CITY OF CENTRAL, COLORADO
NOTICE OF A REGULAR MEETING of the CITY COUNCIL to be held on
Tuesday, September 4, 2018 @ 6:30 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.

6:30pm Council Meeting

1. Call to Order.

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

3. Pledge of Allegiance

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.

RECONVENE REGULAR SESSION – at 7:00pm

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 27, 2018; and
   Council minutes: August 21, 2018;

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.

ACTION ITEMS: NEW BUSINESS –

7. Resolution No. 18-22: A resolution of the City Council of the City of Central, Colorado referring a ballot issue to the registered electors of the City of Central at the November 6, 2018 Regular Municipal Election, regarding increasing the local sales and use tax from 4% to 6% to fund fire protection and public safety services, programs and facilities. (Miera)

8. Resolution No. 18-23: A resolution of the City Council of the City of Central, Colorado referring a ballot question to the registered electors of the City of Central at the November 6, 2018 Regular
Municipal Election, specifically referring a proposed Charter Amendment regarding the method of filling vacancies on City Council. (McAskin)

9. Resolution No. 18-24: A resolution of the City Council of the City of Central, Colorado calling for a Special Mail Ballot Election to be held on Tuesday, December 11, 2018, to elect a successor Councilperson to serve the remaining unexpired term of the Council Seat vacated by Councilperson Bell. (Bechtel)

10. Ordinance No. 18-11: An ordinance of the City Council of the City of Central, Colorado approving a License Fee Rebate Agreement with 321 Gregory Street LLC and Gregory Gaming, LLC. (McAskin)

REPORTS –

11. Staff updates –
   - Request for Letter of Support (JKQ BBQ/Teller House) - Miera

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 18, 2018.

Posted 8/31/2018

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.
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Grand Totals: 5,182.18 .00 5,182.18
CITY OF CENTRAL
CITY COUNCIL MEETING
August 21, 2018

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 21, 2018.

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

Absent: None

Staff Present: City Manager Miera
   Attorney McAskin
   City Clerk Bechtel
   Community Development Director Rears
   Utilities Director Nelson
   Captain Ihme GCSO

Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA
The agenda was approved with a change in the order of the items.

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

CONSENT AGENDA
Alderman Laratta moved to approve the consent agenda containing the regular bill lists through August 7: the City Council minutes for the meeting on August 7, 2018 and ratification of HR 18-06 for new construction of single family structure on Eureka. Alderman Bell seconded, and without discussion, the motion carried unanimously.

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

PUBLIC HEARING
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 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”). 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 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.

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.

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. 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.

Mayor Heider opened the Public Hearing at 7:06 p.m. Hearing no comments, Mayor Heider closed the Public Hearing at 7:07 p.m.

Alderman Aiken moved to adopt 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. Mayor pro tem Voorhies seconded, and without discussion, the motion carried unanimously.

Alderman Aiken 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 second reading. Mayor pro tem Voorhies seconded, and without discussion, the motion carried unanimously.

**ACTION ITEMS: NEW BUSINESS**

Resolution No. 18-21: A resolution appointing the Municipal Judge and setting the term and compensation for service.

Manager Miera explained that 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. Staff is requesting the approval of the appointment of either 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. The total fiscal impact is $4,200 annually at $700 per month when court is in session.
Mayor Heider added that both candidates were well qualified. She noted that she had worked with Judge Berryhill in her position in Jeffco and that he resides in Gilpin County.

Alderman Aiken moved to adopt Resolution No. 18-21: A resolution appointing Jack W. Berryhill as the Municipal Judge and setting the term and compensation for service. Alderman Bell seconded, and without discussion, the motion carried unanimously.

**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.**

Attorney McAskin explained that 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.

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. 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. 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.

Mayor pro tem Voorhies moved 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. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

**REPORTS**

Manager Miera reported:
1) Gas Leak – occurred on August 14 on Spring Street with CCFD and Xcel responding to repair the leak
2) Spring Street Project – design with Xcel is not complete. Staff is working to move forward with Xcel able to do their part at a later date without impact to the new construction.
3) Capsal on VCR- will seal cracks to the curb and will allow one lane traffic

**COUNCIL COMMENTS**

Mayor Heider thanked Daniel and staff for working with a property owner on Lawrence Street.
Mayor pro tem Voorhies noted the 1-70 WB night closure for bridge repair.

PUBLICFORUM/AUDIENCEPARTICIPATION
Jeremy Fey, 202 W 6th High, announced the upcoming Gilpin Arts event and added that some community members are working to organize a Firefighters Ball.

Diane Sherlok, 842 Russel Gulch, reported her objection to the RockX project and asked for something to be done. Manager Miera responded that staff has researched this project and the property in not within City limits. Staff has reached out to Gilpin County for information.

Tim Casey, 202 E 5th High, noted that the Johnson Reservoir building owned by the City is in poor condition and offered to help with the repairs.

Wayne Butler, 1 Summit Drive, Central City, asked for clarification for the use of the funds on the ballot question to increase sales tax from 4% to 6%. Manager Miera responded that the funds will be for public safety services and not specific for the Fire Department to allow for flexibility over time to maintain and improve City assets.

Jackie Mitchell, 330 Casey/Bates Hill Road, thanked Council and staff for the extra effort on July 4th and for the first time felt safe.

At 7:49 p.m., Mayor Heider adjourned the meeting.
A regular City Council meeting is scheduled for Tuesday, September 4, 2018 at 7:00 p.m.

Kathryn A. Heider, Mayor  Reba Bechtel, City Clerk
AGENDA ITEM # 7

CITY COUNCIL COMMUNICATION FORM

TO: Mayor Heider and Members of City Council
FROM: Daniel Miera, City Manager
THROUGH: Marcus McAskin, City Attorney
DATE: August 30, 2018 (Meeting Date September 4, 2018)
ITEM: Resolution No. 18-22

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I. REQUEST OR ISSUE: Resolution 18-22 ("Resolution") refers the following ballot issue to City voters at the November 6, 2018 regular election:

"BALLOT ISSUE 1A:

SHALL CITY OF CENTRAL SALES AND USE TAXES BE INCREASED $550,000 IN 2019 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN ADDITIONAL SALES AND USE TAX OF 2% (INCREASING THE CITY'S SALES TAX AND USE TAX FROM 4% TO 6%), FOR THE PURPOSE OF PROVIDING FUNDING FOR CITY OF CENTRAL FIRE PROTECTION AND PUBLIC SAFETY SERVICES, PROGRAMS AND FACILITIES, INCLUDING BUT NOT LIMITED TO:
• MAINTAINING AND IMPROVING THE DELIVERY OF EMERGENCY FIRE, MEDICAL, RESCUE AND OTHER PUBLIC SAFETY SERVICES;
• NON-EMERGENCY SERVICES INCLUDING FIRE PREVENTION, LIFE SAFETY INSPECTIONS, AND PUBLIC EDUCATION OUTREACH;
• ESSENTIAL CAPITAL MAINTENANCE AND IMPROVEMENTS FOR PUBLIC SAFETY BUILDINGS AND ASSETS;
• REPLACING OUTDATED EMERGENCY RESPONSE EQUIPMENT SUCH AS AIR PACKS, JAWS OF LIFE, AND HEART MONITORS;
• REPLACING OUTDATED FRONT-LINE COMMUNICATIONS EQUIPMENT AND OUTDATED EMERGENCY RESPONSE VEHICLES,

COMMENCING JANUARY 1, 2019; AND SHALL THE CITY OF CENTRAL BE ENTITLED TO COLLECT, RETAIN, AND SPEND THE FULL REVENUES FROM SUCH TAX INCREASE WITHOUT STATUTORY OR CONSTITUTIONAL LIMITATION OR CONDITION, INCLUDING ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, COLORADO REVISED STATUTES §29-1-301, OR ANY OTHER LAW AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED IN THE FUTURE AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE CITY, AND FURTHER PROVIDED THAT THE CITY MANAGER SHALL ANNUALLY REPORT TO THE CITY COUNCIL ON THE PURPOSES FOR WHICH THE REVENUES FROM THE TAX INCREASE HAVE BEEN DESIGNATED OR USED IN THE PRECEDING CALENDAR YEAR?"

Based on discussions with the City Council in a prior work session, City Staff is providing Resolution No. 18-22 for City Council’s consideration. If adopted, the Resolution will submit a ballot issue to the voters to determine if the citizens of Central City desire to fund fire protection and public safety services, programs and facilities through an increase in the City’s sales and use tax.

II. BACKGROUND:

Based on feedback received at prior retreats and work sessions, City Staff believes that City Council desires to provide additional funding for the City’s fire protection and public safety services, programs and facilities, including but not limited to:

• Maintaining and improving the delivery of emergency fire, medical and rescue services;
• Non-emergency services including fire prevention, life safety inspections, and public education outreach;
• Essential capital maintenance and improvements for public safety buildings and assets;
• Replacing outdated emergency-response equipment; and
• Replacing outdated front-line communications equipment and emergency response vehicles
Pursuant to Resolution No. 18-18, the City Council determined to hold the 2018 regular municipal election as a mail ballot election in accordance with the applicable provisions of Part 9 of Article 10, Title 31, C.R.S.

