REGULAR MEETING AGENDA
City of Black Hawk City Council
211 Church Street, Black Hawk, CO
January 11, 2017
3:00 p.m.

RINGING OF THE BELL:
1. CALL TO ORDER
2. ROLL CALL & PLEDGE OF ALLEGIANCE:
3. ADENDA CHANGES:
4. CONFLICTS OF INTEREST: (Council disclosures are on file w/City Clerk & Sec. of State)
5. INTRODUCTION OF NEW EMPLOYEES: Joe Trujillo, Facilities Maintenance Tony Roybal, Firefighter
6. PUBLIC COMMENT: Please limit comments to 5 minutes
7. APPROVAL OF MINUTES: December 14, 2016 Regular Meeting
8. 2016 IN REVIEW
9. PUBLIC HEARINGS
   A. CB1, An Ordinance Approving the Application for Local Landmark Designation of the City Hall Property Located at 201 Selak Street
   B. Resolution 1-2017, A Resolution Conditionally Approving a Certificate of Appropriateness for the Installation of a Rooftop Unit and Ductwork at the Saratoga Casino
10. ACTION ITEMS:
   A. CB2, An Ordinance of the City Council of the City of Black Hawk Colorado Approving a Franchise Agreement with Public Service Company of Colorado, dba Xcel Energy, Granting to Xcel Energy the Non-Exclusive Right to Make Reasonable Use of City Streets, Public Utility Easements and Other City Property to Provide Gas and Electric Utility Service to the City and Its Residents; to Sell, Store, Purchase, Exchange, Transmit, Transport, and Distribute Gas and Electric Utility Services Within and Through the City all in Accordance with the Terms and Conditions of the Franchise Agreement; Specifying that the Franchise Shall Be Effective Upon the Effective Date of this Ordinance and for a Term of Twenty (20) Years Thereafter; Setting a Franchise Fee of 3% of the Gross Revenues of Xcel Energy as Defined in Said Franchise; Providing for a Surcharge Therefore; Authorizing the Mayor to Execute the Franchise Agreement for and on Behalf of the City and the City Clerk to Attest Thereto; and, Setting Forth Other Details Related Thereto.
   B. Resolution 2-2017, A Resolution Approving Certain Service Agreements for Calendar Year 2017
   C. Resolution 3-2017, A Resolution Approving the Agreement for 2017-2018 Holiday Decorations with Alpine Artisan Studios in the Amount Not To Exceed $135,000.00
   D. Resolution 4-2017, A Resolution Establishing a Designated Public Place for Posting of Meeting Notices as required by the Colorado Open Meetings Law
   E. Resolution 5-2017, A Resolution Designating the City of Black Hawk Fire Chief as the City’s Designated Emergency Response Authority Pursuant to C.R.S. § 29-22-102(3)(a)
   F. Maryland Mountain Purchase & Sale Agreements
      a. Resolution 6-2017, A Resolution Approving a Purchase and Sale Agreement Between the City of Black Hawk and Oracle Carr for Government Lot 72
b. Resolution 7-2017, A Resolution Approving a Purchase and Sale Agreement Between the City of Black Hawk and Allison S. Reagan for the Alma Lode

c. Resolution 8-2017, A Resolution Approving a Purchase and Sale Agreement Between the City of Black Hawk and Silver Age Exploration, LLC for Government Lot 65

d. Resolution 9-2017, A Resolution Approving a Purchase and Sale Agreement Between the City of Black Hawk and Steven A. Workman and Cheryl D. Workman for the Buckeye Lode

11. CITY MANAGER REPORTS:

12. CITY ATTORNEY:

13. EXECUTIVE SESSION:

14. ADJOURNMENT:

MISSION STATEMENT

The mission of the City of Black Hawk is to progressively provide cost effective programs and services of the highest quality to the community.
I started with the City on September 20th, 2016 and so far this has been the best job I’ve ever had. Before coming to the city I worked at AMC Theatres for 3 years. I grew up in New Mexico and came to Colorado 10 years ago for college, and decided to stay here. I have been married to my wife, Samantha for 6 years and have a 9 year old son named Gaige. We have 3 huskies, named Rue, Dobby and Jasper. In my free time I like to scour thrift stores and spend time working on my cars and house.
1. I am one of the newest Firefighters to be employed by the City of Black Hawk.

2. I have had nothing but an exceptional experience up to this point not only with my crew on “A” shift but in every interaction with each city employee.

3. I am originally from Laramie, Wyoming. I have spent more than half my life in the Denver, Lakewood area. I have a home in Lakewood and February of this year will mark ten years in my home. I have two children, a boy Diego who is nine and a girl Dakota who is 7. I also have a Chocolate Lab Hunter.
4. I believe my friends would describe me as having an outgoing personality with a contagious smile.

5. I was employed by Pueblo, Co Fire for the last six and a half years. I was also a volunteer with Pleasant View Fire and am currently enrolled at Metropolitan State University of Denver pursuing my Bachelors in Fire Administration.

6. I love my Denver Broncos and have been fortunate enough to watch them play in two Super Bowls. I enjoy playing soccer and try to play as often as possible. I love spending time with my children, whether it’s at the movies, game night, or just enjoying conversation over dinner. I’m also looking to get back to one of my favorite hobbies and that is fishing and my drive home from Black Hawk would offer me many opportunities to do just that.
Joe Behm, Z Casino VP of Marketing, and Golden City Council member rang the bell.

1. CALL TO ORDER: The regular meeting of the City Council was called to order on Wednesday, December 14, 2016, at 3:00 p.m. by Mayor Spellman.

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

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

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

3. AGENDA CHANGES: Mayor Spellman noted that there would not be a presentation under agenda item 7F(a). Mayor Spellman said there would be a work shop after the first of the year on the trail system and the map currently in the packet would be updated at that time. Deputy City Clerk Martin confirmed there were no other agenda changes.

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

City Attorney Hoffmann asked the audience if there were any objections to any member of Council voting on any issue on the agenda this afternoon. The audience had no objections.
5. PUBLIC COMMENTS: Deputy City Clerk Martin confirmed that no one had signed up to speak.

6. APPROVAL OF MINUTES
   - November 9, 2016 Regular Meeting
   - November 28, 2016 Special Meeting

   MOTION TO APPROVE
   - Alderman Bennett MOVED and was SECONDED by Alderman Armbright to approve the Regular Meeting Minutes of November 9, 2016 as presented.

   MOTION PASSED
   - There was no discussion and the motion passed unanimously.

   City Attorney Hoffman noted that he had provided correspondence to Council that raised questions as to whether the Special Meeting of November 28, 2016 was properly posted within the Colorado Open Meetings Law. He requested for the record to be noted that the notice of the Special Meeting was posted on November 22, 2016, six days in advance of the meeting. The Colorado Open Meetings Law requires 24 hours to post a notice prior to a meeting.

   MOTION TO APPROVE
   - Alderman Moates MOVED and was SECONDED by Alderman Johnson to approve the Special Meeting Minutes of November 28, 2016 as presented.

   MOTION PASSED
   - There was no discussion and the motion passed unanimously.

7. PUBLIC HEARINGS:

   A. CB33-2016, An Ordinance Amending Article IV of Chapter 4 of the Black Hawk Municipal Code to Increase the Sales Tax Rate by One-Half (1/2) Percent as Approved by Voters for Purposes of Marketing and Promoting the City

   Mayor Spellman read the title and opened the public hearing.

   City Attorney Hoffman introduced this item which is to amend the code to implement the sales tax increase that was approved by the voters in last month’s election.

   PUBLIC HEARING:
   - Mayor Spellman declared a Public Hearing on CB33, An Ordinance Amending Article IV of Chapter 4 of the Black Hawk Municipal Code to Increase the Sales Tax Rate by One-Half (1/2) Percent as Approved by Voters for Purposes of Marketing and Promoting the City open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.
No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

**MOTION TO APPROVE**

Alderman Johnson MOVED and was SECONDED by Alderman Torres to Approve CB33, An Ordinance Amending Article IV of Chapter 4 of the Black Hawk Municipal Code to Increase the Sales Tax Rate by One-Half (1/2) Percent as Approved by Voters for Purposes of Marketing and Promoting the City.

**MOTION PASSED**

There was no discussion and the motion PASSED unanimously.

B. CB34-2016, An Ordinance Amending Articles VIII and IX of Chapter 4 of the Black Hawk Municipal Code to Adjust the Transportation Device Fee Payment Due Dates and To Implement an Increase in the Gaming Device Tax with an Associated Rebate

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann introduced this item. He said the City has a revenue number that it seeks to achieve each budgetary year based on device tax, and since devices fluctuate from month to month, this Ordinance would take the device tax up to the maximum amount approved by Black Hawk voters, but then provide rebates back to the casinos, through their sales tax returns, based on a formula for every dollar generated above the City’s budgeted revenue. He said the purpose is not to have the City collect more than it needs for its budgeted revenue and at the same time remain TABOR compliant.

Finance Director Hillis said the rebate will start on January 1 based on the number of devices each casino currently has and will remain in effect until their devices drop down to roughly 7200 devices, below that number the City would not meet their budgeted revenue.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB34, An Ordinance Amending Articles VIII and IX of Chapter 4 of the Black Hawk Municipal Code to Adjust the Transportation Device Fee Payment Due Dates and To Implement an Increase in the Gaming Device Tax with an Associated Rebate open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

**MOTION TO APPROVE**

Alderman Torres MOVED and was SECONDED by Alderman Armbright to Approve CB34, An Ordinance Amending Articles VIII and IX of Chapter 4 of the Black Hawk Municipal Code to Adjust the
Transportation Device Fee Payment Due Dates and To Implement an Increase in the Gaming Device Tax with an Associated Rebate.

**MOTION PASSED**

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

**C. CB35-2016, An Ordinance Approving the First Amendment to the Agreement Between the Board of County Commissioners of the County of Douglas and the City of Black Hawk/Black Hawk Police Department**

Mayor Spellman read the title and opened the public hearing.

Police Chief Cole explained that this amendment to the 2013 Intergovernmental Agreement clarifies security policies and procedures of accessing Douglas County’s database of all sexual offenders in the region. He said the City’s IT Department has reviewed the procedures and has found no issues.

**PUBLIC HEARING:** Mayor Spellman declared a Public Hearing on CB35, An Ordinance Approving the First Amendment to the Agreement Between the Board of County Commissioners of the County of Douglas and the City of Black Hawk/Black Hawk Police Department open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to Approve CB35, An Ordinance Approving the First Amendment to the Agreement Between the Board of County Commissioners of the County of Douglas and the City of Black Hawk/Black Hawk Police Department.

**MOTION PASSED**

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

**D. CB36-2016, An Ordinance Approving the Intergovernmental Agreement Between the City of Black Hawk and the Gilpin Ambulance Authority Regarding Maintenance of the Authority’s Ambulances**

Mayor Spellman read the title and opened the public hearing.

Public Works Director Isbester said this was the annual renewal of maintenance for the Gilpin Ambulance Authority. He confirmed that based on an informal survey of town shops to verify hourly rates, the costs were raised by 2%.
PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB36, An Ordinance Approving the Intergovernmental Agreement Between the City of Black Hawk and the Gilpin Ambulance Authority Regarding Maintenance of the Authority’s Ambulances open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE Alderman Bennett MOVED and was SECONDED by Alderman Johnson to Approve CB36, An Ordinance Approving the Intergovernmental Agreement Between the City of Black Hawk and the Gilpin Ambulance Authority Regarding Maintenance of the Authority’s Ambulances.

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

E. CB37-2016, An Ordinance Approving the Lease Agreement with Pitney Bowes Global Financial Services, LLC for the use of Postal Equipment

Mayor Spellman read the title and opened the public hearing.

City Clerk/Administrative Services Director Greiner introduced this item. She said the City’s lease/purchase agreement has expired and Pitney Bowes no longer supports the software or the equipment for that version, so staff recommends upgrading to a newer version which also meters UPS packages, streamlining operations for staff. She said this is the first rate increase in eight years.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB37, An Ordinance Approving the Lease Agreement with Pitney Bowes Global Financial Services, LLC for the use of Postal Equipment open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE Alderman Armbright MOVED and was SECONDED by Alderman Torres to Approve CB37, An Ordinance Approving the Lease Agreement with Pitney Bowes Global Financial Services, LLC for the use of Postal Equipment.

MOTION PASSED There was no discussion and the motion PASSED unanimously.
F. Resolution 85-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for the Construction of a New Pedestrian and Bicycle Bridge in Chase Gulch

Mayor Spellman read the title and opened the public hearing.

Community Planning and Development Administrator Linker and Designer Mary Hart were present to introduce this item. Linker said the proposed bridge will be located in Chase Gulch by Castle Rock and will be 10-foot wide by 40-foot long. She said that historically there was a bridge in this same area, but over time that bridge was demolished. She confirmed that the new bridge meets Black Hawk’s criteria for a Certificate of Appropriateness, as well as the Secretary of the Interior’s Standards and Guidelines for Rehabilitation of Cultural Landscapes. Staff recommends two conditions for approval.

Ms. Hart, introduced herself for the record. She said she has been working on the Maryland Mountain Project over the last few years and spoke briefly about the project. She wanted to add that the proposed design was chosen to match the historic bridge that existed right across Main Street, and which was included in the packet. She said she found a prefabrication bridge company that manufactures that particular design, which she felt was an economical choice for the City.

Mayor Spellman added that a comprehensive workshop with Mary Hart and Stolfus Engineering on the trailhead itself would be scheduled next year. He noted that the Master Plan will need to be updated to reflect the decisions that have been made. City Manager Lewis will notify Ms. Hart when it is ready to be updated.

City Manager Lewis questioned why the plans needed to meet AASHTO standards as that is usually a highway requirement. Linker responded since this was strictly foot and bicycle traffic, and not for vehicles, she agreed having a structural engineer stamp and sign off on the plans would be sufficient. It was noted that condition would be removed from the resolution.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on Resolution 85-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for the Construction of a New Pedestrian and Bicycle Bridge in Chase Gulch open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE Alderman Bennett MOVED and was SECONDED by Alderman Armbright to Approve Resolution 85-2016, A Resolution Conditionally
Approving a Certificate of Appropriateness for the Construction of a New Pedestrian and Bicycle Bridge in Chase Gulch, with the amendment to remove the AASHTO requirement.

MOTION PASSED

There was no discussion and the motion PASSED unanimously.

G. Resolution 86-2016, A Resolution Approving a Certificate of Appropriateness for the Demolition of Structures Located at 810 Chase Gulch Road

Mayor Spellman read the title and opened the public hearing.

Community Planning and Development Administrator Linker introduced this item and pointed out that in her Request for Council Action it was noted that this would be a conditional approval and that was incorrect, there were no conditions for this approval. She said back in 2014 this site was included in a Historic Resource Survey conducted by Mountain States Historical and that the house was identified in that survey, yet it was determined that although the residence was built in 1872 it had been relocated to the present site in the late 1960s-1970s, and because of that it was not individually eligible for the National Register of Historic Places. She said that if approved, the residence and outbuildings would be demolished in preparation for new construction at this site to be reflected in the overall plan for the Maryland Mountain area. Linker noted that the City bought this property in 2007.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on Resolution 86-2016, A Resolution Approving a Certificate of Appropriateness for the Demolition of Structures Located at 810 Chase Gulch Road open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE

Alderman Johnson MOVED and was SECONDED by Alderman Moates to Approve Resolution 86-2016, A Resolution Approving a Certificate of Appropriateness for the Demolition of Structures Located at 810 Chase Gulch Road.

MOTION PASSED

There was no discussion and the motion PASSED unanimously.

H. Z Casino Comprehensive Sign Plan

a. Resolution 87A-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for the Comprehensive Sign Plan
Amendment, and Awning Installation, and Approving a License Agreement for Z Casino

b. Resolution 87B-2016, A Resolution Denying the Variance Request for the Z Casino Comprehensive Sign Plan

Mayor Spellman read the titles and opened the public hearing.

Baseline Engineering Consultant Harris introduced these items. He summarized the four elements of the requests; as further detail was included in the packet. Z Casino representatives Dodd Hanneman and Joe Behm were present to answer any questions.

Joe Behm, of Golden, and VP of Marketing for Z Casino, wanted to elaborate on the reason for the variance request. He said there are three faux doors on the Black Hawk Street side and this variance approval would allow arrows and logos on the windows to help direct people down to the real doors. He said the Black Hawk Municipal Code allows up to 25% of any window area to be covered up by signs and that this proposal would exceed that amount.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on Resolutions 87A-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for the Comprehensive Sign Plan Amendment, and Awning Installation, and Approving a License Agreement for Z Casino, and Resolution 87B-2016, A Resolution Denying the Variance Request for the Z Casino Comprehensive Sign Plan open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE

Alderman Midcap MOVED and was SECONDED by Alderman Torres to Approve Resolutions 87A-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for the Comprehensive Sign Plan Amendment, and Awning Installation, and Approving a License Agreement for Z Casino, and Resolution 87B-2016, A Resolution Denying the Variance Request for the Z Casino Comprehensive Sign Plan.

City Attorney Hoffmann stated for the record that the City’s Comprehensive Sign Plan Ordinance and variance procedures are set up to where an applicant must meet standards in order to have a variance granted and that the findings of this application are that no undue hardship was met.

MOTION PASSED There was no discussion and the motion PASSED unanimously.
I. Resolution 88-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for Renovations to the Porte Cochere for the Isle of Capri Casino

Mayor Spellman read the title and opened the public hearing.

Baseline Engineering Consultant Harris introduced this item. He said the request was to renovate the Porte Cochere by adding new lighting, materials, and other changes to make it more appealing and to brighten it up. He said there were five conditions for approval. It was noted that the applicant was present.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on Resolution 88-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for Renovations to the Porte Cochere for the Isle of Capri Casino and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE

Alderman Armbrigh MOVED and was SECONDED by Alderman Torres to Approve Resolution 88-2016, A Resolution Conditionally Approving a Certificate of Appropriateness for Renovations to the Porte Cochere for the Isle of Capri Casino.

MOTION PASSED

There was no discussion and the motion PASSED unanimously.

8. ACTION ITEMS:

A. Resolution 89-2016, A Resolution Approving the Agreement with PEH Architects for the Total Base Architectural Design and Construction Administration for the Limited Rehabilitation of the Historic Home and Property at 211 Horn Street in an Amount Not To Exceed $134,751.00

Mayor Spellman read the title and noted that Alderman Torres should recuse himself from discussion as he is the owner of the property. City Attorney Hoffmann pointed out that although Alderman Torres did not vocally disclose the conflict during the conflicts of interest section of the meeting, that he had previously filed his disclosure with the City Clerk’s office.

Community Planning and Development Administrator Linker introduced this item. She said a Request for Proposal was sent to two Architectural firms and only PEH Architects showed interest and submitted a proposal. Details of the project were included in the packet. She did note that during the abatement and interior demolition of the structure, a portion of the original outside structure was discovered,
which is very exciting to use a site reference instead of just working off of photos. She agreed that this find will truly enhance and contribute to the overall residential district.

MOTION TO APPROVE

Alderman Moates moved and was seconded by Alderman Armbright to approve Resolution 89-2016, A Resolution Approving the Agreement with PEH Architects for the Total Base Architectural Design and Construction Administration for the Limited Rehabilitation of the Historic Home and Property at 211 Horn Street in an Amount Not To Exceed $134,751.00.

MOTION PASSED

There was no discussion and the motion passed with a vote of 5 for and 1 recused.

B. Resolution 90-2016, A Resolution Approving Certain Service Agreements for Calendar Year 2017

Mayor Spellman read the title.

Community Planning and Development Administrator Linker explained that there were two contracts to be approved by Council at this time: one for Owner’s Representative NV5, Inc and the other for Weecycle Environmental Consulting. She added that the amount has gone up based on the additional work planned for 2017, as the City will have two properties in construction and two in design.

MOTION TO APPROVE

Alderman Midcap moved and was seconded by Alderman Johnson to approve Resolution 90-2016, A Resolution Approving Certain Service Agreements for Calendar Year 2017.

MOTION PASSED

There was no discussion and the motion passed unanimously.

C. Resolution 91-2016, A Resolution Approving the First Addendum to the Agreement for Transit Related Services for the Black Hawk & Central City Tramway for 2017 Between MV Transportation, Inc. and the City of Black Hawk

Mayor Spellman read the title.

Public Works Director Isbester said this was the annual renewal and that the rate went up slightly, but he confirmed the service is working well, ridership is up over last year, and he recommends approval.

MOTION TO APPROVE

Alderman Bennett moved and was seconded by Alderman Johnson to approve Resolution 91-2016, A Resolution Approving the
First Addendum to the Agreement for Transit Related Services for the Black Hawk & Central City Tramway for 2017 Between MV Transportation, Inc. and the City of Black Hawk.

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

D. Resolution 92-2016, A Resolution Authorizing the Conversion of the City’s Cobra Head Style Street Lights from High Pressure Sodium (HPS) to New Light Emitting Diode (L.E.D.)

Mayor Spellman read the title.

Public Works Director Isbester introduced this item. He said Xcel Energy has begun to utilize LED technology and has made a few different offers to municipalities for conversion. He said Xcel could convert during the first quarter of 2017 and the City should see approximately $5,000.00 a year in savings.

MOTION TO APPROVE  Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 92-2016, A Resolution Authorizing the Conversion of the City’s Cobra Head Style Street Lights from High Pressure Sodium (HPS) to New Light Emitting Diode (L.E.D.).

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

E. Resolution 93-2016, A Resolution Ratifying the Purchase of a 2017 Kenworth T440 From MHC Kenworth in the Amount of $123,189.00

Mayor Spellman read the title.

Public Works Director Isbester confirmed that this was to ratify Council’s decision to purchase the truck last month.

MOTION TO APPROVE  Alderman Bennett **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 93-2016, A Resolution Ratifying the Purchase of a 2017 Kenworth T440 From MHC Kenworth in the Amount of $123,189.00.

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

F. Resolution 94-2016, A Resolution Approving the Service Agreements for Vehicle Towing Services

Mayor Spellman read the title.
Police Chief Cole explained that these were the annual renewal contracts with three different towing companies, to be used on a rotating basis.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 94-2016, A Resolution Approving the Service Agreements for Vehicle Towing Services.

**MOTION PASSED**

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

**G. Resolution 95-2016, A Resolution Adopting the 2017 City of Black Hawk Fee Schedule**

Mayor Spellman read the title.

Finance Director Hillis stated that the proposed changes made by City staff were highlighted in the packet.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 95-2016, A Resolution Adopting the 2017 City of Black Hawk Fee Schedule.

**MOTION PASSED**

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

**H. Resolution 96-2016, A Resolution Approving the Fifth Addendum to Personal Services Agreement with 5280 Strategies, LLC**

Mayor Spellman read the title.

City Clerk/Administrative Services Director Greiner introduced this item. She added there was no increase in fees with the City’s lobbyist and there has not been for years.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 96-2016, A Resolution Approving the Fifth Addendum to Personal Services Agreement with 5280 Strategies, LLC.

**MOTION PASSED**

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

**I. Resolution 97-2016, A Resolution Approving the 2017 Contract with Pinnacol Assurance for Workers’ Compensation Insurance**

Mayor Spellman read the title.
City Clerk/Administrative Services Director Greiner introduced this renewal item. She said the quote was 4.2% higher than 2016 due to the City’s increase in payroll with the new compensation plan and the E-mod rating went up slightly.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 97-2016, A Resolution Approving the 2017 Contract with Pinnacol Assurance for Workers’ Compensation Insurance.

**MOTION PASSED**

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

**J. Resolution 98-2016, A Resolution Adopting the 2017 Holiday Schedule**

Mayor Spellman read the title.

City Clerk/Administrative Services Director Greiner introduced this item. A draft Holiday Schedule was included in the packet.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 98-2016, A Resolution Adopting the 2017 Holiday Schedule.

**MOTION PASSED**

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

**K. Resolution 99-2016, A Resolution Adopting the 2017 City Council Regular Meeting Schedule**

Mayor Spellman read the title.

City Clerk/Administrative Services Director Greiner introduced this item. The meetings remain the 2nd and 4th Wednesdays of each month, with the exception of April changed to the 1st and 3rd Wednesdays. Mayor Spellman asked Council to please be in attendance on April 19 as it was an anniversary date for Black Hawk and he had a special dedication planned.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 99-2016, A Resolution Adopting the 2017 City Council Regular Meeting Schedule.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.
9. CITY MANAGER REPORTS: City Manager Lewis proposed a Resolution 100 to say that the City of Black Hawk had a darn good year! Mayor Spellman agreed and a MOTION was made by Alderman Bennett, SECONDED by Alderman Moates and unanimously approved. Lewis said the City started big projects, finished big projects and had plans for big projects, all of it paid for without incurring any debt. He went on to say the City has great staff and that he is proud to be part of this organization.

10. CITY ATTORNEY: City Attorney Hoffmann noted that there were no new updates to the correspondence received by the City today and as a Holiday present there would be no Executive Session today.

11. EXECUTIVE SESSION: None

12. ADJOURNMENT: Mayor Spellman adjourned the Regular Meeting of the City Council closed at 3:58 p.m.

____________________________
Melissa A. Greiner
City Clerk

____________________________
David D. Spellman
Mayor
COUNCIL BILL 1
ORDINANCE 2017-1
AN ORDINANCE APPROVING
THE APPLICATION FOR
LOCAL LANDMARK
DESIGNATION OF THE CITY
HALL PROPERTY LOCATED
AT 201 SELAK STREET
STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK  

COUNCIL BILL NUMBER: CB1  
ORDINANCE NUMBER: 2017-1  

TITLE: AN ORDINANCE APPROVING THE APPLICATION FOR LOCAL LANDMARK DESIGNATION OF THE CITY HALL PROPERTY LOCATED AT 201 SELAK STREET

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

Section 1. Findings of Fact.

A. Application has been made by the City of Black Hawk for local historic landmark designation for the City-owned property known as the Black Hawk City Hall Property, located at 201 Selak Street within the City of Black Hawk, Colorado.

B. Public notice has been given of such application pursuant to Section 16-426(c)(1) of the City of Black Hawk Municipal Code.

C. The City Council has reviewed the application, the recommendation of the City’s Historic Preservation Commission, and the criteria for designation contained in Section 16-425 of the City of Black Hawk Municipal Code.

D. After consideration of the factors set forth in 16-426(c)(2)d. of the City of Black Hawk Municipal Code, the City hereby approves the local historic landmark designation for the Black Hawk City Hall Property, located at 201 Selak Street.

Section 2. The City Clerk is directed to record a copy of this Ordinance in the records of the Gilpin County Clerk and Recorder’s Office within fifteen (15) days of the effective date of this Ordinance.

Section 3. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.
Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

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

READ, PASSED AND ORDERED POSTED this 11th day of January, 2017

_____________________________________
David D. Spellman, Mayor

ATTEST:

_____________________________________
Melissa A. Greiner, City Clerk
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Black Hawk Board of Aldermen shall hold a public hearing concerning the Local Landmark Designation for 201 Selak Street located on property described in Exhibit A and historically known as Black Hawk City Hall, pursuant to the City of Black Hawk Zoning Ordinance.

The public hearing is to be held before the City of Black Hawk Board of Aldermen on Wednesday, January 11, 2017 at 3:00 p.m. or as soon as possible thereafter. The public hearing shall be held in the City of Black Hawk City Council Chambers located at 211 Church Street, Black Hawk, Colorado, 80422, or at such other time or place in the event these hearings are adjourned.

ALL INTERESTED PARTIES
MAY ATTEND

Respectfully Submitted,
Melissa A. Greiner, City

Exhibit A

S: 7 T: 3S R: 72W Subd: BLACK HAWK Block: 028 Lot: 006
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: The City of Black Hawk applied for a Local Historic Landmark Designation pursuant to Section 16-425(1) for the City-owned property located at 201 Selak Street, historically known as Black Hawk’s City Hall.

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

MOTION TO APPROVE: CB1 – Ordinance 2017-1 – an Ordinance approving the application for Local Historic Landmark Designation of the City Hall property located at 201 Selak Street.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:
On September 6, 2016 and again on November 15, 2016, the Historic Preservation Commission evaluated and discussed the local landmark designation application, applicable criteria, and testimony by City staff and the Historic Preservation Consultant. At the conclusion of the discussion, the Commission provided the following comments:

1. Chairman Hailey commended Historic Preservation Consultant Wolfenbarger on the work she did complying the application for the local landmark designation of City Hall.
2. Consultant Wolfenbarger thanked Chairman Hailey for the outside research she and Mayor Spellman did on the topic.
3. Chairman Hailey noted that there is one outstanding question on a reference with the document that Administrator Linker and the Mayor will discuss.

Chairman Hailey moved to recommend to the Board of Aldermen APPROVAL of the Local Historic Landmark Designation for the property at 201 Selak Street, historically known as City Hall. The property meets the Criterion A, J, L, M and N as outlined in Section 16-425 of the Black Hawk Municipal Code and presented in the staff report dated September 6, 2016.

Staff revised the September 6, 2016 report and incorporated all recommended changed from Mayor Spellman into the report now dated December 5, 2016.

As recommended by the Historic Preservation Commission, Staff recommends City Council approve the revised report dated December 5, 2016.

AGENDA DATE: January 11, 2017

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [ X]Yes [ ]No

STAFF PERSON RESPONSIBLE: Cynthia Linker, CP&D
(d) Recording of designation. Within fifteen (15) days of the effective date of an ordinance designating a historic landmark, a copy of the ordinance shall be recorded in the real estate records of the County Clerk and Recorder.

