CITY OF CENTRAL, COLORADO
NOTICE OF A REGULAR MEETING of the CITY COUNCIL to be held on
Tuesday, August 21, 2018 @ 7:00 p.m.
141 Nevada Street, Central City, Colorado
AGENDA

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

7:00pm Council Meeting

1. Call to Order.

2. Roll Call.  
   Mayor  
   Mayor Pro-Tem  
   Council members
   Kathryn Heider  
   Shirley Voorhies  
   Judy Laratta  
   Jeff Aiken  
   Mary Bell

3. Pledge of Allegiance

4. Additions and/or Amendments to the Agenda.

5. Conflict of Interest.

6. Consent Agenda: The Consent Agenda contains items that can be decided without discussion. Any Council member may request removal of any item they do not want to consider without discussion or wish to vote no on, without jeopardizing the approval of other items on the consent agenda. Items removed will be placed under Action items in the order they appear on the agenda (this should be done prior to the motion to approve the consent agenda).

   Regular Bill lists through August 7, 2018; 
   City Council minutes: August 7, 2018; and 
   Ratification of HR.18-06 for new construction of single family structure on Eureka

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

PUBLIC HEARING —

7. Ordinance No. 18-08: A ordinance of the City Council of the City of Central, Colorado, conditionally approving the inclusion of certain property into the boundaries of the Central City Business Improvement District. (McAskin)

8. Ordinance No. 18-09: A ordinance of the City Council of the City of Central, Colorado, excluding certain property from the boundaries of the Central City Business Improvement District. (McAskin)

ACTION ITEMS: NEW BUSINESS —

9. Resolution No. 18-21: A resolution appointing the Municipal Judge and setting the term and compensation for service. (Miera)
10. **Ordinance No. 18-10**: An ordinance of the City Council of the City of Central, Colorado approving a Long-Term Lease between the City of Central, as Lessor, and the Central City Building Authority, as Lessee, concerning the Belvidere Theatre. (McAskin)

**REPORTS**

11. **Staff updates**

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

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

**ADJOURN.** Next Council meeting September 4, 2018.

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

Posted 8/16/2018
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Grand Totals: 332,551.04
CALL TO ORDER
A regular meeting of the City Council for the City of Central was called to order by Mayor Heider at 7:00 p.m., in City Hall on August 7, 2018.

ROLL CALL
Present: Mayor Heider
   Mayor pro tem Voorhies
   Alderman Laratta
   Alderman Aiken

Absent: Alderman Bell

Staff Present: City Manager Miera
   Attorney McAskin
   City Clerk Bechtel
   Community Development Director Rears
   Public Works Director Hoover
   Utilities Director Nelson
   Fire Chief Allen
   Captain Ihme GCSO

Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA
The agenda was approved with the correction of the dates on the consent agenda.

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

CONSENT AGENDA
Mayor pro tem Voorhies moved to approve the consent agenda containing the regular bill lists through July 27 and the City Council minutes for the meeting on July 17, 2018. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

PUBLICFORUM/AUDIENCEPARTICIPATION
No one requested time to address the Council.

ACTION ITEMS: NEW BUSINESS
2017 Audit Presentation
Manager Miera explained that in April of this year, Hinkle & Company LLC performed an audit of the City’s financial procedures, practices, and financial statements for the year ended December 31, 2017. Over the course of the past few months staff and Hinkle & Company have worked together to draft and prepare the
finalized 2017 Audited Financial Statements. The financial statements illustrate the financial activities of the City over the course of 2017 and present the City’s financial information, in whole and as separate units, as of December 31, 2017.

State law requires the City to submit the audited financial statements to the Colorado Department of Local Affairs. The audited financial statements were submitted as required to the Colorado Department of Local Affairs prior to the due date of July 31. It is customary for the auditor to review the statements with the Council and for the Council to accept the financial statements as presented in the form of a motion.

Wendy Swanhorst, Hinkle & Company, added that the City’s financial position has improved significantly in the past three years and is now very good. Another change is that the City’s audit is submitted separate from the CCBID audit.

Mayor pro tem Voorhies moved to accept the City of Central’s 2017 Audited Financial Statements. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

Central City Promise Program Request—Rachel Schmalz
Manager Miera reviewed the background for the Central City Promise Program which was initiated by City Council to encourage high school graduates and G.E.D. recipients of Central City to make post-secondary education a priority. The Promise Program helps make it possible for Central City residents to attend a university, community college or trade school by providing assistance with the costs associated with attending one of these educational institutions. The 2018 Budget has $15,000.00 allocated for the Promise Program. This is the third formal request received-to-date for FY 2018. Granting the above request will leave a remaining balance of $0.00 in the Public Education account.

Ms. Schmalz is a second time applicant of the Promise Program. She has submitted all of the required information and paperwork and is requesting Promise Program funds in the amount of $5,000.00 in 2018. Ms. Schmalz is continuing her post-secondary education at Hastings College in Hastings, Nebraska. The Promise Program Guidelines limit the amount that an individual can receive to a total of $20,000 or four (4) years of funding.

Rachel Schmalz, added that she is working on a double major in History and Communications and thanked Council for their continuing support.

Alderman Laratta moved to award Rachel Schmalz with continuing post-secondary educational tuition assistance in the amount of $5,000.00. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

Resolution No. 18-18: A resolution of the City Council of the City of Central, Colorado, calling for the November 2018 General Municipal Election to be held as a Mail Ballot Election in Accordance with the Municipal Election Code.
City Clerk Bechtel explained that the proposed resolution reviews the governing regulations to hold a stand-alone Mail Ballot Election and designates the City Clerk as the election official responsible for conducting the election and supervising the distributing, handling, counting of ballots, and the survey of returns. Preliminary cost is estimated at $2,000 to $2,500. Section 2-1-10 of the Municipal Code of the City of Central sets forth that City elections shall be conducted in accordance with the Home Rule Charter and
the Colorado Municipal Election Code of 1965 (the “Municipal Election Code”). Section 4.1 of the Charter requires general municipal elections to be held on the first Tuesday following the first Monday in November of each even numbered year which for 2018 is November 6, 2018. There are 2 Council/Alderman seats open and the Mayor seat. The Nomination Petition period will be from 8/7 to 8/27. There will also be an tax in

Mayor pro tem Voorhies moved to approve Resolution No. 18-18: A resolution of the City Council of the City of Central, Colorado, calling for the November 2018 General Municipal Election to be held as a Mail Ballot Election in Accordance with the Municipal Election Code. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

Resolution No. 18-19: A resolution of the City Council of the City of Centrai, Colorado, ratifying the submission of a Department of Local Affairs (DOLA) Energy and Mineral Impact Assistance Program Tier I Application related to the Belvidere Theatre Rehabilitation Project and authorizing the City Manager to finalize and submit other grant applications related to the Project.

Manager Miera explained that this resolution ratifies the submission of a Department of Local Affairs (DOLA) Energy and Mineral Impact Assistance Program Tier I Application related to the Belvidere Theatre Rehabilitation Project (the “Project”) and authorizes the City Manager to finalize and submit other grant applications related to the Project.

The City has identified improvements and renovations to the historic Belvidere Theatre which, if completed, will provide significant value to City of Central residents. As Council is aware, the Belvidere Theatre is a contributing historic building in the Central City-Black Hawk National Historic Landmark District and the Project aims to fully rehabilitate the building as a combination community/cultural arts center and commercial property in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

The City filed a Tier I application with DOLA by the August 1 deadline seeking grant funding of costs related to the finalization of architectural & engineering plans for the Project (the “Application”). The Application seeks $179,350 in funding for the development of architectural & engineering plans associated with the Project.

If the City is awarded DOLA funds, the City and DOLA will enter into an intergovernmental agreement related to the provision of DOLA funding to assist with the Project. In addition to ratifying the submission of the Application to DOLA, Resolution 18-19 authorizes the City Manager to finalize and submit other grant applications related to the Project. The City Manager will be required to provide periodic updates to City Council regarding the status of the Project, including other grant applications submitted and the award status of the other grant applications.

As set forth in the DOLA grant application, City will match 50% of the costs of the Project. Currently, it is anticipated that total Project costs (related to the Architectural and Engineering) will be $358,700.00. The City’s portion of these costs will be approximately $179,350, subject to adjustment following the receipt of bids for the Architectural and Engineering work.

Alderman Aiken moved to approve Resolution No. 18-19: A resolution of the City Council of the City of Central, Colorado, ratifying the submission of a Department of Local Affairs (DOLA) Energy and Mineral
Impact Assistance Program Tier I Application related to the Belvidere Theatre Rehabilitation Project and authorizing the City Manager to finalize and submit other grant applications related to the Project. Mayor pro tem Voorhies seconded, and without discussion, the motion carried unanimously.

Ordinance No. 18-08: A ordinance of the City Council of the City of Central, Colorado, conditionally approving the inclusion of certain property into the boundaries of the Central City Business Improvement District.

Ordinance No. 18-09: A ordinance of the City Council of the City of Central, Colorado, excluding certain property from the boundaries of the Central City Business Improvement District.

Attorney McAskin provided background for both Ordinance No. 18-08 which conditionally includes certain City-owned property ("City Property") into the boundaries of the Central City Business Improvement District ("CCBID") and Ordinance 18-09 which excludes the City Property from the boundaries of the CCBID.

These two ordinances concern the same City Property that was previously excluded from the boundaries of the CCBID by Ordinance 17-07. A Petition for Inclusion requesting the inclusion of the City Property into the CCBID boundaries and Petition for Exclusion requesting the exclusion of the City Property from the CCBID Boundaries were filed with the City Clerk on or about July 18, 2018. The Petitions were executed by the City Manager in accordance with the authorization set forth in Resolution No. 18-16.

Following the date that the City Property was excluded from the boundaries of the CCBID in 2017 (by and through prior Ordinance 17-07), certain owners of the 2003 bonds issued by the CCBID (collectively, the "Bondholder") contested the exclusion of the City Property from the CCBID because, in the Bondholder’s opinion, the exclusion created uncertainty and potential disputes regarding whether the exclusion would reduce the number of property from which property tax revenues associated with the debt service mill levy may be generated for repayment of the bonds. Although the City Property is currently City-owned and therefore exempt from taxation pursuant to the Colorado Constitution, any of the 16 parcels could be leased or sold to a private party for future development, in which case property tax revenues for the repayment of the bonds could potentially be generated.