The Resolution places the ballot issue on the November 6, 2018 ballot as part of the City’s regular municipal election. Ballot content is required to be certified to the designated election official for the mail ballot election prior to September 7, 2018.

The ballot issue contains the following language: "...AND FURTHER PROVIDED THAT THE CITY MANAGER SHALL ANNUALLY REPORT TO THE CITY COUNCIL ON THE PURPOSES FOR WHICH THE REVENUES FROM THE TAX INCREASE HAVE BEEN DESIGNATED OR USED IN THE PRECEDING CALENDAR YEAR." If the ballot issue is approved by voters, the City Manager will have an affirmative obligation in 2020 and each year thereafter to report to City Council regarding the use of the revenues raised from the 2% sales and use tax increase. This will ensure transparency and accountability in the use of the funds, and will help to ensure that the funds are set aside and used for fire protection and public safety services, as required by the text of Ballot Issue 1A.

III. RECOMMENDED ACTION / NEXT STEP: Approve Resolution No. 18-22.

IV. FISCAL IMPACTS: Based on a review of sales and use tax collected over the last five years, staff has projected that increasing the rate from 4% to 6% will generate between approximately $400,000 - $475,000 annually. Staff has included the $550,000 estimate for 2019 in the ballot language to be in compliance with TABOR. This estimate provides a conservative buffer in case the sales and use tax revenue exceeds 2019 projections.

V. LEGAL ISSUES: N/A

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: N/A

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

PROPOSED MOTION: "I MOVE TO APPROVE RESOLUTION NO. 18-22, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO REFERRING A BALLOT ISSUE TO THE REGISTERED ELECTORS OF THE CITY OF CENTRAL AT THE AT THE NOVEMBER 6, 2018 REGULAR MUNICIPAL ELECTION, REGARDING INCREASING THE LOCAL SALES AND USE TAX FROM 4% TO 6% TO FUND FIRE PROTECTION AND PUBLIC SAFETY SERVICES, PROGRAMS AND FACILITIES."

Attachments:

1. Resolution No. 18-22
CITY OF CENTRAL, COLORADO
RESOLUTION NO. 18-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO REFERRING A BALLOT ISSUE TO THE REGISTERED ELECTORS OF THE CITY OF CENTRAL AT THE AT THE NOVEMBER 6, 2018 REGULAR MUNICIPAL ELECTION, REGARDING INCREASING THE LOCAL SALES AND USE TAX FROM 4% TO 6% TO FUND FIRE PROTECTION AND PUBLIC SAFETY SERVICES, PROGRAMS AND FACILITIES

WHEREAS, the City Council desires to provide additional funding for important fire protection and public safety services, programs and facilities, including but not limited to:

- Maintaining and improving the delivery of emergency fire, medical and rescue services;
- Non-emergency services including fire prevention, life safety inspections, and public education outreach;
- Essential capital maintenance and improvements for public safety buildings and assets;
- Replacing outdated emergency-response equipment;
- Replacing outdated front-line communications equipment and emergency response vehicles; and

WHEREAS, it is proper to submit to City voters a ballot issue to allow the voters to determine whether they desire to fund the public safety-related services, programs and facilities identified above through a proposed two percent (2%) increase in the City’s sales and use tax; and

WHEREAS, pursuant to Resolution No. 18-18, the City Council determined to hold the 2018 regular municipal election as a mail ballot election in accordance with the applicable provisions of Part 9 of Article 10, Title 31, C.R.S.; and

WHEREAS, the City Council has determined to submit the ballot issue at the November 6, 2018 regular municipal election,

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

Section 1. The City Council hereby approves and refers the following ballot issue for submission to the voters to appear on the ballot for the regular municipal election to be held on November 6, 2018:
“BALLOT ISSUE 1A:

SHALL CITY OF CENTRAL SALES AND USE TAXES BE INCREASED $550,000 IN 2019 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN ADDITIONAL SALES AND USE TAX OF 2% (INCREASING THE CITY’S SALES TAX AND USE TAX FROM 4% TO 6%), FOR THE PURPOSE OF PROVIDING FUNDING FOR CITY OF CENTRAL FIRE PROTECTION AND PUBLIC SAFETY SERVICES, PROGRAMS AND FACILITIES, INCLUDING BUT NOT LIMITED TO:

- MAINTAINING AND IMPROVING THE DELIVERY OF EMERGENCY FIRE, MEDICAL, RESCUE AND OTHER PUBLIC SAFETY SERVICES;
- NON-EMERGENCY SERVICES INCLUDING FIRE PREVENTION, LIFE SAFETY INSPECTIONS, AND PUBLIC EDUCATION OUTREACH;
- ESSENTIAL CAPITAL MAINTENANCE AND IMPROVEMENTS FOR PUBLIC SAFETY BUILDINGS AND ASSETS;
- REPLACING OUTDATED EMERGENCY RESPONSE EQUIPMENT SUCH AS AIR PACKS, JAWS OF LIFE, AND HEART MONITORS;
- REPLACING OUTDATED FRONT-LINE COMMUNICATIONS EQUIPMENT AND OUTDATED EMERGENCY RESPONSE VEHICLES,

COMMENCING JANUARY 1, 2019; AND SHALL THE CITY OF CENTRAL BE ENTITLED TO COLLECT, RETAIN, AND SPEND THE FULL REVENUES FROM SUCH TAX INCREASE WITHOUT STATUTORY OR CONSTITUTIONAL LIMITATION OR CONDITION, INCLUDING ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, COLORADO REVISED STATUTES §29-1-301, OR ANY OTHER LAW AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED IN THE FUTURE AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE CITY, AND FURTHER PROVIDED THAT THE CITY MANAGER SHALL ANNUALLY REPORT TO THE CITY COUNCIL ON THE PURPOSES FOR WHICH THE REVENUES FROM THE TAX INCREASE HAVE BEEN DESIGNATED OR USED IN THE PRECEDING CALENDAR YEAR?”
Section 2. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot issue set forth herein and the ballot title for such question shall be the text of the question itself.

Section 3. The City Clerk and City Manager are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Resolution including the taking of all reasonable and necessary action to cause such approved ballot issue to be printed and placed on the ballot for the November 6, 2018 regular municipal election.

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

ADOPTED THIS 4th DAY OF SEPTEMBER, 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 #8
CITY COUNCIL COMMUNICATION FORM

FROM: Marcus McAskin, City Attorney
DATE: August 30, 2018 (for September 4, 2018 regular meeting)
ITEM: Resolution 18-23

___ ORDINANCE
X MOTION/RESOLUTION
___ INFORMATION

I. REQUEST OR ISSUE: Resolution No. 18-23 proposes an amendment to the City’s Home Rule Charter ("Charter") concerning the method for filling vacancies on City Council ("Proposed Amendment") and refers a ballot question on the Proposed Amendment to the electorate for the November 6, 2018 regular municipal election.

Currently, Section 3.6 (c) of the Charter requires City Council to call a special election to fill a vacancy on City Council if that vacancy occurs more than one hundred eighty (180) days before the end of the term of the person leaving office. The Proposed Amendment would give City Council the option of appointing a qualified person to fill the vacancy by majority vote while retaining the option of ordering a special election.

II. RECOMMENDED ACTION / NEXT STEP: Approve Resolution No. 18-23.

III. FISCAL IMPACTS: No immediate impact. If the ballot question is approved, City Council shall consider an ordinance to amend the Charter that, if adopted, will give City Council the option to appoint a qualified person to fill a vacancy on City Council regardless of the length of the remaining term. If invoked, this option could save the City the cost of holding a special election.

IV. BACKGROUND INFORMATION: The Charter contains two different methods for filling vacancies on City Council, depending on how much time remains in the term of office being vacated. Vacancies that occur with 180 days or less in the remaining unexpired term are filled by City Council, which must elect a duly qualified person to fill such
vacancy by majority vote.¹ Vacancies that occur with more than 180 days in the remaining unexpired term must be filled by a duly qualified successor elected pursuant to a special election.²

Special elections require the expenditure of City funds and require additional City staff time to manage the election. The Proposed Amendment would, if adopted, authorize City Council to select which of the following two methods should be used to fill a vacancy that occurs with more than 180 days in the remaining unexpired term: (1) appointing a qualified person to fill the vacancy until a duly elected successor has commenced the succeeding term of office; or (2) ordering a special election to be held as soon as practicable to fill the vacancy. Such action must take place within thirty (30) days after a vacancy occurs. This Proposed Amendment streamlines the process of filling vacancies on City Council and will give City Council the option to save residents and taxpayers the expense associated with holding a special election.

If City Council approves Resolution No. 18-23, the ballot question stated therein will be presented to the voters at the November 6, 2018 regular municipal election. If the outcome of the vote on this ballot question indicates support for the Proposed Amendment, the City Council will consider an ordinance that will amend the Charter to implement the Proposed Amendment, as set forth in Attachment A to the Resolution.

V. **LEGAL ISSUES:** Section 14.10 of the Charter permits charter amendments in accordance with the Colorado Constitution and laws of the State of Colorado. Article XX of the Colorado Constitution specifically authorizes the City Council to submit on its own initiative a proposed charter amendment at any municipal election held not less than thirty (30) days after the effective date of the resolution submitting such question to the voters.

