

**STATE OF COLORADO
CITY OF CENTRAL
ORDINANCE NO. 12-09**

**AN ORDINANCE AUTHORIZING THE CITY OF CENTRAL TO
ENTER INTO A MUNICIPAL LEASE-PURCHASE AGREEMENT AND
RELATED DOCUMENTATION WITH ALLY FINANCIAL FOR THE
LEASE AND PURCHASE OF THREE 2012 CHEVROLET TAHOE
TRUCKS FOR POLICE PURPOSES AND DECLARING AN
EMERGENCY**

WHEREAS, the City Council, as the governing body of the City of Central (the “City” or “Lessee”) has determined that a true and very real need exists for the acquisition of the Equipment defined and described in the Municipal Lease-Purchase Agreement (the “Lease/Purchase Agreement”) attached hereto as Exhibit A and presented at this meeting; and

WHEREAS, the City Council has taken the necessary steps under applicable law to arrange for the acquisition and financing of such Equipment; and

WHEREAS, the City Council has reviewed the form of the Lease-/Purchase Agreement and has found the terms and conditions thereof acceptable; and

WHEREAS, either there are no legal bidding requirements under applicable law to arrange for the leasing of such property under the Lease/Purchase Agreement, or the City Council has taken the steps necessary to comply with the same with respect to the Equipment to be acquired under the Lease/Purchase Agreement; and

WHEREAS, an emergency necessary for the immediate preservation of public property, health, peace, safety and the financial well-being of the City exists in that the condition of the City’s current fleet of public safety vehicles has deteriorated and adoption of this Ordinance must occur in order for the City to take immediate possession of the vehicles, which are ready for delivery, for immediate use in public safety services.

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

Section 1. The City Council of the City of Central makes the following findings and representations:

- (a) The complete and correct name of the Lessee is the City of Central, a governmental entity which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws and regulations of the State of Colorado with the full power and authority to own its properties and to transact the business and activities in which it is presently engaged or presently proposes to engage. This governmental entity does not do business under any other assumed business names.

- (b) Lessee maintains an office at 141 Nevada Street, P.O. Box 249, Central City, CO 80427-0249.
- (c) Lessee covenants that it will perform all acts within its power which are or may be necessary to insure the maintenance of its legal status as being a duly organized and existing entity under the laws of the state, which status is the basis for the interest portion of the rental payments coming due under the Agreement to at all times remain exempt from federal income taxation under the laws and regulations of the United States of America as presently enacted and construed or as hereafter amended.
- (d) The acquisition of the Equipment, under the terms and conditions provided for in the Lease/Purchase Agreement, including the grant of any security interest in such Equipment as required by such Lease/Purchase Agreement, is necessary, convenient, in the furtherance of, and will at all times be used in connection with, Lessee's governmental and proprietary purposes and functions and are in the best interests of Lessee, and no portion of the Equipment will be used directly or indirectly in any trade or business carried on by any person other than a governmental unit of the state on a basis different from the general public.
- (e) The meetings at which this ordinance was considered and the City Council took action to adopt were properly noticed and conducted as open meetings in accordance with Colorado law.
- (f) There are no legal or governmental proceedings or litigation pending against the Lessee which might adversely affect the transactions contemplated in or the validity of the Lease/Purchase Agreement.

Section 2. The terms of said Lease/Purchase Agreement are in the best interests of the Lessee for the leasing of the Equipment described therein.

Section 3. The City Council, as governing body of Lessee, designates and confirms the Mayor has the authority to execute and deliver the Lease/Purchase Agreement and any related documents necessary to the consummation of the transactions contemplated by the Lease/Purchase Agreement in substantially the form attached hereto as Exhibit A and any related documents and certificates necessary to the consummation of the transactions contemplated by the Lease/Purchase Agreement for and on behalf of the Lessee. The Mayor, in consultation with the City Attorney, may make such non-material changes to the Lease/Purchase Agreement and related documents and certificates as such officers and officials deem necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof.

Signature of Party to Sign Agreement and Exhibits
Ronald E. Engels, Mayor

Section 4. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 5 Emergency Declared. An emergency for the immediate passage of this Ordinance exists in that the City's current fleet of public safety vehicles has deteriorated and adoption of this Ordinance must occur in order for the City to take immediate possession of the vehicles, which are ready for delivery, for immediate use in public safety services.

Section 6. Effective Date. In accordance with Section 5.11 of the City Charter, this Ordinance shall become effective immediately upon adoption on first reading, subject to subsequent enactment as a non-emergency ordinance in accordance with Section 5.11(b) of the City Charter.

INTRODUCED, READ AND ADOPTED as an emergency ordinance on first reading at the special meeting of the City Council of the City of Central on the 24th day of July, 2012, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

Approved as to form:

Linda Michow, City Attorney

ATTEST:

Reba Bechtel, City Clerk

POSTED AND PUBLISHED IN FULL FOLLOWING ADOPTION BY EMERGENCY ON FIRST READING in the Weekly Register Call newspaper on _____, 2012.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel, City Clerk

Exhibit A
Municipal Lease Purchase Agreement