(e) Notification. Within ten (10) days after the recording of the ordinance designating a historic landmark, the City Clerk shall send a letter, via certified mail, to all property owners whose property is subjected to the designation. 

Ord. 2009-13 §3
BACKGROUND
In 2015, City Council approved Resolution No. 16-2015 (Attachment A). This resolution directed the City Manager to take all necessary steps for the City to apply for a local historic landmark designation pursuant to Section 16-425(1) for the City-owned property located at 201 Selak Street, historically known as Black Hawk’s City Hall. As the building was constructed in 1877, it is eligible for consideration for landmark designation based on its age. Historic Preservation Commission Chairman Lynnette Hailey and Mayor David D. Spellman completed research on the building’s construction in November 2015, and the City submitted the landmark application in 2016 (Attachment B). From its construction in 1877 through the present, the building has housed offices for the City of Black Hawk. Originally, the Fire Department was located on the first floor and the City offices on the second floor. Except for a period when the building was being rehabilitated in the 1990s, the City Clerk’s office has remained in the building since 1877. It is one of the oldest continuously used municipal government buildings in Colorado, and meets several of Black Hawk’s criteria for local designation.

APPLICABLE CITY OF BLACK HAWK REGULATIONS
Excerpts from:

City of Black Hawk
Zoning Code – Chapter 16
Section 16-425, Criteria for designation

Sec. 16-425. Criteria for designation.
The Commission shall consider the following criteria when reviewing nominations for designation:

(1) Designated historic resources. Resources proposed for historic resource designation shall be at least fifty (50) years old and shall possess architectural, social or geographic/environmental importance by meeting one (1) or more of the following criteria:

[selected applicable criteria are listed below]

a. Exemplifies specific elements of an architectural style or period.

j. Exemplifies cultural, political, economic or social heritage in the community.

l. Is identified with historical personages or groups or which represents important events in national, state or local history.

m. Enhances a sense of identity with the community.

n. Is an established and familiar natural setting or visual feature in the community.
Sec. 16-426. Designation procedures.

(a) Application for designation. Landowners of any landmark proposed for designation may submit an application requesting designation to the City Manager or the City Manager's designee. Such application shall be made in writing and set forth why the applicant believes the proposed historic landmark is qualified for designation pursuant to Section 16-425 above.

(b) Commission review. If, in the opinion of the City Manager or the City Manager's designee, the application requirements have been met and the proposed historic landmark meets the criteria for designation, the application shall be referred to the Commission. The Commission shall consider the designation at its next regular meeting and submit its opinion or recommendation to the City Council.

(c) City Council review. Upon receipt of the Commission's recommendation, the City Council shall hold a hearing to consider the application for designation not more than sixty (60) days after the application's filing.

(1) Notice.

   a. Written notice of the designation hearing shall be sent to all property owners of record who own or have significant legal or equitable interests in the real property being proposed for designation. Notice shall include the time, date, place and subject matter of the hearing and shall be sent via certified mail not less than seven (7) days prior to the hearing.

   b. Signs indicating the proposed action and the time, date and place of the hearing shall be posted by the City for a period of not less than seven (7) days prior to the hearing on all historic landmarks proposed for designation. Such signs will be prominently displayed and easily readable from abutting public ways.

   c. A legal notice indicating the nature of the hearing, the property involved and the time, date and place of the scheduled public hearing shall be published once in the official newspaper of the City not less than seven (7) days prior to the hearing.

   d. Written notice of the proposed designation, including the identification of the historic landmark, the basis for the designation, procedure and the time, date and place of the hearing, shall be given to the Building Official not less than seven (7) days prior to the public hearing.

(2) Hearing process.

   a. A quorum of the City Council shall conduct the hearing. If a quorum is not present, the hearing shall be rescheduled for the next scheduled City Council meeting.

   b. A reasonable opportunity shall be provided to all interested parties to express their opinions regarding the proposed designation.

   c. Hearings shall include records of the name and address of each speaker and the organization or person he or she represents, if any. A summary of the relevant portions of each statement and all written presentations shall be incorporated into the record of the hearing.

   d. The City Council shall review the proposed designation with respect to:

      1. Its relationship to the City's zoning regulations and other adopted planning documents;
      2. The effect of the designation upon the surrounding neighborhood; and
      3. Such other planning considerations as may be relevant to the proposed designation.
(3) Findings of fact and actions of City Council.

a. The City Council shall act officially on each proposed designation within thirty (30) days of the hearing thereon. The City Council may approve, reject or modify any proposal, but no proposal may be extended beyond the boundaries of the land described in the original designation application unless the initiation and hearing procedure are repeated for the enlarged boundaries. The City Council shall set forth in its records the findings of fact which constitute the basis for its decisions, and due consideration shall be given to the written or oral views of owners of affected property. If the City Council fails to act within the thirty-day period, the designation shall be deemed to have been denied.

b. If more than one (1) property is involved in the designation procedure, the City Council may approve the application in part. In no event may any property be added to the area described in the application without instituting a new designation procedure.

c. Any approved designation of a historic landmark shall be made by ordinance of the City Council.

d. No historic landmark shall be designated without the express written consent of the proposed historic landmark's landowners.

(d) Recording of designation. Within fifteen (15) days of the effective date of an ordinance designating a historic landmark, a copy of the ordinance shall be recorded in the real estate records of the County Clerk and Recorder.

(e) Notification. Within ten (10) days after the recording of the ordinance designating a historic landmark, the City Clerk shall send a letter, via certified mail, to all property owners whose property is subjected to the designation. (Ord. 2009-13 §3)

EVALUATION

The City Hall building at 201 Selak Street is significant under the following selected “Criteria for Designation” for the City of Black Hawk:

A: **Exemplifies specific elements of an architectural style or period;**

J: **Exemplifies cultural, political, economic or social heritage in the community;**

L: **Is identified with historical personages or groups or which represents important events in national, state or local history.**

M: **Enhances a sense of identity with the community;**

N: **Is an established and familiar natural setting or visual feature in the community.**

Under **Criterion A**, the City Hall building is one of the earliest examples in Colorado of a masonry building constructed for municipal use. Built to fit in with the surrounding commercial buildings in downtown Black Hawk, it is a variant of a 19th century commercial type building. Like commercial buildings, it is a rectangular building whose footprint fills up the width of the lot. It is two stories in height, with a flat roof and ornamental detailing on the façade. There is a corbelled brick entablature at the cornice, and decorative recessed brick panels beneath the cornice. Also like other historic commercial buildings, the second story windows are smaller than the typical storefront display windows on the ground level. The tall, narrow 6/4 double-hung windows on the second story have semi-elliptical arches with keystones. However, the City Hall building differs from historic commercial buildings on the first level. Instead of a storefront with wide display windows, it has two entrances and no windows. This reflects the original use of the structure as a City government building. The upper story contained rooms for the operation of the City government, while the lower level housed the Fire Department. Both
ground level entrances have semi-circular arched openings featuring keystones, with a larger vehicular entry on the west that allowed for entry by the City’s fire carts. The façade has iron star anchor plates, attached to tie rods that structurally reinforce the building. The other three sides of the building are constructed of stone. There are no windows on the side elevations, but the rear has a door and two windows which are deeply recessed into the second story. While the interior has been remodeled to reflect modern office usage, there are a few historic features remaining, including the original City safe purchased from Mosler Bahmann & Co. in 1879. It is one of the oldest extant municipal government buildings in Colorado, and believed to be the oldest in continual use for its original purpose since its construction.

Under **Criterion J**, the City Hall building reflects the political heritage of Black Hawk. Black Hawk is one of the many gold mining boom towns located through Gilpin County after the discovery of gold by prospector John H. Gregory in 1859. Most of these mining camps were short-lived, but a few principal communities not only survived, but thrived; Black Hawk was one of those camps that grew and prospered in the late nineteenth century. The construction of Black Hawk’s first building for use by the City’s government illustrates its evolution from a mining camp to a mature industrial milling town.

Black Hawk’s location at the junction of Gregory Gulch and Clear Creek proved to be critical for its future. The earliest prospectors extracted gold through simple placer methods. Once these surface deposits were gone, subterranean mining in hard-rock was necessary. At first, primitive crushers were used to extract the gold, which crushed the rock by pulling heavy stones over it with draft animals. This was quickly replaced by stamp milling – process that required abundant water, which was in short supply around the Mountain City and Central City camps. However, just east of these two camps was the “point” where water from Gregory’s Gulch flowed into the north branch of Clear Creek, which was a perfect location for stamp mills. Not only was there an abundant water supply on Clear Creek, but it was also the site of first arrival when heading up the canyon to the diggings. Thus in the spring of 1860, the “Black Hawk Point” community sprang up around one of the earliest stamp mills. Soon numerous other stamp mills were constructed along the length of Clear Creek. Black Hawk became the milling center for the gold ore mined throughout all of Gilpin County, earning its moniker as the “City of Mills.”

The City of Black Hawk was incorporated on March 11, 1864. In 1867, former Brown University chemistry professor Nathaniel P. Hill brought a Welsh smelting technique to the area and formed the Boston and Colorado Smelting Company, revitalizing both the milling industry itself and Black Hawk as well. Further aiding Black Hawk’s development was a dramatic improvement in transportation in 1872, when the Colorado Central Railroad line reached Black Hawk. Local traffic to Black Hawk and Central City was also improved that same year with the organization of the Gilpin County Tramway. By 1877, Black Hawk was the center of the milling operations as well as the transportation hub for the mining districts in Gilpin County. The City boasted of daily mail delivery, telegraph service, a new school and church, and brick business blocks spread along the gulch.

Since the incorporation of the City in 1864, however, the City Council had met in rented quarters, often in the Knights of Pythias building on Black Hawk Street. Other rooms also had to be rented for the City Clerk and other officials. (Roger Baker, *Black Hawk: The Rise and Fall of...*
a Colorado Mill Town). The local newspaper referred these rooms as “the little rookeries which so long have been used for City purposes.” (Central City Weekly Register, 4 August 1877). A few months later, the newspaper’s comments about the old City officers were even more insulting. “The City building or council room and office have heretofore consisted of a small, dirty structure which a passer-by might easily have mistaken for an ill-ventilated chicken coop.” (Central City Weekly Register, 8 December 1877).

By 1877, the City fathers believed their community deserved a more permanent and worthy edifice for City business. Taking a lesson from the devastating fire of 1874 in adjacent Central City, Black Hawk constructed its new municipal building with permanence in mind. The new building would have masonry construction, and the façade used “Hooper” brick, which was widely used in Central City after the fire and was manufactured by Thomas Hooper. After the vote of the Aldermen on August 7, 1877 to make specifications for a two-story brick City building and to take bids for its construction, the City moved with great speed to complete its new headquarters (see Attachment C, chronology by Spellman and Hailey for complete construction history).

Within a week, bids were received for the masonry work and the remainder of the building. Daniel W. Bult was awarded the contract for the general construction on August 17, 1877, for a total sum of $2,249.00. The selection of Daniel Bult was premature, however, as the City did not yet have a lot upon which to build; neither had plans and specifications been completed. The City shortly acquired the land for the new City building through the donation of three parcels on
Selak Street. The donated parcels were from Zephaniah Myer (20’ x 100’), Thomas J. Oyler (12’ x 100’), and the Consolidated Bobtail Gold Mining Company (30’ x 60’).

On August 20, 1877, the building committee was then instructed by the City Council to draw up plans for the building. The bids for construction, after apparently being re-opened, were again reviewed on August 24th. The bid from Daniel W. Bult was the lowest, and was (again) accepted, this time for $2,145.00. The contract for site grading for the foundation was awarded to Myres Twick & Co., although later grading invoices were submitted by T. L. Roberts and John Zuick & Co. (Attachment C). The “old log buildings with which [the lots] have been covered since the early days” were cleared. The City Council room and “lock-up” (jail), located opposite the new lot, were also torn down to provide more space for building material during construction. On Tuesday, December 4, 1877, just a few months after starting construction, the new City Hall was celebrated by a grand banquet. This initial celebration was given by the Mayor and Aldermen for the prominent citizens of Black Hawk. “Toasts were given, speeches made and many a bon mot was offered at this pleasant social gathering. Good feeling reigned supreme until the gathering finally dropped out one by one or adjourned in groups to home and slumber.” (Attachment C). The formal grand opening of City Hall to the public was given on February 5, 1879, and included “twenty or twenty-five couples of the most prominent citizens of that City. The exercises consisted of toasts, dancing, and a general good time. The music was furnished by the Central quadrille string band, with Albert Lintz, George Stroehle and Alex. Newton furnishing the music, while Jo. Ernst did the prompting.” (Central City Register, 6 February 1878).

The City was quick to move into their new headquarters. On December 8, 1877, the Central City Weekly Register reported that:

The City Hall of Black Hawk is completed, and Judge Haight has domiciled himself therein. He looks as cozy as a kitten, and puts on numerous airs heated by a thirty dollar stove and several joints of Russia pipe. . . .

This City Hall is a very neat and substantial structure, with ample room for the accommodation of the City government, clerk, police judge, a fire engine, when one is obtained, and safe and comfortable jail quarters.

The eventual cost of the building was reported in that same issue as about $5,000.00. The Mayor and Aldermen at the time of construction were: Mayor Lewis C. Snyder; Aldermen J. F. McNair – 1st Ward; Mathew Moyle – 1st Ward; Edward O’Neill – 2nd Ward; G. O. Scott – 2nd Ward; Henry Hartman – 3rd Ward; J. A. Hilliard – 3rd Ward. The second story of the new building housed the offices of City officials and the council room, while the first floor had a large room for the Fire Department, and a small jail room. Equipment for the Fire Department was likely not obtained until 1879. (X-2023, Denver Public Library Western History/Genealogy Digital Collection).
That same year, the City realized they needed a way to permanently protect the City’s records. On August 4, 1879, the Council voted to purchase a fire proof safe from Mosler Bahmann & Co. in Cincinnati, Ohio for $450.00. The safe would be 48 inches high, 26 inches wide, and 16 inches deep, with the words “‘City of Black Hawk’ over door in fine heavy block letters shaded with red ornament . . . in good style throughout. . .” In addition to the purchase cost, shipping was an additional $83.73. The safe was installed on the second floor, where the offices for City Hall were located, and remained there for over a century.

![Image of a group of people in costume, labeled "Black Hawk Fire Department, 1881."

By 1886, a small brick addition had been added to the side of the building for use as a “calaboose” (jail), while the two-story building contained the City Hall and Fire Department. Due to the ever present threat of fire in mountain mining communities, the use of the building by the Fire Department may have figured in the minds of citizens more prominently than the City offices in the first decades after construction. The Sanborn maps show that the City continued to increase water hydrants and its reservoir capacity over the years. The 1890 Sanborn noted that the City’s Fire Department consisted of one volunteer company of thirty men. There were three hose carts, and 1500’ of first class hose. The City had ten hydrants in 1890, with pressure of 120 lbs. By 1895, the number of hydrants had increased to fifteen, and by 1900 to twenty-three. The
City’s reservoir capacity had increased over the years as well. In 1886, the City’s reservoir, fed by springs, was 600 barrels and was located on the hill above the corner of Main and Gregory Streets. In 1890, the reservoir capacity had increased to 2,500 barrels. In 1900, there were two reservoirs that had greatly increased the City’s water reserve: one with 160,000 gallons, and the other with a million gallons.

At the same time the City Hall was constructed, an extension line for the Colorado Central rail was being built – practically on top of the new building! After making the switchback at the north end of the Community, the rail line went along the eastern flank of Bates Hill and crossed Gregory street right next to City Hall. A trestle over 200 feet long and 20 feet high would eventually span Gregory, and is visible in historic photographs of the City Hall building.
Although the Fire Department eventually moved out of the building, the City Clerk’s office remained in the building throughout its entire history. After the advent of gaming in 1990, the building was renovated and the City Clerk’s office was moved to the first floor. The vault was also painstakingly restored by Rocky Mountain Conservation for almost $10,000. In order to move the vault, a hole was cut in the second story floor and the safe lowered to the ground level by a forklift. Renovations for the newly restored City Hall were held in the spring of 1996.

Under **Criterion L**, the City Hall building is identified with historical personages or groups or which represent important events in local history. The City Council from 1877 through the early 1990s met in this building, and through the City Clerk’s office, all City government policies and business were conducted from here.

Under **Criteria M and N**, it is among the most well-known and recognized local landmarks in Black Hawk, located just beneath the other key landmarks of Black Hawk -- the Black Hawk School and Presbyterian Church. It has continuously housed City offices for 139 years, and will continue to serve as a gathering site for Black Hawk’s citizens for the future.
SUMMARY AND RECOMMENDATION
The Historic Preservation Commission evaluated and discussed the local landmark designation application, applicable criteria, and testimony by the City staff and the Historic Preservation Consultant. At the conclusion of the discussion, Chairman Hailey commended Historic Preservation Consultant Wolfenbarger on the work she did compiling the application for the City Hall designation. Consultant Wolfenbarger thanked the Chairman Hailey and Mayor Spellman for their outside research performed on the topic. Chairman Hailey noted that there was one outstanding question on a reference within the document that Administrator Linker and the Mayor would discuss. Chairman Hailey moved to recommend to the Board of Aldermen approval of the local landmark designation for the property at 201 Selak Street, historically known as City Hall. The property meets the Criterion A, J, L, M, and N as outlined in Sections 16-425 of the Black Hawk Municipal Code and presented in the staff report dated December 5, 2016. The motion was seconded by Commissioner Linker.

Staff revised the September 6, 2016 report and incorporated all recommended changed from Mayor Spellman into the report now dated December 5, 2016.

As recommended by the Historic Preservation Commission, Staff recommends City Council approve the revised report dated December 5, 2016.

ATTACHMENTS
A. Resolution No. 16-2015
B. Local Landmark Designation Form
C. City Hall Chronology,” HPC Chairman Lynnette Hailey and Mayor David D. Spellman
D. City Hall Photographs
ATTACHMENT A

RESOLUTION NO. 16-2015
STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK  

Resolution No. 16-2015  

TITLE: A RESOLUTION DIRECTING THE CITY MANAGER TO APPLY FOR LOCAL LANDMARK DESIGNATION FOR THE PROPERTY LOCATED AT 201 SELAK STREET AND GENERALLY KNOWN AS BLACK HAWK CITY HALL  

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

Section 1. The City Manager is directed to take all necessary steps to cause the City to apply for a local historic landmark designation pursuant to Section 16-425(1) for the City-owned property located at 201 Selak Street, and generally known as Black Hawk City Hall.  

RESOLVED AND PASSED this 11th day of February, 2015.  

David D. Spellman, Mayor  

ATTEST:  

Melissa Greiner, City Clerk
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Local historic landmark designation pursuant to Section 16-425(1) for the City-owned property located at 201 Selak Street, and generally known as Black Hawk City Hall.

RECOMMENDATION: Staff recommends the following motion to the Mayor and Board of Aldermen: I move to recommend APPROVAL of the Resolution directing the City Manager to apply for Local Landmark Designation for the Property Located at 201 Selak Street and Generally Known as Black Hawk City Hall.

MOTION TO APPROVE (or deny, etc.) 16-2015 - A Resolution Directing the City Manager to Apply for Local Landmark Designation for The Property Located at 201 Selak Street and Generally Known as Black Hawk City Hall.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The City Manager is directed to take all necessary steps to cause the City to apply for a local historic landmark designation pursuant to Section 16-425(1) for the City-owned property located at 201 Selak Street, and generally known as Black Hawk City Hall. If approved, the Historic Preservation Commission shall consider and review this nomination for designation at its next regular meeting.

AGENDA DATE: February 11, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [X]Yes [ ]No

STAFF PERSON RESPONSIBLE: Cynthia L. Linker, CP&D Administrator

DOCUMENTS ATTACHED: Resolution 16-2015, Request for Council Action

RECORD: [ ]Yes [X]No

CITY ATTORNEY REVIEW: [X]Yes [ ]N/A

SUBMITTED BY: Reviewed By:

Cynthia L. Linker
CP&D Administrator

Jack D. Lewis, City Manager
ATTACHMENT B

LOCAL LANDMARK DESIGNATION FORM
City of Black Hawk
Community Planning and Development
211 Church Street
P.O. Box 68
Black Hawk, CO 80422
Ph: 303-582-0615  Fax: 303-582-2239

LOCAL LANDMARK DESIGNATION FORM

Date: May 1, 2016

APPLICANT:
Name (Please Print): City of Black Hawk
Physical Address: 201 Selak Street, Black Hawk, CO 80422
Mailing Address: PO Box 68, Black Hawk, CO 80422
Phone Number: 303-582-0200  Cell Number: N/A
Email Address: choffmann@cityofblackhawk.org

OWNER OF SITE IF DIFFERENT FROM APPLICANT:
Name (Please Print): (same as applicant)
Physical Address: ________________________________________________________________
Mailing Address: ________________________________________________________________
Phone Number: ________________________________  Cell Number: __________________________
Email Address: ___________________________________________________________________

NAME OF SITE: Include a map on an 8.5” x 11” page that shows location of site and site plan. Please type if possible.
Black Hawk City Hall; 201 Selak Street; Black Hawk, CO 80422

DESCRIPTION: Current and original physical appearance, include photos documentary evidence of the qualifying age of
the year structure was built (at least 50 years old) – photos should be from all directions of the site if possible.

Black Hawk’s City Hall building is a variant of a 19th century commercial type building. Like commercial buildings, it is a
rectangular building whose footprint fills up the width of the lot – in this case, 25’ wide. It is two stories in height, with a flat
roof and ornamental detailing on the façade. There is a corbelled brick entablature at the cornice, and decorative
recessed brick panels beneath the cornice. Like other historic commercial buildings, the second story windows are
smaller than the typical storefront display windows on the ground level. Here, the tall, narrow 6/4 double-hung windows
have semi-elliptical arches with keystones. However, the City Hall building differs from historic commercial buildings on
the first level. Instead of a storefront with wide display windows, it has two entrances and no windows. This reflects the
original use of the structure as a city government building. The upper story contained rooms for the operation of the city
government, while the lower level housed the fire department. Both ground level entrances have semi-circular arched
openings, with a larger vehicular entry on the west for the city’s fire carts. The other three sides of the building are
constructed of stone. There are no windows on the side elevations, but the rear has a door and two windows which are
deeply recessed into the second story.

CATEGORY OF LANDMARK:
☑ Structure  ☐ Site  ☐ Home  ☐ Object  ☐ Property  ☐ Park  ☑ Building
**CRITERIA FOR DESIGNATION:** On a separate sheet of paper, please provide a detailed explanation on how the property meets the criteria for designation of one or more of the following [please check] below. [see staff report]

- ✓ Exemplifies specific elements of an architectural style or period.
- - Is an example of the work of an architect or builder who is recognized for his or her national, statewide, regional or local expertise.
- - Demonstrates superior craftsmanship or high artistic value.
- - Represents an innovation in construction, materials or design.
- - Represents a style particularly associated with the Black Hawk area.
- - Represents a built environment of a group of people in an era of history.
- - Represents a pattern or grouping of elements representing at least one (1) of the above-mentioned criteria;
- - Has undergone a significant historic remodel.
- - Is the site of a historic event that had an effect upon society.
- ✓ Exemplifies cultural, political, economic or social heritage in the community.
- - Represents an association with a notable person.
- ✓ Represents an association with historical personages or groups or which represents important events in national, state, or local history.
- ✓ Enhances a sense of identity with the community.
- ✓ Is an established and familiar natural setting or visual feature in the community.

**HISTORIC DISTRICTS:**

Districts proposed for local landmark designation shall contain properties that comply with the previous section (Criteria for Designation) hereof that are related by a pattern of physical elements or social activities. Significance is determined by applying the criteria of this Article to patterns and unifying elements.

1. Historic district designation will not be considered unless the application contains written approval of all property owners within the proposed historic district boundaries.

2. Properties that do not contribute to the significance of the proposed historic district may be included within the boundaries if the noncontributing buildings do not noticeably detract from the proposed historic district’s sense of time, place and historic development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location or information potential.

**MAJOR BIBLIOGRAPHICAL REFERENCES OR DOCUMENTATION OF HISTORIC SIGNIFICANCE:** (Please use separate paper if necessary.)


*Black Hawk Map.* Black Hawk Merchants Committee of the Gilpin County Chamber of Commerce, 1983.

USE: Provide a narrative and architectural plans as appropriate describing the current and intended future use of the site/structure(s), as well as detailed restoration plans. Plans should discuss needed building renovations and restoration, if applicable, as well as defined maintenance and upkeep intentions.

Throughout its history, Black Hawk’s City Hall building has been used to house offices for various city departments. Currently, the city clerk’s and city manager’s offices are located here.

Attach additional information as needed to comply with the application

OWNER CERTIFICATION: I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate and that consent of those persons, without whose consent the requested action cannot lawfully be accomplished, has been granted. In addition, permission is hereby granted to the City of Black Hawk staff to physically inspect the subject property and take photographs as necessary for preparation of the case.

In making this application, I further certify that I have read and understand the requirements of Sections 16-425 of the Black Hawk Municipal Code pertaining to the criteria for designation.

I acknowledge that the benefits of local historic designation primarily include the recognition by the community and individual owners of our historic heritage, the informational and educational resources of the Historic Preservation Commission, and participation in the preservation of Black Hawk’s rich past.

Signature: ______________________________ Date: ______________________________

Jack D. Lewis, City Manager

Do not write below this line.

Planning Approval: ______________________________ Date: ______________________________

Cynthia L. Linker, CP&D Administrator

HPC Approval: ______________________________ Date: ______________________________

Lynnette Hailey, Chairman

City Manager Approval: ______________________________ Date: ______________________________

Jack D. Lewis, City Manager

City Approval: ______________________________ Date: ______________________________

David D. Spellman, Mayor
ATTACHMENT C

“CITY HALL CHRONOLOGY,”
BY
HPC CHAIRMAN LYNNETTE HAILEY
MAYOR DAVID SPELLMAN
July 12, 1877  
*Black Hawk City Council Minutes*

The Mayor appointed Alderman Hilliard and the Clerk to make specifications and get estimates of the cost erecting a council room on the side of the present one.

**August 4, 1877**  
*Central City Weekly Register*

The plans for the new city buildings at Black Hawk, are being made and we expect to soon see an ornamental structure in place of the little rookeries which so long been used for city purposes.

**August 7, 1877**  
*Black Hawk City Council Meeting Minutes*

On motion of Alderman O’Neill, the Mayor appointed a building committee of three, consisting of O’Neill, McNair, and Hilliard to make specifications and receive bids for the erection of a two story brick building on the site of the present Council room with full power to act.

**August 17, 1877**  
*Black Hawk City Council Meeting Minutes*

Bids for the city building were filed by the following persons: for the mason work J. Atkinson & Son, N. A. Sears, Thomas Mullen & Company, and John G. Hendrickson. For the building complete by M.S. Burhans, J. O. Wheeler, Mosley & Ballard and Daniel W. Butt. On motion of Alderman McNair, Daniel W. Butt was awarded the contract to put up the city building complete for the sum of $2,249.00. On motion of Alderman Moyle, the Mayor was added to the building committee.

**August 20, 1877**  
*Black Hawk City Council Meeting Minutes – Special Meeting*

On motion of Alderman O’Neil, the building committee was instructed to confer with A. N. Rogers and what amount of ground he would donate to the City. On motion of Alderman O’Neil, the council adjourned to Tuesday evening, August 21st at 7 p.m.

**August 21, 1877**  
*Black Hawk City Council Meeting Minutes*

On motion of Alderman Hilliard, the council accepted propositions of Mr. A. N. Rogers as agent of the Consolidated Gold Mine Company. Mr. T. J. Oyler and Mr. Myers to donate ground for the erection of the City building on the condition specified by them. On motion of Alderman Scott, the building committee were instructed to draw up plans and specifications and receive bids for the erection of the proposed building to be erected on the ground donated for that purpose.
**Black Hawk City Council Meeting Minutes**

August 24, 1877

The building committee reported that they had opened the bids for building the council building and would recommend that the contract we awarded to Daniel W. Butt, his bid being the lowest received. On motion of Alderman McNair, the contract was awarded to Daniel W. Butt at Twenty one hundred and forty five dollars. On motion of Alderman O’Neil, the contract for grading the foundation for the council building was awarded to Meyrs Quick & Co.

August 25, 1877

*Central City Weekly Register*

Black Hawk will put up a building for city uses on Selak Street, opposite the corner frame now occupied for the same business and which will be removed. The new structure will be of stone except in front where brick will be used. It will be thirty by forty feet. It will stand on the lots of Thomas Oyler and the Bobtail Company, deeded to the city for that purpose, and now being cleared of the old log buildings with which they have covered since the early days. The lot of the former has a twelve foot front and that of the latter thirty feet. D. W. Butt has the contract for $2,249.

September 4, 1877

*Black Hawk City Council Meeting Minutes*

The City Attorney presented the contract of Daniel W. Butt for the erection of the City Building which was approved by the Council and signed by Daniel W. Butt and by the Mayor on part of the City.

September 16, 1877

*Central City Weekly Register*

The city council room and lock-up are being torn down and removed in order to give more space for building material for the new building. One by one the old landmarks pass away.

October 3, 1877

*Black Hawk City Council Meeting Minutes*

The following bills were read and referred to the Finance Committee.