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

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

1. Adopt Resolution No. 18-23;

2. Reject or deny Resolution No. 18-23.

**RECOMMENDED MOTION:** "I MOVE TO APPROVE RESOLUTION NO. 18-23, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO REFERRING A BALLOT QUESTION TO THE REGISTERED ELECTORS OF THE CITY OF CENTRAL AT THE NOVEMBER 6, 2018 REGULAR MUNICIPAL ELECTION, SPECIFICALLY REFERRING A PROPOSED CHARTER AMENDMENT REGARDING THE METHOD OF FILLING VACANCIES ON CITY COUNCIL."

¹ Section 3.6 (b) of the City of Central Home Rule Charter.
² Section 3.6 (c) of the City of Central Home Rule Charter.
CITY OF CENTRAL, COLORADO
RESOLUTION NO. 18-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO REFERRING A BALLOT QUESTION TO THE REGISTERED ELECTORS OF THE CITY OF CENTRAL AT THE NOVEMBER 6, 2018 REGULAR MUNICIPAL ELECTION, SPECIFICALLY REFERRING A PROPOSED CHARTER AMENDMENT REGARDING THE METHOD OF FILLING VACANCIES ON CITY COUNCIL

WHEREAS, if a vacancy occurs in a City elective office other than that of Mayor with a remaining unexpired term exceeding one hundred eighty days (180) from the date the vacancy occurs, City Council is required to call a special election to elect a duly qualified successor to serve the remainder of the unexpired term pursuant to Section 3.6(c) of the Home Rule Charter for Central City ("Charter"); and

WHEREAS, such special elections must be held no sooner than thirty (30) days and no later than ninety (90) days after the passage of the resolution calling for the election; and

WHEREAS, special elections require the expenditure of City funds and require additional City staff time to manage the election; and

WHEREAS, amendments to the Charter are required to be accomplished in accordance with the Colorado Constitution and laws of the State of Colorado, as set forth in Section 14.10 of the Charter; and

WHEREAS, pursuant to Article XX of the Colorado Constitution, the City Council may, on its own initiative, submit a proposed charter amendment at any municipal election held not less than thirty (30) days after the effective date of the resolution submitting such question to the voters; and

WHEREAS, the City Council desires increased flexibility in the procedure for filling vacancies in City Council positions; and

WHEREAS, specifically City Council desires to have the option of appointing a duly qualified individual to fill a vacancy while retaining the option of ordering a special election; and

WHEREAS, the proposed change to the Charter streamlines the process of filling vacancies on City Council and may save residents and taxpayers the expense associated with holding a special election; and

WHEREAS, City Council proposes a Charter amendment that will authorize the remaining members of City Council, within thirty (30) days after such a vacancy occurs in an
elective office other than that of Mayor, the option to either: (1) appoint a qualified person to fill the vacancy until a duly elected successor has commenced the succeeding term of office; or (2) order a special election to be held as soon as practicable to fill the vacancy ("Proposed Amendment"); and

WHEREAS, the specific text of the Proposed Amendment is set forth in ATTACHMENT A to this Resolution and is incorporated herein by reference; and

WHEREAS, the City Council desires to refer the Proposed Amendment to the voters as a question to be placed on the ballot for the November 6, 2018 regular municipal election; and

WHEREAS, if the outcome of the vote on this ballot question indicates support for the Proposed Amendment, the City Council will consider an ordinance that will amend the Charter to implement the Proposed Amendment; and

WHEREAS, the ordinance amending the Charter to implement the Proposed Amendment will make the changes to Sections 3.6(b), (c) and (d) of the Charter as specifically set forth and shown in ATTACHMENT A; and

WHEREAS, pursuant to Resolution No. 18-18, the City Council determined to hold the 2018 regular municipal election as a mail ballot election in accordance with the applicable provisions of Part 9 of Article 10, Title 31, C.R.S.; and

WHEREAS, the City Council has determined to submit the ballot question set forth in this Resolution to the voters at the November 6, 2018 regular municipal election.

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

Section 1. The City Council hereby approves and refers the following ballot question for submission to the voters to appear on the ballot for the regular municipal election to be held on November 6, 2018:

"BALLOT QUESTION ____:

Shall Section 3.6 of the Home Rule Charter of the City of Central be amended to clarify that City Council shall be authorized, within thirty (30) days after a vacancy in City Council occurs, to either: (1) appoint a qualified person to fill the vacancy until a duly elected successor has commenced the succeeding term of office; or (2) order a special election to be held as soon as practicable to fill the vacancy, as generally described in City Council Resolution No. 18-24 adopted September 4, 2018?

YES ____
NO ____"
Section 2. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the
title and content for the ballot question set forth herein and the ballot title for such question shall
be the text of the question itself.

Section 3. The City Clerk and City Manager are hereby authorized and directed to
take all necessary and appropriate action to effectuate the provisions of this Resolution including
the taking of all reasonable and necessary action to cause such approved ballot question to be
printed and placed on the ballot for the November 6, 2018 regular municipal election.

Section 4. If a majority of voters voting on the ballot question set forth in this
Resolution approved the Proposed Amendment, City Council shall consider an ordinance that
will amend the Charter in accordance with the specific changes to Sections 3.6(b), 3.6(c) and
3.6(d) as specifically set forth and shown in ATTACHMENT A.

Section 5. This Resolution shall take effect upon its approval by the City Council.

ADOPTED THIS 4TH DAY OF SEPTEMBER, 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
ATTACHMENT A
Proposed Charter Amendment

Section 3.6  Vacancies.

No changes to 3.6(a) or 3.6(e). The proposed changes to Section 3.6(b), 3.6(c) and 3.6(d) are shown in legislative redline format below, with deletions appearing in strikethrough and additions shown in underline.

(b) Within thirty days after a vacancy occurs in an elective office other than that of Mayor with a remaining unexpired term not exceeding one hundred eighty days from the date the vacancy occurs, the remaining council members shall **elect appoint** by majority vote a duly qualified person to fill such vacancy.

(c) **Within thirty days after** a vacancy occurs in an elective office other than that of Mayor with a remaining unexpired term exceeding one hundred eighty days from the date the vacancy occurs, **then** the remaining council members shall: **(1) appoint** by resolution at the next regular meeting of the council, majority vote a duly qualified person to fill such vacancy; or at a special meeting called for the purpose, **call** **(2) order** a special election in the city or under-represented ward or district to elect a duly qualified successor to serve the remainder of the unexpired term.

(d) Special elections called pursuant to this Section 3.6 shall be held **no sooner than thirty days and no later than ninety days after the passage of the resolution calling for the election, as soon as practicable.** Successor council members elected or appointed under the procedures of this Section shall take the oath of office at the next regular or special meeting after their election.
AGENDA ITEM # 9
CITY COUNCIL COMMUNICATION FORM

FROM: Reba Bechtel, City Clerk

DATE: September 4, 2018

ITEM: Resolution No. 18-24: A resolution of the City Council of the City of Central, Colorado, calling for a Special Mail Ballot Election to be held on Tuesday, December 11, 2018, to elect a successor Councilperson to serve the remaining unexpired term of the Council Seat vacated by Councilperson Bell.

NEXT STEP: Council Motion

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___ ORDINANCE
X MOTION
___ INFORMATION

I. REQUEST OR ISSUE: The proposed resolution reviews the governing regulations to hold a Special Mail Ballot Election and designates the City Clerk as the election official responsible for conducting the election, appointing election judges, and supervising the distributing, handling, counting of ballots, and the survey of returns.

II. RECOMMENDED ACTION / NEXT STEP: Approve Resolution 18-24. The Nomination Petition period will be from 9/11 to 10/1. Ballots will be mailed November 19-26.

III. FISCAL IMPACTS: Preliminary cost is estimated at $2,000 to $2,500

IV. BACKGROUND INFORMATION: 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 3.6 of the Charter provides that special municipal elections to be held no later than 90 days after the passage of the resolution calling the election which with the added factor of state statute that a special election cannot be within 32 days of a general election sets the election date for December 11, 2018.

V. LEGAL ISSUES: None

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: None
VII. SUMMARY AND ALTERNATIVES:
Council may take one of the following actions:
1. Move to approve.
2. Amend the Resolution
3. Move to deny.
CITY OF CENTRAL, COLORADO
RESOLUTION NO. 18-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, CALLING FOR A SPECIAL MAIL BALLOT ELECTION TO BE HELD ON TUESDAY, DECEMBER 11, 2018, TO ELECT A SUCCESSOR COUNCILPERSON TO SERVE THE REMAINING UNEXPIRED TERM OF THE COUNCIL SEAT VACATED BY COUNCILPERSON BELL

WHEREAS, Councilperson Mary Bell submitted a letter of resignation dated August 29, 2018, which letter was distributed to City Council in advance of the September 4, 2018 regular City Council meeting; and

WHEREAS, Councilperson Bell’s resignation will be effective immediately following the conclusion of the September 18, 2018 regular City Council meeting, and therefore a vacancy will occur in an elective office other than Mayor with a remaining unexpired term exceeding 180 days; and

WHEREAS, Section 3.6(c) of the City’s Home Rule Charter provides that if a vacancy occurs in an elective office other than Mayor with a remaining unexpired term exceeding 180 days from the date of the vacancy, then the remaining members of City Council shall, by resolution at the next regular meeting of the Council, or at a special meeting called for the purpose, call a special election in the City to elect a duly qualified successor to serve the remainder of the unexpired term; and

WHEREAS, Section 3.6(d) of the Home Rule Charter provides that such election shall be held no later than ninety days after the passage of the resolution calling for the election; and

WHEREAS, City Council desires to call a special election in order to elect a successor Councilperson to serve the remaining unexpired term of the Council seat vacated by Councilperson Bell, with such special election to be conducted on Tuesday, December 11, 2018; and

WHEREAS, Section 2-1-10 of the Municipal Code 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”); and

WHEREAS, Part 9 of the Municipal Election Code, specifically C.R.S. §§ 31-10-907 through 913, governs the conduct of mail ballot elections; and

WHEREAS, City Council desires to conduct the special election as a mail ballot election in accordance with the Municipal Election Code and other governing law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, THAT:
**Section 1.** In accordance with Section 3.6 of the City of Central’s Home Rule Charter, there shall be conducted a special election on December 11, 2018 to elect a successor to fill the remainder of the unexpired term of the Council seat vacated by Councilperson Bell.

