such a disapproval is filed, and unless the matter is compromised by agreement of the Trust Committee, the Trust Committee shall file its statement covering the period from the date of the last annual statement to which no objection was made in any court of competent jurisdiction for audit or adjudication. The applicable statutes of limitation shall be available to the Trust Committee in the event of a claim of breach of fiduciary duty.
- (d) **Valuations.** The Trust Committee shall designate a party to be responsible for valuations of assets of the Trust for which prices are not readily available on a nationally recognized securities exchange.
- (e) **Reliance on Administrator.** The Trust Committee shall be entitled to rely on the Administrator and any Custodian, other than Trust Committee, for the maintenance and provision of all records specified in this Section.

9.2 **Expenses.** The expenses incurred by the Trust Committee in the performance of its duties hereunder, including fees for legal and other services rendered and all other proper charges and disbursements of the Trust Committee, including taxes of any and all kinds whatsoever, that may be levied or assessed under existing or future laws upon or in respect of the Trust or any money, property or security forming a part of the Trust Fund, shall be paid by the Trust Committee from the Trust Fund, and the same shall constitute a charge upon the Trust Fund. To the extent the Member pays any expenses that are properly payable from the Trust Fund, the Trust Committee shall reimburse the Member that has made payment from the Trust Fund if requested to do so by the Member.

ARTICLE X AMENDMENT OF TRUST; TERMINATION OF PLAN

10.1 Amendment of Trust.

- (a) **Right to Amend.** The Members may amend this Agreement at any time or from time to time by the affirmative vote of two-thirds (2/3) of all Members, and any such amendment by its terms may be retroactive. An amendment shall require compliance with the terms of Section 8.4(a). An adopted amendment shall become effective upon the date specified in the ballot approved by the Members, without necessity of further written consent or signatures by the Members. Upon adoption of any amendment, the Trust Committee shall cause a current copy of this Agreement to be sent to each Member.
- (b) **Exclusive Benefit.** Notwithstanding the foregoing, no amendment shall be made which would authorize or permit any assets of the Trust Fund, other than such assets as are required to pay taxes and administration expenses, to be used for or diverted to purposes other than the exclusive benefit of Participants or Beneficiaries.

10.2 **Termination of Plan.** The Trust shall continue for such time as may be necessary to accomplish the purposes for which it was created and shall terminate only upon the complete distribution of the Trust. The Trust may be terminated as of any date (and shall in fact terminate upon the complete distribution of the funds of this Trust on such date or thereafter) by unanimous vote of the Trust Committee and approval by a two-thirds (2/3) vote of all Members. Upon termination of the Trust, provided that the Trust Committee has not received instructions to the contrary, the Trust Committee shall liquidate the Trust and, after paying the reasonable expenses of the Trust, including expenses involved in the termination, distribute the balance thereof according to the written directions of each Member for the provision of benefits similar to those provided under the Plan for the benefit of each such Member's Participants and Beneficiaries covered thereunder; provided, however, that the Trust Committee shall not be required to make any distribution until the Trust Committee is reasonably satisfied that adequate provision has been made for the payment of all taxes, if any, which may be due and owing by the Plan and the Trust; and provided, further, that in no event shall any distribution be made by the Trust Committee until the Trust Committee is reasonably satisfied that the distribution will not be contrary to the applicable provisions of the Plan dealing with termination of the Plan and the Trust.

10.3 **Final Accounting.** At such time as the Trust is terminated, the Trust Committee shall render a final accounting of the affairs of the Trust to each participating Member, and thereafter there shall be no claim or action against the Trust Committee or any Trustee, and they shall have no further responsibilities or duties and shall be discharged.

ARTICLE XI MISCELLANEOUS

11.1 **Nonalienation of Benefits.** Neither the benefits payable from the Trust Fund nor any interest in any of the assets of the Trust Fund shall be subject in any manner to the claim of any creditor of a Participant, or Beneficiary or to any legal process by any creditor of such Participant, or Beneficiary; and neither a Participant nor any Beneficiary shall have

any right to alienate, commute, anticipate or assign any right to benefits payable from or any interest in the Trust, except as provided in the Plan.