<table>
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<td>John Quick</td>
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<td>6.40</td>
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<td>T. L. Roberts</td>
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The Finance Committee reported said bills as correct and on motion of Alderman Hilliard, the Clerk was instructed to draw warrants on the treasurer for the several amounts.

The Building Committee reported that they had drawn on the Treasurer for D. W. Butt on the contract for the city building, $120 and for John Zuick & Company apply on contract for grading the city lot - $100.
November 6, 1877  Black Hawk City Council Meeting Minutes

The Building Committee reported that they had instructed the Clerk to draw warrants on the Treasurer for the following amounts.

October 24th To D. W. Butt, on contract for city building four hundred and forty dollars ($440.00)
October 25th To Thomas Hooper on D. W. Butt’s order for brick two hundred and sixty six dollars and eighty cents ($266.80)
October 27th To D. R. Miller on D. W. Butt’s order for roofing city building ninety dollars ($90.00)

On motion of Alderman O’Neill the report was received and the action of the Committee approved by the Council.

December 4, 1877  Black Hawk City Council Meeting Minutes

The Building Committee made report that they had accepted the city building; and, had paid D. W. Butt for the same except $25 which amount was retained to cover the expense “Tucking the front”.

That they had instructed the clerk to draw warrants on the Treasurer for said amount to wit: Warrant No. 154 in favor of D. W. Butt, for $850.70, and warrant No. 155 in favor of Thomas Hooper, at Butt’s request for $17.

On motion of Alderman Hartman the action of the Building Committee was approved and their report accepted and the Committee discharged.

December 8, 1877  Weekly Register

Black Hawk Improvements.

The City Hall of Black Hawk is completed, and Judge Haight has domiciled himself therein. He looks as cozy as a kitten, and puts on numerous airs heated by a thirty dollar stove and several joints of Russia pipe. We missed Uncle Jimmie Chaplaine from his post, but we will call another day and hope to find him in.

The Black Hawk City Hall.

The completion of the new Black Hawk city hall was appropriately celebrated on Tuesday evening by a grand banquet at which the Mayor, Aldermen and most other leading citizens were present. Toasts were given, speeches made and many a bon mot was offered at this pleasant social gathering. Good feeling reigned supreme until the gathering finally dropped out one by one or adjourned in groups to home and slumber.

This city hall is very neat and substantial structure, with ample room for the accommodation of the city government, clerk, police judge, a fire engine, when one is obtained, and safe and comfortable jail quarters. The banquet took place in the large room provided for the deliberations of the city fathers.
Dedication of the New City Hall in Black Hawk.

On Tuesday night the prominent citizens of Black Hawk on invitation of the Mayor and City Council assembled in the new City Hall.

The city building or council room and office have heretofore consisted of a small, dirty structure which a passer-by might easily have mistaken for an ill-ventilated chicken coop.

The present building is situated on the north side of Selak street. It will be sufficient for many years to come for the purposes for which it has been erected. It is two stories in height and cost about $5,000. In the upper story the offices of the city officials are located and the council room of the city fathers. The lower story consists of a large room which will be used by the fire department, and a small room in which the unfortunate occupier will be unable to obey the divine instruction “take up they bed and walk,” at least to walk very far without permission.

The meeting of the leading citizens of our sister city, on Tuesday evening, was an appropriate occasion for expressions of approbation of the work of the present City Council in erecting a building long needed for public purposes.

Some considerate persons had not forgotten to provide for the wants of the “inner man.” At 10 o’clock the feast began, and after the guests had partaken of a rich entertainment, eloquent speeches were delivered by Mayor Snyder, Alderman Hartman, City Attorney Marsh, Messrs. Livesay, Messinger, Seiwell, Oyler, Leitzman, Chaplaine, Scobey, Haight and others.

After three cheers for the Mayor and City Council, the participants wended their way homeward.

The credit for the enjoyment on this occasion – one that will not soon be forgotten – is due Mayor Snyder and the City Council and City Police Judge Haight.

A very enjoyable affair took place at the City Hall in Black Hawk last evening; being the formal grand opening of that hall to the public by the City Council and some twenty or twenty-five couples of the most prominent citizens of that city. The exercises consisted of toasts, dancing, and a general good time. The music was furnished by the Central quadrille string band, with Albert Lintz, George Stroehle and Alex. Newton furnishing the music, while Jo. Ernst did the prompting. The festivities were under the immediate charge of Mayor Snyder and the Council, and were kept up until long after midnight.
Deeds Conveying the Property to the City of Black Hawk for City Hall

Book 63   Page 171   Dated: 8/27/1877   Recorded: 8/30/1877

Grantor: Zephaniah Myer      A parcel of ground 20’ wide x 100’

Consideration $5

Book 60   Page 314   Dated: 9/13/1877   Recorded: 11/2/1877

Grantor: Thomas J. Oyler      A parcel of ground 12’ wide x 100’

The consideration and conditions upon which this deed is executed by the party of the first part (Oyler) and accepted by the party of the second part (City of Black Hawk) are first: that the party of the second part remove the structure called the city council room and calaboose and shall hereinafter never permit any building of any character to be placed on the strip of land lying and being between the southwesterly line of Zephaniah Myer’s lot and the junction of Selak and Gregory Street, but the same shall be dedicated to public use form a part of public street and made subject to all ordinances regulating streets and alleys. Second: that the party of the first part shall have the right to use the southwesterly wall of building now being erected by party of the second part if desired by himself, heirs or grantees for building adjoining thereto.

Book 65   Page 531   Dated: 5/7/1878   Recorded: 11/8/1878

Grantor: The Consolidated Bobtail Gold Mining Company
         Albert N. Rodgers, agent

A parcel of ground 30’ x 60’

Consideration: $1 lawful money of the United States of America. This conveyance is made subject to the following provisions and stipulations. First that the ground situated in front of said city hall between Gregory and Selak Streets and which is now owned by the City shall be thrown open to the public and shall be kept from any buildings whatsoever in the future. Second that the ground hereby conveyed shall only be used for a city hall building whenever the above provision is not complied with, it is hereby expressly understood and agreed that the property hereby conveyed shall revert to the party of the first part hereto together with all and singular tenements hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversions, remainders, rents issues and profits thereof and also all the estate, right, title interest property, claim and demand whatsoever as well in law as in equity, of the said party of the first part, of in or to the above described premises and every part and parcel thereof with the appurtenances. To have and to hold all and singular the above mentioned and described premises, together with all the appurtenances unto the said party of the second part and assigns forever.
Mayor and Aldermen at the time City Hall was constructed:

**Mayor:**

Lewis C. Synder

**Aldermen:**

J. F. McNair – 1st Ward

Mathew Moyle – 1st Ward

Edward O’Neill – 2nd Ward

G. O. Scott – 2nd Ward

Henry Hartman – 3rd Ward

J. A. Hilliard – 3rd Ward
ATTACHMENT D

CITY HALL PHOTOGRAPHS
Attachment D:
City Hall photographs
201 Selak Street

Existing Front (southeast) Elevation

Existing Northeast Elevation
Existing Southwest Elevation

Existing Rear (Southwest) Elevation: seen from Church Street
No. 35 safe, Mosler Bahmann & Co.
1882, bird’s eye illustration.
Ca. 1880s. X-2008. Denver Public Library Western History/Genealogy Digital Collection
RESOLUTION 1-2017
A RESOLUTION
CONDITIONALLY
APPROVING A
CERTIFICATE OF
APPROPRIATENESS FOR
THE INSTALLATION OF A
ROOFTOP UNIT AND
DUCTWORK AT THE
SARATOGA CASINO
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 1-2017

TITLE: A RESOLUTION CONDITIONALLY APPROVING A CERTIFICATE OF APPROPRIATENESS FOR THE INSTALLATION OF A ROOFTOP UNIT AND DUCTWORK AT THE SARATOGA CASINO

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

Section 1. The City Council hereby determines to approve the Certificate of Appropriateness for the installation of a rooftop unit and ductwork at the Saratoga Casino with the following conditions:

A. All proposed renovations shall match those proposed by Saratoga Casino in their submittal;

B. All applicable building, electrical and public work permits must be obtained prior to beginning construction; and

C. Plans stamped by design professional(s) shall be submitted at the time of permitting.

RESOLVED AND PASSED this 11th day of January, 2017.

____________________________________
David D. Spellman, Mayor

ATTEST:

______________________________
Melissa A. Greiner, City Clerk
NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Black Hawk Board of Aldermen shall hold a public hearing concerning a Certificate of Appropriateness for the Saratoga Casino Rooftop RTU Unit Installation, located on property described in Exhibit A below and generally located at 101 Main Street.

The public hearing is to be held before the City of Black Hawk Board of Aldermen on Wednesday, January 11, 2017 at 3:00 p.m. or as soon as possible thereafter. The public hearing shall be held in the City of Black Hawk Council Chambers located at 211 Church Street, Black Hawk, Colorado, 80422, or at such other time or place in the event these hearings are adjourned.

ALL INTERESTED PARTIES MAY ATTEND

Melissa A. Greiner
City Clerk

Exhibit A

101 Main Street -

Lot 1, Fitzgeralds-Rohling Inn Minor Subdivision Expansion recorded December 15, 2006 at Reception No. 131952.
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Certificate of Appropriateness / Saratoga Casino Rooftop Unit (RTU) Installation (P-16-19)

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

MOTION TO APPROVE Resolution No. 1-2017, a resolution approving a Certificate of Appropriateness for the installation of a Rooftop Unit (RTU) and ductwork at the Saratoga Casino:

1. All proposed renovations shall match those proposed by Saratoga Casino in their submittal; and
2. All applicable building, electrical and public work permits must be obtained prior to beginning construction; and
3. Plans stamped by design professional(s) shall be submitted at the time of permitting.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:
On November 9, 2016, the City of Black Hawk received an application request for a Certificate of Appropriateness (CofA) from Saratoga Casino. The request involves the replacement and relocation of a Rooftop Unit (RTU) and ductwork at the Saratoga Casino located at 101 Main Street. The relocation of the unit will require the installation of additional air ducts which will run along the side of the building between the lower and upper roof. This duct work affects the exterior façade and will be somewhat visible from the street only at a very small area looking toward the west from Main Street. The unit itself will not be visible from the street. Visible air ducts will be painted to match the existing exterior of the building.

AGENDA DATE: January 11, 2017
WORKSHOP DATE: N/A
FUNDING SOURCE: N/A
DEPARTMENT DIRECTOR APPROVAL: [ X ] Yes [ ] No
STAFF PERSON RESPONSIBLE: Cynthia Linker, CP&D
Vincent Harris, Baseline Corporation
Resolution 1-2017,
Public Hearing Notice
Staff Report
Land Development Application with Project Plans, RTU Unit Specifications, Site Photos and Notes
[ ] Yes [ X ] No
[ X ] Yes [ ] N/A

RECORD: [ ] Yes [ X ] No
CITY ATTORNEY REVIEW: [ X ] Yes [ ] N/A
SUBMITTED BY: 12/28/2016
Cynthia L. Linker, CP&D
REVIEWED BY: Jack D. Lewis, City Manager
Staff Report
BACKGROUND:
On November 9, 2016, the City of Black Hawk received an application request for a Certificate of Appropriateness (CofA) from Saratoga Casino. The request involves the replacement and relocation of a Rooftop Unit (RTU) at 101 Main Street for the Saratoga Casino. The relocation of the RTU will require the installation of additional air ducts which will run along the side of the upper part of the building between the lower and upper roof. This duct work affects the exterior façade and will be visible from the street. The extent of the proposed improvement is identified below and includes:

- **Relocation of Rooftop Unit (RTU):** The new RTU will be relocated from the lower roof to the upper roof to ensure that the unit is placed in a location with adequate support for the weight of the unit. The exact location will be determined by Weeks Engineering and will be based on the structural steel supporting the roof.

![Figure 1: Saratoga Casino RTU Replacement – RTU Relocation](image-url)
**Addition of air ducts:** Due to the relocation of the RTU, additional air ducts will need to be installed on the exterior of the building to connect the existing air ducts system to the new unit.

Figure 2: Saratoga Casino RTU Replacement – Addition of Air Ducts
Figure 3: Saratoga Casino RTU Replacement – Addition of Air Ducts

- **Painting of air ducts:** Because the new air ducts will be visible from the street, they will be painted to match the existing building color(s).
Applicable City of Black Hawk Regulations

Excerpts from:

City of Black Hawk
Zoning Code
Chapter 16 – Zoning

Sec. 16-368. Any person seeking to renovate the exterior of, add to or construct a new building shall be subject to the following procedures. Any such renovation, construction or demolition shall be subject to the City’s design standards.
16-368 (3). Procedure to authorize the erection, construction, reconstruction, alterations to or demolition of improvements.
   a. No building permit or site development plan shall be issued unless accompanied by a Certificate of Appropriateness (CofA) issued by the City Council for any of the following acts:
      1. Construction of a new building, structure or improvement;
      2. Alteration or reconstruction of, or addition to, the exterior of any improvement;
      3. Demolition of any improvement;
      4. Construction or erection of or addition to any improvement upon any land located within the City;

16-368 3. (f): Criteria for determining appropriateness of proposed work. In determining the appropriateness of work (other than demolition) as proposed in an application for a site development plan or a building permit, the Board of Aldermen shall consider the following:

1. All plans, drawings and photographs as may be submitted by the applicant;
   Staff Comment: The applicant has submitted plans that are included with this Staff Report. The plans that were submitted are not stamped. Plans stamped by design professional(s) will need to be submitted prior to issuance of a building permit.

2. Information presented at a public hearing held concerning the proposed work:
   Staff Comment: A representative of the Saratoga Casino will provide additional information at the City Council meeting if needed.

3. The purpose of this Chapter:
   Staff Comment: The purpose of this Chapter is to ensure that all development and in this case, the replacement and relocation of the RTU and ductwork, meet the zoning requirements of the City of Black Hawk. The property is zoned Gaming Outstanding Lodging and Dining (GOLD) with a PUD overlay. This district encourages a complementary mix of retail, services, restaurants, and lodging accommodations in a manner which recognizes the continuing viability of the City as a destination resort community. Staff finds that the proposed renovations will continue to uphold these zoning standards.

4. Compliance with the ordinances of the City and the payment of all fees required by the ordinances of the City:
   Staff Comment: The applicant has and will continue to pay all necessary fees required by the ordinances of the City.

5. The historical and architectural style, the general design, arrangement, texture, materials and color of the development, building or structure in question or its appurtenance fixtures; the relationship of such features to similar features of the other buildings within the City and the position of the building, structure, park or open space in relation to public right-of-way and to other buildings and structures in the City:
   Staff Comment: The proposed installation of the RTU and ductwork will not dramatically change the exterior appearance of the building. The unit itself will be placed far enough back from the edge of the roof so that it will not be visible from the street below. The additional air ducts that are
proposed will be painted to match the existing building in order to better blend them with the existing upper wall.

6. **The effects of the proposed work upon the protection, enhancement, perpetuation and use of the City which cause it to possess a special character or special historical or aesthetic interest or value;**

   **Staff Comment:** The architecture of the building fits in with the historic character of the City. The proposed renovations will not affect the historic or aesthetic interest of the site or the district.

7. **The design standards for the City:**

   **Staff Comment:** The proposed renovations have been reviewed against the Commercial Design Guidelines for Non-historic Buildings, as this portion of the structure is not historic. This portion of the Saratoga Casino does not qualify as a historic building in that it is not greater than 50 years old. Therefore, the Design Guidelines dictate that alterations made to non-historic buildings shall use existing historical architectural details found on other buildings within the City. The proposed renovations to the Saratoga Casino are therefore consistent with the Design Guidelines and the applicant has worked to locate the new improvements in an area as best possible to be not very visible to the public from Main Street.

**STAFF COMMENTS:**

Staffs from Black Hawk and Baseline Corporation have evaluated the information provided by the Saratoga Casino for this project. The City of Black Hawk Municipal Code allows for exterior renovations of non-residential buildings with the approval of a Certificate of Appropriateness. Staffs from Black Hawk and Baseline Corporation recommend that a Certificate of Appropriateness be granted. The proposed renovations are acceptable, create the least obtrusive solution possible with the need to provide the functions needed in the building, and meet the Design Guidelines for commercial uses adopted by the City of Black Hawk.

In summary, Staff recommends that a Certificate of Appropriateness for exterior renovations be granted, subject to the following conditions:

1. All proposed renovations shall match those proposed by Saratoga Casino in their submittal; and
2. All applicable building, electrical, and public work permits must be obtained prior to beginning construction; and
3. Plans stamped by design professional(s) shall be submitted at the time of permitting.
FINDINGS:
City Council may approve, conditionally approve, or deny a Certificate of Appropriateness. To support this proposal, the following findings can be used:

The proposed Saratoga Casino Rooftop Unit (RTU) renovations meet the intent of the criteria outlined in Section 16-368 of the Municipal Code and those found in Black Hawk’s Design Guidelines as noted and evaluated in the staff report presented to City Council.

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

MOTION TO APPROVE Resolution No. 1-2017, a resolution approving a Certificate of Appropriateness for the replacement and relocation of the Saratoga Casino Rooftop Unit (RTU) and ductwork with the following conditions:

1. All proposed renovations shall match those proposed by Saratoga Casino in their submittal; and
2. All applicable building, electrical and public works permits must be obtained prior to beginning construction; and
3. Plans stamped by design professional(s) shall be submitted at the time of permitting.

ATTACHMENTS:
- Resolution 1-2017
- Public Hearing Notice
- Land Development Application Form
- Project Plans
- Rooftop Unit (RTU) Specifications
- Site photos with notes
Applicant Submittal
City of Black Hawk
Community Planning and Development
211 Church Street
P.O. Box 68
Black Hawk, CO 80422
Ph: 303-582-0615 Fax: 303-582-2239

APPLICANT NAME: Saratoga Casino
APPLICANT ADDRESS: 101 Main St Black Hawk
APPLICANT MAILING ADDRESS: PO Box 437 Black Hawk CO 80422
APPLICANT CONTACT NUMBER: 303-582-6120 EMAIL ADDRESS: jhelmeric@52aratogaCasino.com

PROPERTY OWNER NAME: Kings, Queens and Jacks LLC
PROPERTY OWNER ADDRESS: 101 Main St Black Hawk, CO 80422
PROPERTY OWNER MAILING ADDRESS: PO Box 437 Black Hawk, CO 80422
PROPERTY OWNER CONTACT NUMBER: 303-582-6120 EMAIL ADDRESS: jhelmeric@52aratogaCasino.com

PROJECT NAME: Saratoga Casino Renovations
PROJECT ADDRESS: 101 Main St Black Hawk, CO 80422
PROJECT DESCRIPTION: Installation of RTU

IS PROPERTY WITHIN CITY LIMITS: YES ☒ NO ☐
PRESENT ZONING: HARD CURRENT USE:
NAME OF EXISTING PLANNED UNIT DEVELOPMENT (IF APPLICABLE):
NAME OF EXISTING SUBDIVISION PLAT (IF APPLICABLE):
GILPIN COUNTY ASSESSOR’S I.D. NO.(S): ___________ EXISTING PROPERTY SIZE: _______ ACRES/SQ.FEET
(PLEASE ATTACH A COPY OF SURVEY/PLAT.)
EXISTING BUILDING SIZE: _______ SQ. FT. AND/OR NUMBER OF EXISTING RESIDENTIAL UNITS:

APPLICANT AGREES TO THE FOLLOWING CERTIFICATION STATEMENT AND AFFIDAVIT:

I, as the applicant, hereby certify that to the best of my knowledge and believe, all information supplied with this application is true and accurate and that consent of the property owner listed above, without which the requested action cannot lawfully be accomplished, has been granted. Permission is also hereby granted to the City of Black Hawk staff and their consultants to physically enter upon and inspect the subject property and take photographs as necessary for preparation of the case. In addition, I have read and understand Section 16-370 of the Black Hawk Municipal Code, the adopted Black Hawk Fee Schedule and by signing this application I am agreeing that I am authorized to sign on behalf of the property owner, or business-owner, or applicant and commit and agree to the payment of any and all fees associated with processing this application and further agree to pay City of Black Hawk invoices associated with the processing of this application.

A complete submittal is a minimum of five (5) hard copy sets and one electronic in PDF format must accompany application.

SIGNATURE OF APPLICANT: _______________ DATE: 11/9/16
Existing RTU 9 being replaced with new unit.

RTU 9 Return Air ductwork to be extended to follow Supply air path to new location.

RTU 9 existing 18" square.

To ductwork below.
RTU Supply and Return air ductwork painted the same color as the building.

RTU 9 to relocate here far enough back off roof edge not to be visible from the street below.
RTU 9 Return Air ductwork to be extended to the new RTU 9 location on the upper roof and painted the same color as the existing wall.

RTU 9 Supply air duct work to be extended to the new RTU 9 location on upper roof and painted the same color as the existing wall.

Existing RTU 9 being replaced an roof far enough back form edge back from the street below. Only visible supply and return air duct work will be the same color as the existing wall.

Expected to be moved about 24 feet from edge shown and back from the edge so that it is not seen from the street level. The exact location will be determined by Weeks Engineering which will be based on the structural steel supporting the roof.
RTU 9 To relocate here where structure below is visible for measurements and structural review.

RTU 9 Existing location where structure below cannot be verified for additional weight.
CURRENT RTU 9 LOCATION

GENERAL NOTES:
1. ALL ROOF OPENINGS SHALL BE COVERED AT THE OWNER'S EXPENSE.
2. NON-INSULATED DUCTWORK SHALL BE INSULATED.

KEY NOTES:
1. EXISTING HVAC AND PLUMBING ROOF PLAN

SCALE: 1" = 1'-0"
Unit Dimensions - 3-10 Ton R410A PKGD Unitary Gas/Electric Rooftop

Item: A1 Qty: 2 Tag(s): RTU-8, RTU-9

NEW UNIT

NOTES:
1. THRU-THE-BASE ELECTRICAL AND GAS IS NOT STANDARD ON ALL UNITS.
2. VERIFY WEIGHT, CONNECTION, AND ALL DIMENSION WITH INSTALLER DOCUMENTS BEFORE INSTALLATION.
## ELECTRICAL / GENERAL DATA

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### HEATING PERFORMANCE

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### INDOOR MOTOR

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### COMPRESSOR

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### OUTDOOR MOTOR

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### POWER EXHAUST ACCESSORY

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### FILTERS

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### REFRIGERANT

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### NOTES:

1. Maximum (HACR) Circuit Breaker sizing is for installations in the United States only.
2. Refrigerant charge is an approximate value. For a more precise value, see unit nameplate and service instructions.
3. Value does not include Power Exhaust Accessory.
4. Value includes oversized motor.
5. Value does not include Power Exhaust Accessory.
6. EER is rated at AHRI conditions and in accordance with DOE test procedures.
This roof structure is visible from below. Could the unit be placed up here and ducted down?

If the low roof beam is here, don't know how we could get a frame to work.

If there is a beam here, the frame would be simple.

I believe there is a soffit here that could wrap a beam.

It is likely there is a roof support beam here running between the two columns visible below.

Existing column beyond.

New support frame.

RTU.
COUNCIL BILL 2
ORDINANCE 2017-2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK HAWK COLORADO APPROVING A FRANCHISE AGREEMENT WITH PUBLIC SERVICE COMPANY OF COLORADO, D/B/A XCEL ENERGY, GRANTING TO XCEL ENERGY THE NON-EXCLUSIVE RIGHT TO MAKE REASONABLE USE OF CITY STREETS, PUBLIC UTILITY EASEMENTS AND OTHER CITY PROPERTY TO PROVIDE GAS AND ELECTRIC UTILITY SERVICE TO THE CITY AND ITS RESIDENTS; TO SELL, STORE, PURCHASE, EXCHANGE, TRANSMIT, TRANSPORT, AND DISTRIBUTE GAS AND ELECTRIC UTILITY SERVICES WITHIN AND THROUGH THE CITY ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; SPECIFYING THAT THE FRANCHISE SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR A TERM OF TWENTY (20) YEARS THEREAFTER; SETTING A FRANCHISE FEE OF 3% OF THE GROSS REVENUES OF XCEL ENERGY AS DEFINED IN SAID FRANCHISE; PROVIDING FOR A SURCHARGE THEREFORE; AUTHORIZING THE MAYOR TO EXECUTE THE FRANCHISE AGREEMENT FOR AND ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND, SETTING FORTH OTHER DETAILS RELATED THERETO.
STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK  

COUNCIL BILL NUMBER: CB -2  
ORDINANCE NUMBER: 2017-2  

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK HAWK COLORADO APPROVING A FRANCHISE AGREEMENT WITH PUBLIC SERVICE COMPANY OF COLORADO, D/B/A XCEL ENERGY, GRANTING TO XCEL ENERGY THE NON-EXCLUSIVE RIGHT TO MAKE REASONABLE USE OF CITY STREETS, PUBLIC UTILITY EASEMENTS AND OTHER CITY PROPERTY TO PROVIDE GAS AND ELECTRIC UTILITY SERVICE TO THE CITY AND ITS RESIDENTS; TO SELL, STORE, PURCHASE, EXCHANGE, TRANSMIT, TRANSPORT, AND DISTRIBUTE GAS AND ELECTRIC UTILITY SERVICES WITHIN AND THROUGH THE CITY ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; SPECIFYING THAT THE FRANCHISE SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR A TERM OF TWENTY (20) YEARS THEREAFTER; SETTING A FRANCHISE FEE OF 3% OF THE GROSS REVENUES OF XCEL ENERGY AS DEFINED IN SAID FRANCHISE; PROVIDING FOR A SURCHARGE THEREFORE; AUTHORIZING THE MAYOR TO EXECUTE THE FRANCHISE AGREEMENT FOR AND ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND, SETTING FORTH OTHER DETAILS RELATED THERETO. 

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

Section 1. The Franchise Agreement between the City and Public Service Company of Colorado, attached hereto as Exhibit A, and incorporated herein by this reference, is hereby approved  

Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience
and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

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

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk following second reading thereon pursuant to C.R.S. § 31-32-103.

READ, INTRODUCED, AND APPROVED ON FIRST READING THIS 11th day of January, 2017 pursuant to C.R.S. § 31-32-103.

_______________________________
David D. Spellman, Mayor

ATTEST:

_______________________________
Melissa A. Greiner, City Clerk

READ, PASSED AND APPROVED ON SECOND READING, AND ORDERED POSTED this _____ day of _____________________, 2017.

_______________________________
David D. Spellman, Mayor

ATTEST:

_______________________________
Melissa A. Greiner, City Clerk
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Xcel Franchise Agreement

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

MOTION TO APPROVE ORDINANCE 2017-2, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK HAWK COLORADO APPROVING A FRANCHISE AGREEMENT WITH PUBLIC SERVICE COMPANY OF COLORADO, D/B/A XCEL ENERGY, GRANTING TO XCEL ENERGY THE NON-EXCLUSIVE RIGHT TO MAKE REASONABLE USE OF CITY STREETS, PUBLIC UTILITY EASEMENTS AND OTHER CITY PROPERTY TO PROVIDE GAS AND ELECTRIC UTILITY SERVICE TO THE CITY AND ITS RESIDENTS; TO SELL, STORE, PURCHASE, EXCHANGE, TRANSMIT, TRANSPORT, AND DISTRIBUTE GAS AND ELECTRIC UTILITY SERVICES WITHIN AND THROUGH THE CITY ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; SPECIFYING THAT THE FRANCHISE SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR A TERM OF TWENTY (20) YEARS THEREAFTER; SETTING A FRANCHISE FEE OF 3% OF THE GROSS REVENUES OF XCEL ENERGY AS DEFINED IN SAID FRANCHISE; PROVIDING FOR A SURCHARGE THEREFORE; AUTHORIZING THE MAYOR TO EXECUTE THE FRANCHISE AGREEMENT FOR AND ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND, SETTING FORTH OTHER DETAILS RELATED THERETO.

AGENDA DATE: January 11, 2017

DOCUMENTS ATTACHED: Franchise Agreement and Public Notice

CITY ATTORNEY REVIEW: [ X ]Yes [ ]N/A

SUBMITTED BY: Melissa Greiner
City Clerk/Administrative Services Director

REVIEWED BY: Jack D. Lewis, City Manager
FRANCHISE AGREEMENT BETWEEN THE CITY OF BLACK HAWK COLORADO AND PUBLIC SERVICE COMPANY OF COLORADO

ARTICLE 1 DEFINITIONS
ARTICLE 2 GRANT OF FRANCHISE
ARTICLE 3 CITY POLICE POWERS
ARTICLE 4 FRANCHISE FEE
ARTICLE 5 ADMINISTRATION OF FRANCHISE
ARTICLE 6 SUPPLY, CONSTRUCTION, AND DESIGN
ARTICLE 7 RELIABILITY
ARTICLE 8 COMPANY PERFORMANCE OBLIGATIONS
ARTICLE 9 BILLING AND PAYMENT
ARTICLE 10 USE OF COMPANY FACILITIES
ARTICLE 11 UNDERGROUNDING OF OVERHEAD FACILITIES
ARTICLE 12 PURCHASE OR CONDEMNATION
ARTICLE 13 MUNICIPALLY PRODUCED UTILITY SERVICE
ARTICLE 14 ENVIRONMENT AND CONSERVATION
ARTICLE 15 TRANSFER OF FRANCHISE
ARTICLE 16 CONTINUATION OF UTILITY SERVICE
ARTICLE 17 INDEMNIFICATION AND IMMUNITY
ARTICLE 18 BREACH
ARTICLE 19 AMENDMENTS
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ARTICLE 21 MISCELLANEOUS
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ARTICLE 1
DEFINITIONS

For the purpose of this franchise agreement (“Franchise”), the following words and phrases shall have the meaning given in this Article. When not inconsistent with context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. The word “shall” is mandatory and “may” is permissive. Words not defined in this Article shall be given their common and ordinary meaning.