**Section 2.** As authorized by the Municipal Election Code, the special election shall be conducted as a mail ballot election in accordance with Part 9 of Article 10, Title 31, C.R.S.

**Section 3.** The City Council hereby 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. The City Clerk shall be authorized to designate one or more designated depositories for the receipt of ballots, which must remain open until 7:00 p.m. on election day, and shall be further authorized to appoint election judges or other persons to: (a) supervise the designated depositories, if any; and (b) to take other actions as necessary for the proper conduct of the mail ballot election.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon adoption.

INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CENTRAL by a vote of _____ in favor and _____ against this 4th day of September, 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: Daniel Miera, City Manager
THROUGH: Marcus McAskin, City Attorney
DATE: August 30, 2018 (for September 4, 2018 regular meeting)
ITEM: Ordinance 18-11

____X ORDINANCE
____ MOTION
____ INFORMATION

I. **REQUEST OR ISSUE:** Ordinance No. 18-11 ("Ordinance") approves a License Fee Rebate Agreement ("Agreement") with 321 Gregory Street, LLC and Gregory Gaming, LLC. 321 Gregory is the current record owner of the Grand "Z" Casino, and Gregory Gaming operates and manages the Casino. 321 Gregory and Gregory Gaming are referred to as the "Owner/Operator" in the Agreement.

The City desires to assist Owner/Operator with the completion of certain public improvements in the general vicinity of the Casino including the specific improvements on or in the immediate vicinity of the AGE Lot:

- installation of storm water infrastructure from the current outlet leaving the Casino garage on the east side to the west side of the box culvert under D Street, from the east side of the box culvert under D Street down to the west side of the box culvert under Leavitt Street;

- import of clean fill over the storm water infrastructure, bringing the AGE Lot up to grade level or substantially grade level with adjacent streets sufficient to complete the other eligible improvements;

- the improvement of the surface area of the AGE Lot for public parking, subject to certain restrictions outlined below;
• undergrounding overhead utilities; and

• installation of curb, gutter, sidewalk and street lighting in locations on or in the vicinity of the AGE Lot or elsewhere as may be approved in advance by the City in writing (together, the "Eligible Improvements").

The Owner/Operator’s completion of the Eligible Improvements was contemplated in that certain Lease Agreement by and between the City and 321 Gregory for the AGE Lot dated December 6, 2017 (the "Lease Agreement"). A copy of the Lease Agreement is incorporated into the Agreement as Exhibit A.

City Staff has determined that assisting the Owner/Operator with completion of the Eligible Improvements will substantially benefit the public through improved stormwater conveyance infrastructure, additional public parking, and improved community aesthetics.

City Council is authorized to refund a percentage or portion of License Fees for New Gaming Devices where such refunds further the economic development goals of the City.

A proposed draft of the Agreement is incorporated as Exhibit 1 to the proposed Ordinance. Following review and discussion at the September 4th meeting, Council is asked to adopt Ordinance 18-11 on first reading and schedule second reading and public hearing on Tuesday, September 18, 2018.

II. RECOMMENDED ACTION / NEXT STEP: Approve Ordinance No. 18-11 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.

III. FISCAL IMPACTS: The Agreement contemplates City participation in the Eligible Improvements by rebating a fixed percentage of eligible annual license fees up to a maximum rebate amount of verified costs associated with the Eligible Improvements ("Rebate Sum"). The City’s share of the cost of eligible improvements will be funded through a rebate of a graduated percentage of eligible License Fees, as set forth in the Agreement.

IV. BACKGROUND INFORMATION:

As set forth above, the Lease Agreement contemplated the Owner/Operator’s completion of the Eligible Improvements. The Agreement sets forth that if a surface parking lot is constructed on the AGE Lot (as currently contemplated), a minimum of thirty (30) spaces will be reserved for free use by the public in perpetuity. In order to ensure the availability of the public parking spaces, the AGE Lot shall be subject to a deed restriction or appropriate easement. The Agreement further contemplates that the recordation of such deed restriction or easement, in a form approved by the City Attorney and City Manager, must occur prior to the Owner/Operator proceeding with the installation of the Eligible Improvements and that the City shall have no obligation to pay any portion of the Rebate Sum until the deed restriction or easement has been finalized and recorded in the real property records of Gilpin County, Colorado.
V. **LEGAL ISSUES:** None. Section 5.8 of the Home Rule Charter requires every act creating an indebtedness to be approved by Ordinance. While the Agreement creates a conditional repayment obligation of the City, the Agreement remains subject to annual appropriation and does not constitute a multiple-year financial obligation of the City.

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

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

1. Adopt Ordinance No. 18-11 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. 18-11, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, APPROVING A LICENSE FEE REBATE AGREEMENT WITH 321 GREGORY STREET, LLC AND GREGORY GAMING, LLC 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 18-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO, APPROVING A LICENSE FEE REBATE AGREEMENT WITH 321 GREGORY STREET, LLC AND GREGORY GAMING, LLC

WHEREAS, 321 Gregory Street, LLC and Gregory Gaming, LLC (together “Owner/Operator”) own and operate the Grand Z Casino Hotel property (“Casino”); and

WHEREAS, the City Council desires to assist the Owner/Operator with defraying the costs associated with the completion of certain public improvements in the general vicinity of the Casino, including the installation of storm water infrastructure, the construction of public parking facilities, undergrounding overhead utilities and the installation of related curb, gutter, sidewalk and street lighting improvements (the “Eligible Improvements”); and

WHEREAS, the City Council finds that assisting the Owner/Operator with the completion of the Eligible Improvements will further certain planning and economic development goals of the City; and

WHEREAS, the City Council finds that assisting the Owner/Operator with completion of the Eligible Improvements will substantially benefit the public through improved stormwater conveyance infrastructure, additional public parking, and improved community aesthetics; and

WHEREAS, the City is authorized to refund license fees for new gaming devices where such refunds further the economic development goals of the City; and

WHEREAS, the methodology for funding the City’s share of the Eligible Improvements is set forth with specificity in the license fee rebate agreement attached to this Resolution as Exhibit 1 (the “Rebate Agreement”); and

WHEREAS, the Rebate Agreement establishes a mechanism whereby the City will rebate a fixed percentage of the verified costs of the Eligible Improvements to the Owner/Operator by rebating a percentage of annual license fees for new gaming devices; and

WHEREAS, the Rebate Agreement also establishes a maximum rebate sum; and

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

WHEREAS, Owner/Operator and the City have agreed to the terms and conditions of the Rebate Agreement; and

WHEREAS, the City Council has reviewed the form of the Rebate Agreement and has found the terms and conditions thereof acceptable.
BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL, COLORADO THAT:

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

Section 2. The terms of said Rebate Agreement are in the best interests of the City and timely completion of the Eligible Improvements will further certain planning and economic development goals of the City.

Section 3. The City Council designates and confirms that the Mayor has the authority to execute and deliver the Rebate Agreement and any related documents necessary to the consummation of the transactions contemplated by the Rebate Agreement in substantially the form attached hereto as Exhibit 1 for and on behalf of the City. The Mayor, in consultation with the City Manager and the City Attorney, may make such non-material changes to the Rebate Agreement as necessary or desirable and that do not materially increase the obligation(s) of the City, such approval to be conclusively evidenced by the execution and delivery of the Rebate Agreement.

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

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

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 4th day of September, 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 ___ day of _____________, 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
License Fee Rebate Agreement
CITY OF CENTRAL, COLORADO
LICENSE FEE REBATE AGREEMENT

THIS LICENSE FEE REBATE AGREEMENT (the “Agreement”) is entered into as of the ___ day of _______________ 2018, by and between the CITY OF CENTRAL, a home rule municipality of the State of Colorado (“Central City” or the “City”), 321 GREGORY STREET, LLC, a Colorado limited liability company (“321 Gregory”), and GREGORY GAMING, LLC, a Colorado limited liability company (“Gregory Gaming”) (together, the “Parties”), and is effective as of the date of mutual execution by the Parties (“Effective Date”). 321 Gregory and Gregory Gaming shall be referred to collectively as “Owner/Operator”) in this Agreement. Capitalized terms used herein and not otherwise defined have the meanings given to them in Section 1.1.