11.2 **Benefit.** Except as otherwise provided in the Plan and this Agreement, no part of the Trust hereunder shall be used for or diverted to any purpose other than for the benefit of Participants and Beneficiaries or the payment of expenses as herein provided.

11.3 **Effect of Plan.** The Trust Committee is not a party to the Plan, and in no event shall the terms of the Plan, either expressly or by implication, be deemed to impose upon the Trust Committee any power or responsibility other than as set forth in this Agreement. In the event of any conflict between the provisions of the Plan and this Agreement, this Agreement shall be deemed to be incorporated into and be a part of the Plan, and the terms of this Agreement shall control over any inconsistent terms of the Plan not contrary to State law.

11.4 **Dispute Resolution.**

- (a) Disputes arising in relation to benefits under the Plan shall be resolved in accordance with the procedures established in the Plan.
- (b) The parties to this Agreement (each, a “party”) are mutually committed to collaborative problem solving for resolving issues that may arise among or between them concerning this Agreement. In the event of a dispute, the complaining party may notify the other party of the dispute in writing and each party to the dispute will each appoint a representative to negotiate in good faith to resolve the dispute. These negotiations between representatives of the parties shall continue until the earliest of: (a) the time the dispute has been resolved; (b) the designated representatives have concluded that continued negotiation does not appear likely to resolve the dispute; or (c) thirty (30) days from the date of written notice of the dispute. If the dispute is not resolved through direct negotiations, the parties may, with the consent of all parties, attempt to settle any dispute arising out of or related to this Agreement through mediation. Unless otherwise agreed by the parties, mediation shall proceed as follows: The parties may agree on a mediator. If they are unable to agree on a mediator within thirty (30) days of the agreement to mediate, the parties shall contact an agreed upon dispute resolution organization or service and shall use its selection process to select a mediator. Each party shall bear its own costs of the mediation and the parties shall share the costs of the mediator. The mediation shall be scheduled within sixty (60) days of the agreement to mediate. If the direct negotiation process is unsuccessful and the parties do not consent to mediation or the agreed-upon mediation process does not successfully resolve the dispute within ninety (90) days of the agreement to mediate, the parties shall be entitled to pursue any other remedy allowed by law or this Agreement. However, no party shall pursue such a remedy without first exhausting the direct negotiation process.

- 11.5 **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto with regard to the subject matter hereof, and there are no other agreements or understandings between the parties relating to the subject matter hereof other than those set forth or provided for herein.
- 11.6 **Approval of the Members.** The Members shall have the right, on behalf of all individuals at any time having any interest in the Trust, to approve any action taken or omitted by the Trust Committee.
- 11.7 **Liability for Predecessor or Successor.** No successor Trustee hereunder in any way shall be liable or responsible for any actions or omissions of any prior Trustee in the administration of the Trust or the Trust Fund prior to the date such successor Trustee assumes its obligations hereunder, nor shall any prior Trustee in any way be liable or responsible for any actions or omissions of any successor Trustee.
- 11.8 **Liability for Acts of Others.** No Trustee shall be liable for the acts or omissions of a Member, the Custodian, the Administrator, the Investment Committee or any Investment Manager except with respect to any acts or omissions of any such party in which the Trustee participates knowingly or which the Trustee knowingly undertakes to conceal, and which the Trustee knows constitutes a breach of fiduciary responsibility of such party.
- 11.9 **Governmental Immunity.** It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the Trust, the Trust Committee, the individual Trustees, or the Members of governmental immunity or of the sovereign immunity of the State of Colorado or its instrumentalities or any provision of the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S.
- 11.10 **Controlling Law.** This Agreement shall be construed according to the laws of the State of Colorado.
- 11.11 **Effective Date.** This Agreement shall be effective on and after _____, 2014.
- 11.12 **Execution in Counterpart.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Member and the Trust Committee have caused this Agreement to be signed by their duly authorized officers or representatives as of the day first written above.