§1.1 “City” means the City of Black Hawk, a Colorado home rule municipality.

§1.2 “Clean Energy” means energy produced from Renewable Energy Resources, eligible energy sources, and by means of advanced technologies that cost-effectively capture and sequester carbon emissions produced as a by-product of power generation. For purposes of this definition, “cost” means all those costs as determined by the PUC.

§1.3 “Company” means Public Service Company of Colorado, a Colorado corporation, and an Xcel Energy company and its successors and assigns including affiliates or subsidiaries that undertake to perform any of the obligations under this Franchise.

§1.4 “Company Facilities” means all facilities of the Company reasonably necessary or desirable to provide gas and electric service into, within and through the City, including without limitation, plants, works, systems, substations, transmission and distribution structures and systems, lines, equipment, pipes, mains, conduit, transformers, underground lines, gas compressors, meters, meter reading devices, communication and data transfer equipment, control equipment, gas regulator stations, street lights, wire, pull boxes, handholes, cables and poles as well as all associated appurtenances.

§1.5 “Council” or “City Council” means the legislative body of the City.

§1.6 “Electric Gross Revenues” means those amounts of money that the Company receives from the sale or delivery of electricity in the City, after adjusting for refunds, net write-offs of accounts, corrections, or regulatory adjustments. Regulatory adjustments include, but are not limited to, credits, surcharges, refunds, and pro-forma adjustments pursuant to federal or state regulation. “Electric Gross Revenues” shall exclude any revenue for the sale or delivery of electricity to the City as a customer of the Company.

§1.7 “Energy Conservation” means the decrease in energy requirements of specific customers during any selected time period, resulting in a reduction in end-use services.

§1.8 “Energy Efficiency” means the decrease in energy requirements of specific customers during any selected period with end-use services of such customers held constant.

§1.9 “Force Majeure” means the inability to undertake an obligation of this Franchise due to a cause that could not be reasonably anticipated by a party or is beyond its reasonable control.
after exercise of best efforts to perform, including but not limited to fire, strike, war, riots, terrorist acts, acts of governmental authority, acts of God, floods, epidemics, quarantines, labor disputes, unavailability or shortages of materials or equipment or failures or delays in the delivery of materials. Neither the City nor the Company shall be in breach of this Franchise if a failure to perform any of the duties under this Franchise is due to a Force Majeure condition.

§1.10 “Gross Revenues” means those amounts of money that the Company receives from the sale of gas and electricity within the City under rates authorized by the Public Utilities Commission, as well as from the transportation of gas to its customers within the City, as adjusted for refunds, net write-offs of uncollectible accounts, corrections, or regulatory adjustments. Regulatory adjustments include without limitation credits, surcharges, refunds, and pro-forma adjustments pursuant to federal or state regulation. “Gross Revenues” shall exclude any revenues from the sale of gas or electricity to the City or the transportation of gas to the City.

§1.11 “Industry Standards” means standards developed by government agencies and generally recognized organizations that engage in the business of developing utility industry standards for materials, specifications, testing, construction, repair, maintenance, manufacturing, and other facets of the electric and gas utility industries. Such agencies and organizations include, but are not limited to the U.S. Department of Transportation, the Federal Energy Regulatory Commission (FERC), the Colorado Public Utilities Commission, the American National Standards Institute (ANSI), the American Society for Testing and Materials (ASTM), the Pipeline Research Council International, Inc. (PRCI), the American Society of Mechanical Engineers (ASME), the Institute of Electrical and Electronic Engineers (IEEE), the Electric Power Research Institute (EPRI), the Gas Technology Institute (GTI), the National Fire Protection Association (NFPA), and specifically includes the National Electric Safety Code (NESC).

§1.12 “Other City Property” means the surface, the air space above the surface and the area below the surface of any property owned by the City or directly controlled by the City due to the City’s real property interest in the same or hereafter owned by the City, that would not otherwise fall under the definition of “Streets,” but which provides a suitable location for the placement of Company Facilities as specifically approved in writing by the City. Other City Property does not include Public Utility Easements.

§1.13 “Private Project” means any project which is not covered by the definition of Public Project.

§1.14 “Public Project” means (1) any public work or improvement within the City that is wholly owned by the City; or (2) any public work or improvement within the City where fifty percent (50%) or more of the funding is provided by any combination of the City, the federal government, the State of Colorado, or any Colorado county, but excluding all entities established under Title 32 of the Colorado Revised Statutes, excepting only the Black Hawk Central City Sanitation District.
§1.15 “Public Utilities Commission” or “PUC” means the Public Utilities Commission of the State of Colorado or other state agency succeeding to the regulatory powers of the Public Utilities Commission.

§1.16 “Public Utility Easement” means any platted easement over, under, or above public or private property, expressly dedicated for the use of public utility providers for the placement of utility facilities, including without limitation Company Facilities.

§1.17 “Renewable Energy Resources” means wind, solar, and geothermal resources; energy produced from biomass from nontoxic plant matter consisting of agricultural crops or their byproducts, urban wood waste, mill residue, slash, or brush, or from animal wastes and products of animal wastes, or from methane produced at landfills or as a by-product of the treatment of wastewater residuals; new hydroelectricity with a nameplate rating of ten (10) megawatts or less; and hydroelectricity in existence on January 1, 2005, with a nameplate rating of thirty (30) megawatts or less; fuel cells using hydrogen derived from a Renewable Energy Resource; and recycled energy produced by a generation unit with a nameplate capacity of not more than fifteen (15) megawatts that converts the otherwise lost energy from the heat from exhaust stacks or pipes to electricity and that does not combust additional fossil fuel, and includes any eligible renewable energy resource as defined in §40-2-124(1)(a), C.R.S., as the same may be amended from time to time.

§1.18 “Residents” means all persons, businesses, industries, governmental agencies, including the City, and any other entity whatsoever, presently located or to be hereinafter located, in whole or in part, within the territorial boundaries of the City.

§1.19 “City Streets” means the surface, the air space above the surface and the area below the surface of any City-dedicated or City-maintained streets, alleys, bridges, roads, lanes, access easements, and other public rights-of-way within the City, which are primarily used for vehicle and pedestrian traffic, but not including pedestrian trails that are not attached to City Streets. Streets shall not include Public Utility Easements and Other City Property.

§1.20 “Supporting Documentation” means all information reasonably required or needed in order to allow the Company to design and construct any work performed under the provisions of this Franchise, including without limitation construction plans, a description of known environmental issues, the identification of critical right-of-way or easement issues, the final recorded plat for the property, the date the site will be ready for the Company to begin construction, the date gas service and meter set are needed, and the name and contact information for the City’s project manager.

§1.21 “Tariffs” means those tariffs of the Company on file and in effect with the PUC or other governing jurisdiction, as may be amended from time to time.

§1.22 “Utility Service” means the sale of gas or electricity toResidents by the Company under rates and Tariffs approved by the PUC, as well as the delivery of gas to Residents by the Company.
ARTICLE 2
GRANT OF FRANCHISE

§2.1 Grant of Franchise.

A. Grant. The City hereby grants to the Company, subject to all conditions, limitations, terms, and provisions contained in this Franchise, the non-exclusive right to make reasonable use of City Streets, Public Utility Easements (as applicable) and Other City Property:

(1) to provide Utility Service to the City and to its Residents under the Tariffs; and

(2) to acquire, purchase, construct, install, locate, maintain, operate, upgrade and extend into, within and through the City all Company Facilities reasonably necessary for the generation, production, manufacture, sale, storage, purchase, exchange, transportation, transmission and distribution of Utility Service within and through the City.

B. Street Lighting and Traffic Signal Lighting Service. Street lighting service and traffic signal lighting service within the City shall be governed by Tariffs on file with the PUC.

§2.2 Conditions and Limitations.

A. Scope of Franchise. The grant of this Franchise shall extend to all areas of the City as it is now or hereafter constituted that are within the Company’s PUC-certificated service territory; however, nothing contained in this Franchise shall be construed to authorize the Company to engage in activities other than the provision of Utility Service.

B. Subject to City Usage. The right to make reasonable use of City Streets, Public Utility Easements as applicable and Other City Property to provide Utility Service to the City and its Residents under this Franchise is subject to and subordinate to any City usage of City Streets, and Other City Property.

C. Prior Grants Not Revoked. This Franchise is not intended to revoke any prior license, grant, or right to use City Streets, Other City Property or Public Utility Easements and such licenses, grants or rights of use are hereby affirmed.

D. Franchise Not Exclusive. The rights granted by this Franchise are not, and shall not be deemed to be, granted exclusively to the Company, and the City reserves the right to make or grant a franchise to any other person, firm, or corporation.
§2.3 **Effective Date and Term.** This Franchise shall take effect on January 6, 2017, and shall supersede any prior franchise grants to the Company by the City. This Franchise shall terminate on January 5, 2037, unless extended by mutual consent.

**ARTICLE 3**

**CITY POLICE POWERS**

§3.1 **Police Powers.** The Company expressly acknowledges the City’s right to adopt, from time to time, in addition to the provisions contained herein, such laws, including ordinances and regulations, as it may deem necessary in the exercise of its governmental powers. If the City considers making any substantive changes in its local codes or regulations that in the City’s reasonable opinion will significantly impact the Company’s operations in City Streets, Public Utility Easements and Other City Property, the City will make a good faith effort to advise the Company of such consideration; provided, however, that lack of notice shall not be justification for the Company’s non-compliance with any applicable local requirements.

§3.2 **Regulation of City Streets or Other City Property.** The Company expressly acknowledges the City’s right to enforce regulations concerning the Company’s access to or use of City Streets, and Other City Property, including requirements for permits.

§3.3 **Compliance with Laws.** The Company shall promptly and fully comply with all laws, regulations, permits and orders lawfully enacted by the City that are consistent with Industry Standards. Nothing herein provided shall prevent the Company from legally challenging or appealing the enactment of any laws, regulations, permits and orders enacted by the City.

**ARTICLE 4**

**FRANCHISE FEE**

§4.1 **Franchise Fee.**

A. **Fee.** In partial consideration for this Franchise, which provides the certain terms related to the Company’s use of City Streets, Public Utility Easements and Other City Property, which are valuable public properties acquired and maintained by the City, and in recognition of the fact that the grant to the Company of this Franchise is a valuable right, the Company shall pay the City a sum equal to three percent (3%) of all Gross Revenues. To the extent permitted by law, the Company shall collect this fee (the “Franchise Fee”) from a surcharge upon City Residents who are customers of the Company.

B. **Obligation in Lieu of Fee.** In the event that the Franchise Fee specified herein is declared void for any reason by a court of competent jurisdiction, unless prohibited by law, the Company shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount that the Company would have paid as the Franchise Fee as partial consideration for use of
City Streets, Public Utility Easements and Other City Property. Such payments shall be made in accordance with applicable provisions of law. Further, to the extent required by law, the Company shall collect the amounts agreed upon through a surcharge upon Utility Service provided to City Residents who are customers of the Company.

C. Changes in Utility Service Industries. The City and the Company recognize that utility service industries are the subject of restructuring initiatives by legislative and regulatory authorities, and are also experiencing other changes as a result of mergers, acquisitions, and reorganizations. Some of such initiatives and changes may have an adverse impact upon the Franchise Fee revenues provided for herein. In recognition of the length of the term of this Franchise, the Company agrees that in the event of any such initiatives or changes and to the extent permitted by law, upon receiving a written request from the City, the Company will cooperate with and assist the City in making reasonable modifications of this Franchise in an effort to provide that the City receives an amount in franchise fees or some other form of compensation that is the same amount of franchise fees paid to the City as of the date that such initiatives and changes adversely impact franchise fee revenues.

D. Utility Service Provided to the City. No franchise fee shall be charged to the City for Utility Service provided directly or indirectly to the City for its own consumption, including street lighting service and traffic signal lighting service.

§4.2 Remittance of Franchise Fee.

A. Remittance Schedule. Franchise Fee revenues shall be remitted by the Company to the City as directed by the City in monthly installments not more than thirty (30) days following the close of each month.

B. Correction of Franchise Fee Payments. In the event that either the City or the Company discovers that there has been an error in the calculation of a Franchise Fee payment to the City, either party shall provide written notice of the error to the other party. If the party receiving written notice of the error does not agree with the written notice of error, that party may challenge the written notice of error pursuant to Section 4.2.D of this Franchise; otherwise, the error shall be corrected in the next monthly payment. However subject to the terms of the applicable Tariffs, if the error results in an overpayment of the franchise fee to the City, and said overpayment is in excess of Five Thousand Dollars ($5,000.00), credit for the overpayment shall be spread over the same period the error was undiscovered; provided that if such period would extend beyond the term of this Franchise, the Company may elect to require the City to provide it with a refund instead of a credit, with such refund to be spread over the same period the error was undiscovered, even if the refund will be paid after the termination date of this Franchise. All Franchise Fee underpayments shall be corrected in the next monthly payment, together with interest computed at the rate set by the PUC for customer security deposits held by the Company, from the date when due until the date paid. Subject to the terms of the applicable Tariffs, in no event shall either party be required to fund or refund any overpayment or underpayment.
made as a result of a Company error which occurred more than five (5) years prior to the discovery of the error.

C. Audit of Franchise Fees.

(1) Company Audit. At the request of the City, every three (3) years commencing at the end of the third calendar year of the Term of this Franchise, the Company shall conduct an internal audit, in accordance with the Company’s auditing principles and policies that are applicable to electric and gas utilities that are developed in accordance with the Institute of Internal Auditors, to investigate and determine the correctness of the Franchise Fees paid to the City. Such audit shall be limited to the previous three (3) calendar years. Within a reasonable period of time after the audit, the Company shall provide a written report to the City Clerk summarizing the testing procedures followed along with any potential findings.

(2) City Audit. If the City disagrees with the results of the Company’s audit, and if the parties are not able to informally resolve their differences, the City may conduct its own audit at its own expense, in accordance with generally accepted auditing principles applicable to electric and gas utilities, and the Company shall cooperate by providing the City’s auditor with non-confidential information that would be required to be disclosed under applicable state sales and use tax laws.

(3) Underpayments. If the results of a City audit conducted pursuant to Subsection C(2) concludes that the Company has underpaid the City by five percent (5%) or more, in addition to the obligation to pay such amounts to the City, the Company shall also pay all reasonable costs of the City’s audit. The Company shall not be responsible for any errors in third party data that is used in association with audits, including without limitation, Geotax data.

D. Fee Disputes. Either party may challenge any written notification of error as provided for in Section 4.2.B of this Franchise by filing a written notice to the other party within thirty (30) days of receipt of the written notification of error. The written notice shall contain a summary of the facts and reasons for the party’s notice. The parties shall make good faith efforts to resolve any such notice of error before initiating any formal legal proceedings for the resolution of such error.

E. Reports. To the extent allowed by law, Upon written request by the City, but not more than once per year, the Company shall supply the City with the names and addresses of registered gas suppliers and brokers of natural gas that utilize Company Facilities to sell or distribute natural gas in Colorado. The Company shall not be required to disclose any confidential or proprietary information.

§4.3 Franchise Fee Payment not in Lieu of Permit or Other Fees. Payment of the Franchise Fee does not exempt the Company from any other lawful tax or fee imposed generally upon persons doing business within the City, except that the Franchise Fee shall be in lieu of any
occupation, occupancy or similar tax or fee for the use of City Streets, Public Utility Easements and Other City Property under the terms set forth in this Franchise.

ARTICLE 5
ADMINISTRATION OF FRANCHISE

§5.1 City Designee. The City shall designate in writing to the Company an official having full power and authority to administer this Franchise. The City may also designate one or more City representatives to act as the primary liaison with the Company as to particular matters addressed by this Franchise and shall provide the Company with the names and telephone numbers of said City representatives. The City may change these designations by providing written notice to the Company. The City’s designee shall have the right, at all reasonable times, to inspect any Company Facilities in City Streets and Other City Property.

§5.2 Company Designee. The Company shall designate a representative to act as the primary liaison with the City and shall provide the City with the name, address, and telephone number for the Company’s representative under this Franchise. The Company may change its designation by providing written notice to the City. The City shall use this liaison to communicate with the Company regarding this Franchise.

§5.3 Coordination of Work. The Company shall coordinate its activities in City Streets, Public Utility Easements and Other City Property with the City. The City and the Company will meet annually upon the written request of the City to exchange their respective short-term and long-term forecasts and/or work plans for construction and other similar work which may affect City Streets, and Other City Property, including without limitation any planned City Streets paving projects. The City and Company shall hold such meetings as either deems necessary to exchange additional information with a view toward coordinating their respective activities in those areas where such coordination may prove beneficial and so that the City will be assured that all applicable provisions of this Franchise, applicable building and zoning codes, and applicable City air and water pollution regulations are complied with, and that aesthetic and other relevant planning principles have been given due consideration.

ARTICLE 6
SUPPLY, CONSTRUCTION, AND DESIGN

§6.1 Purpose. The Company acknowledges the critical nature of the municipal services performed or provided by the City to the Residents that require the Company to provide prompt and reliable Utility Service and the performance of related services for City facilities. The parties wish to provide for certain terms and conditions under which the Company will provide Utility Service and perform related services for the City to facilitate and enhance the operation of City facilities. The parties also wish to provide for other processes and procedures related to the provision of Utility Service to the City.
§6.2 **Supply.** Subject to the jurisdiction of the PUC, the Company shall take all reasonable and necessary steps to provide a sufficient supply of gas and electricity to Residents at the lowest reasonable cost consistent with reliable supplies.

§6.3 **Charges to the City for Service to City Facilities.** No charges to the City by the Company for Utility Service (other than gas transportation which shall be subject to negotiated contracts) shall exceed the lowest charge for similar service or supplies provided by the Company to any other similarly situated customer of the Company. The parties acknowledge the jurisdiction of the PUC over the Company’s regulated intrastate electric and gas rates. All charges to the City shall be in accord with the Tariffs.

§6.4 **Restoration of Service.**

A. **Notification.** The Company shall provide to the City daytime and nighttime telephone numbers of a designated Company representative from whom the City may obtain status information from the Company on a twenty-four (24) hour basis concerning interruptions of Utility Service in any part of the City and the status of the Company’s responses to the same.

B. **Restoration.** In the event the Company’s gas system or electric system within the City, or any part thereof, is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore such system to satisfactory service within the shortest practicable time, or provide a reasonable alternative to such system if the Company elects not to restore such system.

§6.5 **Obligations Regarding Company Facilities.**

A. **Company Facilities.** All Company Facilities within City Streets, and Other City Property shall be maintained in good repair and condition.

B. **Company Work within the City.** All work within City Streets and Other City Property performed or caused to be performed by the Company shall be done:

1. in a high-quality manner that is in accordance with Industry Standards;
2. in a timely and expeditious manner;
3. in a manner that reasonably minimizes inconvenience to the public;
4. in a cost-effective manner, which may include the use of qualified contractors; and
5. in accordance with all applicable laws, ordinances, regulations and permits that are consistent with Industry Standards and the Tariffs.
C. No Interference with City Facilities. Company Facilities shall not unreasonably interfere with any City facilities, including water facilities, sanitary or storm sewer facilities, communications facilities, or other City uses of City Streets, Public Utility Easements or Other City Property. Company Facilities shall be installed and maintained in City Streets, and Other City Property so as to reasonably minimize interference with other property, trees, and other improvements and natural features in and adjoining City Streets, and Other City Property in light of the Company’s obligation under Colorado law to provide safe and reliable utility facilities and services. Company Facilities shall not be installed on any Other City Property absent the express written consent of the City.

D. Permit and Inspection. The installation, renovation, and replacement of any Company Facilities in City Streets, or Other City Property by or on behalf of the Company shall be subject to permitting, inspection and approval by the City in accordance with applicable laws. Such permitting, inspection and approval may include without limitation the following matters: location of Company Facilities, cutting and pruning of trees and shrubs, and disturbance of pavement, sidewalks and surfaces of City Streets, or Other City Property; provided, however, the Company shall have the right to cut, prune, and/or remove vegetation in accordance with its standard vegetation management requirements and procedures. The Company agrees to cooperate with the City in conducting inspections and shall promptly perform any remedial action lawfully required by the City pursuant to any such inspection that is consistent with Industry Standards.

E. Compliance. Subject to the provisions of Section 3.3, The Company and all of its contractors shall comply with the requirements of all applicable municipal laws, ordinances, regulations, permits, and standards lawfully adopted that are consistent with Industry Standards, including without limitation requirements of all building and zoning codes, and requirements regarding curb and pavement cuts, excavating, digging, and other construction activities. The Company shall require that its contractors working in City Streets, and Other City Property hold the necessary licenses and permits required by law.

F. Increase in Voltage. The Company shall reimburse the City for the cost of upgrading the electrical system or facility of any City building or facility that uses Utility Service where such upgrading is solely caused or occasioned by the Company’s decision to increase the voltage of delivered electrical energy. This provision shall not apply to voltage increases required by law, including without limitation, a final order of the PUC, or voltage increases requested by the City.

G. As-Built Drawings. Within thirty (30) days after written request of the City designee, but no sooner than fourteen (14) days after project completion, the Company shall commence its internal process to permit the Company to provide, on a project by project basis, as-built drawings of any Company Facility installed within the City Streets or contiguous to the City Streets. If the requested information must be limited or cannot be provided pursuant to regulatory requirements or Company data privacy policies, the Company shall promptly notify the City of such restrictions. The City acknowledges that the requested information is confidential information of the Company and the Company asserts that disclosure to members of the public would be contrary to the public interest.
Accordingly, the City shall deny the right of inspection of the Company’s confidential information as set forth in 24-72-204(3)(a)(IV) C.R.S., as may be amended from time to time (the “Open Records Act”). If an Open Records Act request is made by any third party for confidential or proprietary information that the Company has provided to the City pursuant to this Franchise, the City will immediately notify the Company of the request and shall allow the Company to defend such request at its sole expense, including filing a legal action in any court of competent jurisdiction to prevent disclosure of such information. In any such legal action the Company shall join the person requesting the information and the City. In no circumstance shall the City provide to any third-party confidential information provided by the Company pursuant to this Franchise without first conferring with the Company. Provided the City complies with the terms of this Section, the Company shall defend, indemnify and hold the City harmless from any claim, judgment, costs or attorney fees incurred in participating in such proceeding. As used in this Section, as-built drawings refers to hard copies of the facility drawings as maintained in the Company’s business records and shall not include information maintained in the Company’s geographical information system. The Company shall not be required to create drawings that do not exist at the time of the request, but in such case will work with the City on a case by case basis to locate Company Facilities as necessary.

§6.6 Excavation and Construction. The Company shall be responsible for obtaining, paying for, and complying with all applicable permits, in the manner required by the laws, ordinances, and regulations of the City, to the extent consistent with Industry Standards. Although the Company shall be responsible for obtaining and complying with the terms of such permits when performing Relocations requested by the City under Section 6.8 and undergrounding requested by the City under Article 11, the City will not require the Company to pay the fees charged for such permits. Upon the Company submitting a construction design plan, the City shall promptly and fully advise the Company in writing of all requirements for restoration of City Streets, or Other City Property in advance of Company excavation projects in City Streets, based upon the design submitted. The Company will make reasonable efforts to give the City advance notice of all Company work in Colorado Department of Transportation (CDOT) rights-of-way within the City.

§6.7 Restoration. Subject to Section 6.5.D, when the Company does any work in or affecting City Streets, or Other City Property, it shall, at its own expense, promptly remove any obstructions placed thereon or therein by the Company and restore such City Streets or Other City Property to a condition that is substantially the same as existed before the work, and that meets applicable City standards. If weather or other conditions do not permit the complete restoration required by this Section, the Company may with the approval of the City, temporarily restore the affected City Streets, or Other City Property, provided that such temporary restoration is not at the City’s expense and provided further that the Company promptly undertakes and completes the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Upon the request of the City, the Company shall restore City Streets, or Other City Property to a better condition than existed before the Company work was undertaken, provided that the City shall be responsible for any incremental costs of such restoration not required by
then-current City standards, and provided the City seeks and/or grants, as applicable, any additional required approvals. If the Company fails to promptly restore City Streets, or Other City Property as required by this Section, and if, in the reasonable discretion of the City immediate action is required for the protection of public health, safety or welfare, the City may restore such City Streets, or Other City Property or remove the obstruction therefrom; provided however, City actions do not interfere with Company Facilities. The Company shall be responsible for the actual cost incurred by the City to restore such City Streets, or Other City Property or to remove any obstructions therefrom. In the course of its restoration of City Streets, Public Utility Easements or Other City Property under this Section, the City shall not perform work on Company Facilities unless specifically authorized by the Company in writing on a project-by-project basis and subject to the terms and conditions agreed to in such authorization.

§6.8 Relocation of Company Facilities.

A. Relocation Obligation. The Company shall temporarily or permanently relocate, change or alter the position of any Company Facility (collectively, “Relocate(s),” “Relocation(s)” or “Relocated”) in City Streets, or in Other City Property at no cost or expense to the City whenever such Relocation is necessary for the completion of any Public Project. In the case of Relocation that is necessary for the completion of any Public Project in a Public Utility Easement, the Company shall not be responsible for any Relocation costs. In the event of any Relocation contemplated pursuant to this Section 6.8.A, the Company and the City agree to cooperate on the location and Relocation of the Company Facilities in the City Streets or Other City Property in order to achieve Relocation in the most efficient and cost-effective manner possible. Notwithstanding the foregoing, once the Company has Relocated any Company Facility at the City’s direction, if the City requests that the same Company Facility be Relocated within two (2) years, the subsequent Relocation shall not be at the Company’s expense. Nothing provided herein shall prevent the Company from obtaining reimbursement of its Relocation costs from third parties.

B. Private Projects. Subject to Section 6.8.F, the Company shall not be responsible for the expenses of any Relocation required by Private Projects, and the Company has the right to require the payment of estimated reasonable Relocation expenses from the party causing, or responsible for, the Relocation before undertaking the Relocation.

C. Relocation Performance. The Relocations set forth in Section 6.8.A of this Franchise shall be completed within a reasonable time, not to exceed one hundred twenty (120) days from the later of the date on which the City requests, in writing, that the Relocation commence, or the date when the Company is provided all Supporting Documentation. The Company shall receive an extension of time to complete a Relocation where the Company’s performance was delayed due to Force Majeure or the failure of the City to provide adequate Supporting Documentation. The Company has the burden of presenting evidence to reasonably demonstrate the basis for the delay. Upon written request of the Company, the City may also grant the Company reasonable extensions of
time for good cause shown and the City shall not unreasonably withhold or condition any such extension.

D. **City Revision of Supporting Documentation.** Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign and/or change its plans regarding Company Facility Relocation shall be deemed good cause for a reasonable extension of time to complete the Relocation under this Franchise.

E. **Completion.** Each Relocation shall be complete only when the Company actually Relocates the Company Facilities, restores the Relocation site in accordance with Section 6.7 of this Franchise or as otherwise agreed with the City, and removes from the site equipment, material and other impediments. “Unused” for the purposes of this Franchise shall mean that the Company is no longer using the Company Facilities in question and has no plans to use the Company Facilities in the foreseeable future.

F. **Scope of Obligation.** Notwithstanding anything to the contrary in this Franchise, the Company shall not be required to Relocate any Company Facilities from property (a) owned by the Company in fee; or (b) in which the Company has a property right, grant or interest, including without limitation an easement.

G. **Underground Relocation.** Underground Company Facilities shall be Relocated underground. Above-ground Company Facilities shall be Relocated above ground unless the Company is paid for the incremental amount by which the underground cost would exceed the above ground cost of Relocation, or the City requests that such additional incremental cost be paid out of available funds under Article 11.

H. **Coordination.**

1. When requested in writing by the City or the Company, representatives of the City and the Company shall meet to share information regarding anticipated projects which will require Relocation of Company Facilities in City Streets and Other City Property. Such meetings shall be for the purpose of minimizing conflicts where possible and to facilitate coordination with any reasonable timetable established by the City for any Public Project.

2. The City shall make reasonable best efforts to provide the Company with one (1) year advance notice of any planned City Street repaving. The Company shall make reasonable best efforts to complete any necessary or anticipated repairs or upgrades to Company Facilities that are located underneath City Streets within the one-year period if practicable.

I. **Proposed Alternatives or Modifications.** Upon receipt of written notice of a required Relocation, the Company may propose an alternative to or modification of the Public Project requiring the Relocation in an effort to mitigate or avoid the impact of the
required Relocation of Company Facilities. The City shall in good faith review the proposed alternative or modification. The acceptance of the proposed alternative or modification shall be at the discretion of the City. In the event the City accepts the proposed alternative or modification, the Company agrees to promptly compensate the City for all additional costs, expenses or delay that the City reasonably determines resulted from the implementation of the proposed alternative.

§6.9 New or Modified Service Requested by City. The conditions under which the Company shall install new or modified Utility Service to the City as a customer shall be governed by this Franchise and the Company’s Tariffs and the Tariffs shall control in the event of a conflict between this Franchise and the Tariff.

§6.10 Service to New Areas. If the territorial boundaries of the City are expanded during the term of this Franchise, the Company shall, to the extent permitted by law, extend service to Residents in the expanded area at the earliest practicable time if the expanded area is within the Company’s PUC-certificated service territory. Service to the expanded area shall be in accordance with the terms of the Tariffs and this Franchise, including the payment of Franchise Fees.