C.R.S. § 31-25-1220(3) states that “all property included within or excluded from a district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of inclusion or exclusion.” Notwithstanding this statutory language, the Bondholder contested the exclusion of the City Property citing the aforementioned uncertainty. To address the Bondholder’s concerns, the City has agreed to work cooperatively with the CCBID to include and then re-exclude the City Property from the boundaries of the CCBID.

As part of this cooperative process, the CCBID has caused that certain Verified Petition for Judicial Examination and Determination and Request for Hearing Pursuant to Section 31-25-1224, C.R.S. ("Verified Petition") to be filed with the Gilpin County District Court ("Court") in Case No. 2018CV30020. The Verified Petition contains the CCBID's request that the Court set a hearing on the Verified Petition to examine and determine the validity of the CCBID's power as a business improvement district organized and operating under Title 31, Article 25, Part 12, C.R.S. to impose a mill levy for repayment of outstanding indebtedness on real property that is excluded from the boundaries of the CCBID, and, more specifically, the City Property that is proposed to be included and then excluded from
the CCBID pursuant to City Ordinance 18-08 and City Ordinance 18-09. The hearing on the Verified Petition has been scheduled for Friday, August 10, 2018.

The City Property is described with particularity in the Petitions and Ordinances as Exhibit A to each Ordinance and consists of sixteen separate parcels.

In accordance with C.R.S. § 31-25-1220(1) and (2), the City Clerk caused notice of the filing of the Petitions to be given and published. A copy of the publisher’s affidavit concerning the notices published by the City Clerk in the July 26 edition of the Weekly Register-Call is on file with the City Clerk.

The second reading and public hearing of the Ordinances will occur on Tuesday, August 21, 2018 at 7:00 p.m. On August 21st, City Council is expected to conduct the public hearing on the inclusion request and public hearing on the exclusion request.

C.R.S. § 31-25-1220(2) states, in relevant part, that: “If the change of boundaries of the [business improvement] district does not adversely affect the district and if the petition is granted, the [City Council] shall adopt an ordinance to that effect and file a certified copy same with the county clerk and recorder of the county in which the property is located.”

C.R.S. § 31-25-1220 vests City Council with jurisdiction to include the City Property into the CCBID boundaries and exclude the City Property from the CCBID boundaries. As set forth above, the City is working cooperatively with the CCBID to include the City Property into the boundaries of the CCBID and then exclude the City Property, subject to express language in the exclusion ordinance referencing C.R.S. § 31-25-1220(3) and clarifying that it is the City’s intent that the City Property remain subject to the CCBID’s debt service mill levy and further clarifying that it is the City’s intent that the City Property will not be subject to: (a) the operating mill levy imposed by the CCBID; or (b) any special assessment, rate, toll or charge of the CCBID whether imposed through Section 31-25-1219, Section 31-25-1212(1)(k), C.R.S., or otherwise, following the effective date of the exclusion.

As City Attorney, I am recommending that City Council delay final adoption/approval of the two ordinances following public hearing until such time as the Court has entered its order of record on the Verified Petition confirming the applicability of C.R.S. § 31-25-1220(3). I will have an update regarding the status of the order at the August 21, 2018 regular City Council meeting.

Alderman Aiken moved to approve Ordinance No. 18-08: An ordinance of the City Council of the City of Central, Colorado conditionally including certain property into the boundaries of the Central City Business Improvement District on First Reading, and further move that Second Reading and Public Hearing on the ordinance be scheduled for Tuesday, August 21, 2018, at 7:00 pm to be held in these Council Chambers. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

Mayor pro tem Voorhies moved to approve Ordinance No. 18-09: A ordinance of the City Council of the City of Central, Colorado, excluding certain property from the boundaries of the Central City Business Improvement District on First Reading, and further move that Second Reading and Public Hearing on the ordinance be scheduled for Tuesday, August 21, 2018, at 7:00 pm to be held in these Council Chambers. Alderman Laratta seconded, and without discussion, the motion carried unanimously.
Resolution No. 18-20: A resolution of the City Council of the City of Central, Colorado, approving Change Order No. 1 for the Central City Spring Street Rehabilitation Project (Engineer Project No. 1910.33C) and authorize the City Manager to execute the Change Order.

Public Works Director Hoover explained that this resolution approves a change order for certain additional work related to the City’s Spring Street Rehabilitation Project (Engineer Project No. 1910.33c) and authorizes the City Manager to execute the change order.

The City Council previously awarded the Spring Street Rehabilitation Project to AVERY ASPHALT, INC. a Colorado corporation (“Contractor”), by approval of Resolution No. 18-15. That prior resolution authorized the City Manager to execute the construction contract with Avery Asphalt, Inc. in the not to exceed amount of $313,275.50.

The City has requested the Contractor to undertake additional work related to the Project, specifically adding Xcel conduit and adjusting the bid quantities of asphalt. The City Engineer (JVA) and City Staff requested a quote from the Contractor for the additional work and the Contractor has submitted a change order for the additional work (“Change Order No. 1”) and has been reviewed and approved by the JVA. The change order increases the NTE amount in the construction contract from $313,275.50 to 353,219.25, an increase of $39,943.75. The City does expect to be able to recover this increase from the 1% Xcel fund.

Mayor pro tem Voorhies moved to approve Resolution No. 18-20: A resolution of the City Council of the City of Central, Colorado, approving Change Order No. 1 for the Central City Spring Street Rehabilitation Project (Engineer Project No. 1910.33C) and authorize the City Manager to execute the Change Order. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

REPORTS
Manager Miera reported:
1) Municipal Judge Vacancy - Interviews with Judge candidates is scheduled for 8/13 at 1:00 pm
2) Central City Mail Ballot Election 11/6/18 has started with the petition period 8/7 to 8/27

COUNCIL COMMENTS
Mayor Heider noted additional dates have been added to the Opera season.

PUBLIC FORUM/AUDIENCE PARTICIPATION
No one requested time to address the Council.

EXECUTIVE SESSION
At 7:59 p.m., Mayor pro tem Voorhies moved to go into Executive Session pursuant to C.R.S. § 24-6-402(4)(e) to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators regarding proposed license fee rebate agreement; and further moved to reconvene the August 7th regular City Council meeting at the conclusion of the executive session to provide instruction to City Staff, if required, or to adjourn the August 7th regular meeting. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

At approximately 8:47 p.m. the executive session was concluded and Mayor Heider announced that the participants in the executive session had been: Mayor Kathryn Heider, Mayor pro tem Voorhies, Alderman Laratta, Alderman Aiken, City Manager Miera, and City Attorney McAskin.
Mayor Heider proceeded to make the following announcement:

For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings law, I ask that you state your concerns for the record.

No concerns were noted.

Mayor pro tem Voorhies moved to adjourn the August 7th regular City Council meeting. Alderman Aiken seconded, and without discussion, the motion to adjourn was approved unanimously at 8:48 p.m.

A regular City Council meeting is scheduled for Tuesday, August 21, 2018 at 7:00 p.m.

______________________________  _______________________________
Kathryn A. Heider, Mayor        Reba Bechtel, City Clerk
CERTIFICATE OF APPROPRIATENESS

Historic Preservation Commission

Pursuant to The City of Central Municipal Code, Land Development Code, Article 2. Historic Preservation; Article 8. Administration and Enforcement and the Central City Design Guidelines and following a hearing before this commission to review this proposal this certificate is hereby granted.

Case: HR 18-06
Address: T.B.D. Eureka Street – Legal: Central City; Blk. 28, Lots 19 & 20
Applicant: Stephen Shores
For: Construct a new single-family detached structure which is approximately 25' 8" x 50', with a small courtyard on each end and a covered 6' deep porch along the full front. The structure will have a corrugated metal roof, 6 in. wood lap siding, a fully wooden stairway, board and rails and paneled windows with the following conditions of approval: 1) That the exterior of the structure shall be constructed of 6 in. wood lap siding and/or natural stone. 2) All windows shall include four panes, be constructed of Wood, aluminum clad painted or steel framed and include exterior mullions. 3) The HPO is authorized to review and approve proposed exterior lighting fixtures, based on the requirements of the Design Guidelines. 4) The front rock wall shall be reconstructed based on the specifications of the Design Guidelines. See project file for details.

Reviewed by the commission this 8th day of August, 2018

HPC Chair or HPO

This certificate shall expire one-year after issuance, unless a building permit has been issued. A building permit is required for installation.
Corrugated metal roof

- Wood lap siding - 6 inch
- Wood railing

Stone wall

Pressure-treated wood stairs
48" wide
Wood hand railings
AGENDA ITEM # 7 and 8

CITY COUNCIL COMMUNICATION FORM

FROM: Marcus McAskin, City Attorney
DATE: August 15, 2018 (for August 21, 2018 meeting)
ITEM: Agenda Item #7 and 8

Ordinance 18-08 — Conditionally Including Certain Property into the Boundaries of the Central City Business Improvement District

Ordinance 18-09 — Excluding the Same Property from the Boundaries of the Central City Business Improvement District

____ X ________________________________________________
ORDINANCE(S)

____ MOTION

____ INFORMATION

I. REQUEST OR ISSUE: Ordinance No. 18-08 conditionally includes certain City-owned property ("City Property") into the boundaries of the Central City Business Improvement District ("CCBID") and Ordinance 18-09 excludes the City Property from the boundaries of the CCBID.

Ordinance Nos. 18-08 and 18-09 were approved on first reading at the August 7, 2018 regular City Council meeting.

By way of background, these two ordinances concern the same City Property that was previously excluded from the boundaries of the CCBID by Ordinance 17-07. A Petition for Inclusion requesting the inclusion of the City Property into the CCBID boundaries and Petition for Exclusion requesting the exclusion of the City Property from the CCBID Boundaries were filed with the City Clerk on or about July 18, 2018. The Petitions were executed by the City Manager in accordance with the authorization set forth in Resolution No. 18-16.
Following the date that the City Property was excluded from the boundaries of the CCBID in 2017 (by and through prior Ordinance 17-07), certain owners of the 2003 bonds issued by the CCBID (collectively, the "Bondholder") contested the exclusion of the City Property from the CCBID because, in the Bondholder's opinion, the exclusion created uncertainty and potential disputes regarding whether the exclusion would reduce the number of property from which property tax revenues associated with the debt service mill levy may be generated for repayment of the bonds. Although the City Property is currently City-owned and therefore exempt from taxation pursuant to the Colorado Constitution, any of the 16 parcels could be leased or sold to a private party for future development, in which case property tax revenues for the repayment of the bonds could potentially be generated.