TRUST COMMITTEE:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

ADMINISTRATOR:

By: _____

Title: _____

Date: _____

MEMBER: _____

By: _____

Title: _____

Attest:

By: _____

Title: _____

Date of Member Adoption of Agreement:

RESOLUTION 91-2014
A RESOLUTION
APPROVING THE
RESTRUCTURING OF THE
INFORMATION
TECHNOLOGY DIVISION
AND APPROVING THE
ASSOCIATED JOB
DESCRIPTION

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 91-2014

TITLE: A RESOLUTION APPROVING THE RESTRUCTURING OF THE INFORMATION TECHNOLOGY DIVISION AND APPROVING THE ASSOCIATED JOB DESCRIPTION

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BLACK HAWK, COLORADO, THAT:

Section 1. The Board of Aldermen hereby approves the restructuring of the Information Technology Division as more particularly described in **Exhibit A** to this Resolution, attached hereto and incorporated herein by this reference.

Section 2. The Board of Aldermen hereby approves the job description of the Information Technology Manager as more particularly described in **Exhibit B** to this Resolution, attached hereto and incorporated herein by this reference.

RESOLVED AND PASSED this 12th day of November, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Recommended Information Technology Division restructure and associated job description approval.

RECOMMENDATION: Staff recommends to the Mayor and Board of Aldermen, **A MOTION TO APPROVE** the restructure of the Information Technology Division to include replacement of the Network Administrator position with an Information Technology Manager.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: At the August 13, 2014 City Council meeting the Board of Alderman approved a restructure of the Information Technology Division to consist of a Network Administrator and an Information Technology Support Technician. Further research has revealed that the Network Administrator is not the appropriate job title for the duties and responsibilities that this position will require. After extensive research evaluating the structure of our survey cities, staff has determined that the IT Division should have an Information Technology Manager. This is consistent with the results of our survey, with all seven respondents indicting the IT Manger supervises staff, while only two Network Administrators supervised staff. Additionally, all seven IT Managers reported to a Director or equivalent, while only two of the nine Network Administrators reported to a Director.

FUNDING SOURCE: 2014 Adopted Budget
Line Item - Regular Salary/Wages /Full-Time
Information Technology

WORKSHOP DATE: N/A

ORIGINATED BY: Lance Hillis, Finance Director

STAFF PERSON RESPONSIBLE: Lance Hillis, Finance Director

DOCUMENTS ATTACHED: Job Description:
Information Technology Manager

RECORD: []Yes [X]No

CITY ATTORNEY REVIEW: []Yes []No [X]N/A INITIALS_____

SUBMITTED BY:

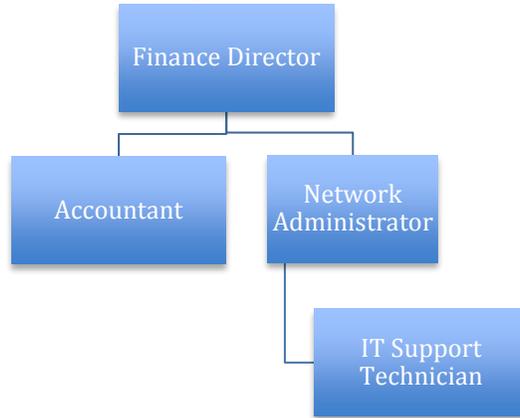


Lance Hillis, Finance Director

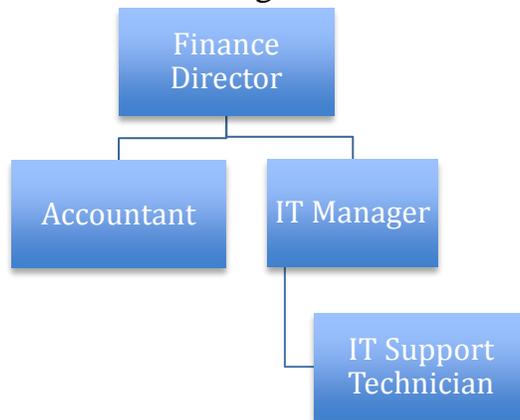


Jack Lewis, City Manager

Current Organizational Structure



Recommended Organization Structure



**CITY OF BLACK HAWK
2014 Job Description**

JOB TITLE: Information Technology Manager DEPARTMENT: IT

REPORTS TO: Finance Director EXEMPT: Yes

HIRING RANGE: \$89,990 – \$103,488

SUMMARY:

Under general supervision of the Finance Director, provides professional and technical expertise in administering and managing the City's local and wide area networks with complete responsibility for maintaining, updating, and troubleshooting network and data problems. The Information Technology Division oversees all computer hardware and software (servers and desktops), data networks, telephone networks, printers, fax and photocopier equipment. The Information Technology Division provides support to users for desktop and networked applications.