§6.11 City Not Required to Advance Funds if Permitted by Tariffs. Upon receipt of the City’s authorization for billing and construction, the Company shall install Company Facilities to provide Utility Service to the City as a customer, without requiring the City to advance funds prior to construction. The City shall pay for the installation of Company Facilities once completed in accordance with the Tariffs. Notwithstanding anything to the contrary, the provisions of this Section allowing the City to not advance funds prior to construction shall only apply to the extent permitted by the Tariffs.

§6.12 Technological Improvements. The Company shall use its best efforts to incorporate, as soon as practicable, technological advances in its equipment and service within the City when such advances are technically and economically feasible and are safe and beneficial to the City and its Residents.

ARTICLE 7
RELIABILITY

§7.1 Reliability. The Company shall operate and maintain Company Facilities efficiently and economically, in accordance with Industry Standards, and in accordance with the standards, systems, methods and skills consistent with the provision of adequate, safe and reliable Utility Service.

§7.2 Franchise Performance Obligations. The Company recognizes that, as part of its obligations and commitments under this Franchise, the Company shall carry out each of its performance obligations in a timely, expeditious, efficient, economical and workmanlike manner.
§7.3 **Reliability Reports.** Upon written request, the Company shall provide the City with a report regarding the reliability of Company Facilities and Utility Service.

**ARTICLE 8**
**COMPANY PERFORMANCE OBLIGATIONS**

§8.1 **New or Modified Service to City Facilities.** In providing new or modified Utility Service to City facilities, the Company agrees to perform as follows:

A. **Performance.** The Company shall complete each project requested by the City within a reasonable time. The parties agree that a reasonable time shall not exceed one hundred eighty (180) days from the date upon which the City makes a written request and provides the required Supporting Documentation for all Company Facilities other than traffic facilities. The Company shall be entitled to an extension of time to complete a project where the Company’s performance was delayed due to Force Majeure. Upon request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold any such extension.

B. **City Revision of Supporting Documentation.** Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign or substantially change its plans regarding new or modified service to City facilities shall be deemed good cause for a reasonable extension of time to complete the Relocation under this Franchise. The Company shall advise the City of a claimed extension under this provision, including the estimated length of the claimed extension.

C. **Completion/Restoration.** Each project shall be complete only when the Company actually provides the service installation or modification required, restores the project site in accordance with the terms of this Franchise, or as otherwise agreed with the City, and removes or properly abandons, on site, any unused Company Facilities, equipment, material and other impediments.

§8.2 **Adjustments to Company Facilities.** The Company shall perform adjustments to Company Facilities that are consistent with Industry Standards, including manhole rings and other appurtenances in City Streets, and Other City Property, to accommodate City Street maintenance, repair and paving operations at no cost to the City. In providing such adjustments to Company Facilities, the Company agrees to perform as follows:

A. **Performance.** The Company shall complete each requested adjustment within a reasonable time, not to exceed thirty (30) days from the date upon which the City makes a written request and provides to the Company all information reasonably necessary to perform the adjustment. The Company shall be entitled to an extension of time to complete an adjustment where the Company’s performance was delayed due to Force Majeure. Upon request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown.
B. **Completion/Restoration.** Each such adjustment shall be complete only when the Company actually adjusts and, if required, readjusts, Company Facilities to accommodate City operations in accordance with City instructions following City paving operations.

C. **Coordination.** As requested by the City or the Company, representatives of the City and the Company shall meet regarding anticipated City Street maintenance operations which will require such adjustments to Company Facilities in City Streets or Other City Property. Such meetings shall be for the purpose of coordinating and facilitating performance under this Section.

§8.3 **Third Party Damage Recovery.**

A. **Damage to Company Interests.** If any individual or entity damages any Company Facilities, to the extent permitted by law the City will notify the Company of any such incident of which it has knowledge and will provide to the Company within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

B. **Damage to Company Property for which the City is Responsible.** If any individual or entity damages any Company Facilities for which the City is obligated to reimburse the Company for the cost of the repair or replacement, to the extent permitted by law, the Company will notify the City of any such incident of which it has knowledge and will provide to the City within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.

C. **Meeting.** The Company and the City agree to meet periodically upon written request of either party for the purpose of developing, implementing, reviewing, improving and/or modifying mutually beneficial procedures and methods for the efficient gathering and transmittal of information useful in recovery efforts against third parties for damaging Company Facilities.

ARTICLE 9
**BILLING AND PAYMENT**

§9.1 **Billing for Utility Service.**

A. **Monthly Billing.** Unless otherwise provided in the Tariffs, the rules and regulations of the PUC, or the Public Utility Law, the Company shall render bills monthly to the offices of the City for Utility Service and other related services for which the Company is entitled to payment.

B. **Address for Billing.** Billings for service rendered during the preceding month shall be sent to the person(s) designated by the City, and payment for same shall be made as prescribed in this Franchise and the applicable Tariffs.
C. **Supporting Documents.** To the extent requested by the City, the Company shall provide all billings and any underlying Supporting Documentation reasonably requested by the City in an editable and manipulatable electronic format that is acceptable to the Company and the City.

D. **Annual Meetings.** The Company agrees to meet with the City on a reasonable basis at the City’s request, but no less frequently than once a year, for the purpose of developing, implementing, reviewing, and/or modifying mutually beneficial and acceptable billing procedures, methods, and formats which may include, without limitation, electronic billing and upgrades or beneficial alternatives to the Company’s current most advanced billing technology, for the efficient and cost effective rendering and processing of such billings submitted by the Company to the City.

§9.2 **Payment to City.** In the event the City determines after written notice to the Company that the Company is liable to the City for payments, costs, expenses or damages of any nature, and subject to the Company’s right to challenge such determination, the City may deduct all monies due and owing the City from any other amounts currently due and owing the Company. Upon receipt of such written notice, the Company may request a meeting between the Company’s designee and a designee of the City to discuss such determination. The City agrees to attend such a meeting. As an alternative to such deduction and subject to the Company’s right to challenge, the City may bill the Company for such assessment(s), in which case, the Company shall pay each such bill within thirty (30) days of the date of receipt of such bill unless it challenges the validity of the charge. If the Company challenges the City determination of liability, the City shall make such payments to the Company for Utility Service received by City pursuant to the Tariffs until the challenge has been finally resolved.

**ARTICLE 10**

**USE OF COMPANY FACILITIES**

§10.1 **City Use of Company Electric Distribution Poles.** The City shall be permitted to make use of Company electric distribution poles in the City, subject to the applicable Tariffs, without a use fee for the placement of City equipment or facilities necessary to serve a legitimate police, fire, emergency, public safety or traffic control purpose. The City shall be responsible for costs associated with modifications to Company electric distribution poles to accommodate the City’s use of such Company electric distribution poles and for any electricity used. No such use of Company electric distribution poles may occur if it would constitute a safety hazard or would interfere with the Company’s use of Company Facilities. Any such City use must comply with the National Electric Safety Code and all other applicable laws, rules, regulations and Industry Standards.

§10.2 **Third Party Use of Company Electric Distribution Poles.** If requested in writing by the City, the Company may allow other companies who hold franchises, or otherwise have obtained consent from the City to use City Streets or Other City Property to utilize Company electric distribution poles in City Streets and Other City Property, subject to the Tariffs, for the placement of their facilities upon approval by the Company and agreement.
upon reasonable terms and conditions, including payment of fees established by the Company. No such use shall be permitted if it would constitute a safety hazard or would interfere with the Company’s use of Company Facilities. The Company shall not be required to permit the use of Company electric distribution poles for the provision of utility service except as otherwise required by law.

§10.3 City Use of Company Transmission Rights-of-Way. The Company shall offer to grant to the City use of transmission rights-of-way which it now, or in the future, owns in fee within the City for trails, parks and open space on terms comparable to those offered to other municipalities; provided, however, that the Company shall not be required to make such an offer in any circumstance where such use would constitute a safety hazard or would interfere with the Company’s use of the transmission right-of-way. To exercise this right, the City must make a specific, advance written request to the Company for any such use and must enter such written agreements as the Company may reasonably require.

§10.4 Emergencies. Upon written request, the Company shall assist the City in developing an emergency management plan that is consistent with Company policies. The City and the Company shall work cooperatively with each other in any emergency or disaster situation to address the emergency or disaster.

ARTICLE 11
UNDERGROUNDING OF OVERHEAD FACILITIES

§11.1 Underground Electrical Lines in New Areas.

Upon payment to the Company of the charges provided in the Tariffs or their equivalent, the Company shall place all newly constructed electrical distribution lines in newly developed areas of the City underground in accordance with applicable laws, regulations and orders of the City. Such underground construction shall be consistent with Industry Standards.

§11.2 Underground Conversion at Expense of Company.

A. Underground Conversion Program. The Company shall budget and allocate an annual amount, equivalent to one percent (1%) of the preceding year’s Electric Gross Revenues, for the purpose of undergrounding its existing overhead electric distribution lines in the City in City Streets (excluding alleys and access easements), and Other City Property, as may be requested by the City (the “Underground Program”), so long as the underground conversion does not result in end use customers of the Company incurring any costs related to the conversion and does not require the Company to obtain any additional land use rights. If the City requires Relocation of overhead electric distribution facilities in City Streets and Other City Property and there is no room to relocate the Company facilities overhead, the Company may relocate the Company Facilities underground, and may charge the incremental cost of undergrounding to the Underground Program.
B. **Unexpended Portion and Advances.** Any unexpended portion of the Underground Program shall be carried over to succeeding years and, in addition, upon request by the City, the Company agrees to advance and expend amounts anticipated to be available under the preceding paragraph for up to three (3) years in advance provided there are at least three (3) years remaining under the term of this Franchise. Any amounts so advanced shall be credited against amounts to be expended in succeeding years. Any funds left accumulated under any prior franchise shall be carried over to this Franchise. Notwithstanding the foregoing, the City shall have no vested interest in monies allocated to the Underground Program and any monies in the Underground Program not expended at the expiration or termination of this Franchise shall remain the property of the Company. At the expiration or termination of this Franchise, the Company shall not be required to underground any existing overhead facilities pursuant to this Article, but may do so in its sole discretion.

C. **System-wide Undergrounding.** If, during the term of this Franchise, the Company receives authority from the PUC to undertake a system-wide program or programs of undergrounding its electric distribution facilities system wide, the Company shall budget and allocate to the program of undergrounding in the City such amount as may be determined and approved by the PUC, but in no case shall such amount be less than the one percent (1%) of annual Electric Gross Revenues provided above.

D. **City Requirement to Underground.** In addition to the provisions of this Article, the City may require any above ground Company Facilities in City Streets, and Other City Property to be moved underground at the City’s expense.

§11.3 **Undergrounding Performance.** Upon receipt of a written request from the City, the Company shall underground Company Facilities pursuant to the provisions of this Article, in accordance with the procedures set forth in this Section.

A. **Estimates.** Promptly upon receipt of an undergrounding request from the City and the Supporting Documentation necessary for the Company to design the undergrounding project, the Company shall prepare a detailed, good faith cost estimate of the anticipated actual cost of the requested project for the City to review and, if acceptable to the City, the City will issue a project authorization. At the City’s request, the Company will provide all documentation that forms the basis of the estimate that is not proprietary. The Company will not proceed with any requested project until the City has provided a written acceptance of the Company’s estimate.

B. **Performance.** The Company shall complete each undergrounding project requested by the City within a reasonable time considering the size and scope of each project, not to exceed two hundred forty (240) days from the later of the date upon which the City makes a written request or the date the City provides to the Company all Supporting Documentation. The Company shall have one hundred twenty (120) days after receiving the City’s written request to design project plans, prepare the good faith estimate, and transmit same to the City for review. If the City’s approval of the plans and estimate has not been granted, the Company’s good faith estimate will be void sixty (60) days after
delivery of the plans and estimate to the City. If the plans and estimate are approved by the City, the Company shall have one hundred twenty (120) days to complete the project, from the date of the City’s authorization of the underground project, plus any of the one hundred twenty (120) unused days in preparing the good faith estimate. At the Company’s sole discretion, if the good faith estimate has expired because the City has not approved the same within sixty (60) days, the Company may extend the good faith estimate or prepare a new estimate using current prices. The Company shall be entitled to an extension of time to complete each undergrounding project where the Company’s performance was delayed due to a Force Majeure condition. Upon written request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City shall not unreasonably withhold any such extension.

C. City Revision of Supporting Documentation. Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign or change its plans regarding an undergrounding project shall be deemed good cause for a reasonable extension of time to complete the undergrounding project under this Franchise. The Company shall advise the City of a claimed extension under this provision, including the estimated length of the claimed extension and the revised date by which the undergrounding project is estimated to be completed.

D. Completion/Restoration. Each undergrounding project undertaken pursuant to this Article shall be complete only when the Company actually undergrounds the designated Company Facilities and restores the undergrounding site in accordance with Section 6.7 of this Franchise, or as otherwise agreed with the City. When performing underground conversions of overhead facilities, the Company shall make reasonable efforts consistent with its contractual obligations to persuade joint users of Company distribution poles to remove their facilities from such poles within the time allowed by this Article.

E. Report of Actual Costs. Upon completion of each undergrounding project undertaken pursuant to this Article, the Company shall submit to the City a detailed report of the Company’s actual cost to complete the project and the Company shall reconcile this total actual cost with the accepted cost estimate. The report shall be provided within one hundred twenty (120) days after completion of the project and written request from the City.

F. Audit of Underground Projects. The City may require the Company to undertake an independent audit of up to two (2) undergrounding projects in any calendar year. The City shall make any such request in writing within one hundred twenty (120) days of receipt of the report of actual costs, as referenced in Section 11.3.E. Such audits shall be limited to projects completed within 365 days of the date when the audit is requested. The cost of any such independent audit shall reduce the amount of the Underground Program. The Company shall cooperate with any audit and the independent auditor shall prepare and provide to the City and the Company a final audit report showing the actual costs associated with completion of the project. If a project audit is required by the City, only those actual project costs confirmed and verified by the independent auditor
as reasonable and necessary to complete the project shall be charged against the Underground Program balance.

§11.4 Audit of Underground Program. Upon written request, every three (3) years commencing at the end of the third year of this Franchise, the Company shall cause an independent auditor to investigate and determine the correctness of the charges to the Underground Program. Such audits shall be limited to the previous three (3) calendar years. Audits performed pursuant to this Section shall be limited to charges to the Underground Program and shall not include an audit of individual underground projects. The independent auditor shall provide to the City and the Company a written report containing its findings. The Company shall reconcile the Underground Program balance consistent with the findings contained in the independent auditor’s written report. The costs of the audit and investigation shall be charged against the Underground Program balance.

§11.5 Cooperation with Other Utilities. When undertaking an undergrounding project the City and the Company shall coordinate with other utilities or companies that have their facilities above ground to attempt to have all facilities undergrounded as part of the same project. When other utilities or companies are placing their facilities underground, to the extent the Company has received prior written notification, the Company shall cooperate with these utilities and companies and undertake to underground Company Facilities as part of the same project where financially, technically and operationally feasible. The Company shall not be required to pay for any costs of undergrounding the facilities of other companies or the City.

§11.6 Planning and Coordination of Undergrounding Projects. The City and the Company shall mutually plan in advance the scheduling of undergrounding projects to be undertaken according to this Article as a part of the review and planning for other City and Company construction projects. The City and the Company agree to meet, as required, to review the progress of the current undergrounding projects and to review planned future undergrounding projects. The purpose of such meetings shall be to further cooperation between the City and the Company in order to achieve the orderly undergrounding of Company Facilities. Representatives of both the City and the Company shall meet periodically to review the Company’s undergrounding of Company Facilities and at such meetings shall review:

A. Undergrounding, including conversions, Public Projects and replacements that have been accomplished or are underway, together with the Company’s plans for additional undergrounding; and

B. Public Projects anticipated by the City.
ARTICLE 12
PURCHASE OR CONDEMNATION

§12.1 City's Right to Purchase or Condemn.

A. Right and Privilege of City. The right and privilege of the City to construct, own and operate a municipal utility, and to purchase pursuant to a mutually acceptable agreement or condemn any Company Facilities located within the territorial boundaries of the City, and the Company’s rights in connection therewith, as set forth in applicable provisions of the constitution, statutes and case law of the State of Colorado relating to the acquisition of public utilities, are expressly recognized. The City shall have the right, within the time frames and in accordance with the procedures set forth in such provisions, to condemn Company Facilities, land, rights-of-way and easements now owned or to be owned by the Company located within the territorial boundaries of the City. In the event of any such condemnation, no value shall be ascribed or given to the right to use City Streets or Other City Property granted under this Franchise in the valuation of the property thus sold.

B. Notice of Intent to Purchase or Condemn. The City shall provide the Company no less than one (1) year’s prior written notice of its intent to purchase or condemn Company Facilities. Nothing in this Section shall be deemed or construed to constitute a consent by the Company to the City’s purchase or condemnation of Company Facilities, nor a waiver of any Company defenses or challenges related thereto.

ARTICLE 13
MUNICIPALLY PRODUCED UTILITY SERVICE


A. City Reservation. The City expressly reserves the right to engage in the production of utility service to the extent permitted by law. The Company agrees to negotiate in good faith long term contracts to purchase City-generated power made available for sale, consistent with PUC requirements and other applicable requirements. The Company further agrees to offer transmission and delivery services to the City that are required by judicial, statutory or regulatory directive and that are comparable to the services offered to any other customer with similar generation facilities.

B. Franchise Not to Limit City’s or Company’s Rights. Nothing in this Franchise prohibits the City from becoming an aggregator of utility service or from selling utility service to customers should it be permissible under law, nor does it affect the Company’s rights and obligations pursuant to any Certificate of Public Convenience and Necessity granted by the PUC.
§14.1 Environmental Leadership. The City and the Company agree that sustainable development, environmental excellence and innovation shall form the foundation of the Utility Service provided by the Company under this Franchise. The Company agrees to continue to actively pursue reduction of carbon emissions attributable to its electric generation facilities with a rigorous combination of Energy Conservation and Energy Efficiency measures, Clean Energy measures, and promoting and implementing the use of Renewable Energy Resources on both a distributed and centralized basis. The Company shall continue to cost-effectively monitor its operations to mitigate environmental impacts; shall meet the requirements of environmental laws, regulations and permits; shall invest in cost-effective, environmentally sound technologies; shall consider environmental issues in its planning and decision making; and shall support environmental research and development projects and partnerships in our communities through various means, including without limitation corporate giving and employee involvement. The Company shall continue to explore ways to reduce water consumption at its facilities and to use recycled water where feasible. The Company shall continue to work with the U.S. Fish and Wildlife Service to develop and implement avian protection plans to reduce electrocution and collision risks by eagles, raptors and other migratory birds with transmission and distribution lines. If requested in writing by the City on or before December 1st of each year, the Company shall provide the City a written report describing its progress in carbon reduction and other environmental efforts, and the parties shall meet at a mutually convenient time and place for a discussion of such. In meeting its obligation under this Section, the Company is not precluded from providing existing internal and external reports that may be used for other reporting requirements.

§14.2 Conservation. The City and the Company recognize and agree that Energy Conservation programs offer opportunities for the efficient use of energy and possible reduction of energy costs. The City and the Company further recognize that creative and effective Energy Conservation solutions are crucial to sustainable development. The Company recognizes and shares the City’s stated objectives to advance the implementation of cost-effective Energy Efficiency and Energy Conservation programs that direct opportunities to Residents to manage more efficiently their use of energy and thereby create the opportunity to reduce their energy bills. The Company commits to offer programs that attempt to capture market opportunities for cost-effective Energy Efficiency improvements such as municipal specific programs that provide cash rebates for efficient lighting, energy design programs to assist architects and engineers to incorporate Energy Efficiency in new construction projects, and re-commissioning programs to analyze existing systems to optimize performance and conserve energy according to current and future demand side management (“DSM”) programs. In doing so, the Company recognizes the importance of (i) implementing cost-effective programs the benefits of which would otherwise be lost if not pursued in a timely fashion; and (ii) developing cost-effective programs for the various classes of the Company’s customers, including low-income customers. The Company shall advise the City and its Residents of the
availability of assistance that the Company makes available for investments in Energy Conservation through newspaper advertisements, bill inserts and Energy Efficiency workshops and by maintaining information about these programs on the Company’s website. Further, at the City’s request, the Company’s Area Manager shall act as the primary liaison with the City who will provide the City with information on how the City may take advantage of reducing energy consumption in City facilities and how the City may participate in Energy Conservation and Energy Efficiency programs sponsored by the Company. As such, the Company and the City commit to work cooperatively and collaboratively to identify, develop, implement and support programs offering creative and sustainable opportunities to Company customers and Residents, including low-income customers. The Company agrees to help the City participate in Company programs and, when opportunities exist to partner with others, such as the State of Colorado, the Company will help the City pursue those opportunities. In addition, and in order to assist the City and its Residents’ participation in Renewable Energy Resource programs, the Company shall: notify the City regarding eligible Renewable Energy Resource programs; provide the City with technical support regarding how the City may participate in Renewable Energy Resource programs; and advise Residents regarding eligible Renewable Energy Resource programs. Notwithstanding the foregoing, to the extent that any Company assistance is needed to support Renewable Energy Resource Programs that are solely for the benefit of Company customers located within the City, the Company retains the sole discretion as to whether to incur such costs.

§14.3 Continuing Commitment. It is the express intention of the City and the Company that the collaborative effort provided for in this Article continue for the entire term of this Franchise. The City and the Company also recognize, however, that the programs identified in this Article may be for a limited duration and that the regulations and technologies associated with Energy Conservation are subject to change. Given this variability, the Company agrees to maintain its commitment to sustainable development and Energy Conservation for the term of this Franchise by continuing to provide leadership, support and assistance, in collaboration with the City, to identify, develop, implement and maintain new and creative programs similar to the programs identified in this Franchise in order to help the City achieve its environmental goals.

§14.4 PUC Approval. Nothing in this Article shall be deemed to require the Company to invest in technologies or to incur costs that it has a good faith belief the PUC will not allow the Company to recover through the ratemaking process.

§14.5 Sustainability Committee. To the extent the City has a sustainability committee, it shall provide the Company an opportunity to have a Company representative on such committee. Any Company representative may participate in regular committee meetings for the purpose of providing information on Company programs and offerings and will be a meaningful participant as it relates to Company programs and offerings.
ARTICLE 15
TRANSFER OF FRANCHISE

§15.1 Consent of City Required. The Company shall not transfer or assign any rights under this Franchise to an unaffiliated third party, except by merger with such third party, or, except when the transfer is made in response to legislation or regulatory requirements, unless the City approves such transfer or assignment in writing. Approval of the transfer or assignment shall not be unreasonably withheld, conditioned or delayed.

§15.2 Transfer Fee. In order that the City may share in the value this Franchise adds to the Company’s operations, any transfer or assignment of rights granted under this Franchise requiring City approval, as set forth herein, shall be subject to the condition that the Company shall promptly pay to the City a transfer fee in an amount equal to the proportion of the amount of franchise fees paid by the Company to the City in the most recent calendar year (the numerator) to the amount of franchise fees paid to the City and County of Denver in the most recent calendar year (the denominator) multiplied by one million dollars ($1,000,000.00). Except as otherwise required by law, such transfer fee shall not be recovered from a surcharge placed only on the rates of Residents.

ARTICLE 16
CONTINUATION OF UTILITY SERVICE

§16.1 Continuation of Utility Service. In the event this Franchise is not renewed at the expiration of its term or is terminated for any reason, and the City has not provided for alternative utility service, the Company shall have no obligation to remove any Company Facilities from City Streets, Public Utility Easements or Other City Property or discontinue providing Utility Service unless otherwise ordered by the PUC, and shall continue to provide Utility Service within the City until the City arranges for utility service from another provider. The City acknowledges and agrees that the Company has the right to use City Streets, Other City Property and Public Utility Easements during any such period. The Company further agrees that it will not withhold any temporary Utility Service necessary to protect the public. The City agrees that in the circumstances of this Article, the Company shall be entitled to monetary compensation as provided in the Tariffs and the Company shall be entitled to collect from Residents and, upon the City’s compliance with applicable provisions of law, shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount which the Company would have paid as a franchise fee as consideration for use of the City’s Streets, and Other City Property. Only upon receipt of written notice from the City stating that the City has adequate alternative utility service for Residents and upon order of the PUC shall the Company be allowed to discontinue the provision of Utility Service to the City and its Residents.
ARTICLE 17
INDEMNIFICATION AND IMMUNITY

§17.1 City Held Harmless. The Company shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of or arising from the grant of this Franchise, the exercise by the Company of the related rights, and shall pay the costs of defense plus reasonable attorney fees. The City shall: (a) give prompt written notice to the Company of any claim, demand or lien with respect to which the City seeks indemnification hereunder; and (b) unless in the City’s judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand or lien, shall permit the Company to assume the defense of such claim, demand, or lien with counsel reasonably satisfactory to the City. If such defense is assumed by the Company, the Company shall not be subject to liability for any settlement made without its consent. If such defense is not assumed by the Company or if the City determines that a conflict of interest exists, the parties reserve all rights to seek all remedies available in this Franchise against each other. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or intentional act or failure to act of the City or any of its officers, agents or employees or to the extent that the City is acting in its capacity as a customer of record of the Company. Unless otherwise required by law, no expenses paid or reimbursed by the Company under this Section shall be surcharged solely to Residents.

§17.2 Immunity. Nothing in this Section or any other provision of this Franchise shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the City may have under the Colorado Governmental Immunity Act (§24-10-101, C.R.S., et. seq.) or of any other defenses, immunities, or limitations of liability available to the City by law.

ARTICLE 18
BREACH

§18.1 Change of Tariffs. The City and the Company agree to take all reasonable and necessary actions to assure that the terms of this Franchise are performed. The Company reserves the right to seek a change in its Tariffs, including without limitation the rates, charges, terms, and conditions of providing Utility Service to the City and its Residents, and the City retains all rights that it may have to intervene and participate in any such proceedings.

§18.2 Breach.

A. Notice/Cure/Remedies. Except as otherwise provided in this Franchise, if a party (the “Breaching Party”) to this Franchise fails or refuses to perform any of the terms or conditions of this Franchise (a “Breach”), the other party (the “Non-Breaching Party”) may provide written notice to the Breaching Party of such Breach. Upon receipt of such notice, the Breaching Party shall be given a reasonable time, not to exceed thirty (30) days in which to remedy the Breach or, if such Breach cannot be remedied in thirty (30) days,
such additional time as reasonably needed to remedy the Breach, but not exceeding an additional thirty (30) day period, or such other time as the parties may agree. If the Breaching Party does not remedy the Breach within the time allowed in the notice, the Non-Breaching Party may exercise all lawful remedies for such Breach.

B. Termination of Franchise by City. In addition to the foregoing remedies, if the Company fails or refuses to perform any material term or condition of this Franchise (a “Material Breach”), the City may provide written notice to the Company of such Material Breach. Upon receipt of such notice, the Company shall be given a reasonable time, not to exceed ninety (90) days in which to remedy the Material Breach or, if such Material Breach cannot be remedied in ninety (90) days, such additional time as reasonably needed to remedy the Material Breach, but not exceeding an additional ninety (90) day period, or such other time as the parties may agree. If the Company does not remedy the Material Breach within the time allowed in the notice, the City may, in its sole discretion, terminate this Franchise. This remedy shall be in addition to the City’s right to exercise any of the remedies provided for elsewhere in this Franchise. Upon such termination, the Company shall continue to provide Utility Service to the City and its Residents (and shall continue to have associated rights and grants needed to provide such service) until the City makes alternative arrangements for such service and until otherwise ordered by the PUC and the Company shall be entitled to collect from Residents and, upon the City complying with applicable provisions of law, shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount which the Company would have paid as a franchise fee as consideration for use of the City Streets, and Other City Property. Unless otherwise provided by law, the Company shall be entitled to collect such amount from Residents.

C. Company Shall Not Terminate Franchise. In no event does the Company have the right to terminate this Franchise.

D. No Limitation. Except as provided herein, nothing in this Franchise shall limit or restrict any legal rights or remedies that either party may possess arising from any alleged Breach of this Franchise.

ARTICLE 19
AMENDMENTS

§19.1 Proposed Amendments. At any time during the term of this Franchise, the City or the Company may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). However, nothing contained in this Section shall be deemed to require either party to consent to any amendment proposed by the other party.
§19.2 Effective Amendments. No alterations, amendments or modifications to this Franchise shall be valid unless executed in writing by the parties, which alterations, amendments or modifications shall be adopted with the same formality used in adopting this Franchise, to the extent required by law. Neither this Franchise, nor any term herein, may be changed, modified or abandoned, in whole or in part, except by an instrument in writing, and no subsequent oral agreement shall have any validity whatsoever. Any amendment of the Franchise shall become effective only upon the approval of the PUC, if such PUC approval is required.

ARTICLE 20
EQUAL OPPORTUNITY

§20.1 Economic Development. The Company is committed to the principle of stimulating, cultivating and strengthening the participation and representation of persons of color, women and members of other under-represented groups within the Company and in the local business community. The Company believes that increased participation and representation of under-represented groups will lead to mutual and sustainable benefits for the local economy. The Company is committed also to the principle that the success and economic well-being of the Company is closely tied to the economic strength and vitality of the diverse communities and people it serves. The Company believes that contributing to the development of a viable and sustainable economic base among all Company customers is in the best interests of the Company and its shareholders.