RECATIALS

A. The City desires to assist Owner/Operator with the completion of certain public improvements in the general vicinity of the Grand Z Casino Hotel property (“Casino”), including but not limited to the following improvements on or in the immediate vicinity of the AGE Lot:

1) installation of storm water infrastructure from the current outlet leaving the Casino garage on the east side to the west side of the box culvert under D Street, from the east side of the box culvert under D Street down to the west side of the box culvert under Leavitt Street;

2) import of clean fill over the storm water infrastructure, bringing the AGE Lot up to grade level or substantially grade level with adjacent streets sufficient to complete the Eligible Improvements;

3) the improvement of the surface area of the AGE Lot for public parking, subject to certain restrictions outlined below;

4) undergrounding overhead utilities; and

5) installation of curb, gutter, sidewalk and street lighting in locations on or in the vicinity of the AGE Lot or elsewhere as may be approved in advance by the City in writing.

(collectively, the “Eligible Improvements”).

B. 321 Gregory is the current record owner of the Casino;

C. Gregory Gaming operates and manages the Casino;
D. The City desires to assist Owner/Operator with the completion of the Eligible Improvements in order to further planning and economic development goals of the City;

E. The City finds that assisting the Owner/Operator with completion of the Eligible Improvements will substantially benefit the public through improved stormwater conveyance infrastructure, additional public parking, and improved community aesthetics; and

F. The City is authorized to refund a percentage or portion of License Fees for New Gaming Devices where such refunds further the economic development goals of the City.

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Owner/Operator agree as follows:

1.0 DEFINITIONS: INTERPRETATION

1.1 Definitions. The terms set forth below shall have the following meanings:

"321 Gregory" means 321 Gregory Street, LLC, a Colorado limited liability company.

"AGE Lot" means that certain property owned by 321 Gregory, located to the west of D Street between Gregory Street and Lawrence Street (Gilpin County Parcel ID: 183512310109), and acquired by 321 Gregory from American Gaming Enterprises LLC, a Colorado limited liability company, by warranty deed dated October 5, 2017.

"Actual Construction Costs" mean those reasonable and direct costs that are incurred for the purpose of constructing any of the Eligible Improvements, as verified by the City in accordance with Section 2.1.1 of this Agreement. Actual Construction Costs shall not include any financing costs, interest, or Owner/Operator profit or overhead.

"Business Day" means any day other than Saturday, Sunday, or other day on which commercial banks in Denver, Colorado are authorized or required to close.

"Casino" means the gaming operation(s) owned and operated by Owner/Operator located at 321 Gregory Street and currently operated as The “Grand Z” Casino Hotel, together with any ancillary and appurtenant restaurant, retail, hotel, entertainment and related operations, and subject to all applicable federal, state and local ordinances and regulations.

"Gaming Device" means any equipment or mechanical, electromechanical, or electronic contrivance, component, or machine used remotely or directly in connection with gaming or any game. The term includes a slot machine, poker table, blackjack table and the cards used to play poker and blackjack.
“Gregory Gaming” means Gregory Gaming, LLC, a Colorado limited liability company.

“License Fees” means the annual license fee imposed in accordance with Section 6-5-30 of the Municipal Code, as the same may be amended from time to time. License Fees shall not include the fees set forth in Section 6-5-40 of the Municipal Code specifically including the transportation fee imposed by the City (or the Central City Transportation Enterprise).

“New Gaming Device” shall have the meaning set forth in Section 2.2.1 below.

“Owner/Operator” means 321 Gregory and Gregory Gaming.

“Person” means an individual, partnership (whether general or limited), joint venture, corporation, limited liability company, trust, estate, custodian, nominee, government (or agency or political subdivision thereof) or other association, entity or group.

“Slot Machine” means any mechanical electrical video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens or redeemable game credits, or any other things of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner.

“State Gaming License” means a license issued by the Colorado Limited Gaming Control Commission or its successor agencies which authorizes any person to engage in gaming within the City of Central.

1.2 Interpretation: References. Pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character, and the singular shall include the plural wherever and as often as may be appropriate. Article and section headings are for convenience of reference and shall not affect the construction or interpretation of this Agreement. Whenever the terms “hereof”, “hereby”, “herein”, or words of similar import are used in this Agreement they shall be construed as referring to this Agreement in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary. Whenever the word “including” is used herein, it shall be construed to mean “including without limitation”. Any reference to a particular “Article” or a “Section” or a “subsection” shall be construed as referring to the indicated article or section or subsection of this Agreement unless the context indicates to the contrary.
2.0 TERMS AND CONDITIONS

2.1 Owner/Operator Obligations.

2.1.1 Construction of Eligible Improvements. Subject to the terms of this Agreement, the Owner/Operator shall design and construct the Eligible Improvements, subject to and in conformance with this Agreement and all applicable City ordinances, rules and regulations, including but not limited to applicable building, zoning, subdivision, safety and other police regulations of the City. Prior to commencing the construction of any Eligible Improvements, the City Engineer shall review and approve: (a) final design; (b) final engineered cost estimates for the Eligible Improvements; and (c) a project schedule including the estimated start date and completion date for the Eligible Improvements. Following review of items (a) through (c) above, the City Engineer shall forward a written recommendation to the City Manager, who shall be authorized to issue written authorization or conditional authorization to Owner/Operator to proceed with construction of the Eligible Improvements, upon confirmation that Owner/Operator has secured all permits necessary to commence with installation of the Eligible Improvements. As set forth in Section 2.1.3 below, construction of the Eligible Improvements shall not commence unless the deed restriction or easement has been recorded in the real property records of Gilpin County, Colorado. If Owner/Operator proceeds to construct or install any Eligible Improvements without the written authorization or conditional authorization of the City Manager, the Eligible Improvements will not be eligible for the rebate incentive contemplated by this Agreement. The Owner/Operator will be responsible for all design, permitting, construction, and warranty of the work associated with the Eligible Improvements. The City Engineer shall be permitted to inspect all work associated with the Eligible Improvements as such work proceeds, and shall serve as the City’s “owner’s representative” for all portions of any Eligible Improvements for which the City will be providing a rebate. Owner/Operator shall cooperate with the City Engineer to ensure that any “punch list” items identified by the City Engineer are addressed and completed to the City Engineer’s satisfaction by Owner/Operator or the Owner/Operator’s contractor(s) hired to construct the Eligible Improvements. In order to be eligible for reimbursement through the License Fee rebate incentive mechanism set forth in this Agreement, Owner/Operator must complete the Eligible Improvements on or prior to October 30, 2022.

2.1.2 Property interest(s) in AGE Lot. 321 Gregory is the current record owner of the AGE Lot. Owner/Operator shall obtain easements, leasehold interests, license agreements, or other property interests in any other properties located in the immediate vicinity of the AGE Lot, as necessary to permit the installation of the Eligible Improvements prior to undertaking any construction of the Eligible Improvements. Nothing in this Agreement shall modify any term of the Lease Agreement dated December
6, 2017 by and between 321 Gregory and the City ("AGE Lease Agreement"), a copy of which is attached to this Agreement as Exhibit A and is incorporated herein by reference.

2.1.3 Free Municipal Parking. If a surface parking lot is constructed on the AGE Lot, a minimum of thirty (30) spaces shall be reserved for free use by the public ("Public Parking Spaces"). In order to ensure the availability of Public Parking Spaces, the AGE Lot shall be subject to a deed restriction or appropriate easement allowing for the perpetual use of the AGE Lot for the Public Parking Spaces consistent with the terms herein. The terms of the deed restriction or easement shall be negotiated between the City and 321 Gregory, but at a minimum shall provide the following: (1) the non-exclusive and perpetual right to ingress and egress to the AGE Lot by the City and the public; (2) perpetual free use of the Public Parking Spaces by the public; (3) Owner/Operator’s ongoing maintenance of the AGE Lot such that the Public Parking Spaces are continuously available; and (4) Owner/Operator’s obligation to provide adequate insurance and to hold harmless and indemnify the City from claims, suits and damages arising from construction, operation and maintenance of the AGE Lot or Public Parking Spaces. Recordation of such deed restriction or easement, in a form approved by the City Attorney and City Manager, shall occur no later than the date on which the City Manager issues written authorization or conditional authorization to Owner/Operator to proceed with construction of the Eligible Improvements in accordance with Section 2.1.1 above. The City shall have no obligation to pay any portion of the Rebate Sum contemplated by this Agreement until the deed restriction or easement has been finalized and recorded in the real property records of Gilpin County, Colorado. The City reserves the right to remove the deed restriction or quitclaim the City’s interest in the easement to 321 Gregory or the current record owner of the AGE Lot on terms and conditions acceptable to the City, including but not limited to payment of a deed restriction or easement termination fee equal to a minimum of twenty-five percent (25%) of the Rebate Sum ("Termination Payment"). The amount of the Termination Payment, if any, shall be established by resolution of City Council adopted at a regular or special meeting of City Council.

2.1.4 Owner/Operator Documentation. Upon final completion of the construction of any Eligible Improvements, the Owner/Operator shall verify by sworn affidavit and document by receipts for payment, all costs incurred in the construction of the Eligible Improvements. The affidavit and receipts shall be provided to the City Engineer and City Manager. The City shall have sixty (60) days to accept or challenge Owner/Operator’s verified construction costs. Once the City has confirmed the Actual Construction Costs, the Rebate Sum shall be fixed, and reimbursement of License Fees as provided in Section 2.2.1 hereof shall commence, based on Actual Construction Costs and upon actual collections by the City of License Fees paid by Owner/Operator.