C.R.S. § 31-25-1220(3) states that "all property included within or excluded from a district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of inclusion or exclusion." Notwithstanding this statutory language, the Bondholder contested the exclusion of the City Property citing the aforementioned uncertainty.

To address the Bondholder's concerns, the City has agreed to work cooperatively with the CCBID to include and then re-exclude the City Property from the boundaries of the CCBID.

As part of this cooperative process, the CCBID caused that certain Verified Petition for Judicial Examination and Determination and Request for Hearing Pursuant to Section 31-25-1224, C.R.S. ("Verified Petition") to be filed with the Gilpin County District Court ("Court") in Case No. 2018CV30020. The Verified Petition contains the CCBID's request that the Court set a hearing on the Verified Petition to examine and determine the validity of the CCBID's power as a business improvement district organized and operating under Title 31, Article 25, Part 12, C.R.S. to impose a mill levy for repayment of outstanding indebtedness on real property that is excluded from the boundaries of the CCBID, and, more specifically, the City Property that is proposed to be included and then excluded from the CCBID pursuant to City Ordinance 18-08 and City Ordinance 18-09.

The hearing on the Verified Petition was held on Friday, August 10, 2018. The Court entered its Judgment and Decree on the Verified Petition on Monday, August 13, 2018 (the "Judgment and Decree"). A copy of the Judgment and Decree is attached to this Council Communication Form.

The CCBID will cause a certified copy of the Judgment and Decree to be filed in the real property records of Gilpin County.

The City Property is described with particularity in the Petitions and Ordinances (Exhibit A to each Ordinance) and consists of sixteen (16) separate parcels.

In accordance with C.R.S. § 31-25-1220(1) and (2), the City Clerk caused notice of the filing of the Petitions to be given and published. A copy of the publisher's affidavit concerning the notices published by the City Clerk in the July 26 edition of the Weekly Register-Call is on file with the City Clerk.

City Council is scheduled to conduct the public hearings on the Petition for Inclusion and Petition for Exclusion at the August 21, 2018 Council meeting.
II. RECOMMENDED ACTION / NEXT STEP:

Approve Ordinance No. 18-08 and 18-09 on second reading, following the conclusion of the public hearing. Currently, I anticipate that City Council will conduct one consolidated public hearing regarding the proposed conditional inclusion of the City Property and proposed exclusion of the City Property.

III. BACKGROUND INFORMATION:

C.R.S. § 31-25-1220(2) states, in relevant part, that:

"If the change of boundaries of the [business improvement] district does not adversely affect the district and if the petition is granted, the [City Council] shall adopt an ordinance to that effect and file a certified copy same with the county clerk and recorder of the county in which the property is located."

IV. FISCAL IMPACTS: None.

V. LEGAL ISSUES: None. C.R.S. § 31-25-1220 vests City Council with jurisdiction to include the City Property into the CCBID boundaries and exclude the City Property from the CCBID boundaries. As set forth above, the City is working cooperatively with the CCBID to include the City Property into the boundaries of the CCBID and then exclude the City Property, subject to express language in the exclusion ordinance referencing C.R.S. § 31-25-1220(3) and clarifying that it is the City's intent that the City Property remain subject to the CCBID's debt service mill levy and further clarifying that it is the City's intent that the City Property will not be subject to: (a) the operating mill levy imposed by the CCBID; or (b) any special assessment, rate, toll or charge of the CCBID whether imposed through Section 31-25-1219, Section 31-25-1212(1)(k), C.R.S., or otherwise, following the effective date of the exclusion.

Given that the Court entered its Judgment and Decree of record on Monday, August 13, 2018, I am recommending that City Council proceed with consideration of the two ordinances at the August 21 meeting. If the conditional inclusion and exclusion of the City Property is approved, I am recommending that certified copies of the ordinances be recorded by the City Clerk after the date on which a certified copy of the Judgment and Decree has been recorded in the County records.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: N/A

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

Ordinance 18-08

(1) Adopt Ordinance No. 18-08 on second reading following public hearing, as may or may not be amended;

(2) Direct staff to revise the Ordinance and schedule consideration of the Ordinance on a future City Council agenda for second reading; or

(3) Reject or deny the Ordinance.
RECOMMENDED MOTION: "I MOVE TO APPROVE ORDINANCE NO. 18-08, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO CONDITIONALLY INCLUDING CERTAIN PROPERTY INTO THE BOUNDARIES OF THE CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT ON SECOND READING."

**Ordinance 18-09**

1. Adopt Ordinance No. 18-09 on second reading following public hearing, as may or may not be amended;

2. Direct staff to revise the Ordinance and schedule consideration of the Ordinance on a future City Council agenda for second reading; or

3. Reject or deny the Ordinance.

RECOMMENDED MOTION: "I MOVE TO APPROVE ORDINANCE NO. 18-09, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO EXCLUDING CERTAIN PROPERTY FROM THE BOUNDARIES OF THE CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT ON SECOND READING."

**Attachments:**

- Ordinance 18-08 (for second reading)
- Ordinance 18-09 (for second reading)
- Judgment and Decree (Gilpin County District Court) dated August 13, 2018
DISTRICT COURT, GILPIN COUNTY, COLORADO  
Court Address:  
2960 Dory Hill Road, Suite 200, Black Hawk, CO, 80422  

Petitioner(s): CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT  

Respondent(s): BONDHOLDER  

DATE FILED: August 13, 2018 11:50 AM  
CASE NUMBER: 2018CV30020  

△ COURT USE ONLY △  
Case Number: 2018CV30020  
Division: G  
Courtroom:  

Order: Judgement and Decree on Verified Petition for Judicial Examination and Determination Pursuant to Section 31-25-1224, C.R.S.  
The motion/proposed order attached hereto: GRANTED.  

Issue Date: 8/13/2018  

DENNIS JAMES HALL  
District Court Judge
THIS MATTER coming upon the Verified Petition for Judicial Examination and Determination and Request for Hearing pursuant to Section 31-25-1224, C.R.S. ("Verified Petition") of the City of Central Business Improvement District ("District"), and the Court being fully advised in the premises, makes the following findings and enters its Judgment and Decree as set forth below:

1. The District filed its Verified Petition with this Court on the 20th day of June, 2018.

2. Pursuant to Section 31-25-1224, C.R.S., this Court ordered a public hearing be held on the Verified Petition and notice of the hearing was provided as required by law. The Court has jurisdiction in this matter pursuant to Section 31-25-1224(3), (4), (5) and (6), C.R.S.

3. The Court held the aforementioned public hearing on the 10th day of August, 2018 and provided the opportunity for any owner of property within the boundaries of the District or any other person interested in the proceeding to appear in accordance with Section 31-25-1224(7), C.R.S.

4. The District is a quasi-municipal corporation and political subdivision of the State of Colorado operating pursuant to Section 31-25-1201, et seq., C.R.S. Section 31-25-1224(1), C.R.S. authorizes the District to file a petition in the District Court for judicial examination and determination of any power conferred, or of any securities issued, or of any taxes, assessments, or service charges levied or otherwise made, or any other act, proceeding, or contract of the District whether or not such act, proceeding, or
contract has been taken or executed. The Verified Petition requested such a judicial examination and determination as set forth herein.

5. The District is authorized to furnish and maintain public improvements including, without limitation, streets, streetlights, landscaping, and pedestrian malls, except parking lots, and to promote and market District activities and public events. The primary purpose of the District is to finance and construct the Central City Parkway ("Parkway") connecting the City street system with Interstate-70 in coordination with the City. The Parkway is operated and maintained by the City.

6. In 2003, the District issued a series of bonds designated as the “City of Central Business Improvement District, in the City of Central, Colorado, Limited Tax General Obligation Bonds, Series 2003A” in the aggregate principal amount of $45,200,000 (“Bonds”). The Bonds were issued pursuant to Colorado law, including the Business Improvement District Act (§ 31-25-1201, et seq., C.R.S.) and the Supplemental Public Securities Act (§ 11-57-201, et seq., C.R.S.), and the Indenture of Trust dated June 17, 2003 between the District and the Trustee (the “Indenture”). Under the Indenture, the District’s obligations, including the obligation to pay principal and interest on the Bonds, is secured by property tax revenues from the properties in the District, as further set forth therein. In addition, the District and the City are parties to the Intergovernmental Agreement dated January 11, 2001, Amendment No. 1 to Intergovernmental Agreement dated April 1, 2003, and Amendment No. 2 to Intergovernmental Agreement dated November 9, 2004, which remain in effect in accordance with their terms.

7. On August 15, 2017, the City Council of the City adopted Ordinance No. 17-07, which excluded sixteen parcels of real property owned by the City from the boundaries of the District (“Properties”). In accordance with Section 31-25-1220(2), C.R.S., a certified copy of Ordinance No. 17-07 was filed with the Gilpin County Clerk and Recorder and a copy of said Ordinance was recorded on August 24, 2017 at Reception No. 159789 in the real property records of Gilpin County, Colorado.

8. Section 31-25-1220(3), C.R.S. states as follows:

All property included within or excluded from a district shall thereafter be subject to the levy of taxes for the payment of its proportionate share of any indebtedness of the district outstanding at the time of inclusion or exclusion.

9. HWC Investors, LLC, the owner of the Bonds (the “Bondholder”), contested the exclusion of the Properties from the District because the City’s exclusion of the Properties from the District created uncertainty and potential disputes over whether the exclusion would reduce the number of properties from which future property tax revenues may be generated for repayment of the Bonds. Although the Properties are currently City-owned and exempt from property taxation, any of them could be sold or
leased to a non-governmental entity or person, in which case property tax revenues for
the repayment of the Bonds would be generated.

10. To address the Bondholder’s concerns, the City has agreed to include the
Properties within the boundaries of the District and then exclude them subject to express
language in the exclusion ordinance referencing Section 31-25-1220(3), C.R.S., and
clarifying that it is the City’s intent that the Properties remain subject to the District’s
mill levy for repayment of the Bonds upon exclusion from the District, and further
clarifying that it is the City’s intent that the Properties will not be subject to: (a) the
operating mill levy imposed by the District; or (b) any special assessment, rate, toll, or
charge of the District, whether imposed through Section 31-25-1219, Section 31-25-
1212(1)(k), C.R.S., or otherwise, following the date of exclusion. The Bondholder, the
City and the District concur and consent to the resolution of this dispute in the manner set
forth herein.