§20.2 Employment.

A. Programs. The Company is committed to undertaking programs that identify, consider and develop persons of color, women and members of other under-represented groups for positions at all skill and management levels within the Company.

B. Businesses. The Company recognizes that the City and the business community in the City, including women and minority owned businesses, provide a valuable resource in assisting the Company to develop programs to promote persons of color, women and members of under-represented communities into management positions, and agrees to keep the City regularly advised of the Company’s progress by providing the City a copy of the Company’s annual affirmative action report upon the City’s written request.

C. Recruitment. In order to enhance the diversity of the employees of the Company, the Company is committed to recruiting diverse employees by strategies such as partnering with colleges, universities and technical schools with diverse student populations, utilizing diversity-specific media to advertise employment opportunities, internships, and engaging recruiting firms with diversity-specific expertise.

D. Advancement. The Company is committed to developing a world-class workforce through the advancement of its employees, including persons of color, women
and members of under-represented groups. In order to enhance opportunities for advancement, the Company will offer training and development opportunities for its employees. Such programs may include mentoring programs, training programs, classroom training and leadership programs.

E. **Non-Discrimination.** The Company is committed to a workplace free of discrimination based on race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws. The Company shall not, solely because of race, creed, color, religion, gender, sexual orientation, marital status, age, military status, national origin or ancestry, or physical or mental disability, refuse to hire, discharge, promote, demote or discriminate in matters of compensation, against any person otherwise qualified.

F. **Board of Directors.** The Company shall identify and consider women, persons of color and other under-represented groups to recommend for its Board of Directors, consistent with the responsibility of boards to represent the interests of the Shareholders, customers and employees of the Company.

§20.3 **Contracting.**

A. **Contracts.** It is the Company’s policy to make available to minority and women owned business enterprises and other small and/or disadvantaged business enterprises the maximum practical opportunity to compete with other service providers, contractors, vendors and suppliers in the marketplace. The Company is committed to increasing the proportion of Company contracts awarded to minority and women owned business enterprises and other small and/or disadvantaged business enterprises for services, construction, equipment and supplies to the maximum extent consistent with the efficient and economical operation of the Company.

B. **Community Outreach.** The Company agrees to maintain and continuously develop contracting and community outreach programs calculated to enhance opportunity and increase the participation of minority and women owned business enterprises and other small and/or disadvantaged business enterprises to encourage economic vitality. The Company agrees to keep the City regularly advised of the Company’s programs.

C. **Community Development.** The Company shall maintain and support partnerships with local chambers of commerce and business organizations, including those representing predominately minority owned, women owned and disadvantaged businesses, to preserve and strengthen open communication channels and enhance opportunities for minority owned, women owned and disadvantaged businesses to contract with the Company.
§20.4 Coordination. City agencies provide collaborative leadership and mutual opportunities or programs relating to City based initiatives on economic development, employment and contracting opportunity. The Company agrees to review Company programs and mutual opportunities responsive to this Article with these agencies, upon their request, and to collaborate on best practices regarding such programs and coordinate and cooperate with the agencies in program implementation.

ARTICLE 21
MISCELLANEOUS

§21.1 No Waiver. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions, to insist upon or to seek compliance with any such terms and conditions.

§21.2 Successors and Assigns. The rights, privileges, and obligations, in whole or in part, granted and contained in this Franchise shall inure to the benefit of and be binding upon the Company, its successors and assigns, to the extent that such successors or assigns have succeeded to or been assigned the rights of the Company pursuant to Article 15 of this Franchise. Upon a transfer or assignment pursuant to Article 15, the Company shall be relieved from all liability from and after the date of such transfer.

§21.3 Third Parties. Nothing contained in this Franchise shall be construed to provide rights to third parties.

§21.4 Notice. Both parties shall designate from time to time in writing representatives for the Company and the City who will be the persons to whom notices shall be sent regarding any action to be taken under this Franchise. Notice shall be in writing and forwarded by certified mail, reputable overnight courier or hand delivery to the persons and addresses as hereinafter stated, unless the persons and addresses are changed at the written request of either party, delivered in person or by certified mail. Notice shall be deemed received (a) three (3) days after being mailed via the U.S. Postal Service, (b) one (1) business day after mailed if via reputable overnight courier, or (c) upon hand delivery if delivered by courier. Until any such change shall hereafter be made, notices shall be sent as follows:

To the City:

City Clerk
City of Black Hawk
PO Box 68
Black Hawk, CO 80422
§21.5 Examination of Records. The parties agree that any duly authorized representative of the City and the Company shall have access to and the right to examine any directly pertinent non-confidential books, documents, papers, and records of the other party involving any activities related to this Franchise. All such records must be kept for a minimum of the lesser of three (3) years or the time period permitted by a party’s record retention policy. To the extent that either party believes in good faith that it is necessary in order to monitor compliance with the terms of this Franchise to examine confidential books, documents, papers, and records of the other party, the parties agree to meet and discuss providing confidential materials, including without limitation providing such materials subject to a reasonable confidentiality agreement that effectively protects the confidentiality of such materials and complies with PUC rules and regulations.

§21.6 List of Utility Property. The Company shall provide the City, upon request not more than once every two (2) years, a list of electric utility-related real property owned in fee by the Company within the County in which the City is located. All such records must be kept for a minimum of three (3) years or such shorter duration if required by Company policy.
§21.7 **PUC Filings.** Upon written request by the City, the Company shall provide the City non-confidential copies of all applications, advice letters and periodic reports, together with any accompanying non-confidential testimony and exhibits, filed by the Company with the Public Utilities Commission. Notwithstanding the foregoing, notice regarding any gas and electric filings that may affect Utility Service rates in the City shall be sent to the City upon filing.

§21.8 **Information.** Upon written request, the Company shall provide the City Clerk or the City Clerk’s designee with:

A. A copy of the Company’s or its parent company’s consolidated annual financial report, or alternatively, a URL link to a location where the same information is available on the Company’s website;

B. Maps or schematics indicating the location of specific Company Facilities (subject to City executing a confidentiality agreement as required by Company policy), including gas or electric lines, located within the City, to the extent those maps or schematics are in existence at the time of the request and related to an ongoing project within the City. The Company does not represent or warrant the accuracy of any such maps or schematics; and

C. A copy of any report required to be prepared for a federal or state agency detailing the Company’s efforts to comply with federal and state air and water pollution laws.

§21.9 **Payment of Taxes and Fees.**

A. **Impositions.** Except as otherwise provided herein, the Company shall pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, charges, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Franchise ("Impositions"), provided that the Company shall have the right to contest any such Impositions and shall not be in breach of this Section so long as it is actively contesting such Impositions.

B. **City Liability.** The City shall not be liable for the payment of late charges, interest or penalties of any nature other than pursuant to applicable Tariffs.

§21.10 **Conflict of Interest.** The parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the Company further agrees not to hire or contract for services any official, officer or employee of the City to the extent prohibited by law, including ordinances and regulations of the City.
§21.11 Certificate of Public Convenience and Necessity. The City agrees to support the Company’s application to the PUC to obtain a Certificate of Public Convenience and Necessity to exercise its rights and obligations under this Franchise.

§21.12 Authority. Each party represents and warrants that except as set forth below, it has taken all actions that are necessary or that are required by its ordinances, regulations, procedures, bylaws, or applicable law, to legally authorize the undersigned signatories to execute this Franchise on behalf of the parties and to bind the parties to its terms. The persons executing this Franchise on behalf of each of the parties warrant that they have full authorization to execute this Franchise. The City acknowledges that notwithstanding the foregoing, the Company requires a Certificate of Public Convenience and Necessity from the PUC in order to operate under the terms of this Franchise.

§21.13 Severability. Should any one or more provisions of this Franchise be determined to be unconstitutional, illegal, unenforceable or otherwise void, all other provisions nevertheless shall remain effective; provided, however, to the extent allowed by law, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft one or more substitute provisions that will achieve the original intent of the parties hereunder.

§21.14 Force Majeure. Neither the City nor the Company shall be in breach of this Franchise if a failure to perform any of the duties under this Franchise is due to Force Majeure.

§21.15 Earlier Franchises Superseded. This Franchise shall constitute the only franchise between the City and the Company related to the furnishing of Utility Service, and it supersedes and cancels all former franchises between the parties.

§21.16 Titles Not Controlling. Titles of the paragraphs herein are for reference only, and shall not be used to construe the language of this Franchise.

§21.17 Applicable Law. Colorado law shall apply to the construction and enforcement of this Franchise. The parties agree that venue for any litigation arising out of this Franchise shall be in the District Court for Gilpin County, State of Colorado.

§21.18 Payment of Expenses Incurred by City in Relation to Franchise Agreement. The Company shall pay for expenses reasonably incurred by the City for the adoption of this Franchise, including the publication of notices, publication of ordinances, and photocopying of documents.

§21.19 Costs of Compliance with Franchise. The parties acknowledge that PUC rules, regulations and final decisions may require that costs of complying with certain provisions of this Franchise be borne by customers of the Company who are located within the City.

§21.20 Conveyance of City Streets, Public Utility Easements or Other City Property. In the event the City vacates, releases, sells, conveys, transfers or otherwise disposes of a City Street, or any portion of a Public Utility Easement or Other City Property in which Company Facilities are located, the City shall reserve an easement in favor of the Company over that
portion of the City Street, Public Utility Easement or Other City Property in which such
Company Facilities are located. The Company and the City shall work together to prepare
the necessary legal description to effectuate such reservation. For the purposes of Section
6.8.A of this Franchise, the land vacated, released, sold, conveyed, transferred or otherwise
disposed of by the City shall no longer be deemed to be a City Street, or Other City
Property from which the City may demand the Company temporarily or permanently
Relocate Company Facilities at the Company’s expense.

§21.21 Audit. For any audits specifically allowed under this Franchise, such audits shall be
subject to the applicable Tariff and PUC rules and regulations. Audits in which the auditor
is compensated on the basis of a contingency fee arrangement shall not be permitted.

§21.22 Land Use Coordination. The City shall coordinate with the Company regarding its land
use planning. This coordination shall include meeting with the Company and identifying
areas for future utility development.
IN WITNESS WHEREOF, the parties have caused this Franchise to be executed as of the
day and year first above written.

CITY OF BLACK HAWK

ATTEST:

______________________________
Mayor, City of Black Hawk

____________________________________
Clerk, City of Black Hawk

APPROVED AS TO FORM:
(if applicable)

______________________________
City Attorney, City of Black Hawk

PUBLIC SERVICE COMPANY OF
COLORADO, a Colorado corporation

By: ________________________
Jerome Davis, Regional Vice President,
Customer and Community Relations

STATE OF COLORADO
)
)
) SS.
COUNTY OF DENVER
)

The foregoing instrument was acknowledged before me this __ day of ____________, 201__
by Jerome Davis, Regional Vice President, Customer and Community Relations of Public Service
Company of Colorado, a Colorado corporation.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: ____________________.
NOTICE OF APPLICATION FOR FRANCHISE
BY PUBLIC SERVICE COMPANY OF COLORADO

NOTICE is hereby given that at the regular meeting of the City Council of the City of Black Hawk, Gilpin County, State of Colorado, to be held on January 11, 2017, at the hour of 3:00 p.m., at its usual meeting place in the City Hall, in the City of Black Hawk, Colorado, Public Service Company of Colorado (d/b/a Xcel Energy) (the “Company”), a corporation duly organized and existing under and by virtue of the laws of the State of Colorado, will make application to the City of Black Hawk for the passage of an ordinance granting to the Company a franchise in the City, entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK HAWK COLORADO APPROVING A FRANCHISE AGREEMENT WITH PUBLIC SERVICE COMPANY OF COLORADO, D/B/A XCEL ENERGY, GRANTING TO XCEL ENERGY THE NON-EXCLUSIVE RIGHT TO MAKE REASONABLE USE OF CITY STREETS, PUBLIC UTILITY EASEMENTS AND OTHER CITY PROPERTY TO PROVIDE GAS AND ELECTRIC UTILITY SERVICE TO THE CITY AND ITS RESIDENTS; TO SELL, STORE, PURCHASE, EXCHANGE, TRANSMIT, TRANSPORT, AND DISTRIBUTE GAS AND ELECTRIC UTILITY SERVICES WITHIN AND THROUGH THE CITY ALL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FRANCHISE AGREEMENT; SPECIFYING THAT THE FRANCHISE SHALL BE EFFECTIVE UPON THE EFFECTIVE DATE OF THIS ORDINANCE AND FOR A TERM OF TWENTY (20) YEARS THEREAFTER; SETTING A FRANCHISE FEE OF 3% OF THE GROSS REVENUES OF XCEL ENERGY AS DEFINED IN SAID FRANCHISE; PROVIDING FOR A SURCHARGE THEREFORE; AUTHORIZING THE MAYOR TO EXECUTE THE FRANCHISE AGREEMENT FOR AND ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND, SETTING FORTH OTHER DETAILS RELATED THERETO.

The franchise to be applied for and will be for a period of twenty (20) years and shall provide for a franchise fee to the City in the amount of three percent (3%) of all revenues received from the sale and transportation of gas and the sale of electricity within the City, excluding revenues received from the City for the sale of gas and electricity to the City.

Dated at Black Hawk, Colorado, this 28th day of November, 2016.

PUBLIC SERVICE COMPANY OF COLORADO

By: Preston E. Gibson III, Area Manager, Xcel Energy
RESOLUTION 2-2017
A RESOLUTION APPROVING CERTAIN SERVICE AGREEMENTS FOR CALENDAR YEAR 2017
STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK  

Resolution No. 2-2017  

TITLE: A RESOLUTION APPROVING CERTAIN SERVICE AGREEMENTS FOR CALENDAR YEAR 2017  

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

Section 1. The City Council hereby approves the Services Agreements with the entities and for the services set forth below (the “Agreements”), and authorizes the Mayor to sign the Agreements on behalf of the City.  

<table>
<thead>
<tr>
<th>Entity</th>
<th>Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.C.S. Consultants, Inc.</td>
<td>Surveying</td>
</tr>
<tr>
<td>WL Contractors, Inc.</td>
<td>Traffic Signal Maintenance/Repair</td>
</tr>
<tr>
<td>Ostrander Consulting, Inc.</td>
<td>Transit Assistance</td>
</tr>
<tr>
<td>One-Way, Inc.</td>
<td>Weekly Residential Trash pick-up</td>
</tr>
<tr>
<td>Terracon Consultants, Inc.</td>
<td>Geotechnical/testing</td>
</tr>
<tr>
<td>Baseline Engineering Corp.</td>
<td>General Civil/Drainage</td>
</tr>
<tr>
<td>SimplexGrinnell</td>
<td>Fire Alarm Systems</td>
</tr>
<tr>
<td>Leonard Rice Water Eng.</td>
<td>Water Rights Engineering</td>
</tr>
<tr>
<td>L.S.I., Inc.</td>
<td>SCADA, Controls, Processing</td>
</tr>
</tbody>
</table>

RESOLVED AND PASSED this 11th day of January, 2017.  

___________________________________________________________________________  
David D. Spellman, Mayor  

ATTEST:  

___________________________________________________________________________  
Melissa A. Greiner, City Clerk
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Resolution 2-2017, a Resolution authorizing the Mayor or City Manager to execute the agreements for various annual service providers.

RECOMMENDATION:
If City Council chooses to approve Resolution 2-2017, a Resolution approving certain service agreements for calendar year 2017, the recommended motion is as follows: “Approve Resolution 2-2017, a Resolution approving certain service agreements for calendar year 2017.”

SUMMARY AND BACKGROUND OF SUBJECT MATTER:
The City utilizes several service providers to supplement some of the engineering and operations services work. These are budgeted items.

010-3101-431-33-07 C.C.S. Consultants, Inc. Surveying
010-3101-431-33-08 Stolfus & Associates, Inc. Roadway/Traffic
204-4801-431-33-19 Ostrander Consulting, Inc. Transit Assistance
010-3101-431-41-03 One-Way, Inc. Weekly Residential Trash pick-up
010-3101-431-33-08 Terracon Consultants, Inc. Geotechnical/testing
010-3101-431-33-08 Baseline Engineering Corp. General Civil/Drainage
010-3101-431-41-03 SimplexGrinnell Fire Alarm Systems
501-3150-460-33-04 L.S.I., Inc. SCADA, Controls, Processing

FUNDING SOURCE: varies

WORKSHOP DATE: January 11, 2017

ORIGINATED BY: Thomas Isbester

STAFF PERSON RESPONSIBLE: Thomas Isbester/JimFord/Matt Reed

PROJECT COMPLETION DATE: December 31, 2017

DOCUMENTS ATTACHED: N/A

CITY ATTORNEY REVIEW: [ ]Yes [ ]No [ ]N/A INITIALS__________

SUBMITTED BY: reviewed by:

Thomas Isbester, Public Works Director Jack D. Lewis, City Manager
FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this ______ day of 2017, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and CCS Consultants, Inc. (hereinafter referred to as "Contractor").

RECITALS:

A. On December 9, 2015 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. The parties desire to extend the Agreement with this First Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this First Addendum.

1. The contract term for the Agreement is hereby extended by this Addendum for one additional year, from January 1, 2017, through and including December 31, 2017.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as Exhibit A, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement and this First Addendum constitute all of the agreements between the City and the Contractor.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF BLACK HAWK, COLORADO

By: ____________________________

ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney
ATTEST:
By: Weston Spears
Print Name
Director of Operations 1/1/17
Title Date
EXHIBIT A

2017 Hourly Service Rates

<table>
<thead>
<tr>
<th>Service</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clerical</td>
<td>$40/hour</td>
</tr>
<tr>
<td>CAD Technician</td>
<td>$70/hour</td>
</tr>
<tr>
<td>One Man Survey Crew</td>
<td>$95/hour</td>
</tr>
<tr>
<td>Two Man Survey Crew</td>
<td>$135/hour</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$90/hour</td>
</tr>
<tr>
<td>Professional Land Surveyor</td>
<td>$135/hour</td>
</tr>
</tbody>
</table>
FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this ____ day of 2017, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and Stolfus & Associates (hereinafter referred to as "Contractor").

RECITALS:

A. On December 9, 2015 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. The parties desire to extend the Agreement with this First Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this First Addendum.

1. The contract term for the Agreement is hereby extended by this Addendum for one additional year, from January 1, 2017, through and including December 31, 2017.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as Exhibit A, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement and this First Addendum constitute all of the agreements between the City and the Contractor.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF BLACK HAWK, COLORADO

By: ________________________________

ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney
CONTRACTOR

By:  

Print Name  

Title  

Date

ATTEST:

By:  

Print Name  

Title  

Date

By: Jessica L. Mamos  

Print Name  

Title  

Date

By: Elizabeth S. Stoffles  

Print Name  

Title  

Date

President  12/29/16
2017 STANDARD HOURLY RATES

Professional Services

<table>
<thead>
<tr>
<th>Role</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$175/hr</td>
</tr>
<tr>
<td>Senior Engineer</td>
<td>$150/hr</td>
</tr>
<tr>
<td>Engineer II</td>
<td>$130/hr</td>
</tr>
<tr>
<td>Engineer</td>
<td>$105/hr</td>
</tr>
<tr>
<td>Design Engineer</td>
<td>$100/hr</td>
</tr>
<tr>
<td>Student Intern</td>
<td>$ 60/hr</td>
</tr>
<tr>
<td>Administrative</td>
<td>$ 60/hr</td>
</tr>
</tbody>
</table>

Expert Witness Services*

- Principal (Expert Witness) $350/hr
- Senior Engineer (Expert Witness) $300/hr

*Includes deposition testimony, courtroom appearances, transcript review, etc.

Outside Consultants at cost

Other Direct Costs

<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mileage</td>
<td>at Standard Federal Rate</td>
</tr>
<tr>
<td>Outside reproduction</td>
<td>at cost</td>
</tr>
<tr>
<td>Other expenses</td>
<td>at cost</td>
</tr>
<tr>
<td>In-House Reproduction (B&amp;W)</td>
<td>$0.25/per print</td>
</tr>
<tr>
<td>In-House Reproduction (Color)</td>
<td>$1.00/per print</td>
</tr>
<tr>
<td>Large Format Plots</td>
<td>$3.00/per square foot</td>
</tr>
<tr>
<td>Foam Board</td>
<td>$5.00/per square foot</td>
</tr>
</tbody>
</table>
**ACORD 25**  
**Certificate of Liability Insurance**  

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**  
USI Colorado, LLC  
Prof Liab  
P.O. Box 7050  
Englewood, CO 80115  
800 873-8500  

**INSURED**  
Stolfs & Associates, Inc.  
5690 DTC Boulevard  
Suite 560E  
Greenwood Village, CO 80111

<table>
<thead>
<tr>
<th>COVERAGES</th>
<th>CERTIFICATE NUMBER:</th>
<th>REVISION NUMBER:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A</strong> COMMERCIAL GENERAL LIABILITY</td>
<td>34SBWPD4904</td>
<td>10/01/2016 to 10/01/2017</td>
</tr>
<tr>
<td><strong>X</strong> OCCUR</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B</strong> AUTOMOBILE LIABILITY</td>
<td>34SBWPD4904</td>
<td>10/01/2016 to 10/01/2017</td>
</tr>
<tr>
<td><strong>X</strong> OCCUR</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>X</strong> UMBRELLA LIAB EXCESS LIABILITY</td>
<td>34SBWPD4904</td>
<td>10/01/2016 to 10/01/2017</td>
</tr>
<tr>
<td><strong>X</strong> OCCUR</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>C</strong> WORKERS’ COMPENSATION &amp; EMPLOYERS’ LIABILITY</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>X</strong> E.L. EACH OCCUR</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
As required by written contract or written agreement, the following provisions apply subject to the policy terms, conditions, limitations and exclusions: The Certificate Holder and owner are included as Automatic  
Additional Insured’s for ongoing and completed operations under General Liability; Designated Insured under Automobile Liability; and Additional Insureds under Umbrella/Excess Liability but only with respect to liability arising out of the Named Insured work performed on behalf of the certificate holder and owner.  
(See Attached Descriptions)

**CERTIFICATE HOLDER**  
City of Black Hawk  
987 Miners Mesa Road  
PO Box 68  
Black Hawk, CO 80422

**CANCELLATION**  
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**AUTHORIZED REPRESENTATIVE**  
Valeria Hawk
The General Liability, Automobile Liability, Umbrella/Excess insurance applies on a primary and non contributory basis. A Blanket Waiver of Subrogation applies for General Liability, Automobile Liability, Umbrella/Excess Liability and Workers Compensation. The Umbrella/Excess Liability policy provides excess coverage over the General Liability, Automobile Liability and Employers Liability.

Please note that Additional Insured status does not apply to Professional Liability or Workers’ Compensation.
FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this _______ day of 2017, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and W.L Contractors, Inc. (hereinafter referred to as "Contractor").

RECATALS:

A. On December 9, 2015 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. The parties desire to extend the Agreement with this First Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this First Addendum.

1. The contract term for the Agreement is hereby extended by this Addendum for one additional year, from January 1, 2017, through and including December 31, 2017.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as Exhibit A, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement and this First Addendum constitute all of the agreements between the City and the Contractor.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF BLACK HAWK, COLORADO

By: ____________________________

ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney
December 5, 2016

Mr. Thomas Isbester
City of Black Hawk
PO Box 17
Black Hawk CO 80422

RE: 2017 Traffic Signal Maintenance Contract

Dear Tom,

W.L. Contractors Inc hereby grants to City of Black Hawk an option to renew the existing Traffic Signal Maintenance Agreement, including the original terms and conditions, at the attached pricing, for one (1) additional term or one (1) year from January 1, 2017 through December 31, 2017.

If this is acceptable, please initiate the proper paperwork and mail to my attention. Thank you and we look forward to working with the City of Black Hawk in 2017.

If you have any questions, please call me.

Sincerely,

Tim Leach
Operations Manager
W.L. Contractors
### Black Hawk

#### Extra Work Rate Schedule

<table>
<thead>
<tr>
<th>Vehicle/Equipment</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bucket Truck</td>
<td>$36.50</td>
</tr>
<tr>
<td>Beam/Digger Truck</td>
<td>$78.15</td>
</tr>
<tr>
<td>Air Compressor</td>
<td>$26.10</td>
</tr>
<tr>
<td>Sidewalk Truck</td>
<td>$33.30</td>
</tr>
<tr>
<td>Maintenance Van</td>
<td>$41.50</td>
</tr>
<tr>
<td>Front End Loader</td>
<td>$41.70</td>
</tr>
<tr>
<td>Backhoe/Trencher</td>
<td>$67.75</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Position</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superintendent</td>
<td>$67.75</td>
</tr>
<tr>
<td>Foreman</td>
<td>$57.75</td>
</tr>
<tr>
<td>Tech I (Helmet)</td>
<td>$52.10</td>
</tr>
<tr>
<td>Tech II</td>
<td>$46.40</td>
</tr>
<tr>
<td>Master Electrician</td>
<td>$67.75</td>
</tr>
<tr>
<td>Operator</td>
<td>$42.00</td>
</tr>
<tr>
<td>Laborer</td>
<td>$37.00</td>
</tr>
<tr>
<td>Engineer</td>
<td>$125.00</td>
</tr>
</tbody>
</table>

Note: MSA certifications listed are minimums required for each personnel category. No MSA certification is required for Master Electrician, Operator, Laborer, or Traffic Engineer.

<table>
<thead>
<tr>
<th>Unit Costs</th>
<th>(Per)</th>
<th>(Per)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6x40 Detector Loop</td>
<td>$1,100.00</td>
<td>$1,200</td>
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<tr>
<td>6x40 Detector Loop</td>
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<td>Anti-Skid Switch Change</td>
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<tr>
<td>Computerized Conflict Monitor Testing</td>
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<tr>
<td>Quarterly Preventative Maintenance Procedures</td>
<td>$130.00</td>
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</tr>
<tr>
<td>Annual Preventative Maintenance Procedures</td>
<td>$239.00</td>
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</tr>
</tbody>
</table>
CERTIFICATE OF LIABILITY INSURANCE


THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Lautenbach Insurance Agency, LLC
5721 S. Nevada Street
Littleton, CO 80120

INSURED
W. L. Contractors, Inc.
5920 Lamar Street
Arvada, CO 80003

COVERAGE
CERTIFICATE NUMBER: WC Renewal 2017

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE</th>
<th>DESCRIPTION</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>CLAIMS-MADE X OCCUR</td>
<td>DT-CO-7B904627-PHX-16</td>
<td>05/01/2016 05/01/2017</td>
<td>EACH OCCURRENCE</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>DAMAGE TO RENTED</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PREMISES (Ex occurrence)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MED EXP (Any one person)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PERSONAL &amp; ADV INJURY</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>GENERAL AGGREGATE</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PRODUCTS - COMPOP AGG</td>
</tr>
<tr>
<td>AUTOMOBILE LIABILITY</td>
<td>ANY AUTO</td>
<td>DT-810-7B904627-TIL-16</td>
<td>05/01/2016 05/01/2017</td>
<td>COMBINED SINGLE LIMIT (Ex accident)</td>
</tr>
<tr>
<td></td>
<td>ALL OWNED AUTOS</td>
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<td></td>
<td>BODILY INJURY (Per person)</td>
</tr>
<tr>
<td></td>
<td>HIRED AUTOS X SCHEDULED AUTOS</td>
<td></td>
<td></td>
<td>BODILY INJURY (Per accident)</td>
</tr>
<tr>
<td></td>
<td>NON-OWNED AUTOS</td>
<td></td>
<td></td>
<td>PROPERTY DAMAGE</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Hired/borrowed</td>
</tr>
<tr>
<td>UMBRELLA LIABILITY</td>
<td>OCCUR CLAIMS-MADE</td>
<td>DTSN-CUP-7B904627-TIL-16</td>
<td>05/01/2016 05/01/2017</td>
<td>EACH OCCURRENCE</td>
</tr>
<tr>
<td>EXCESS LIABILITY A</td>
<td></td>
<td></td>
<td></td>
<td>AGGREGATE</td>
</tr>
<tr>
<td>WORKERS COMPENSATION</td>
<td>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?</td>
<td>DT5UB-7F30998-6-17</td>
<td>01/01/2017 01/01/2018</td>
<td>E.L. EACH ACCIDENT</td>
</tr>
<tr>
<td>AND EMPLOYERS LIABILITY</td>
<td>Y/N</td>
<td></td>
<td></td>
<td>$1,000,000</td>
</tr>
<tr>
<td>ANY OFFICER EXCLUDED?</td>
<td>N/A</td>
<td></td>
<td></td>
<td>E.L. DISEASE - EA EMPLOYEE</td>
</tr>
<tr>
<td>(Mandatory in NH)</td>
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<td></td>
<td></td>
<td>E.L. DISEASE - POLICY LIMIT</td>
</tr>
</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The City of Black Hawk, its officers, employees and consultants are listed as Additional Insured. Coverage is Primary and Non-Contingent with regards to the General Liability.
Re: 2017 On-Call Maintenance Contract
W.L. Job No. M1737

CERTIFICATE HOLDER
City of Black Hawk
Attn: Public Works Director
PO Box 68
Black Hawk, CO 80422

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Fred Lautenbach/JENN

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The ACORD name and logo are registered marks of ACORD
PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Black Hawk, hereinafter referred to as “City” and Ostrander Consulting, Inc., whose address is 1250 Humboldt, Unit 1401, Denver, CO 80218 hereinafter referred to as “Contractor” as follows:

1. SERVICES TO BE PERFORMED BY CONTRACTOR. Contractor shall perform the following: instruction and/or services during the days and times, and at the location, as more particularly described in Attachment “A”, which is attached hereto and incorporated herein and made a part hereof by this reference.