2.1.5 Adherence to City Regulations. Nothing contained in this Agreement shall be construed to relieve the Owner/Operator from full compliance with all ordinances,
resolutions, rules, regulations and written policies of the City, including the payment of all applicable taxes, fees, licenses, and permits (subject to a License Fee rebate as specified in Section 2.2.1), and compliance with all applicable City subdivision, zoning, building, historic preservation, fire and safety codes, and all other applicable ordinances and regulations of the City. Any Eligible Improvements, including without limitation, stormwater conveyance, public sidewalks, street lights, surface parking, shall be designed, constructed and paid for by the Owner/Operator in conformance with this Agreement and all City ordinances and regulations.

2.1.6 Availability of Records. The Owner/Operator agrees to cooperate with the City and make its records and Casino available to the City during normal business hours in order for the City to make the appropriate rebate payments to Owner/Operator.

2.2 Central City Obligations. In exchange for the obligations of the Owner/Operator set forth in Section 2.1 and its subsections, the City agrees to the following:

2.2.1 Rebate Incentive. In exchange for the Owner/Operator’s construction of authorized Eligible Improvements, and subject to the terms hereof, the City hereby agrees to refund to the Owner/Operator a graduated percentage of all eligible License Fees paid by the Owner/Operator to the City for each Gaming Device of the Casino in excess of number of Gaming Devices existing at the Casino as of July 1, 2017 of this Agreement (“New Gaming Devices”), on the condition that the New Gaming Devices also represent a net increase in total Gaming Devices within the City. The graduated percentage of all eligible License Fees for the New Gaming Devices is set forth in the table below:

<table>
<thead>
<tr>
<th>Number of New Gaming Devices (added after July 1, 2017)</th>
<th>Percentage of Eligible Fee Rebated</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-100</td>
<td>50%</td>
</tr>
<tr>
<td>101-200</td>
<td>60%</td>
</tr>
<tr>
<td>201-300</td>
<td>70%</td>
</tr>
<tr>
<td>301-400</td>
<td>80%</td>
</tr>
<tr>
<td>401-500</td>
<td>90%</td>
</tr>
</tbody>
</table>

The number of New Gaming Devices eligible for the License Fee rebate shall be capped at 500. The City shall refund the percentage of License Fees set forth above up to a maximum dollar amount equal to ____ Percent (___%) of the Actual Construction Costs of all Eligible Improvements approved and accepted by the City, but not exceeding ___________ dollars ($__________) (“Rebate Sum”). Owner/Operator agrees that when Actual Construction Costs are known and following verification and approval of Actual Construction Costs by the City, the Rebate Sum shall be determined and attached and incorporated into this Agreement as Exhibit B. The Rebate Sum shall be specifically set
forth and identified in Exhibit B. Unless otherwise directed in writing by the Owner/Operator during the term of this Agreement, all payments of the Rebate Sum made by the City shall be made to 321 Gregory. The Owner/Operator shall be entitled to a rebate of eligible License Fees, provided that each of the following occurs: (1) the License Fee rebate is paid on New Gaming Devices only, as that term is defined in Section 2.2.1; (2) the City has approved the Actual Construction Costs; (3) Owner/Operator has paid License Fees to the City; and (4) Owner/Operator is and remains in compliance with all applicable City ordinances, rules and regulations.

2.2.2 Payment of Rebate. Upon calculation by the City of the correct amount of License Fees paid by the Owner/Operator for each New Gaming Device on a monthly basis, the City shall issue the appropriate License Fee rebate for the preceding month's payment. Until the Rebate Sum is paid to Owner/Operator, the City agrees to pay the monthly rebate to the Owner/Operator within thirty (30) days of the Owner/Operator's timely payment of monthly License Fees in accordance with Article V, Chapter 6 of the Central City Municipal Code, as may be amended from time to time.

3.0 TERM AND TERMINATION

This Agreement shall be effective as of the Effective Date and shall remain in effect until such time as the Rebate Sum has been paid. This Agreement may be terminated:

3.1 Upon the mutual written consent and approval of all Parties.

3.2 By either Owner/Operator or the City if the other Party has materially breached this Agreement; provided that the terminating Party is not also in material breach of this Agreement and has provided written notice to the breaching Party stating its intention to declare a default and to terminate this Agreement and describing in reasonable detail the nature of the breach, and the breaching Party fails to cure or take substantial steps to cure the breach within thirty (30) days of receipt of such notice. The correction of the material breach shall constitute a cure thereof.

3.3 For purposes of this Section, a material breach by Owner/Operator shall include but not be limited to closure of the Casino for a period exceeding thirty (30) consecutive days.

4.0 DISPUTE RESOLUTION

4.1 General. All Parties shall use commercially reasonable efforts to negotiate an amicable resolution to any dispute arising from this Agreement. However, if Owner/Operator and the City are unable to negotiate an amicable resolution of a dispute within thirty (30) days from the date of written notice of the dispute, or such other time period as the Parties mutually agree in writing, any party may initiate a claim in accordance with Section 4.2.

4.2 Jurisdiction. This Agreement shall be governed by the laws of the State of Colorado, whose courts shall have exclusive jurisdiction over any claim or cause of action arising
under this Agreement. Venue for any and all legal actions arising hereunder shall lie in the district court in and for the County of Gilpin, State of Colorado. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court or forum. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity. In addition to any other available remedies, it is understood and agreed that the City may, in its sole discretion, withhold or refuse to issue License Fee rebates requested by Owner/Operator or other due to Owner/Operator under the terms of this Agreement, in the event of a breach of this Agreement by Owner/Operator.

**5.0 MISCELLANEOUS PROVISIONS**

5.1 **Notices.** Any notice required, permitted or provided for in this Agreement shall be in writing and shall be personally delivered, or mailed first class mail (postage prepaid, return receipt requested), or sent by reputable overnight courier service (charges prepaid) to the recipient at the address below indicated, or at such address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party. Notices shall be deemed to have been given hereunder when delivered personally on the day of delivery, five days after deposit in the U.S. mail and one Business Day after deposit with a reputable overnight courier service.

**To Central City:**

City of Central, Colorado  
PO Box 249  
141 Nevada Street  
Central City, CO 80427  
Attn: City Manager

**To 321 Gregory:**

321 Gregory Street, LLC  
101 Gregory Street  
P.O. Box 49  
Black Hawk, CO 80422  
Attn: John Zimpel

**With a copy to:**

City Attorney  
c/o Michow Cox & McAskin LLP  
6530 S. Yosemite Street, Suite 200  
Greenwood Village, CO 80111

**To Gregory Gaming:**

Gregory Gaming, LLC  
101 Gregory Street  
P.O. Box 49  
Black Hawk, CO 80422  
Attn: John Zimpel

5.2 **Entire Agreement.** Except as otherwise expressly set forth herein, this Agreement embodies the complete agreement and understanding among the Parties hereto with respect to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way.
5.3 **Amendment and Waiver.** The provisions of this Agreement may be amended or waived only with the prior written consent of the City and Owner/Operator. The failure of any Party to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

5.4 **Severability.** If any provision of this Agreement or the application thereof to any Person or circumstances shall be invalid or unenforceable to any extent, and such invalidity or unenforceability does not destroy the basis of the bargain between the Parties, then the remainder of this Agreement and the application of such provisions to other Persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

5.5 **Counterparts.** This Agreement may be signed in counterparts (including by means of telecopy signature pages), which need not contain the signature of more than one party, but taken together shall constitute one and the same agreement.

5.6 **Successors and Assigns.** Except as otherwise expressly provided in this Agreement, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned or delegated, in whole or in part, by operation of law or otherwise by any Party without the prior written consent of the other Parties, such written consent to not be unreasonably withheld and any such assignment without such prior written consent shall be null and void.

5.7 **Governing Law.** All issues and questions concerning the construction, validity, interpretation and enforceability of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado. Exclusive venue for any dispute under this Agreement shall be Gilpin County, Colorado.

5.8 **No Third-Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and their respective successors and assigns and nothing contained in this Agreement shall give or allow any such claim or right of action by any other person with respect to this Agreement.

5.9 **Governmental Immunity.** Nothing contained herein shall limit, waive or intend to waive the monetary limitations or any other rights, immunities, and protections provided to the City of Central by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., as from time to time amended, or otherwise available to the City, its officers, and employees.