11. The Board of Directors of the District petitioned the District Court for a
confirmation that the City’s plan to include the Properties within the boundaries of the
District and then exclude such Properties subject to the continued imposition of the
District’s mill levy for repayment of the Bonds is authorized pursuant to the Business
Improvement District Act (Section 31-25-1220(3), C.R.S.) and the Supplemental Public
Securities Act (Section 11-57-201, et seq., C.R.S.). Further, the District desires by this
action to forestall and collaterally estop any future actions by transferees and successors
in interest of any of the Properties, taxpayers, current or future owners of the Bonds, or
others that may arise from (i) the original exclusion of the Properties from the District
and (ii) the proposed re-inclusion and exclusion of the Properties from the District with
respect to the imposition of the District’s mill levy for repayment of the Bonds.

12. The District sought this Court’s judicial examination and determination of
the validity of the following powers or acts and the Court hereby approves and deems
valid and authorizes the District to undertake each of the following acts and proceedings:

   a. Inclusion of the Properties in the District by the City in accordance
      with the procedure outlined in Section 31-25-1220(1) and (2), C.R.S.

   b. Exclusion of the Properties from the District by the City in
      accordance with the procedure outlined in Section 31-25-1220(1) and (2), C.R.S., subject
      to the following condition, which shall be included in the ordinance adopted by the City
      authorizing the exclusion of the Properties (“Exclusion Ordinance”), substantially in the
      form set forth below:

      Section ____. In accordance with C.R.S. § 31-25-1220(3), the
      property excluded from the boundaries of the District (the
      “Properties”) shall remain subject to the District’s mill levy
for repayment of outstanding indebtedness existing as of the effective date of this ordinance.

c. That post-exclusion of the Properties from the District, the Properties shall be subject to the District’s mill levy for repayment of outstanding indebtedness existing as of the effective date of the Exclusion Ordinance in accordance with Section 31-25-1220(3), C.R.S.

d. That post-exclusion of the Properties from the District, the Properties shall not be subject to: (i) any operating mill levy imposed by the District; or (ii) any special assessment, rate, toll, or charge of the District, whether imposed through Section 31-25-1219, Section 31-25-1212(1)(k), C.R.S., or otherwise.

NOW, THEREFORE, IT IS HEREBY ADJUDGED AND DECREED THAT:

Petitioner, City of Central Business Improvement District, has the power, as a business improvement district organized and operating under Title 31, Article 25, Part 12, C.R.S. and the Colorado Constitution, to (i) include certain real property of the City in the District in accordance with statutory requirements, (ii) then exclude such property, and (iii) post-exclusion, impose the District’s debt service mill levy against such property, including without limitation, if it is subsequently conveyed to a nongovernmental entity or person.

DONE and entered this __ day of ______________, 2018.

BY THE COURT:

____________________________________
District Court Judge
CITY OF CENTRAL, COLORADO
ORDINANCE 18-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO CONDITIONALLY APPROVING THE INCLUSION OF CERTAIN PROPERTY INTO THE BOUNDARIES OF THE CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT

WHEREAS, City Council received a Petition for Inclusion ("Petition") filed pursuant to C.R.S. § 31-25-1220 for the inclusion of certain property described in the Petition and which property is described in Exhibit A attached hereto (the "Property") into the boundaries of the Central City Business Improvement District ("District"); and

WHEREAS, in accordance with law, a public notice of the Petition has been given and published in The Weekly Register-Call, calling for a public hearing on the inclusion request set forth in the Petition, proof of publication for which is on file with the City Clerk; and

WHEREAS, the District has caused that certain Verified Petition for Judicial Examination and Determination and Request for Hearing Pursuant to Section 31-25-1224, C.R.S. ("Verified Petition") to be filed with the Gilpin County District Court ("Court") in Case No. 2018CV30020; and

WHEREAS, the Verified Petition sets forth the District’s request that the Court set a hearing on the Verified Petition to examine and determine the validity of the District’s power as a business improvement district organized and operating under Title 31, Article 25, Part 12, C.R.S. to impose a mill levy for repayment of outstanding indebtedness on real property that is excluded from the District, and, more specifically, the Property that is proposed to be included and then excluded from the District pursuant to City Ordinance 18-08 and City Ordinance 18-09; and

WHEREAS, the hearing on the Verified Petition was conducted on Friday, August 10, 2018; and

WHEREAS, the Court entered its Judgment and Decree on the Verified Petition on Monday, August 13, 2018 (the "Judgment and Decree"); and

WHEREAS, the District will cause a certified copy of the Judgment and Decree to be recorded in the real property records of Gilpin County, Colorado; and

WHEREAS, City Council has conducted a public hearing and heard all persons having objections to the inclusion of the Property into the District; and

WHEREAS, the Property sought to be included into the District is located entirely within the City of Central, Gilpin County, Colorado, and does not include property within any other county or within any other incorporated city, town, or city and county; and
WHEREAS, the City Council intends to delay adopting this ordinance on second reading following public hearing until such time as the Court has entered its order of record on the Verified Petition confirming the applicability of C.R.S. § 31-25-1220(3); and

WHEREAS, the City Council desires to approve the inclusion of the Property from the District on the condition that the Property be excluded from the District pursuant to and in accordance with Ordinance 18-09 ("Exclusion Ordinance"), and subject to the additional condition that the Property not be subject to: (a) the operating mill levy imposed by the District; or (b) any special assessment, rate, toll, or charge of the District, whether imposed through Section 31-25-1219, Section 31-25-1212(1)(k), C.R.S., or otherwise following the effective date of the Exclusion Ordinance.

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

Section 1. City Council finds and determines that it is vested with jurisdiction in this matter pursuant to the Business Improvement District Act, Part 12 of Article 25 or Title 31, C.R.S.

Section 2. City Council finds and determines that the change in boundaries of the Central City Business Improvement District as proposed in the Petition does not adversely affect the District.

Section 3. Pursuant to C.R.S. § 31-25-1220, City Council grants the Petition and orders the inclusion of the Property into the boundaries of the District on the express condition that the Property be excluded from the District pursuant to and in accordance with the Exclusion Ordinance.

Section 4. The City Clerk is directed to file a certified copy of this ordinance with the County Clerk and Recorder of Gilpin County, Colorado for recording. The City Clerk shall record this ordinance prior to recording a copy of the Exclusion Ordinance, but on or after the date that the District has caused a certified copy of the Judgment and Decree to be filed in the Gilpin County records.

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

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 7th day of August, 2018, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor
Approved as to form:

Marcus McAskin, City Attorney

ATTEST: 

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 21st day of August, 2018.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on August 9, 2018.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on August 23, 2018.
## Exhibit A

**Property**

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<th>Account No.</th>
<th>Parcel No.</th>
<th>Tax Area</th>
<th>Owner Name</th>
<th>Property Description</th>
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CITY OF CENTRAL, COLORADO
ORDINANCE 18-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,
COLORADO EXCLUDING CERTAIN PROPERTY FROM THE BOUNDARIES
OF THE CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT

WHEREAS, City Council received a Petition for Exclusion ("Petition") filed pursuant to
C.R.S. § 31-25-1220 for the exclusion of certain property described in the Petition and which
property is described in Exhibit A attached hereto (the "Property") from the boundaries of the
Central City Business Improvement District ("District"); and

WHEREAS, in accordance with law, a public notice of the Petition has been given and
published in The Weekly Register-Call, calling for a public hearing on the exclusion request set
forth in the Petition, proof of publication for which is on file with the City Clerk; and

WHEREAS, the District has caused that certain Verified Petition for Judicial Examination
and Determination and Request for Hearing Pursuant to Section 31-25-1224, C.R.S. ("Verified
Petition") to be filed with the Gilpin County District Court ("Court") in Case No. 2018CV30020;
and

WHEREAS, the Verified Petition sets forth the District's request that the Court set a
hearing on the Verified Petition to examine and determine the validity of the District's power as a
business improvement district organized and operating under Title 31, Article 25, Part 12, C.R.S.
to impose a mill levy for repayment of outstanding indebtedness on real property that is excluded
from the District, and, more specifically, the Property that is proposed to be included and then
excluded from the District pursuant to City Ordinance 18-08 and City Ordinance 18-09; and

WHEREAS, C.R.S. § 31-25-1220(3) provides as follows:

"All property included within or excluded from a district shall thereafter
be subject to the levy of taxes for the payment of its proportionate share
of any indebtedness of the district outstanding at the time of inclusion or
exclusion"; and

WHEREAS, the hearing on the Verified Petition was held by the Court on Friday, August
10, 2018; and

WHEREAS, City Council has conducted a public hearing and heard all persons having
objections to the exclusion of the Property from the District; and

WHEREAS, the Property sought to be excluded from the District is located entirely within
the City of Central, Gilpin County, Colorado, and does not include property within any other
county or within any other incorporated city, town, or city and county; and
WHEREAS, the Court entered its Judgment and Decree on Verified Petition for Judicial Examination and Determination Pursuant to Section 31-25-1224, C.R.S. on Monday, August 13, 2018 (the “Judgment and Decree”); and

WHEREAS, the District will cause a certified copy of the Judgment and Decree to be recorded in the real property records of Gilpin County, Colorado; and

WHEREAS, the City Council desires to approve the exclusion of the Property from the District on the condition that the Property not be subject to: (a) the operating mill levy imposed by the District; or (b) any special assessment, rate, toll, or charge of the District, whether imposed through Section 31-25-1219, Section 31-25-1212(1)(k), C.R.S., or otherwise following the effective date of this ordinance.

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

Section 1. City Council finds and determines that it is vested with jurisdiction in this matter pursuant to the Business Improvement District Act, Part 12 of Article 25 or Title 31, C.R.S.

Section 2. City Council finds and determines that the change in boundaries of the Central City Business Improvement District as proposed in the Petition does not adversely affect the District.

Section 3. Pursuant to C.R.S. § 31-25-1220, City Council grants the Petition and orders the exclusion of the Property from the boundaries of the District.

Section 4. In accordance with C.R.S. § 31-25-1220(3), and as confirmed by the Gilpin County District Court in the Judgement and Decree referenced above, the Property shall remain subject to the District’s mill levy for repayment of outstanding indebtedness existing as of the effective date of this ordinance.

Section 5. From and after the date that a certified copy of this ordinance is recorded in the real property records of Gilpin County, Colorado, the Property shall not be subject to: (a) the operating mill levy imposed by the District; or (b) any special assessment, rate, toll, or charge of the District, whether imposed through Section 31-25-1219, Section 31-25-1212(1)(k), C.R.S., or otherwise.