2. TERM. The term of this Agreement shall commence on day of execution, and shall terminate on the __________ day of __________ 2017 unless earlier terminated pursuant to Section 9 herein.

3. COMPENSATION. In consideration of the performance of the instruction and/or services provided herein, Contractor shall receive compensation as provided through the rate schedule listed in Attachment “A”.

4. METHOD OF PAYMENT. The compensation provided in Section 3 shall be paid by the City to Contractor upon filing of an invoice specifying the services provided.

5. EQUIPMENT, MATERIALS AND SUPPLIES. Unless otherwise agreed by the City, Contractor shall acquire, provide, maintain and repair at Contractor’s sole cost and expense such equipment, materials, supplies, etc., as necessary for the proper conduct of the aforesaid instruction and/or services.

6. COMPLIANCES. In the conduct of the instruction and/or services contemplated hereunder, Contractor shall comply with all applicable laws, rules and regulations, and the directives or instructions issued by the City or its designated representatives.

7. INDEPENDENT CONTRACTOR. Contractor agrees that he/she is an independent contractor and that accordingly neither he she nor his employees are covered by the City's workers' compensation policy, or any other worker's compensation policy.

8. HOLD HARMLESS. Contractor shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all loss, damage, injuries, claims, or causes of action, or any liability of any kind whatsoever resulting from, arising out of or in connection with the instruction and/or services provided by Contractor pursuant to this agreement.

9. TERMINATION. The City shall have the right to terminate this Agreement upon three (3) days notice, if Contractor fails to comply with the terms and conditions set forth in this Agreement.

10. ASSIGNMENT. Contractor shall not assign or otherwise transfer this Agreement or any rights or obligations therein, without first receiving prior written consent of the City.

11. INSURANCE. Contractor understands and agrees that Contractor shall have no right of coverage under any and all existing or future City comprehensive or personal injury liability policies, and in that regard,
Contractor agrees to provide insurance coverage on behalf of the Contractor, that will sufficiently protect Contractor, or his agents, servants and employees, in connection with the services which are to be provided by Contractor pursuant to this Agreement.

12. CONTRACT INTERPRETATION
A. No amendment or modification of this agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of this Agreement.
B. This is a completely integrated Agreement and contains the entire Agreement of the parties, and any prior written or oral agreement which are different from the terms, conditions and provisions of this Agreement shall be of no effect and shall not be binding upon either party.
C. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of the parties and their respective successors; provided that neither party may assign its rights hereunder without the previous written consent of the other party which shall not be unreasonably withheld.
D. Notice required or permitted to be given hereunder (including any notice of change of address) shall be considered delivered when hand-delivered or when mailed, by United States mail, first-class postage paid, as follows:

   City: City of Black Hawk
   P.O. Box 68, 201 Selak Street
   Black Hawk, CO 80422-0068
   Attn: City Clerk

   Contractor: Amy Ostrander
               Ostrander Consulting, Inc.
               1250 Humboldt, Unit 1401
               Denver, CO 80218

All notices so given shall be considered effective when delivered by hand-delivery, or in writing, as stated above.
E. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original hereof and all of which together shall constitute a single agreement.
F. This Agreement is made and delivered in the State of Colorado, and shall be construed and enforced in accordance with the laws thereof.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates written opposite their respective signatures.

CITY OF BLACK HAWK, COLORADO

ATTEST:

David D. Spellman, Mayor

Melissa A. Greiner, City Clerk

Rev. 09/2016
CONTRACTOR

By: Alan Ostrander

STATE OF COLORADO

COUNTY OF Denver

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 30th day of December 2017, by Alan Ostrander.

My commission expires: 1/7/2019

(Seal)

ALAN CROW
Notary Public
STATE OF COLORADO

My commission expires Apr. 7, 2019

Rev. 09/2016
Ostrander Consulting, Inc. focuses on defining solutions for rural, resort, and specialized transportation services. Ostrander Consulting, Inc., led by principal Amy Ostrander, combines a strong educational and professional background in transportation with significant operations experience.

Technical Assistance will be provided to the City of Black Hawk in the area following areas to support City transit services:

<table>
<thead>
<tr>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marketing/Advertising support</td>
</tr>
<tr>
<td>Passenger service improvement/rider surveys</td>
</tr>
<tr>
<td>Operational planning</td>
</tr>
<tr>
<td>Risk management and safety</td>
</tr>
<tr>
<td>Strategic planning</td>
</tr>
<tr>
<td>Maintenance management and capital replacement</td>
</tr>
<tr>
<td>State and federal regulatory compliance</td>
</tr>
<tr>
<td>Grants application/management</td>
</tr>
<tr>
<td>Contract provider oversight</td>
</tr>
<tr>
<td>Other planning areas as directed</td>
</tr>
<tr>
<td>Other technical assistance as directed</td>
</tr>
</tbody>
</table>

Consultant Service Fee Schedule

- Technical Assistance: Ostrander $110.00/hour
- Marketing Assistance: Contract $35.00/hour
  (Brochure Distribution/Survey Work/Other as Assigned)

Reimbursable expenses must be accompanied by proof of payment.

No work will be commenced without authorization of the City of Black Hawk Staff. This service will be provided on-call only. The City of Black Hawk has no commitment for any minimum level of work or time frame for requesting assistance.

November 22, 2016
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

INSURANCE GROUP OF COLORADO LLC
1113 East Alameda Avenue
Denver, Colorado 80209

CONTACT
NAME: (303) 778-7811
PHONE: (303) 778-8991
FAX NAME, Exp): ryann@comperv.com
E-MAIL: NAIC #: 
ADDRESS:

INSURED

OSTRANDER CONSULTING, INC.
1250 HUMBOLDT ST. #1401
DENVER, CO 80218

CERTIFICATE

THIS CERTIFICATE IS ISSUED IN LIEU OF THE POLICY(IES) LISTED BELOW. ALL RELEVANT INFORMATION IS FOUND IN THE COMPLETED POLICY(IES) AS ADDITIONAL LINES OF COVERAGE.

COVERAGES

A. COMMERCIAL GENERAL LIABILITY
   CLAIMS-MADE OCCUR
   POLICY NUMBER: 2026512910
   LIMITS:
   EACH OCCURRENCE $1,000,000
   EXCESS TO PREMISES PREMISES (if a occurrence) $300,000
   MEDI EXP (Any one person) $10,000
   PERSONAL & ADV INJURY $1,000,000
   GENERAL AGGREGATE $2,000,000
   PRODUCTS - COMPOP AGG $2,000,000

B. AUTO LIABILITY
   ANY AUTO
   SCHEDULED AUTOS
   NON-OWNED AUTOS
   UMBRELLA LIABILITY
   EXCESS LIAB
   OCCUR CLAIMS-MADE
   LIMITS:
   EACH OCCURRENCE $1,000,000
   AGGREGATE $1,000,000

C. WORKERS COMPENSATION AND EMPLOYERS' LIABILITY
   ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?
   (Mandatory in NH)
   Y/N I N/A
   DESCRIPTION OF OPERATIONS below

D. VALUABLE PAPERS
   POLICY NUMBER: 2026512910
   LIMITS:
   EACH OCCURRENCE $25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 191, Additional Remarks Schedule, may be attached if more space is required)

City of Black Hawk and all other parties as required by written contract are added as additional insured with respect to general liability.

CERTIFICATE HOLDER

City of Black Hawk
PO BOX 68
Black Hawk, CO 80422

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2014 ACORD CORPORATION. All rights reserved.

ACORD 25 (2014/01) The ACORD name and logo are registered marks of ACORD
FIRST ADDENDUM TO SERVICES AGREEMENT

THIS FIRST ADDENDUM TO PROFESSIONAL SERVICES AGREEMENT is made and entered into this __________ day of 2017, by and between the City of Black Hawk, Colorado (hereinafter referred to as the "City") and One Way, Inc. (hereinafter referred to as "Contractor").

RECITALS:

A. On December 9, 2015 the City and Contractor entered into a Professional Services Agreement (the "Agreement").

B. The parties desire to extend the Agreement with this First Addendum for one additional year.

AGREEMENT

NOW, THEREFORE, it is hereby agreed that for the consideration hereinafter set forth, that Contractor shall provide to the City, the additional work as needed in the manner provided in this First Addendum.

1. The contract term for the Agreement is hereby extended by this Addendum for one additional year, from January 1, 2017, through and including December 31, 2017.

2. Contractor shall perform all work as set forth in the Agreement in accordance with Contractor's rate schedule attached hereto as Exhibit A, and incorporated by this reference.

3. The original Agreement is in full force and effect and is hereby ratified by the City and the Contractor. The original Agreement and this First Addendum constitute all of the agreements between the City and the Contractor.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF BLACK HAWK, COLORADO

By:

ATTEST:

Melissa A. Greiner, City Clerk
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann
City Attorney
CONTRACTOR

By: Philip S. Mahony
Print Name: Philip Mahony
Owner: 1/6/17
Title: Date

ATTEST:
By: Landa Montaya
Print Name: Vice Pres
Title: 1/6/17
Date
CITY OF BLACK HAWK  
ATTN PUBLIC WORKS  
P.O. BOX 68  
BLACK HAWK CO 80422

Account No.: 10477  
RE: Exhibit A

Dear City of Black Hawk,

One Way, Inc. proposes to pick up trash from all residential homes within the City of Black Hawk, under the following terms and conditions.

Term: January 1, 2017 – December 31, 2017

Weekly Curbside Refuse

One Way will provide weekly collection of up to 128 gallons of household trash generated by the residents of said homes for one year at the rate of $1,300.00 per month.

Containers

The homeowner will provide the containers.

Routing

Weekly collection to occur on Thursdays. Collection will be curbside near the homeowner’s house. Material must be out no later than 8:00 A.M.

Material Transport

Once collected, One Way will assume all responsibility to transport trash to an approved disposal site.

Inclement Weather

In the event of snow and ice our operators will chain up ensure that routes are completed to the absolute best of their abilities.
Licensing

One Way will hold liability insurance with limits of 1,000,000.00 per occurrence for the term of the contract.

Service Suspensions/Holds

Credit is not offered.

Overflow

It is our intent to keep all regular trash volumes contained inside of a container. However, each household will be allowed occasional collection of slight overflow. If sizeable amounts of trash are out for collection, we will only collect material inside of subscribed limit unless appropriate arrangements with the resident or management have been made.

Special Collections

Residents may schedule special collections of sizable amounts of discards and large or bulky items. Special collections will be billed directly to the resident.

Restricted Items

The following items are restricted. If found in the garbage, then the resident will be held accountable for any additional fees:

- Ashes or explosives.
- Banned electronics; TV’s, computers, gaming consoles, etc.
- Hazardous waste. Such as but not limited to; mercury-containing devices; medical waste; syringes & lancets; etc.
- Car batteries, paints, chemicals, tires, or other items restricted by the landfill.
- Refrigerators, freezers, or air conditioners due to the Freon in them.
- Bulky items like appliances or furniture.
- Non-compactable material. Such as, but not limited to auto parts; bricks; concrete; construction debris; demolition debris; dirt; grass (accepted if not compacted); gypsum board/ drywall; animal manure; metal drums/ containers/ posts/ scrap; pallets (accepted of broken down); pine needles (accepted if not compacted); plywood; railroad ties; rock; sand; shingles; sod; tile; wood, 2x4’s, stumps; etc.

Holiday Schedule

No routes will be run on Thanksgiving Day, Christmas Day, or New Year's Day. On these holidays and the subsequent days of that week routes will be completed one day late.

P.O. Box 704 - Lyons, Colorado - 80540
Phone: (303) 823 - 0556 · Fax: (303) 823 - 2451 · E-mail: Onewaytrash@aol.com
Billing

Monthly invoices will be submitted to

City of Black Hawk
P.O. Box 68
Black Hawk CO 80422

Service is billed one month in advance. One Way begins service as a courtesy, but expects payment in full within 30 days.

Agreement for Professional Services

The terms and conditions of the “Agreement of Service” made on January 1, 2017 shall be applied to this proposal.

Sincerely,

[Signature]
Landa Montoya
Vice President
One Way, Inc.
(303) 823-0556
**CERTIFICATE OF LIABILITY INSURANCE**

**DATE (MM/DD/YYYY):** 12/2/2016

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

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**PRODUCER**

DLP INSURANCE
3030 W. 81st Avenue
Westminster CO 80031

**INSURED**

One Way Trash
One Way Inc dba
PO Box 704
Lyons CO 80540

**COVERAGES**

**CERTIFICATE NUMBER: 1091559143**

**REVISION NUMBER:***

**THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.**

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF (MM/DD/YYYY)</th>
<th>POLICY EXP (MM/DD/YYYY)</th>
<th>LIMITS</th>
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<tr>
<td>A1 GENERAL LIABILITY</td>
<td>60431190</td>
<td>5/1/2016</td>
<td>5/1/2017</td>
<td>EACH OCCURRENCE</td>
</tr>
<tr>
<td>CLAIMS-MADE</td>
<td>$1,000,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OCCUR</td>
<td>MED EXP (Any one person)</td>
<td>$100,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PERSONAL &amp; ADV INJURY</td>
<td>$5,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>GENERAL AGGREGATE</td>
<td>$1,000,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PRODUCTS - COMMPN AGG</td>
<td>$1,000,000</td>
<td></td>
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<td>DEO</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>A2 AUTOMOBILE LIABILITY</td>
<td>60431190</td>
<td>5/1/2016</td>
<td>5/1/2017</td>
<td>EACH OCCURRENCE</td>
</tr>
<tr>
<td>SCHEDULED AUTOS</td>
<td>$1,000,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NON-OWNED AUTOS</td>
<td>BODILY INJURY (Per person)</td>
<td>$5,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PROPERTY DAMAGE</td>
<td>$5,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EXCESS</td>
<td>EACH OCCURRENCE</td>
<td></td>
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</tr>
<tr>
<td>AGGREGATE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OMBRELLA LIABILITY</td>
<td>OCCUR</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>CLAIMS-MADE</td>
<td></td>
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<tr>
<td>B WORKERS COMPENSATION</td>
<td>3393387</td>
<td>1/1/2017</td>
<td>1/1/2017</td>
<td>E.L. EACH ACCIDENT</td>
</tr>
<tr>
<td>AND EMPLOYERS' LIABILITY</td>
<td>$500,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?</td>
<td>E.L. DISEASE - EA EMPLOYEE</td>
<td>$500,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Mandatory in NH)</td>
<td>E.L. DISEASE - POLICY LIMIT</td>
<td>$500,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Y/N</td>
<td>DESCRIPTION OF OPERATIONS below</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N/A</td>
<td></td>
<td></td>
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<tr>
<td>A Scheduled Equipment</td>
<td>60431190</td>
<td>5/1/2016</td>
<td>5/1/2017</td>
<td>MED EXP ON INSURANCE</td>
</tr>
<tr>
<td>Unscheduled Equipment</td>
<td>$10,000</td>
<td></td>
<td></td>
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<tr>
<td>$1,000 deductible</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>$30,876</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES**

City of Blackhawk and its officers and employees are named as additional insureds to General Liability on a primary and non-contributory basis. Should any of the above described policies be cancelled before the expiration date thereof, the agent, DILP Insurance, will endeavor to mail *30 days written notice to the certificate holder named, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives. *A 10 day notice will apply for non payment cancellations.

**CERTIFICATE HOLDER**

City of Blackhawk - Director of Public Works
P.O. Box 68
Blackhawk CO 80422

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**AUTHORIZED REPRESENTATIVE**

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ACORD 25 (2010/05) The ACORD name and logo are registered marks of ACORD
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ______ day of ________________________, 2017, by and between the CITY OF BLACK HAWK, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and Terracon Consultants, Inc. (hereinafter referred to as "Contractor").

RECITALS:

A. The City requires miscellaneous professional geotechnical services (the “Project”).

B. Contractor has held itself out to the City as having the requisite expertise and experience to perform the required work for the Project.

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City professional engineering services for the Project.

I. SCOPE OF SERVICES

Contractor shall complete the scope of services as described in Exhibit A attached hereto and incorporated herein by this reference. Contractor shall furnish all labor and materials to perform the work and services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project.

II. THE CITY’S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Contractor with reports and such other data as may be available to the City and reasonably required by Contractor to perform hereunder. No project information shall be disclosed by Contractor to third parties without the prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Contractor shall be returned to the City. Contractor is authorized by the City to retain copies of such data and materials at Contractor's expense.

III. OWNERSHIP OF WORK PRODUCT

The City acknowledges that Contractor's documents produced under this Agreement are instruments of professional services. Nevertheless, upon payment to Contractor pursuant to this Agreement, all work, data, drawings, designs, plans, reports, computer programs (non-proprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed for this Project are, and shall be, the sole and exclusive property of the City. However, any reuse of the documents by the City without prior written authorization by Contractor other than for the specific intended purpose of this Agreement will be at the City's sole risk. Contractor will provide the City with a ten (10) day written notice prior to disposal of Project documents it has retained, during which time the City may take physical possession of same at the storage site.
IV. COMPENSATION

A. Compensation shall not exceed **Twenty thousand dollars ($20,000.00)** for the work described in Exhibit A. Payment shall be made in accordance with the schedule of charges in Exhibit A. Invoices shall be itemized and include hourly breakdown for all personnel and other charges.

B. Contractor may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the work and services performed by Contractor under this Agreement except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Contractor’s verified payment request, shall be submitted by Contractor to the City no later than the twenty-fourth (24th) day of each month for payment pursuant to the terms of this Agreement. In the event Contractor fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Contractor defers its right to payment pursuant to said late invoice until the twenty-fourth (24th) day of the following month.

2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice as provided by this Agreement.

C. The City has the right to ask for clarification on any Contractor invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the legal rate of interest. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Contractor may, after giving seven (7) days written notice and without penalty or liability of any nature, suspend all work on all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days written notice, Contractor may terminate this Agreement. Upon receipt of payment in full for services rendered, Contractor will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Contractor’s certification that services required herein by Contractor have been fully completed in accordance with this Agreement and all data and reports for the Project.
V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. This Agreement shall be completed by December 31, 2017.

VI. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby represents that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

C. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports, and other services which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for technical adequacy of the work. Neither the City's review, approval, nor acceptance of, nor payment for any of the services shall be construed to operate as a waiver of any rights under this Agreement, and Contractor shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VII. COMPLIANCE WITH LAW

A. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules, and regulations.

B. Illegal Aliens.

1. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado
Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.

2. Prohibited Acts. Contractor shall not:
   a. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
   b. Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

3. Verification.
   a. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.
   b. Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
   c. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under the Agreement, Contractor shall:
      i. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under the Agreement; and
      ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under the Agreement; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under the Agreement.

4. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-
102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

5. If Contractor does not currently employ any employees, Contractor shall sign the No Employee Affidavit attached hereto.

6. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the Department Program Affidavit attached hereto.

VIII. INDEMNIFICATION

A. INDEMNIFICATION – GENERAL: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Contractor, to the fullest extent permitted by law, shall indemnify and hold harmless the City, its Council members, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker’s compensation claims, arising from the services rendered by Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, under this Agreement; provided, however, that the Contractor need not indemnify or save harmless the City, its Council members, its officers, agents and employees from damages resulting from the negligence of the Council members, officials, officers, directors, agents and employees.

B. INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE: The Contractor shall, to the fullest extent permitted by law, indemnify and hold harmless the City, its Council members, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorney fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Agreement. The Contractor is not obligated under this subparagraph VIII.B. to indemnify the City for the negligent acts of the City, its Council members, or any of its officials, officers, directors, agents and employees.

C. INDEMNIFICATION – COSTS: Contractor shall, to the fullest extent permitted by law, reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Contractor shall, to the fullest extent permitted by law, bear all other direct costs and expenses related thereto, including court costs and reasonable attorney fees. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees, the City shall reimburse Contractor for the portion of the judgment attributable to such act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees.
IX. INSURANCE

A. The Contractor agrees to obtain and maintain during the life of this Contract, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Contractor pursuant to Section VIII above. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section VIII above, by reason of its failure to obtain and maintain during the life of this Contract insurance in sufficient amounts, durations, or types.

B. The Contractor shall obtain and maintain during the life of this Contract, and shall cause any subcontractor to obtain and maintain during the life of this Contract, the minimum insurance coverages listed below. Such coverages shall be obtained and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by the Contractor pursuant to Section VIII above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. **Worker's Compensation Insurance** to cover obligations imposed by applicable law for any employee engaged in the performance of the work under this Contract, and Employers Liability Insurance with minimum limits of six hundred thousand dollars ($600,000) each incident, one million dollars ($1,000,000) disease—policy limit, and one million dollars ($1,000,000) disease—each employee. Evidence of qualified self-insured status may be substituted for the worker’s compensation requirements under this paragraph.

2. **Commercial General Liability Insurance** with minimum combined single limits of six hundred thousand dollars ($600,000) each occurrence and one million dollars ($1,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual products, and completed operations. This policy shall contain a severability of interests provision.

3. **Professional Liability Insurance** with minimum limits of six hundred thousand dollars ($600,000) each claim and one million dollars ($1,000,000) general aggregate.

4. The policy required by Paragraph 2 above shall be endorsed to include the City and the City's officers, employees, and consultants as additional insureds. The policy required in Paragraph 2 above shall be primary insurance, and any insurance carried by the City, its officers, its employees, or its Contractors shall be excess and not contributory insurance to that provided
by Contractor. No additional insured endorsement to the policy required by Paragraph 2 above shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall be solely responsible for any deductible losses under any policy required above.

5. The certificate of insurance provided for the City shall be completed by Contractor’s insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least thirty (30) days prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

   City of Black Hawk
   P.O. Box 68
   Black Hawk, Colorado 80422-0068
   Attn: City Clerk

6. Failure on the part of Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

7. In the event a claim is filed, the City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

8. The parties hereto understand and agree that the City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently three hundred fifty thousand dollars ($350,000) per person and nine hundred ninety thousand dollars ($990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-114 et seq., 13 Colo. Rev. Stat., as from time to time amended, or otherwise available to the City, its officers, its employees, or agents.

X. NON-ASSIGNABILITY

Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.
XI. TERMINATION

This Agreement shall terminate upon the City's providing Contractor with thirty (30) days advance written notice. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Contractor.

XII. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Gilpin, State of Colorado.

XIII. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is the employee of the City for any purpose.

XIV. NO WAIVER

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligations of this Agreement.
XV. NOTICE

Any notice or communication between Contractor and the City which may be required, or which may be given, under the terms of this Agreement, shall be in writing and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

The City:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: Matt Reed

The Contractor:

Terracon Consultants, Inc.
10625 W. I-70 Frontage Road N.
Wheat Ridge, Colorado 80033
Attn: Dan Redman
XVI. ENTIRE AGREEMENT

This Agreement and the attached exhibits constitute the entire Agreement between Contractor and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified, or changed, except as specified herein.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF BLACK HAWK, COLORADO

By: ____________________________
    David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

Terracon Consultants, Inc.

By: ____________________________
    Its: ____________________________

STATE OF COLORADO

COUNTY OF Jefferson

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 19th day of December, 2019, by the Regional Manager of Terracon Consultants, Inc.

My commission expires: April 18, 2019

(Seal)

ELAINE R. MOTISI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20034013088
MY COMMISSION EXPIRES 04/18/2019
PROSPECTIVE CONTRACTOR'S CERTIFICATE REGARDING EMPLOYING OR CONTRACTING WITH AN ILLEGAL ALIEN

FROM: Terracon Consultants, Inc. (Prospective Contractor)

TO: City of Black Hawk
   P.O. Box 68
   Black Hawk, Colorado 80422-0068

Project Name: 2017 On-Call Geotechnical Services

Bid Number: N/A  Project No.: N/A

As a prospective Contractor for the above-identified bid, I (we) do hereby certify that, as of the date of this certification, I (we) do not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that I (we) will confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment.

Executed this 16 day of December, 2016.

Prospective Contractor: Terracon Consultants, Inc.

By: ________________________________

Title: Regional Manager
NO EMPLOYEE AFFIDAVIT

1. Check and complete one:

☐ I, ________________________, am a sole proprietor doing business as ________________________. I do not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the City, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☐ I, ________________________, am an owner/member/shareholder of ________________________, a ________________________ [specify type of entity-i.e, corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the City, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☐ I, ________________________, am a United States citizen or legal permanent resident.

The City must verify this statement by reviewing one of the following items:

- A valid Colorado Driver's license or a Colorado identification card
- A United States military card or a military dependent's identification card
- A United States Coast Guard Merchant Mariner card
- A Native American tribal document or
- In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card
- Any other documents or combination of documents listed in the City's "Acceptable Documents for Lawful Presence Verification" chart that prove both the contractor's citizenship/lawful presence and identity.

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal systematic alien verification of entitlement program, the "SAVE" program, and provide such verification to the City.

_________________________  ________________________
Signature                    Date
DEPARTMENT PROGRAM AFFIDAVIT

(To be completed if Contractor participates in the
Department of Labor Lawful Presence Verification Program)

I, Terraccon Consultants Inc., as a public contractor under contract with the City of Black Hawk (the "City"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Contract") with the City within twenty (20) days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Contract;

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Contract.

[Signature]
Contractor Signature

[Date]
Date

STATE OF COLORADO
COUNTY OF Jefferson

The foregoing instrument was subscribed, sworn to and acknowledged before me this 16th day of December, 2016, by Matthew R. Fielding as Regional Manager of Terraccon Consultants Inc.

My commission expires: April 18, 2019

(SEAL)
Notary Public
### ACCEPTABLE DOCUMENTS FOR LAWFUL PRESENCE VERIFICATION

**Documents that Serve to Prove Citizenship/Lawful Presence and Identification:**

- Colorado Driver’s License or Identification Card
- Out of State drivers license from: AL, AZ, AR, CA, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NV, NH, NJ, NY, ND, OH, OK, PA, RI, SC, SD, VA, WV, WY
- A United States Military Card or a Military Dependent’s Identification Card
- A United States Coast Guard or Merchant Mariner Card
- A Native American Tribal Document
- Certificate of Naturalization with Photograph
- Certificate of U.S. Citizenship with Photograph
- U.S. Passport (less than 5 years old)
- Northern Mariana Identification Card with Photograph

**OR**

**Documents that Only Serve to Prove Citizenship/Lawful Presence:**

- U.S. Birth Certificate
- Certification of Report of Birth from Department of State
- Report of Birth Abroad of a U.S. Citizen
- U.S. Citizen Identification Card
- Final Adoption Decree
- Evidence of U.S. Civil Service Employment before June 1, 1976
- Statement Provided by U.S. Consular Officer Certifying Citizenship
- Religious Records Recorded in the 50 states, D.C., or a U.S. Territory Showing Birth Date or Child’s Age and Location of Birth in U.S.
- Early School Records
- Census Records
- Other Documents that Establish a U.S. Place of Birth or in Some Way Indicates U.S. Citizenship

**AND**

**Documents that Serve to Prove Identification:**

- A Driver’s License or Identification Card Regardless of the State of Issuance
- School Identification Card with Photograph
- Identification Card Issued by Federal, State or Local Government
- A Driver’s License Issued by a Canadian Government Authority
EXHIBIT A
SCOPE OF SERVICES
2017 On-Call Geotechnical Services

Services and responsibilities may include, but not necessarily be limited to, the following:

**Subsurface exploration and geotechnical analysis.** Consultant shall have expertise and equipment as necessary to examine existing site conditions and prepare complete geotechnical recommendations and reports.

**Materials testing.** Consultant shall have ready access to a laboratory equipped to provide all material testing associated with general construction.

**Pavement design and analysis.** The City may request the Consultant to design full-depth asphalt, concrete, and composite pavement sections. Consultant shall evaluate existing pavements and recommend rehabilitative procedures.

**Retaining wall and foundation design recommendations.** Consultant shall collaborate with the City-retained structural engineer to evaluate and provide recommendations for retaining walls, building foundations, and other similar structures.

**Construction inspection.** Consultant shall provide qualified personnel to inspect general construction and paving projects.

**Rock excavation and stabilization.** Consultant shall provide recommendations for rock removal, which may include preparation of drilling and blasting specifications. Consultant shall evaluate rock stability and recommend various rock stabilization methods as necessary.

**Opinions of probable construction costs.** Consultant shall estimate and/or review geotechnical-related construction costs.

**Meeting attendance.** The City may request the Consultant to provide competent engineering and technician personnel at one-time or regular meetings during construction projects.

Consultant shall retain qualified in-house personnel, including licensed Professional Engineers and Geologists, to perform the above Scope of Work.
C. REIMBURSEMENT SCHEDULE
Construction Materials Services

### Personnel

- **Project Principal** ........................................... $120.00/hr
- **Project Engineer, P.E.** .................................... 95.00/hr
- **Project Manager** ........................................... 90.00/hr
- **Structural Steel Inspector** .................................. 79.00/hr
- **Senior Engineering Technician** .......................... 48.00/hr
- **Engineering Technician** .................................... 42.00/hr

Note: An overtime premium of 1.25 times the hourly rate will apply for services provided Monday through Friday that are in excess of 8 hours per day, as well as for services provided on nights, Saturday, Sunday and Terracon recognized Holidays. All charges are portal to portal. Minimum of 3 hours will be charged for each site visit with the exception of sample pick-ups.