5.10 **TABOR Compliance.** The amount payable under this Agreement by the City is available subject to annual appropriation. Owner/Operator acknowledges and agrees that Article X, Section 20 of the Colorado Constitution, commonly known as TABOR, imposes spending and revenue restrictions on the City and prohibits the City from committing funds on a multi-fiscal year obligation basis.
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

THE CITY OF CENTRAL,
COLORADO

By: __________________________
    Kathryn M. Heider, Mayor,
    authorized pursuant to Ordinance
    18-11

ATTEST:

By: __________________________
    City Clerk

APPROVED AS TO FORM:

By: __________________________
    Marcus A. McAskin, City Attorney
OWNER: 321 GREGORY STREET, LLC, a Colorado limited liability company

By: ____________________________

Name: __________________________
Title: __________________________

STATE OF COLORADO )
 ) ss.
COUNTY OF ____________)

The foregoing License Fee Rebate Agreement was acknowledged before me this ___ day of ____________, 2018, by ____________________, as ____________________ of 321 Gregory Street, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: ______________

______________________________
Notary Public

[SEAL]
OPERATOR: GREGORY GAMING, LLC, a Colorado limited liability company

By: ____________________________

Name: __________________________
Title: ____________________________

STATE OF COLORADO )

) ss.
COUNTY OF ___________

The foregoing License Fee Rebate Agreement was acknowledged before me this ___ day of ________________, 2018, by __________________, as __________________ of Gregory Gaming, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _________________

______________________________________
Notary Public

[SEAL]
Exhibit A
AGE Lot Lease Agreement
(December 6, 2017)
attached
LEASE AGREEMENT

This Lease Agreement ("Agreement") is entered into by and between 321 GREGORY STREET, LLC, a Colorado limited liability company, whose legal address is P.O. Box 49, Black Hawk, Colorado 80422 ("Lessor") and THE CITY OF CENTRAL, a home rule municipality of the State of Colorado ("Lessee" or "City") (together, the "Parties").

I. Leased Premises:
Lessor is the sole owner of that certain real property described in Exhibit A attached hereto (the "Subject Property"). Lessor hereby leases the Subject Property to the City in accordance with the terms of this Agreement.

II. Term:
The initial term of this Agreement shall commence on the date of mutual execution of this Agreement by the Parties ("Lease Commencement Date"), and shall terminate at midnight on December 31, 2020. The City shall have the right to renew this Agreement for three (3) five-year terms, with the initial five-year term to commence on January 1, 2021. Each renewal term shall commence on January 1st at 12:01 a.m. and shall terminate on December 31st at midnight. Should the City choose to exercise its option to renew this Agreement, the City shall provide Lessor written notice of its intent to renew no later than December 15th immediately preceding the commencement of the next ensuing five-year lease term.

III. Rent:
Lessee agrees to pay Lessor rent in the amount of Three Dollars and no/100 ($3.00) for the initial term terminating on December 31, 2020, with said amount being due and payable within ten (10) business days following the mutual execution of this Agreement by the Parties. Thereafter, rent shall continue at the rates set forth with particularity below payable on or before January 15th in any year in which the City has exercised its right to extend the term of this Agreement (unless an alternative payment date appears below).

<table>
<thead>
<tr>
<th>Year(s)</th>
<th>Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>2021-2025</td>
<td>$5.00 ($1.00 per calendar year)</td>
</tr>
<tr>
<td>2026-2030</td>
<td>$6.25 ($1.25 per calendar year)</td>
</tr>
<tr>
<td>2031-2035</td>
<td>$7.50 ($1.50 per calendar year)</td>
</tr>
</tbody>
</table>

IV. Purpose of Lease:
The Parties are entering into this Agreement in order to allow the Lessee to use and occupy the Subject Property for any lawful purpose from and after the Lease Commencement Date. The Parties are also entering into this Agreement in order to facilitate the acquisition of additional public and handicapped surface parking for the benefit of all City residents and
visitors following the date on which Lessor completes certain contemplated improvements to the Subject Property including:

(a) installation of storm water infrastructure;

(b) import of clean fill over the storm water infrastructure, bringing the Subject Property up to grade level with adjacent streets;

(c) the improvement of the surface area of the Subject Property for public parking;

(d) undergrounding overhead utilities where possible;

(e) and installation of curb, gutter, sidewalk and street lighting in locations on or in the vicinity of the Subject Property or elsewhere as may be approved in advance by the City in writing

(collectively, the "Improvements").

V. Use of Subject Property:
Lessee shall have the right to use and occupy the Subject Property for any lawful purpose from and after the Lease Commencement Date, and shall have the right to sublease any portion of the Subject Property for any such lawful purposes, without obtaining the advance written consent of Lessor. Lessee shall not use or permit the use of the Subject Property in any way that:

(a) violates or conflicts with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereinafter enacted, governing the Subject Property; or

(c) constitutes the commission of waste on the Subject Property or the commission or maintenance of a nuisance.

VI. Alterations:
Lessee shall not make or permit any other person to make any alterations to the Subject Property without the prior written consent of the Lessor. Notwithstanding this Section VI, the Lessor shall maintain the right to enter upon the Subject Property at all reasonable times as necessary to design and construct the Improvements. All Improvements will be completed by Lessor at Lessor’s cost in accordance with a site plan approved by the City in accordance with applicable requirements of the City’s Land Development Code and in accordance with final construction plans approved by the City Engineer.

VII. Indemnity:
To the extent permitted by law, and without waiving governmental immunity as set forth in Section XVI(d) below, the City shall indemnify and hold the Lessor free and harmless from any and all liability, claims, loss, damages or expenses, arising by reason of death or injury of
any person, caused by the Lessee’s use and occupation of the Subject Property for governmental or proprietary functions.

VIII. Insurance:

The City shall, at its own cost and expense, secure and maintain during the term of this Agreement property, casualty, fire, or other forms of rental insurance deemed suitable by the City to adequately protect its interests in the Subject Property. Lessor shall be responsible for carrying insurance for the Subject Property in an amount to be determined by Lessor.

IX. Maintenance and Repairs:

Lessee accepts the Subject Property in their as-is condition and agrees to maintain the Subject Property in such condition, subject to ordinary wear and tear. Lessee will have no responsibility for major or minor repairs to the Subject Property unless damages are caused by the action of the Lessee or Sublessees and such damages exceed ordinary wear and tear.

X. Utilities:

Lessor shall be responsible for the cost of all utilities associated with the Subject Property including, but not limited to, water, sewer, gas and electricity.

XI. Taxes and Tax-Exempt Status of Subject Property:

The Parties acknowledge and agree that the Subject Property shall be exempt from taxation pursuant to C.R.S. § 31-15-802, § 39-3-105 and § 39-3-124(1)(b). To the extent that any taxes are assessed against the Subject Property during the initial term or any renewal term of this Agreement, Lessor shall remain solely responsible for payment of same. The Parties further acknowledge and agree that Lessor shall be responsible for payment of the City General Fund Fee set forth in Section XV below during the term of this Agreement.

XII. Default, Breach and Remedies:

In the event Lessee alleges any default by Lessor hereunder, Lessee shall deliver to Lessor written notice and Lessee shall have thirty (30) days following receipt of such notice to cure such alleged default or, in the event such alleged default cannot reasonably be cured within such thirty-day period, commence action to cure such alleged default within a reasonable time. Should Lessor fail to cure any alleged default, Lessee’s only remedy shall be its right to terminate this Agreement as set forth in Section XIV(b) below.

XIII. Notices:

All notices or other communications hereunder shall be in writing and shall be deemed to have been duly given when personally delivered, or if mailed by certified mail, upon first attempted delivery by the U.S. Postal Service, return receipt requested, or if delivered via Federal Express or similar overnight courier service, when received, or if by facsimile or e-mail, on a business day if received before 5:00 p.m. local time on such business day, or on the next business day, if received after 5:00 p.m. in local time on a business day or any time on a non-business day. Such notices or other communications shall be sent to the following addresses, unless other addressees are subsequently specified in writing:
If to Lessor:

321 Gregory Street LLC
P.O. Box 49
Black Hawk, CO 80422

If to Lessee:

City of Central
Attn: City Manager
141 Nevada Street
P.O. Box 249
Central City, CO 80427

With a copy to:

Michow Cox & McAskin LLP
Attn: Marcus McAskin
6530 S. Yosemite Street, Suite 200
Greenwood Village, CO 80111

XIV. Termination:
This Agreement may be terminated, without penalty or further liability, as follows:

(a) By Lessee choosing to not exercise its option to renew the term of this Agreement in accordance with Section II above.

(b) By Lessee on thirty (30) days prior written notice, if Lessor fails to cure any alleged default or if Lessor fails to complete the Improvements on or before June 30, 2019.

(c) By Lessor on ninety (90) days prior written notice, provided that there will be no refund or partial refund of any City General Fund Fee paid to the City in accordance with Section XV of this Agreement below.

XV. City General Fund Fee:
As consideration for the benefits to the Subject Property derived from the City’s continued provision of certain general municipal services on and in the general vicinity of the Subject Property including but not limited to public safety, public works, and related general municipal services, the Lessor shall pay to the City a General Fund Fee in accordance with this Section XV. The General Fund Fee shall be roughly equivalent to the current assessed value (AV) of the Subject Property, as determined by the Gilpin County Assessor, subject to the limitation set forth in Section XV(b) below, multiplied by the City’s current general fund mill levy.
(a) Certification of Annual Property Tax Mill Levy. As part of its annual budget process, the City agrees that on or before December 15th of each year it shall certify the City’s general fund mill levy to the Gilpin County Board of County Commissioners (“BOCC”).