Section 6. The City Clerk is directed to file a certified copy of this ordinance with the County Clerk and Recorder of Gilpin County, Colorado for recording after the date that the District has caused a certified copy of the Judgment and Decree to be filed in the Gilpin County records.

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

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 7th day of August, 2018, at Central City, Colorado.
CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 21st day of August, 2018.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on August 9, 2018.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on August 23, 2018.
### Exhibit A

#### Property

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<th>Tax Area</th>
<th>Owner Name</th>
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AGENDA ITEM # 9
CITY COUNCIL COMMUNICATION FORM

FROM: Daniel R. Miera, City Manager
DATE: August 21, 2018
ITEM: RESOLUTION NO. 18-21: A RESOLUTION APPOINTING THE MUNICIPAL JUDGE AND SETTING THE TERM AND COMPENSATION FOR SERVICE

___ ORDINANCE
X MOTION
___ INFORMATION

I. REQUEST OR ISSUE:
Approval of the appointment of Louis A. Gresh or Jack W. Berryhill as the Central City Municipal Judge effective September 1, 2018 to expire on January 31, 2020 with eligibility for renewal of additional 2 year terms.

II. RECOMMENDED ACTION / NEXT STEP:
Staff recommendation is for Council to appoint either Louis A. Gresh or Jack W. Berryhill as the Central City Municipal Judge and approve the attached resolution.

III. FISCAL IMPACTS:
Compensation is $700 per month when court is in session. The total fiscal impact is $4,200 annually at $700/per month when court is in session.

IV. BACKGROUND INFORMATION:
David R. Gloss has resigned as the Municipal Judge for the City of Central. Council held a work session on Monday, August 13 to meet with two candidates for the vacant position.

V. LEGAL ISSUES: None.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: None.

VII. SUMMARY AND ALTERNATIVES:
Council may take one of the following actions:
1. Approve the resolution as requested.
2. Deny the resolution as written.
3. Direct staff to pursue an alternative approach.
CITY OF CENTRAL, COLORADO
RESOLUTION NO. 18-21

A RESOLUTION APPOINTING THE MUNICIPAL JUDGE AND
SETTING THE TERM AND COMPENSATION FOR SERVICE

WHEREAS, the City is authorized by Section 13-10-105, C.R.S. and Section 8.2 of the
Home Rule Charter to appoint a Municipal Judge to preside over the City of Central Municipal
Court; and

WHEREAS, David R. Gloss has resigned as the Municipal Judge for the City of Central;
and

WHEREAS, the City Council desires to appoint Jack W. Berryhill as the Municipal Judge
to preside over the Municipal Court and fill the vacancy created by the resignation of David R.
Gloss; and

WHEREAS, the initial term of appointment shall commence on September 1, 2018 and
shall run through January 31, 2020, with eligibility for renewal of additional two (2) year terms
thereafter.

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

Section 1. Appointment. The City Council hereby appoints Jack W. Berryhill as the
Central City Municipal Judge effective September 1, 2018. Compensation shall be fixed at Seven
Hundred Dollars ($700.00) per month when court is in session.

Section 2. Term. The initial term of appointment shall expire on January 31, 2020;
thereafter the term of appointment shall be two (2) years.

Section 3. Removal. In accordance with Section 13-10-105(2), C.R.S., and Section
8.2(c) of the Home Rule Charter, removal of the Municipal Judge is only permitted for “cause” as
defined in state statute.

Section 4. Effective Date. This Resolution shall take effect upon its approval by the
City Council.

ADOPTED THIS 21ST DAY OF AUGUST, 2018.

CITY OF CENTRAL, COLORADO

By: ____________________________

Kathryn A. Heider, Mayor
ATTEST:

By: __________________________
    Reba Bechtel, City Clerk

APPROVED TO FORM:

By: __________________________
    Marcus A. McAskin, City Attorney
CITY OF CENTRAL, COLORADO
RESOLUTION NO. 18-21

A RESOLUTION APPOINTING THE MUNICIPAL JUDGE AND
SETTING THE TERM AND COMPENSATION FOR SERVICE

WHEREAS, the City is authorized by Section 13-10-105, C.R.S. and Section 8.2 of the
Home Rule Charter to appoint a Municipal Judge to preside over the City of Central Municipal
Court; and

WHEREAS, David R. Gloss has resigned as the Municipal Judge for the City of Central;
and

WHEREAS, the City Council desires to appoint Louis A. Gresh as the Municipal Judge to
preside over the Municipal Court and fill the vacancy created by the resignation of David R. Gloss;
and

WHEREAS, the initial term of appointment shall commence on September 1, 2018 and
shall run through January 31, 2020, with eligibility for renewal of additional two (2) year terms
thereafter.

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

Section 1. Appointment. The City Council hereby appoints Louis A. Gresh as the
Central City Municipal Judge effective September 1, 2018. Compensation shall be fixed at Seven
Hundred Dollars ($700.00) per month when court is in session.

Section 2. Term. The initial term of appointment shall expire on January 31, 2020;
thereafter the term of appointment shall be two (2) years.

Section 3. Removal. In accordance with Section 13-10-105(2), C.R.S., and Section
8.2(c) of the Home Rule Charter, removal of the Municipal Judge is only permitted for “cause” as
defined in state statute.

Section 4. Effective Date. This Resolution shall take effect upon its approval by the
City Council.

ADOPTED THIS 21ST DAY OF AUGUST, 2018.

CITY OF CENTRAL, COLORADO

By: ________________________________
Kathryn A. Heider, Mayor
ATTEST:  
By: ________________________  
    Reba Bechtel, City Clerk  

APPROVED TO FORM:  
By: ________________________  
    Marcus A. McAskin, City Attorney
AGENDA ITEM # 10
CITY COUNCIL COMMUNICATION FORM

FROM: Marcus McAskin, City Attorney

DATE: August 17, 2018 (for August 21, 2018 meeting)

ITEM: Ordinance 18-10, AN ORDINANCE APPROVING A LONG-TERM LEASE BETWEEN THE CITY OF CENTRAL, AS LESSOR, AND THE CENTRAL CITY BUILDING AUTHORITY, AS LESSEE, CONCERNING THE BELVIDERE THEATRE

X ORDINANCE

MOTION

INFORMATION

I. REQUEST OR ISSUE: Ordinance No. 18-10 approves a lease agreement (exceeding one year) with the Central City Building Authority, a Colorado nonprofit corporation (the “Building Authority”) for the Belvidere Theatre property as described with particularity in the Ordinance (the “Subject Property”). The Subject Property is owned by the City and is located at 139 Nevada Street immediately adjacent to City Hall.

II. RECOMMENDED ACTION / NEXT STEP: Consider and approve Ordinance No. 18-10 on first reading and schedule a public hearing and second reading of the Ordinance on a time and date certain.

Currently, it is anticipated that second reading of the Ordinance will occur on Tuesday, September 18, 2018 at 7:00 p.m.

III. BACKGROUND INFORMATION:

A copy of the proposed lease agreement with the Building Authority (the “Lease Agreement”) is attached to the Ordinance as Exhibit 1. Pursuant to Section 11.7 of the Home Rule Charter, the City Council must approve long-term rentals or leasehold agreements by ordinance. Section 11.7 of the Charter defines a long-term lease as any lease having a duration of more than one year. In this case, the Lease Agreement proposes an initial term exceeding one year.
Following the City’s acquisition of the Subject Property in 2016, the Subject Property was listed as one of Colorado’s “Endangered Places” by Colorado Preservation, Inc.

Approving the Lease Agreement will permit the Building Authority to apply for grants and tax credits to assist the City in its goal of rehabilitating the historic Belvidere Theatre, including but not limited to, tax credits for qualified costs incurred in the preservation of historic structures pursuant to the Colorado Job Creation and Main Street Revitalization Act, C.R.S. §§ 39-22-514.5.

IV. FISCAL IMPACTS: The Lease Agreement obligates the City to continue to pay for property insurance during the term of the Lease.

V. LEGAL ISSUES: In order to be eligible for tax credits, the Building Authority will need to be exempt from federal taxation under Section 501(c) of the Internal Revenue Code.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: N/A

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

1. Adopt Ordinance No. 18-10 on first reading, as may or may not be amended;

2. Direct staff to make revisions to the Ordinance and schedule consideration of the Ordinance on a future City Council agenda for first reading; or

3. Reject or deny the Ordinance.

RECOMMENDED MOTION: “I MOVE TO APPROVE ORDINANCE NO. 18-10, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO APPROVING A LONG-TERM LEASE BETWEEN THE CITY OF CENTRAL, AS LESSOR, AND THE CENTRAL CITY BUILDING AUTHORITY, AS LESSEE, CONCERNING THE BELVIDERE THEATRE ON FIRST READING, AND FURTHER MOVE THAT SECOND READING AND PUBLIC HEARING ON THE ORDINANCE BE SCHEDULED FOR TUESDAY, SEPTEMBER 18, 2018, AT 7:00 PM TO BE HELD IN THESE COUNCIL CHAMBERS.”
CITY OF CENTRAL, COLORADO
ORDINANCE 18-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,
COLORADO APPROVING A LONG-TERM LEASE BETWEEN THE CITY OF
CENTRAL, AS LESSOR, AND THE CENTRAL CITY BUILDING AUTHORITY,
AS LESSEE, CONCERNING THE BELVIDERE THEATRE

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

WHEREAS, Section 2.2 of the Home Rule Charter vests the City with all powers,
functions, rights and privileges in the operation of a municipality except those expressly forbidden
to home rule municipal corporations and cities by the Constitution or statutes; and

WHEREAS, the Home Rule Charter does not specifically define economic development
activities, but the City Council of the City of Central, as the legislative and governing body of the
City is authorized to determine what constitutes authorized economic development activities; and

WHEREAS, the City owns the Belvidere Theatre ("Theatre"), which, having been built in
1875, is a significant contributing building within the Central City – Black Hawk – Nevadaville
National Historic Landmark District; and

WHEREAS, the City has dedicated historic preservation funds towards the restoration and
rehabilitation of the Theatre as a means of promoting economic development, historic
preservation, and establishing a community focal point and gathering space; and

WHEREAS, in 2016 Colorado Preservation, Inc. listed the Theater as one of its
Endangered Places; and