ESSENTIAL DUTIES & RESPONSIBILITIES: The following duties & responsibilities are illustrative only and are not intended to be all inclusive:

- Responsible for the City's data network including monitoring network usage, programming and upgrading network switches and routers, evaluate new services and methodology available from vendors. Maintain City firewall including spam filter, anti-virus, content filter and intrusion protection.
- Responsible for the City's computer hardware and software including hardware repair, system building, software installation and maintenance. Work extensively with user departments to develop or modify data processing and office automation systems; coordinate testing and evaluation of computer hardware and software on Intel based desktops, laptops and servers running various versions of Microsoft Windows operating system (Win XP, Win7/8, Win2003, Win2008, and Win2012).
- Responsible for the City's server farm including email servers (Exchange), file servers (Microsoft Windows Server), FTP servers, Terminal Service servers (Remote Desktop), Backup servers, GIS server (SDE), Document Server, Accounting Server (Innoprise), Police RMS server (eForce), Voice Mail server, and Patch server.
- Responsible for the City's telephone network including add/modify/delete of new phone, cabling building and offices, programming Avaya IP Office VoIP, digital, and analog voice devices, and maintaining Avaya Voicemail Pro system.
- Responsible for the City's copiers including reviewing department copier needs, evaluating prospective copier vendors and leases.
- Responsible for the City's networked and standalone fax machines.
- Responsible for providing Help Desk/PC support to end-users answering technical questions related to minor software and/or hardware problems, or to direct the users to appropriate training sites for answers.

- Serve as a representative in meetings and interactions with City staff and other individuals or agencies outside the organization.
- Assist in preparing the department's budget; develop an overall equipment replacement plan for City equipment; prepare new computer specifications; coordinate with purchasing the actual purchase; review and evaluate bids for any computer or telecommunications equipment.
- Oversee the establishment and maintenance of network users, user environments, directories, and system security; upgrade hardware and software components as required; oversee daily computer operation.

SUPERVISION RECEIVED AND EXERCISED

Direction provided by the Finance Director. Provides supervisory responsibility to the IT Support Technician. Carries out supervisory responsibilities in accordance with City policies and applicable laws. Responsibilities include training employee; planning, assigning and directing work; appraising performance; addressing complaints and resolving problems.

QUALIFICATIONS:

Education – Bachelor's degree from a four-year college or university in Information Technology, Computer Science, or Business Administration with an emphasis in Information Technology, or another computer based degree

Knowledge - Solid knowledge of the principles, practices and techniques of PC hardware configuration; of PC and network operating systems; Exchange based e-mail systems; LAN/WAN systems; relational database structure and programming; Web development methodology and a basic understanding of the various programming languages used on today's computers. Strong knowledge of various network architecture methodologies. General knowledge of VoIP based telephone systems with emphasis on Avaya systems.

Experience - Minimum of Five (5) years progressively responsible experience in data processing environment one (1) of which must be in the administration and management of information technology systems; experience with client server environment and supervisory experience required **or**

Any equivalent combination of education and experience that provides evidence that the applicant possesses the required knowledge, skills and abilities.

PHYSICAL REQUIREMENTS AND ENVIRONMENTAL SETTING

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to talk or hear. The employee frequently is required to stand, walk, sit, and use hands to finger, handle, or feel

objects, tools or controls. The employee is occasionally required to reach with hands or arms; climb or balance; and stoop, kneel, crouch, or crawl. Specific vision abilities required by this job include close vision and distance vision.

COMMENTS

The intent of this classification is to describe the types of job tasks and levels of responsibility and difficulty required of persons assigned to this classification title. This is not to be considered a detailed description of every duty/responsibility of the job.

The City of Black Hawk is an Equal Opportunity Employer. Pursuant to the *Immigrations Reform and Control Act*, it is the City's intention to hire only individuals who are United States citizens or aliens authorized to work and live in the United States.