(b) Calculation of General Fund Fee. For calendar year 2018 and for each year thereafter during the term of this Agreement, the General Fund Fee to be paid by Lessor for such calendar year shall be calculated in accordance with the following formula:

\[
\text{Final AV of the Subject Property (as determined by Gilpin County Assessor) } \times \text{ City General Fund Mill Levy} \]

\[= \text{ General Fund Fee} \]

For example, if the Final AV of the Property is $189,060 (being the 2017 AV of the Subject Property as determined by the Gilpin County Assessor’s Office), the General Fund Fee would be equal to $1,834.07 calculated as follows:

\[
\text{Final AV of the Subject Property (as determined by Gilpin County Assessor)} \quad \$189,060 \\
\times \text{ City General Fund Mill Levy} \quad \times 0.009701 \\
= \text{ General Fund Fee} \quad \$1,834.07
\]

The Parties agree, for purposes of this Agreement, and notwithstanding any revaluation of the Subject Property by the Gilpin County Assessor’s Office, the AV of the Subject Property shall not fall below its current level of $189,060.

(c) Notice and Payment. On or about January 15 of each year commencing in calendar year 2018, the City shall notify the Lessor of the General Fund Fee due and owing under the Agreement; provided that delinquencies or failures in providing such notice shall not affect the validity or collectability of any General Fund Fee imposed hereunder. In conjunction with the calculation of the General Fund Fee the City will provide the Lessor with a copy of the Subject Property’s Final AV and confirmation of the City’s general fund mill levy certified to the Gilpin County BOCC. The General Fund Fee shall be due and payable to the City not later than forty-five (45) days after notification by the City.

XVI. Miscellaneous:

(a) Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party.
Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

(b) This Agreement shall be interpreted according to the laws of the State of Colorado. Venue for any action arising under this Agreement shall be in the District Court for Gilpin County, Colorado.

(c) 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.

(d) 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.

(e) Each provision of this Agreement is severable. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

(f) This Agreement constitutes the entire written agreement between the parties regarding use of the Subject Property and supersedes any prior agreements, whether verbal or written, between the parties or their employees or representatives which pertain to the same subject matter. Any modifications to this Agreement must be executed in writing signed by both parties. The Parties reserve the right to modify and amend the legal description of the Property leased under this Agreement following the date on which the Improvements have been completed to the satisfaction of the City Manager or his designee.

(g) A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

(h) The undersigned individuals each represent to the parties that they possess the authority to execute this Agreement and to bind their respective parties.
(i) The City and Lessor acknowledge that each party has reviewed this Agreement and that the normal rule of construction that provides for ambiguities to be resolved against the drafting party shall not apply to the interpretation of this Agreement. This Agreement shall be construed neither for nor against Lessor or the City, but shall be given a reasonable interpretation in accordance with the plain meaning of its terms.

(j) This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

IN WITNESS WHEREOF, the Parties hereto execute this Lease Agreement on the date(s) set forth below.

LESSOR:

321 GREGORY STREET, LLC, a Colorado limited liability company

By: ________________________

Name: John Zimbel
Title: Owner

STATE OF (Colorado)
COUNTY OF (Gilpin)

The foregoing Lease Agreement was acknowledged before me this 11th day of December, 2017, by John Zimbel as owner 321 GREGORY STREET, LLC, a Colorado limited liability company.

Witness my hand and official seal.

[SEAL]

JOAN K LESLIE
Notary Public
State of Colorado
Notary ID # 20064001980
My Commission Expires 01-17-2022
LESSEE:

CITY OF CENTRAL, a home rule municipality of the State of Colorado

By: [Signature] Daniel Miera, City Manager, authorized pursuant to Ordinance No. 17-11

Date executed: 12/6, 2017

ATTEST: [Signature] City Clerk

REVIEWED BY: [Signature] City Attorney
Exhibit A

Subject Property

Lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27, Block 6, and Lots 1 and 52, Block 43, and
All that certain real property known as old “D” street, more particularly described as follows:
Commencing at the Northeast Corner of Block 6, Central City, Gilpin County, State of Colorado, thence S. 80° 38’ E., a distance of 40.04 feet to a point on the Northwest Corner of Block 43; thence S. 11° 42’ W., a distance of 140.00 feet to a point on the Southwest Corner of said Block 43; thence N. 71° 21’ W., a distance of 40.33 feet to a point being the Southeast Corner of said Block 6; thence in a straight line in a Northerly direction a distance of 133.60 feet to the Point of Beginning,
Referred to as Lot 1, Age Casino in Preliminary Development Plan PUD recorded Reception No. 141681,
City of Central,
Except any mine of gold, silver, cinnabat or copper or to any valid mining claim or possession held under existing laws, as shown in U.S. Patent to the City of Central,
Recorded July 21, 1876, in Book 62 at Page 193,
County of Gilpin, State of Colorado.

Account Number:   R002380
Parcel Number:     183512310109

Diagram depicting approximate boundaries of Subject Property:
Exhibit B
Rebate Sum

(to be updated following verification and approval of Actual Construction Costs by the City)
# Community Development Department – Department Update – September 4, 2018

## Building

<table>
<thead>
<tr>
<th>Permits</th>
<th>Year</th>
<th>Value</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Membrane Building</td>
<td>2017</td>
<td>39 permits</td>
<td>Value – 2017 - $655,900</td>
</tr>
<tr>
<td>Membrane Building</td>
<td>2018</td>
<td>28 permits</td>
<td>Value – 2018 - $981,799</td>
</tr>
</tbody>
</table>

Membrane Building | Construction has begun | Completion Date – October 24, 2018

## 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

## 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 – August 8
2018 cases | 6

## Visitor Center

Central City Ambassador – Vacancy (Friday/Saturday) – Being advertised
New items being pursued to sell and being designed

## Code Enforcement

Respond to complaints made -

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>35</td>
</tr>
<tr>
<td>Year</td>
<td>Items</td>
</tr>
<tr>
<td>------</td>
<td>-------</td>
</tr>
<tr>
<td>2017</td>
<td>33</td>
</tr>
<tr>
<td>2018</td>
<td>44</td>
</tr>
</tbody>
</table>

### Marketing/Events

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Billboard</td>
<td>Gilpin History – July – September / Grand Z October - December</td>
</tr>
<tr>
<td>Central City App</td>
<td>Mobile Town Guide developed “Mobile Town Guide Central City”</td>
</tr>
<tr>
<td>Promotional Videos</td>
<td>Interactive walking tour planned</td>
</tr>
<tr>
<td>Promotional Videos</td>
<td>Video #1: Recreation Released</td>
</tr>
<tr>
<td>Promotional Videos</td>
<td>Video #2: Events Released</td>
</tr>
<tr>
<td>Promotional Videos</td>
<td>Video #3: Gaming Final near completion</td>
</tr>
<tr>
<td>Promotional Videos</td>
<td>Video #4: Combination of all three Finished – Awaiting final approval</td>
</tr>
</tbody>
</table>

### Main Street Central City

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Meeting – August 15</td>
<td>Two open seats on the board</td>
</tr>
<tr>
<td>Self-funding mechanism</td>
<td>Shirts, books and post cards for sale Present at all events – Preparing for HRHC and Tommyknocker</td>
</tr>
</tbody>
</table>

### Direct City Marketing / Promotion

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeffco living</td>
<td>Print/ digital ads Ads running for 6 months from Spring to Fall</td>
</tr>
<tr>
<td>iHeart Radio</td>
<td>Radio ads Ads running for 2018 finalized</td>
</tr>
<tr>
<td>Mountain Adventure Guide</td>
<td>Print Finalized</td>
</tr>
<tr>
<td>Sponsorship</td>
<td></td>
</tr>
<tr>
<td>Events</td>
<td>Hot Rod Hill Climb 9/14-16 Tommyknocker</td>
</tr>
</tbody>
</table>

### Audio Visual / Website / Information Technology

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Website/Social Media</td>
<td>Administration, promotion and monitoring continues</td>
</tr>
<tr>
<td>Public Access Cable Channel</td>
<td>Ongoing issues, work with consultant and cable company continues</td>
</tr>
<tr>
<td>Livestreaming of City Council Meetings</td>
<td>Operational and found on the City website and Youtube.com</td>
</tr>
</tbody>
</table>

### Staff

<table>
<thead>
<tr>
<th>Item</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managing consultants, receiving proposals for roof repairs on City Hall, Reservoir, and Belvidere</td>
<td></td>
</tr>
<tr>
<td>Training at UC Denver</td>
<td></td>
</tr>
<tr>
<td>UC Denver Intern</td>
<td>Lisa Roemhildt, Main Street Advisor – Started August 5th</td>
</tr>
</tbody>
</table>
To: Mayor Heider, City Council, and City Manager
From: Sam Hoover, Public Works Director
Date: August 30, 2018
Re: Bi-weekly Report

Since our last council update, public works staff has performed the following activities:

- Completed sealing the buck and pole fences by the cemeteries
- Continued coordination of the Spring Street Project
- Started roto-milling and patching bad spots on the Central City Parkway
- Graded the entrance of the cemetery used for the Cemetery Crawl
- New Street Lights update for Spruce/Nevada and Virginia Canyon/Lake Gulch
  - The city has submitted payment for both projects. Construction is scheduled for the last week in September.
- Prosser Mill/Overlay update
  - The Prosser Street mill and overlay is scheduled for September 4th. This project should be completed in one-week.
- A-1 Cape Seal on Virginia Canyon update
  - A-1 Chipseal will start the project September 17th. This project should be completed in two days.
- City’s Yellow House on Quartz Hill
  - PW will install (2) new solar lights to illuminate the new banner on the south side of the house.