WHEREAS, the City desires to enter into a lease agreement with the Central City Building
Authority, a Colorado nonprofit corporation ("Authority") for certain real property known as the
Belvidere Theater, with a street address of 139 Nevada Street, Central City, CO 80427 ("Lease
Agreement"), for municipal and proprietary purposes; to wit, so that the Authority may be eligible
for grants and other funds to use for rehabilitating the Theatre, including, but not limited to, tax
credits for qualified costs incurred in the preservation of historic structures pursuant to the
Colorado Job Creation and Main Street Revitalization Act, C.R.S. §§ 39-22-514.5; and

WHEREAS, pursuant to Section 11.7 of the Home Rule Charter, the City Council must,
by ordinance, authorize long-term rentals or leasehold agreements for any municipal purpose; and

WHEREAS, Section 11.7 of the Home Rule Charter defines a long-term lease as any lease
having a duration of more than one year; and
WHEREAS, the initial term of the Lease Agreement exceeds one year; and

WHEREAS, the City and the Authority intend to retain the historical significance of the Theatre and to take steps necessary and as deemed appropriate to rehabilitate the building and to contribute significantly to the history and economic health of the City of Central, Gilpin County, and the history of the State of Colorado; and

WHEREAS, the City Council specifically finds that this Ordinance will further the health, safety and general welfare of the City's inhabitants and will contribute to the preservation of a building of historical significance and the economic diversity of Central City; and

WHEREAS, it is the intent of this Ordinance to authorize the Mayor to execute the necessary documents to enter into a long-term lease agreement with the Authority for the purposes stated herein; and

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

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

Section 1. In accordance Section 11.7 of the Home Rule Charter, the City Council hereby approves the Lease Agreement by and between the City and the Authority in substantially the form attached hereto as Exhibit 1 in order to promote and enhance the City's economic development and historic preservation efforts.

Section 2. The City Council designates and confirms that the Mayor is authorized to execute the Lease Agreement for and on behalf of the City. The Mayor, in consultation with the City Attorney, may make such non-material changes to the Lease Agreement as the City Manager deems necessary or desirable prior to execution of the Lease Agreement.

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

Section 4. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.
Section 5. Effective Date. This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 21st day of August, 2018, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 18th day of September, 2018.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on ____________, 2018.
POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on ______________, 2018.
Exhibit 1

BELVIDERE THEATRE
LEASE AGREEMENT
BELVIDERE THEATRE
LEASE AGREEMENT

This Belvidere Theatre Lease Agreement ("Agreement") is entered into this 18th day of September, 2018 by and between the CITY OF CENTRAL CITY, a Colorado home rule municipal corporation with an address of 141 Nevada Street, P.O. Box 249, Central City, Colorado 80427 (the "City" or "Lessor"), and CENTRAL CITY BUILDING AUTHORITY, a Colorado nonprofit corporation with offices at 6530 S. Yosemite Street, Suite 200, Greenwood Village, CO 80111 (the "Authority" or "Lessees"). The City and the Lessee may be collectively referred to as the "Parties" and each individually as "Party."

RECITALS

WHEREAS, the Belvidere Theatre has a street address of 139 Nevada Street, Central City, CO 80427, and is located within the boundaries of the City of Central City ("Theatre"); and

WHEREAS, pursuant to Ordinance 268, the City Council designated the City of Central as an historic district in 1991, and has dedicated historic preservation funds towards the restoration and rehabilitation of the Theatre as a means of promoting economic development and establishing a community focal point and gathering space; and

WHEREAS, the Theatre is a significant contributing building within the Central City – Black Hawk – Nevadaville National Historic Landmark District; and

WHEREAS, in 2016 Colorado Preservation, Inc. listed the Theater, which was built in 1875, as one of its Endangered Places; and

WHEREAS, City is the fee owner of the Theatre, and desires to lease the Theatre to the Authority to facilitate the rehabilitation of the Theatre for public purposes under the terms and conditions set forth in this Agreement; and

WHEREAS, the Authority desires to lease the Theatre from the City to qualify as an owner that will be eligible for grants and other funds to use for rehabilitating the Theatre, including, but not limited to, tax credits for qualified costs incurred in the preservation of historic structures pursuant to the Colorado Job Creation and Main Street Revitalization Act, C.R.S. §§ 39-22-514.5; and

WHEREAS, the Parties intend to retain the historical significance of the Theatre and to take steps necessary and as deemed appropriate to rehabilitate the building and to contribute significantly to the history and economic health of the City of Central, Gilpin County, and the history of the State of Colorado.

NOW, THEREFORE, in consideration of the foregoing and of the promises, representations, and covenants hereinafter made, the Parties do mutually agree as follows:
1. **Right to Enter:** Subject to the terms and conditions of this Agreement, the City hereby leases and grants permission to the Authority and its employees, agents, and contractors to enter upon the Leased Premises, which consists of the real property (including all improvements thereon, whether existing now or hereafter) described in Exhibit A, attached hereto and made a part hereof, subject to subject to existing covenants, conditions, restrictions, easements and encumbrances affecting the same, and such lease to the Authority is hereby deemed to be in the best interests of the City and its residents.

2. **Term and Renewal:** The initial lease term shall be for a period of ten (10) years beginning on September 20, 2018 (the "Effective Date") and ending on September 20, 2028 ("Lease Term"). Subject to mutual written agreement and in accordance with law, the Parties may renew this Agreement for an additional five (5) years or such other term as is mutually agreeable to the Parties.

3. **Rent:** The Authority shall pay to City rent of ONE DOLLAR ($1.00) per year, payable in a lump-sum payment of TEN DOLLARS ($10.00) (the "Rent"), which shall be paid in full to the City within thirty (30) days of the Effective Date. This lump-sum payment shall not relieve the Authority of the responsibility of paying any sales tax or other tax levied on the rent by any governmental authority or any other payments required from the Authority. In the event of early termination of this Agreement as provided in Sections 15 and 17 of this Agreement, the City shall not be obligated to refund or remit any portion of the paid Rent to the Authority.

4. **Purpose and Use of the Leased Premises:** The Authority may enter upon and use the Leased Premises exclusively for the purposes designated below and in full compliance with all applicable laws, regulations and the Restrictions as enumerated herein. The Authority shall continuously occupy and use the Leased Premises throughout the term of this Agreement.
   a. **Subleases:** The Authority may sublease any portion of the Leased Premises; however, any sublease or other agreement by which the Authority proposes to extend the right of occupancy of any portion of the Leased Premises to a third party for a period of one (1) year or more will be subject to the City's prior written approval of the proposed sublease, which shall not be unreasonably withheld. Any attempted sublease that does not comply with the requirements of this section or any de facto subdivision of the Leased Premises is prohibited and shall be void and of no legal effect.
   b. **Theatre:** Upon rehabilitation of the Leased Premises as evidenced by a certificate of occupancy issued by City, to use the Leased Premises for the purpose of managing, marketing and operating the Theatre as a public assembly venue for performing arts, entertainment, education, community, convention, corporate, and civic activities, including the presentation and/or production of public, private, invitational, and ticketed events.
   c. **Other Commercial or Non-Profit Uses:** Upon rehabilitation of the Leased Premises as evidenced by a certificate of occupancy issued by City, to use space for purposes as determined under a best-practice business plan to be developed by the Authority (the "Business Plan") that may include renting of the space for events or for other business arrangements. The Business Plan will consider public
purposes and the past history of the building and will look into the future for best use of the Leased Premises to provide sufficient revenues for the operation of the Theatre by the Authority.

5. **Revenues:** All net revenues generated from the Authority's operation and use of the Leased Premises shall be used by the Authority to support the Theatre operations and for capital improvements of the Theater. The Authority will use these funds for the purpose of operating the Leased Premises and making capital investments in and repairs to the Theatre for its rehabilitation in accordance with any capital improvement plan or other document adopted by the Authority for rehabilitation of the Theatre; provided, however, that the Parties may agree in a separate written instrument that any revenue received from the Authority's operation of the Leased Premises in excess of the annual operation, repair, and maintenance costs of the Theatre may be used for public projects or public purposes as generally described in C.R.S. §§ 30-20-301(2) and -301(3).

6. **Historic Structure:** The Authority hereby acknowledges the following restrictions on the Leased Premises ("Restrictions") and agrees to fully comply with such Restrictions:

   a. The Leased Premises are subject to a condition set forth in that certain quitclaim deed from Gilpin County, Colorado to City of Central City dated July 26, 2016 and recorded in the real property records of Gilpin County on July 26, 2016 at Reception Number 156841 ("Quitclaim Deed"), which requires that the Leased Premises be used for public projects or public purposes as generally described in C.R.S. §§ 30-20-301(2) and -301(3).

   b. The Theater is a contributing property included within the Central City – Black Hawk – Nevadaville National Historic Landmark District, and subject to all applicable federal, state, and local regulations concerning the contributing property and the historic district.

   c. The Theatre has been listed as an "Endangered Place" by Colorado Preservation, Inc., and it is the goal of both the City and the Authority to work towards completing the rehabilitation of and endowing the Theatre with such improvements so that it can be removed from this list. Therefore, the City and the Authority shall:

      i. **Cooperate in Operation and Rehabilitation:** The City and the Authority shall cooperate in seeking grants and other funding resources for the operation and rehabilitation of the entire Theatre (the "grants/funding").

      ii. **City's Role:** Some grants/funding may require the City to apply as a municipality and administer the grants/funding. The City will use every means possible to obtain these grants/funding. The City may engage the Authority for administration of grants received for rehabilitation and operation of the Theatre.

      iii. **The Authority's Role:** The Authority shall endeavor to apply for grants/funding to support rehabilitation and operation of the Theatre.

   d. **Joint Goal:** The goal of both Parties will be to facilitate the full rehabilitation of and endowment of the Theatre with additional improvements so that it will be a viable
place of entertainment and commerce in the City and surrounding environs for
generations to come.

6. **City's Obligations:**

    a. **Insurance:** During the term of this Agreement, City shall maintain the property and
casualty insurance coverage for the Leased Premises issued to the City by
Colorado Intergovernmental Risk Sharing Agency ("CIRSA"). The City guarantees
that the Leased Premises will be continuously insured throughout the term of this
Agreement and shall provide the Authority with a copy of CIRSA proof of insurance
coverage upon written request of the Authority.

    b. **Maintenance Support:** The City shall maintain the public right-of-way adjacent to
the Leased Premises, including trash removal and snow shoveling, at a
comparable level of service the City provides to its other City buildings and rights-
of-way.

7. **The Authority's Obligations Regarding Insurance, Maintenance and Repairs:**

    a. Upon rehabilitation of the Leased Premises as evidenced by a certificate of
occupancy issued by City, the Authority shall maintain sufficient Commercial
General Liability and Business Personal Property insurance coverage for its
operations and its personal property contained within the Leased Premises. The
City agrees to waive any right of subrogation in regards to the Authority's insurance
coverage.

    b. The Authority, during the Lease Term, agrees to provide all maintenance and
repairs of the Leased Premises. The Parties acknowledge that the Authority has
limited financial resources and City agrees that any maintenance undertaken by
the Authority will be accomplished and funded through donations and grants
received as part of restoration/rehabilitation of the Leased Premises.

    c. If the Authority is unable to perform any necessary maintenance or repairs to the
Leased Premises, it will promptly notify the City in writing and the City may
thereafter determine to undertake the maintenance or repairs. If the City
undertakes to perform any such maintenance or repairs, then the Authority shall
reimburse City for expenses incurred within such time period as agreed between
the parties after the Authority's receipt of the City's invoice for such repairs.

    d. The Authority will notify the City of any repairs that may be reimbursable by
insurance.

8. **Utilities:** The City shall be solely responsible for the costs and timely payment of all
expenses incurred for water, sewer, gas, electricity, or any other utilities servicing the
Leased Premises during the Lease Term.

9. **Improvements:** The Authority agrees that any improvements it makes to the Leased
Premises will meet the requirements of the Restrictions stated herein. The Authority shall
obtain all necessary permits as are required by any governmental entity for any
improvements the Authority makes and under no circumstances will any work take place
on or in the Leased Premises without such permits and prior written approval of the City.
Any damage to the Leased Premises caused in whole or in part by improvements and/or repairs made by the Authority shall be repaired at the Authority's sole cost and expense. Any improvements of any kind or nature or items permanently attached to the Leased Premises during the term of this Agreement by the Authority shall become property of the City upon termination of this Agreement.

10. Access: The Authority shall allow the City’s authorized representative(s) access to the Leased Premises or any portion thereof at all during reasonable hours for the purpose of examining and inspecting the Leased Premises or for any purpose necessary, incidental to, or connected with the performance of City’s obligations hereunder, or in the exercise of its governmental functions. The Authority shall provide the City with a key to access the Leased Premises, which will be secured at City’s offices. Except in emergent situations where immediate access by the City is required, the City will request access to the Leased Premises in advance for approval by the Authority’s authorized Board member.

11. Damage and Destruction:
   
a. If the Leased Premises are destroyed or rendered untenantable, either in whole or in part, by fire or other casualty, the City may, at its option, and following consultation with the Authority, restore the Leased Premises to as near their previous condition as is reasonably possible, and in the meantime, unless the damage was caused by acts, omissions or negligence of the Authority, its agents, employees, contractors or invitees, the Authority’s obligations in regard to the portion of the Leased Premises damaged shall be abated in the same proportion as the untenantable portion of the Leased Premises bears to the whole thereof.

   b. Unless the City notifies the Authority of its election not to restore the Leased Premises within thirty (30) days after the happening of any such casualty, this Lease shall continue and the City shall commence the necessary restoration.

12. Indemnification/Hold Harmless: The Authority hereby indemnifies, defends and holds City, and its employees, agents and affiliates, harmless from any alleged act or omission of the Authority, or any person claiming under, by or through the Authority, or in any way pertaining to the Authority’s use of the Leased Premises, unless due to the negligence or intentional conduct of the City.

13. Condition of Leased Premises: The Authority accepts the Leased Premises in “AS IS” condition. City makes no warranty, guarantee, or covenant of any nature whatsoever concerning the physical condition of the Leased Premises.

14. Events of Default:
   
a. The Authority’s Default. The Authority shall be in default under this Agreement if the Authority violates or fails to comply with or perform any of the terms, conditions or agreements to be performed or observed by the Authority under this Agreement, within sixty (60) days after written notice from City or such additional time as shall be necessary in the event such violation cannot be cured within such notice period and thereafter proceeds continuously and diligently to complete such cure as determined by City.
b. City's Default. The City shall be in default under this Agreement if the City violates or fails to comply with or perform any of the terms, conditions or agreements to be performed or observed by City under this Agreement within one hundred eighty (180) days after written notice from the Authority or such additional time as shall be necessary in the event such violation cannot be cured within such notice period and thereafter proceeds continuously and diligently to complete such cure.

15. Effects of Default:

a. If at any time an event of default shall occur and such event of default has not been cured within any applicable cure period of this Agreement, the non-breaching party, upon its election, may declare the Lease Term ended and terminate this Agreement.

b. In the event of the Authority's default, City may re-enter upon the Leased Premises and the improvements situated thereon, or any part thereof or thereon, either with or without process of law, the Authority waiving any demand for possession of such Leased Premises and any and all permanent improvements then situated thereon, or the City may have such other remedy as the law or this Agreement may afford.

c. Upon the termination of this Agreement, at such election of the City, or in any other way, the Authority shall immediately and peaceably surrender and deliver up the Leased Premises and any leasehold improvements instilled in or affixed to the Leased Premises to the City. At such time the title to any and all such leasehold improvements placed on the Leased Premises by the Authority shall revert to or become the exclusive property of the City except for equipment and personal property owned by the Authority. If the Authority shall hold such Leased Premises, or any part thereof, one day after the termination date, it shall be subject to eviction or removal in accordance with law. Any damage which may occur to the Leased Premises due to the Authority's removal of its equipment and/or personal property shall be repaired by the Authority at its expense and to the City's commercially reasonable satisfaction.

d. Nothing contained herein shall be construed as precluding the City from having such remedy as may be and become necessary in order to preserve the City's rights in the Leased Premises and in this Agreement, even before the expiration of the grace or notice periods provided for in this Agreement if, under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of the City in this Agreement and in the Leased Premises.

e. Under no circumstances shall the Authority be entitled to compensation from City for any leasehold improvements made by the Authority to the Leased Premises.

16. Cure Periods: All cure and grace periods provided under this Agreement shall be deemed to run consecutively and not concurrently.

17. Unilateral Termination: Notwithstanding any of provision of this Agreement to the contrary, the City shall have the unilateral right to terminate this Lease Agreement by delivering written notice to the Authority given in accordance with Section 27 of this Agreement. The
written notice of termination shall specify the date of termination, which shall be not less than sixty (60) days following delivery of the notice of termination.

18. **Assignment:** The Authority shall not have the right to assign its rights under this Agreement, in whole or in part, without the prior written consent of the City which shall be evidenced by a resolution of City Council, and which consent may be withheld by the City Council for any reason. Such assignment, transfer or conveyance shall be made only to: (i) an affiliate of the Authority; or (ii) banks, insurance companies, or other financial institutions or their affiliates, but no such assignment, transfer, or conveyance shall be effective as against the City unless and until the Authority has delivered to the City written notice thereof that discloses the name and address of the assignee, so long as such assignment is in accordance with Colorado state law. The City will not have the right to and will not assert against any assignee any claim, counterclaim, defense, set-off or other right the City may have against the Authority.

19. **Attorney’s Fees:** In connection with any dispute resolution, administrative or legal proceedings relating to or arising out of this Agreement, including appellate proceedings, or for any action for possession of the Leased Premises or damages, or for the collection of any rent or any other payment required that may be collected by suit, the prevailing party shall be entitled to recover all costs and reasonable attorneys’ and other professional fees incurred by such prevailing party for any litigation, mediation or appeal whether litigated or settled.

20. **Partial Invalidity:** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

21. **Successors in Interest:** Unless otherwise provided in this Agreement, the terms, covenants and conditions herein shall apply to and bind the heirs, successors, executors, administrators and assigns of all the Parties hereto, all of whom shall be jointly and severally liable hereunder.

22. **Non-Discrimination:** In the process of completing any improvements on, over or under said Leased Premises and the furnishing of services thereon, the Authority shall not discriminate against any person on the grounds of race, color, sex, disability, or national origin.

22. **Holding-Over:** If the Authority holds over and remains in possession of the Leased Premises after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of this Agreement but shall create a tenancy from month to month which the City may terminate at any time upon ninety (90) days’ advance written notice.

23. **Surrender:** Upon expiration of the Lease Term or early termination of this Agreement, the Authority will peaceably and quietly deliver possession of the Leased Premises and all permanent improvements which the Authority may have constructed upon the Leased Premises pursuant to the provisions of this Agreement. At that time the title to any and all permanent improvements placed on the Leased Premises by the Authority shall automatically become the exclusive property of the City, except for any equipment and
personal property owned by the Authority. Any damage which may occur to the Leased Premises, due to the Authority’s removal of such equipment and/or personal property, shall be repaired by the Authority at its sole cost and expense and to the City’s reasonable satisfaction.

24. **Prohibition Against Encumbrances:**

   a. The Authority shall defend and hold harmless the City from any claim or demand, including attorneys’ fees, on the part of any person, firm or corporation, performing labor or furnishing materials in connection with the building and construction of any improvements on the Leased Premises; and

   b. The Authority shall not engage in any financing or any other transaction that creates any mortgages, mechanic’s or materialman’s liens, or any other encumbrances or liens or claims of any kind upon City’s fee interest in the Leased Premises or any portion of the Theatre; and

   c. It is distinctly understood and agreed that any person, firm or corporation furnishing materials or performing labor on behalf of the Authority on the Leased Premises shall look only to the Authority for any payment owed for such, and that no lien or claim shall be allowed to attach to City’s fee interest in the Leased Premises. In the event that the Authority shall fail and refuse to pay and discharge any amount of money that may be due for materials furnished or labor performed in connection with the construction of improvements on the Leased Premises, and such default shall have continued for a thirty (30) day period, in accordance with Colorado statutes, the Authority shall post a surety bond with the Clerk of the Circuit Court in and for Gilpin County, Colorado, and have any such lien transferred to said bond and said action by the Authority shall cure the default and the City shall have no right of termination for such default. Should the Authority fail to post the required surety bond, the City may terminate this Agreement for default as provided in this Agreement. Upon the termination of this Agreement by reason of such default, all permanent improvements (except as otherwise provided herein) placed upon the Leased Premises by the Authority shall be and become the property of the City, and the Authority shall have no further right, title or interest therein, and the City shall have the full right, power and authority to enter upon the Leased Premises and take possession of the same and all other structures thereon.

25. **Time Is of The Essence:** As to the payment of rent and the performance by the Parties of the requirements, conditions and covenants of this Agreement, time is of the essence.

26. **Choice of Law/Venue:** This Agreement shall be interpreted and construed under the laws of the State of Colorado. The Parties agree that venue for any legal action under this Agreement shall be in Gilpin County, Colorado.

27. **Notices:** Any notice shall be in writing and shall be deemed delivered when personally delivered or if mailed by United States registered or certified mail, return receipt requested and postage prepaid, addressed as follows:
To CITY:

City of Central
Mayor
141 Nevada Street
P.O. Box 249
Central City, CO 80427

To THE AUTHORITY:

Central City Building Authority
c/o Marcus McAskin
6530 S. Yosemite Street, Suite 200
Greenwood Village, CO 80111

With a copy to:

City Attorney
Marcus McAskin
6530 S. Yosemite Street, Suite 200
Greenwood Village, CO 80111

28. Waivers: In the event that City at any time shall waive any default by the Authority of any of the covenants and conditions of this Agreement, then such waiver shall not be construed to be a continuing waiver of such default and shall not be construed as a waiver of any subsequent default that may be committed by the Authority.

29. Headings: The headings used for the sections of this Agreement are for ease of reference only and are not to be construed as adding to or detracting from the meaning contained therein.

30. Radon Gas Notification: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Colorado.

31. Hazardous Substances: The City has no knowledge of and makes no representation or warranty regarding the existence or disposal of any substance, chemical, material, or waste on the Leased Premises that is or are identified as hazardous, toxic or dangerous under any applicable federal, state or local regulation (collectively "Substances"). The Authority shall not introduce or use any such Substances on the Leased Premises in violation of any applicable law.

32. Injuries and Loss: The City shall not be liable for any injury or damage to persons or property caused by, arising from or resulting from steam, electricity, gas, water, or any other cause or happening whatsoever, unless the same is due to the negligence of the City, its agents, servants, or employees.

33. Signs/Naming Rights: The Authority shall not rename or install any signs on the Leased Premises building or any exterior portion thereof without the prior written consent and approval of the City acting by and through its Mayor, which consent shall not be unreasonably withheld or delayed. It is hereby expressly acknowledged that the Authority
shall be authorized to name the interior rooms or spaces of the Leased Premises and any part thereof, without the consent of City. The City shall not formally name any improvements located on the Leased Premises without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.

34. **Net Lease:** Except as provided herein, all costs, expenses, and obligations of every kind or nature, whatsoever, relating to the Authority’s occupancy and use of the Leased Premises, that may arise or become due during the term of this Agreement, shall be paid by the Authority, and City shall be indemnified and held harmless by the Authority from and against the same.

35. **Quiet Enjoyment:** Upon the Authority’s compliance with the terms and conditions hereof, City covenants and agrees that the Authority may peacefully and quietly enjoy the Leased Premises.

36. **Counterparts:** This Agreement and any amendments hereto may be executed in any number of identical counterparts, and each counterpart thereof shall be deemed to be an original instrument, but all counterparts hereof taken together shall constitute a single instrument. For purposes of executing this Agreement, signatures delivered by facsimile, email or other electronic means shall be deemed valid signatures of any party thereon and shall be considered as an original signature, and the document transmitted shall be considered to have the same binding legal effect as an original signature on an original document, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

37. **Termination:** Notwithstanding the provisions concerning the term of this Agreement, the City shall have the right during the entire term of this Lease, including any renewal period, to terminate this Lease by giving at least sixty (60) days’ written notice to the Authority in accordance with the Notices provision in this Agreement. If the City and the Authority mutually agree that the termination of this Agreement is necessary for the Theatre to be eligible for additional financial support, then the City may terminate this Agreement by giving at least ten (10) days’ written notice to the Authority in accordance with the Notices provision in this Agreement.

38. **Dispute Resolution:** The Parties agree that they will first attempt to resolve any dispute, claim, cause of action, or complaint (together “Claim”) arising out of or related to this Lease through informal discussions between the Parties. Should such discussions not result in a resolution, the Parties agree that the Claim will be submitted first to non-binding mediation prior to either party seeking a judicial resolution.

39. **Entire Agreement:** This Agreement and any attached Exhibits constitute the entire agreement between City and the Authority, superseding all prior oral and written communications. None of the provisions of this Agreement shall be amended, altered, or changed except by a written agreement executed by the Parties hereto.

40. **TABOR:** The Parties understand and agree that the City is subject to Article X, Section 20 of the Colorado Constitution (“TABOR”). The Parties do not intend to violate the terms
of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the applicable rules, regulations, and resolutions of the City and any other applicable law.

41. Governmental Immunity: The Parties hereto understand and agree that the City, its elected officials, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., as the same may be amended from time to time, or otherwise available to the City.

[Remainder of page left blank intentionally. Signatures appear on the following page.]
IN WITNESS WHEREOF, the Parties hereto each herewith subscribe the same in duplicate.

CITY OF CENTRAL, COLORADO

__________________________________________
Kathryn A. Heider, Mayor, authorized
by Ordinance No. 18-10

Approved as to form:

__________________________________________
Marcus McAskin, City Attorney

ATTEST:

__________________________________________
Reba Bechtel, City Clerk

CENTRAL CITY BUILDING AUTHORITY,
a Colorado non-profit corporation

By: ______________________________________
   Daniel Miera, Vice President

ATTEST:

__________________________
Secretary or Assistant Secretary
EXHIBIT A - LEGAL DESCRIPTION OF LEASED PREMISES

S:12  T:3S  R:73W  Subd: CENTRAL CITY  Block:001  Lot 019 THRU 021 (PT Lot 21) & IMPROVEMENTS
COUNTY OF GILPIN,
STATE OF COLORADO

Commonly known as the Belvidere Theatre and having a street address of 139 Nevada Street, Central City, CO 80427 Gilpin County Parcel I.D. #s: 183512301150 (Account No. R002887), and being all of the real property described in that certain Quitclaim Deed dated July 26, 2016 and recorded in the real property records of Gilpin County on July 26, 2016 at Reception Number 156841.
# Community Development Department –
Department Update – August 21, 2018

## Building

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<th>Value – 2018</th>
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<td>39 permits</td>
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<td></td>
<td>2018</td>
<td>25 permits</td>
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<td>$962,799</td>
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## Planning

- Various Initial Development/Building Inquires addressed
- Growth IGA – Update and Discussion Started – Jan. 2018 – Draft to be distributed in August
- Spring Street Easement Confirmation of Agreement – Awaiting Survey of leased areas
- Denver Adventures Revised Construction Plans – under 2nd review
- Planning Commission Last meeting – January 2018 Topic: LDC changes – Parking Fee In-Lieu

## Economic Development

- Northwest Colorado Enterprise Zone
- Central City Opera – Contribution Project Status Obtained
- Belvidere Theater – RFP for Full Design - Building Drawing – Released August 2nd
- Parking Fee In-lieu

## Historic Preservation

- Belvidere Theater
  - Owner Representative – Selection Close
  - Consultant hired to find and obtain outside grant funding
  - Emergency Roof Repair – Request for Bid Released
  - Architectural Drawing – Request for Bid Released – Aug 31st bid closes
  - DOLA Mineral Impact Grant – Submitted to cover half architectural drawing cost

## Historic Preservation Commission

- St. James – Stair replacement – Start mid-August
  - Last Meeting – July 11 - HR 18-05 – Toni Banks – 8348 Virginia Canyon Road – 1,000 sq. ft addition / Approved
  - CS Railcar – Restoration Plan / Approved

## Visitor Center

- Central City Ambassador – Vacancy (Friday/Saturday) – Being advertised

## Code Enforcement

- New items being pursued to sell and being designed
- Respond to complaints made -
<table>
<thead>
<tr>
<th>Year</th>
<th>Value</th>
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<tr>
<td>2016</td>
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<td>2017</td>
<td>33</td>
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<tr>
<td>2018</td>
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### Marketing/Events

#### Billboard
- Opera – May-July 5th (#3 Inbound)
- Gilpin Arts – May – June / Gilpin History – July – September / Grand Z October - December

#### Central City App
- Mobile Town Guide developed “Mobile Town Guide Central City”
- Interactive walking tour planned

#### Promotional Videos
- Video #1: Recreation Released
- Video #2: Events Released
- Video #3: Gaming Final near completion
- Video #4: Combination of all three In the Planning Stages

#### Main Street Central City
- Last Meeting – June 18th
- Self-funding mechanism
  - Shirts, books and post cards for sale
  - $2,000 donation received for advertisement shoot on May 8th

### Direct City Marketing / Promotion
- Jeffco living: Print/ digital ads Ads running for 6 months from Spring to Fall
- iHeart Radio: Radio ads Ads running for 2018 finalized
- Mountain Adventure Guide: Print Finalized

#### Sponsorship
- Events
  - Beer Fest 8/25
  - Hot Rod Hill Climb 9/14-16

### Audio Visual / Website / Information Technology

#### Website/Social Media
- Administration, promotion and monitoring continues

#### Public Access Cable Channel
- Ongoing issues, work with consultant and cable company continues
- Livestreaming of City Council Meetings Operational and found on the City website and Youtube.com

### Staff
- Managing consultants
- Training at UC Denver
- UC Denver Intern
  - Lisa Roehmoldt, Main Street Advisor — Starts August 6th
To: City Manager, Daniel Miera
From: Jason Nelson, Utility Director Jack Beard, Water Operator
Date: August, 2018
Re: Bi-Monthly Report

- Recently, Chase Reservoir Dam was inspected by Mr. Ryan Schoolmeesters, a Dam Safety Engineer from the State of Colorado Division of Natural Resources. Mr. Schoolmeesters was exceptionally pleased with the performance of the new Toe Drains. Mr. Schoolmeesters expressed accolades with the City of Central’s stewardship of Chase Reservoir Dam.
- Concerning the Intake Structure Rehabilitation Project, concrete work has been completed at the new Pecks and Broomfield Intake Structures. Demolition work has commenced at Miners Intake. Currently, the project is proceeding well and is on schedule.
- As a result of the Intake Structure Project, it is of high probability that the Water Department Staff will be required to utilize Chase Reservoir as the raw water source for the City. Departmental Staff are preparing for extended use of Chase Reservoir.
- The 2018 Lead and Copper Monitoring Program has been initiated by the Water Department Staff. 2017 lead and copper results were all well below regulatory concentration levels.