### Laboratory Testing

**Laboratory Moisture-Density Relationships**
- **Standard Proctor** ........................................ 120.00/ea
- **Modified Proctor** ......................................... 130.00/ea
- **One Point Check** ........................................ 55.00/ea

**Soil Classifications**
- **Atterberg Limits** ......................................... 55.00/ea
- **Sieve Analysis (washed)** ................................. 55.00/ea
- **Swell Test** .................................................. 70.00/ea

**Moisture Content** ........................................ 10.00/ea
**Dry Density** .................................................. 10.00/ea
**Unconfined Compression** .................................. 75.00/ea
**Remolded Unconfined Compression** .................... 150.00/ea
**R-Value** ...................................................... 345.00/ea
**Soluble Sulfate** ........................................... 20.00/ea
**pH** .............................................................. 8.00/ea
**Resistivity** .................................................. 50.00/ea
**Corrosivity (includes soluble sulfate and pH)** ........ 55.00/ea
**Concrete Compressive Strength** ........................ 12.00/ea
**Gyratory Compaction** ..................................... 150.00/ea
**Asphalt Content/Gradation** ............................. 110.00/ea
**Maximum Theoretical Density** .......................... 110.00/ea
**Core Density/Thickness** ................................... 30.00/ea

**Vehicle Charge** ....................................... 0.575/mile
**Report Preparation & Review (except sample pick-ups)** ........................... 20.00/report

**Outside services** ..................................... At cost + 20%

**Other Services** ......................................... Upon Request
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Lockton Companies
444 W. 47th Street, Suite 900
Kansas City MO 64112-1906
(816) 960-9000

CONTACT NAME

PHONE

FAX

EMAIL

ADDRESS

INSURER(S) AFFORDING COVERAGE

INSDER A: Lexington Insurance Company
19437

INSURER B: Travelers Property Casualty Co of America
25674

INSURER C: The Travelers Indemnity Company
25658

CERTIFICATE NUMBER: 13843590

COVERAGES
TERC001

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

<table>
<thead>
<tr>
<th>INSURER LID</th>
<th>TYPE OF INSURANCE</th>
<th>ADDL/SUBSID (#)</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF</th>
<th>POLICY EXP</th>
<th>LIMITS</th>
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<td>B</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
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<td>TC2J-GLSA-11181293</td>
<td>1/1/2017</td>
<td>1/1/2018</td>
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<td>MED EXP (Any one person): $25,000</td>
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: PROJECT #25151178, 2016 ON-CALL GEOTECHNICAL ENGINEERING AND TESTING SERVICES. CITY OF BLACK HAWK ARE ADDITIONAL INSURED AS RESPECTS GENERAL LIABILITY, THIS COVERAGE IS PRIMARY AS REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

13843590

CITY OF BLACK HAWK
ATTN: CITY CLERK
P.O. BOX 68
BLACK HAWK CO 80422-0068

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this _____ day of ______________________, 2017, by and between the CITY OF BLACK HAWK, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and Baseline Engineering Corporation (hereinafter referred to as "Contractor").

RECITALS:

A. The City requires miscellaneous professional civil and structural engineering services (the "Project").

B. Contractor has held itself out to the City as having the requisite expertise and experience to perform the required work for the Project.

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City professional engineering services for the Project.

I. SCOPE OF SERVICES

Contractor shall complete the scope of services as described in Exhibit A attached hereto and incorporated herein by this reference. Contractor shall furnish all labor and materials to perform the work and services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project.

II. THE CITY’S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Contractor with reports and such other data as may be available to the City and reasonably required by Contractor to perform hereunder. No project information shall be disclosed by Contractor to third parties without the prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Contractor shall be returned to the City. Contractor is authorized by the City to retain copies of such data and materials at Contractor's expense.

III. OWNERSHIP OF WORK PRODUCT

The City acknowledges that Contractor's documents produced under this Agreement are instruments of professional services. Nevertheless, upon payment to Contractor pursuant to this Agreement, all work, data, drawings, designs, plans, reports, computer programs (non-proprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed for this Project are, and shall be, the sole and exclusive property of the City. However, any reuse of the documents by the City without prior written authorization by Contractor other than for the specific intended purpose of this Agreement will be at the City's sole risk. Contractor will provide the City with a ten (10) day written notice prior to disposal of Project documents it has retained, during which time the City may take physical possession of same at the storage site.
IV. COMPENSATION

A. Compensation shall not exceed Twenty thousand dollars ($20,000.00) for the work described in Exhibit A. Payment shall be made in accordance with the schedule of charges in Exhibit A. Invoices shall be itemized and include hourly breakdown for all personnel and other charges.

B. Contractor may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the work and services performed by Contractor under this Agreement except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Contractor’s verified payment request, shall be submitted by Contractor to the City no later than the twenty-fourth (24th) day of each month for payment pursuant to the terms of this Agreement. In the event Contractor fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Contractor defers its right to payment pursuant to said late invoice until the twenty-fourth (24th) day of the following month.

2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice as provided by this Agreement.

C. The City has the right to ask for clarification on any Contractor invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the legal rate of interest. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Contractor may, after giving seven (7) days written notice and without penalty or liability of any nature, suspend all work on all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days written notice, Contractor may terminate this Agreement. Upon receipt of payment in full for services rendered, Contractor will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Contractor’s certification that services required herein by Contractor have been fully completed in accordance with this Agreement and all data and reports for the Project.
V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. This Agreement shall be completed by December 31, 2017.

VI. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby represents that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

C. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or resolve any errors or deficiencies in its designs, drawings, specifications, reports, and other services which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for technical adequacy of the work. Neither the City's review, approval, nor acceptance of, nor payment for any of the services shall be construed to operate as a waiver of any rights under this Agreement, and Contractor shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VII. COMPLIANCE WITH LAW

A. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules, and regulations.

B. Illegal Aliens.

   1. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado
Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.

2. Prohibited Acts. Contractor shall not:
   a. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
   b. Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

3. Verification.
   a. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.
   b. Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
   c. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under the Agreement, Contractor shall:
      i. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under the Agreement; and
      ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under the Agreement; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under the Agreement.

4. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-
102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

5. If Contractor does not currently employ any employees, Contractor shall sign the No Employee Affidavit attached hereto.

6. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the Department Program Affidavit attached hereto.

VIII. INDEMNIFICATION

A. INDEMNIFICATION – GENERAL: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Contractor, to the fullest extent permitted by law, shall defend, indemnify and hold harmless the City, its Council members, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker’s compensation claims, in any way resulting from or arising from the services rendered by Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, under this Agreement; provided, however, that the Contractor need not indemnify or save harmless the City, its Council members, its officers, agents and employees from damages resulting from the negligence of the Council members, officials, officers, directors, agents and employees.

B. INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE: The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the City, its Council members, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorney fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Agreement. The Contractor is not obligated under this subparagraph VIII.B. to indemnify the City for the negligent acts of the City, its Council members, or any of its officials, officers, directors, agents and employees.

C. INDEMNIFICATION – COSTS: Contractor shall, to the fullest extent permitted by law, defend, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands at the sole expense of Contractor or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Contractor shall, to the fullest extent permitted by law, defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other
fault of the City, its Council members, officials, officers, directors, agents and employees, the City shall reimburse Contractor for the portion of the judgment attributable to such act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees.

IX. INSURANCE

A. The Contractor agrees to obtain and maintain during the life of this Contract, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Contractor pursuant to Section VIII above. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section VIII above, by reason of its failure to obtain and maintain during the life of this Contract insurance in sufficient amounts, durations, or types.

B. Contractor shall obtain and maintain during the life of this Contract, and shall cause any subcontractor to obtain and maintain during the life of this Contract, the minimum insurance coverages listed below. Such coverages shall be obtained and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by the Contractor pursuant to Section VIII above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. **Worker’s Compensation Insurance** to cover obligations imposed by applicable law for any employee engaged in the performance of the work under this Contract, and Employers Liability Insurance with minimum limits of six hundred thousand dollars ($600,000) each incident, one million dollars ($1,000,000) disease—policy limit, and one million dollars ($1,000,000) disease—each employee. Evidence of qualified self-insured status may be substituted for the worker’s compensation requirements under this paragraph.

2. **Commercial General Liability Insurance** with minimum combined single limits of six hundred thousand dollars ($600,000) each occurrence and one million dollars ($1,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual products, and completed operations. This policy shall contain a severability of interests provision.

3. **Professional Liability Insurance** with minimum limits of six hundred thousand dollars ($600,000) each claim and one million dollars ($1,000,000) general aggregate.
4. The policy required by Paragraph 2 above shall be endorsed to include the City and the City's officers, employees, and consultants as additional insureds. The policy required in Paragraphs 1 and 2 above shall be primary insurance, and any insurance carried by the City, its officers, its employees, or its Contractors shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to the policy required by Paragraph 1 above shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall be solely responsible for any deductible losses under any policy required above.

5. The certificate of insurance provided for the City shall be completed by Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least thirty (30) days prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: City Clerk

6. Failure on the part of Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

8. The parties hereto understand and agree that the City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently three hundred fifty thousand dollars ($350,000) per person and nine hundred ninety thousand dollars ($990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-114 et seq., 13 Colo. Rev. Stat., as from time to time amended, or otherwise available to the City, its officers, its employees, or agents.
X. NON-ASSIGNABILITY

Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

XI. TERMINATION

This Agreement shall terminate upon the City's providing Contractor with thirty (30) days advance written notice. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Contractor.

XII. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Gilpin, State of Colorado.

XIII. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is the employee of the City for any purpose.

XIV. NO WAIVER

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligations of this Agreement.
XV. NOTICE

Any notice or communication between Contractor and the City which may be required, or which may be given, under the terms of this Agreement, shall be in writing and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

The City:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: Matt Reed

The Contractor:

Baseline Engineering Corporation
1950 Ford Street
Golden, Colorado 80401
Attn: Noah Nemmers
XVI. ENTIRE AGREEMENT

This Agreement and the attached exhibits constitute the entire Agreement between Contractor and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified, or changed, except as specified herein.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF BLACK HAWK, COLORADO

By: David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

Baseline Engineering Corporation

By: Matthew Tyburski

Its: CFO

STATE OF COLORADO )
COUNTY OF Jefferson ) ss.

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 6th day of December, 2014, by Matthew Tyburski as the CFO of Baseline Engineering Corporation.

My commission expires: 02/07/2019

(SEAL)

TIFFANY R. LOVE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20074006522
MY COMMISSION EXPIRES FEBRUARY 7, 2019
PROSPECTIVE CONTRACTOR'S CERTIFICATE REGARDING EMPLOYING OR CONTRACTING WITH AN ILLEGAL ALIEN

FROM: Baseline Engineering Corporation
(Prospective Contractor)

TO: City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068

Project Name _______ 2017 On-Call Civil and Structural Engineering Services

Bid Number _______ N/A _______ Project No. _______ N/A _______

As a prospective Contractor for the above-identified bid, I (we) do hereby certify that, as of the date of this certification, I (we) do not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that I (we) will confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment.

Executed this _____ 6th ______ day of December ______, 2016.

Prospective Contractor: Baseline Engineering

By: [Signature]

Title: CEO
NO EMPLOYEE AFFIDAVIT

1. Check and complete one:

☐ I, __________________________, am a sole proprietor doing business as __________________________. I do not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the City, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

☐ I, __________________________, am an owner/member/shareholder of __________________________, a __________________________ [specify type of entity - i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the City, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

☐ I, __________________________, am a United States citizen or legal permanent resident.

The City must verify this statement by reviewing one of the following items:

- A valid Colorado Driver’s license or a Colorado identification card
- A United States military card or a military dependent’s identification card
- A United States Coast Guard Merchant Mariner card
- A Native American tribal document or
- In the case of a resident of another state, the driver’s license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card
- Any other documents or combination of documents listed in the City’s “Acceptable Documents for Lawful Presence Verification” chart that prove both the contractor’s citizenship/lawful presence and identity.

OR

☐ I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal systematic alien verification of entitlement program, the “SAVE” program, and provide such verification to the City.

__________________________________________
Signature

__________________________________________
Date
DEPARTMENT PROGRAM AFFIDAVIT

(To be completed if Contractor participates in the Department of Labor Lawful Presence Verification Program)

I, Baseline Engineering Corp., as a public contractor under contract with the City of Black Hawk (the "City"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Contract") with the City within twenty (20) days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Contract; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Contract.

[Signature]
Contractor Signature

[Date]
Date

STATE OF COLORADO

COUNTY OF Jefferson

The foregoing instrument was subscribed, sworn to and acknowledged before me this 16th day of December, 2016, by Matthew Tyburski, as CFO of Baseline Engineering Corporation.

My commission expires: 02/07/2019

[Seal]
Notary Public

TIFFANY R. LOVE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20074005522
MY COMMISSION EXPIRES FEBRUARY 7, 2019
ACCEPTABLE DOCUMENTS FOR
LAWFUL PRESENCE VERIFICATION

Documents that Serve to Prove Citizenship/Lawful Presence and Identification:

- Colorado Driver’s License or Identification Card
- Out of State drivers license from: AL, AZ, AR, CA, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NV, NH, NJ, NY, ND, OH, OK, PA, RI, SC, SD, VA, WV, WY
- A United States Military Card or a Military Dependent’s Identification Card
- A United States Coast Guard or Merchant Mariner Card
- A Native American Tribal Document
- Certificate of Naturalization with Photograph
- Certificate of U.S. Citizenship with Photograph
- U.S. Passport (less than 5 years old)
- Northern Mariana Identification Card with Photograph

OR

Documents that Only Serve to Prove Citizenship/Lawful Presence:

- U.S. Birth Certificate
- Certification of Report of Birth from Department of State
- Report of Birth Abroad of a U.S. Citizen
- U.S. Citizen Identification Card
- Final Adoption Decree
- Evidence of U.S. Civil Service Employment before June 1, 1976
- Statement Provided by U.S. Consular Officer Certifying Citizenship
- Religious Records Recorded in the 50 states, D.C., or a U.S. Territory Showing Birth Date or Child’s Age and Location of Birth in U.S.
- Early School Records
- Census Records
- Other Documents that Establish a U.S. Place of Birth or in Some Way Indicates U.S. Citizenship

AND

Documents that Serve to Prove Identification:

- A Driver’s License or Identification Card Regardless of the State of Issuance
- School Identification Card with Photograph
- Identification Card Issued by Federal, State or Local Government
- A Driver’s License Issued by a Canadian Government Authority
SCOPE OF SERVICES
2017 On-Call Civil and Structural Engineering Services

Services and responsibilities may include, but not necessarily be limited to, the following:

**Development review.** Consultant shall review and comment on proposed development plans and technical reports that are received by the City. Consultant shall ensure proposed developments conform to applicable engineering standards and specifications.

**General civil engineering design.** The City may request the Consultant to complete various civil engineering designs and prepare engineering plans and reports, including grading plans, utility plans and profiles, stormwater management plans, roadway plans, and related detail sheets.

**Drainage design.** The City may request the Consultant to perform various hydrologic and hydraulic calculations and prepare reports, plans, and specifications to design storm sewer systems, open channel conveyance systems, detention and water quality facilities, and other assorted drainage improvements.

**Drainage analysis.** The City may request the Consultant to analyze existing drainage systems to determine condition and capacity.

**Floodplain analysis.** Consultant shall be prepared and qualified to perform full-service floodplain analysis, including preparation of CLOMR and LOMR documents.

**General structural engineering design.** The City may request the Consultant to complete structural calculations and designs, including foundation construction and remediation, historic structure restoration, bridge repair, and retaining wall construction and repair.

**Structural analysis.** The City may request the Consultant to analyze existing structures to determine structural condition and stability.

**Opinions of probable construction costs.** Consultant shall prepare and/or review civil and structural construction costs.

**Meeting attendance.** The City may require the Consultant to provide competent civil and structural engineering personnel at one-time or regular meetings during construction projects.

Consultant shall retain qualified personnel, including licensed Professional Engineers, to perform the above Scope of Services.
### Baseline Rates for 2017

#### Engineering Services

<table>
<thead>
<tr>
<th>Team Member</th>
<th>Hourly Rates (except direct costs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal, PE</td>
<td>$135</td>
</tr>
<tr>
<td>Project Manager, PE</td>
<td>$125</td>
</tr>
<tr>
<td>Project Engineer, Civil, PE</td>
<td>$105</td>
</tr>
<tr>
<td>Project Engineer, Civil</td>
<td>$100</td>
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<tr>
<td>Staff Engineer</td>
<td>$80</td>
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<td>CAD Technician</td>
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#### Surveying Services

<table>
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<tr>
<th>Team Member</th>
<th>Hourly Rates (except direct costs)</th>
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</thead>
<tbody>
<tr>
<td>Chief Surveyor, PLS</td>
<td>$105</td>
</tr>
<tr>
<td>Land Surveyor, PLS</td>
<td>$95</td>
</tr>
<tr>
<td>Survey Crew (1 man)</td>
<td>$132</td>
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<tr>
<td>Survey Crew (2 man)</td>
<td>$154</td>
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</table>

#### Field Services

<table>
<thead>
<tr>
<th>Team Member</th>
<th>Hourly Rates (except direct costs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Field Inspector</td>
<td>$80</td>
</tr>
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</table>
# DIRECT COSTS

<table>
<thead>
<tr>
<th>ITEMS</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prints</td>
<td>0.40/sf (B/W)</td>
</tr>
<tr>
<td></td>
<td>6.25/sf (Color)</td>
</tr>
<tr>
<td>Mylar (does not include photo mylar)</td>
<td>2.50/sf</td>
</tr>
<tr>
<td>Photocopies</td>
<td>0.10-0.20 (B/W)</td>
</tr>
<tr>
<td></td>
<td>0.40-0.80 (Color)</td>
</tr>
<tr>
<td>Deliveries and Express Shipping</td>
<td>Cost + 10%</td>
</tr>
</tbody>
</table>
RESOLUTION 3-2017
A RESOLUTION APPROVING THE AGREEMENT FOR 2017-2018 HOLIDAY DECORATIONS WITH ALPINE ARTISAN STUDIOS IN THE AMOUNT NOT TO EXCEED $135,000.00
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 3-2017

TITLE: A RESOLUTION APPROVING THE AGREEMENT FOR 2017-2018 HOLIDAY DECORATIONS WITH ALPINE ARTISAN STUDIOS IN THE AMOUNT NOT TO EXCEED $135,000.00

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

Section 1. The City Council hereby approves the Agreement for the 2017-2018 holiday decoration manufacture, refurbishment, installation, and maintenance with Alpine Artisan Studios in the amount not to exceed $135,000.00.

RESOLVED AND PASSED this 11th day of January, 2017.

_______________________________
David D. Spellman, Mayor

ATTEST:

______________________________
Melissa A. Greiner, City Clerk
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Resolution 3-2017, a Resolution awarding the contract and authorizing the Mayor to execute the agreement for the removal of the Christmas Decorations installed for the 2016/2017 season as well as the manufacture, refurbishment, installation, and maintenance of the Decorations for the 2017/2018 season.

RECOMMENDATION: If City Council chooses to approve Resolution 3-2017, the recommended motion is as follows: "Approve Resolution 3-2017, a Resolution approving the agreement for 2017-2018 Holiday Decorations with Alpine Artisan Studios in the amount not to exceed $135,000.00."

SUMMARY AND BACKGROUND OF SUBJECT MATTER:
This contract is for the removal, inventory, condition report and storage of the Christmas décor that was installed for the 2016/2017 season. The décor will stay up until after the stock show is over on January 22, 2017. This portion of the work is $26,951.

Staff will begin to prepare program options for the 2017/2018 install based on feedback from City Council. Staff will bring forward the program once it is established.

FUNDING SOURCE: 010-1101-411-5827 Christmas Decorations

WORKSHOP DATE: January 11, 2017

ORIGINATED BY: Thomas Isbester/Gary Pauls

STAFF PERSON RESPONSIBLE: same

PROJECT COMPLETION DATE: March 1, 2017

DOCUMENTS ATTACHED: Agreement exhibit A

CITY ATTORNEY REVIEW: [ ]Yes [ ]No [ ]N/A INITIALS________

SUBMITTED BY: REVIEWED BY:

Thomas Isbester, Public Works Director Jack Lewis, City Manager
## 2017 Christmas Decorations

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016 season removal/rentals/</td>
<td>$26,451.00</td>
</tr>
<tr>
<td>2016 season inventory &amp; condition report</td>
<td>$500.00</td>
</tr>
<tr>
<td>2017 refurb</td>
<td>TBD</td>
</tr>
<tr>
<td>2017 product enhancements</td>
<td>TBD</td>
</tr>
<tr>
<td>2017 install/rentals</td>
<td>TBD</td>
</tr>
<tr>
<td>2017 maintenance</td>
<td>TBD</td>
</tr>
</tbody>
</table>

**Total: $135,000.00**
RESOLUTION 4-2017
A RESOLUTION
ESTABLISHING A
DESIGNATED PUBLIC
PLACE FOR THE POSTING
OF MEETING NOTICES AS
REQUIRED BY THE
COLORADO OPEN
MEETINGS LAW
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 4-2017

TITLE: A RESOLUTION ESTABLISHING A DESIGNATED PUBLIC PLACE FOR THE POSTING OF MEETING NOTICES AS REQUIRED BY THE COLORADO OPEN MEETINGS LAW

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

Section 1. Black Hawk City Hall shall constitute the public place for the posting of meeting notices as required by the Colorado Open Meetings Law. The City Clerk shall be responsible for posting the required notices no later than twenty-four (24) hours prior to the holding of the meeting. All meeting notices shall include specific agenda information, where possible.

RESOLVED AND PASSED this 11th day of January, 2017.

____________________________________
David D. Spellman, Mayor

ATTEST:

____________________________________
Melissa A. Greiner, City Clerk
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Request for Resolution establishing a designated public place for the posting of Meeting Notices as required by the Colorado Open Meeting Law

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

MOTION TO APPROVE Resolution 4-2017 Establishing a designated public place for the posting of Meeting Notices as required by the Colorado Open Meeting Law

SUMMARY AND BACKGROUND OF SUBJECT MATTER: As required by the Colorado Open Meeting Law

AGENDA DATE: January 11, 2017

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [X] Yes [ ] No

STAFF PERSON RESPONSIBLE: Melissa Greiner City Clerk/Administrative Services Director

DOCUMENTS ATTACHED: N/A

RECORD: [ ] Yes [ X ] No

CITY ATTORNEY REVIEW: [ ] Yes [ X ] N/A

SUBMITTED BY: REVIEWED BY:

Melissa A. Greiner, City Clerk/ Administrative Services Director Jack D. Lewis, City Manager
RESOLUTION 5-2017
A RESOLUTION
DESIGNATING THE CITY
OF BLACK HAWK FIRE
CHIEF AS THE CITY’S
DESIGNATED
EMERGENCY RESPONSE
AUTHORITY PURSUANT
TO C.R.S. § 29-22-102(3)(a)
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 5-2017

TITLE: A RESOLUTION DESIGNATING THE CITY OF BLACK HAWK FIRE CHIEF AS THE CITY’S DESIGNATED EMERGENCY RESPONSE AUTHORITY PURSUANT TO C.R.S. § 29-22-102(3)(a)

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

Section 1. The City Council designates the City of Black Hawk Fire Chief as the Designated Emergency Response Authority (DERA) for hazardous materials substance incidents occurring within the City of Black Hawk pursuant to C.R.S § 29-22-102(3)(a)

RESOLVED AND PASSED this 11th day of January, 2017.

_______________________________
David D. Spellman, Mayor

ATTEST:

______________________________
Melissa A. Greiner, City Clerk
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Designation of Fire Chief as the City of Black Hawk Designated Emergency Response Authority

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

MOTION TO APPROVE Resolution 5-2017, A Resolution Designating the City of Black Hawk Fire Chief as the City’s Designated Emergency Response Authority Pursuant to C.R.S. § 29-22-102(3)(a)

SUMMARY AND BACKGROUND OF SUBJECT MATTER: In accordance with C.R.S 29-22-102 (3)(a), the Board of Aldermen may designate a person to serve as the Designated Emergency Response Authority (DERA) for hazardous materials substance incidents occurring within the City of Black Hawk. The DERA becomes the point of contact for the Colorado State Patrol for all hazardous materials incidents within Black Hawk and responsible for claims for reimbursement for the costs of response and mitigation of hazardous substance incidents.

AGENDA DATE: January 11, 2017

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [X]Yes [ ]No

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

DOCUMENTS ATTACHED: No

RECORD: [ ]Yes [X]No

CITY ATTORNEY REVIEW: [X]Yes [ ]N/A

SUBMITTED BY: REVIEWED BY:

____________________________________ ____________________________
Don Taylor, Fire Chief/Emergency Manager Jack D. Lewis, City Manager
MARYLAND MOUNTAIN
PURCHASE AND SALE
AGREEMENTS
SUBJECT: Approve Resolutions 6-2017, 7-2017, 8-2017, and 9-2017, a group of Resolutions approving the Purchase and Sale agreements for several parcels on Maryland Mountain and authorization for the City Manager to execute said agreements and close on said properties.


SUMMARY AND BACKGROUND OF SUBJECT MATTER:
The City is in the process of acquiring eleven separate parcels on Maryland Mountain that are along or adjacent to the alignment of the Main Tramway line. This main line will be the base trail for the Maryland Mountain open space. The City has retained Western State Land Services, Inc. to make contact and provide third party negotiation services for these acquisitions. The City obtained appraisals for these parcels. Currently the City has received four executed purchase and sale agreements:

- Alma Lode $12,600
- Buckeye Lode $11,000
- Government Lot 65 $18,800
- Government Lot 72 $5,000

FUNDING SOURCE: 203-0000-502-71.02 Land/Land Purchase

WORKSHOP DATE: January 11, 2017

ORIGINATED BY: Thomas Isbester

STAFF PERSON RESPONSIBLE: Thomas Isbester

PROJECT COMPLETION DATE: N/A

DOCUMENTS ATTACHED: P & S Agreements

CITY ATTORNEY REVIEW: [ ]Yes [ ]No [ ]N/A INITIALS__________

SUBMITTED BY: Thomas Isbester, Public Works Director

REVIEWED BY: Jack Lewis, City Manager
RESOLUTION 6-2017
A RESOLUTION
APPROVING A PURCHASE
AND SALE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
ORACLE CARR FOR
GOVERNMENT LOT 72
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 6-2017

TITLE: A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND ORACLE CARR FOR GOVERNMENT LOT 72

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

Section 1. The City Council hereby approves the Purchase and Sale Agreement between the City of Black Hawk and Oracle Carr for Government Lot 72 in the amount of $5,000.00, and authorizes the Mayor and the City Manager to execute the necessary documents on behalf of the City.

RESOLVED AND PASSED this 11th day of January, 2017.

__________________________________________
David D. Spellman, Mayor

ATTEST:

__________________________________________
Melissa A. Greiner, City Clerk
CONTRACT TO BUY AND SELL REAL ESTATE

ORACLE CARR as his interest may apply, hereinafter called "Owner", whose address is P.O. Box 1698, Lyons, CO 80540, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to CITY OF BLACK HAWK, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See Exhibit A attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of FIVE THOUSAND AND NO/100'S DOLLARS ($5,000.00), subject to City Manager and Board of Aldermen approvals, payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. **TITLE TRANSFER AT CLOSING**
   (a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on January 24, 2017 (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictions, covenants and easements, and as set forth in paragraph # 8 hereunder.

2. **PRORATIONS**
   Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. **PROPERTY DAMAGE**
   Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. **PERFORMANCE**
   Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.
5. **LEGAL AUTHORITY OF OWNER**
Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**
Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**
The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**
The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**
If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.
In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)
WITNESS my hand and seal this 4th day of January, 2017.

OWNER: Oracle Carr

STATE OF COLORADO  
COUNTY OF Larimer  

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 4th day of January, 2017, by Oracle Carr.

WITNESS my hand and official seal:

My commission expires: 9-12-2019

CITY OF BLACK HAWK, COLORADO

BY: __________________________
    David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney
Government Lot 72
Section 6, Township 3 South, Range 72 West
County of Gilpin, State of Colorado
COUNCIL BILL 24
ORDINANCE 2016-24
AN ORDINANCE STATING
THE INTENT OF THE CITY
OF BLACK HAWK TO
ACQUIRE CERTAIN
PROPERTIES FOR OPEN
SPACE AND RECREATIONAL
PURPOSES WITHIN THE
MEANING OF C.R.S. § 38-6-
101, AND C.R.S. § 31-25-201
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB24
ORDINANCE NUMBER: 2016-24

TITLE: AN ORDINANCE STATING THE INTENT OF THE CITY OF BLACK HAWK TO ACQUIRE CERTAIN PROPERTIES FOR OPEN SPACE AND RECREATIONAL PURPOSES WITHIN THE MEANING OF C.R.S. § 38-6-101, AND C.R.S. § 31-25-201

WHEREAS, the City of Black Hawk, Colorado possesses the power of eminent domain pursuant to the provisions of Article XX, § 1 of the Colorado Constitution, and Article 8, Section 4 of the City of Black Hawk Home Rule Charter, C.R.S. § 38-1-101, et seq., C.R.S. § 38-6-101, et seq., and C.R.S. § 31-25-201; and

WHEREAS, the City of Black Hawk wishes to acquire the properties more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, which properties are hereinafter referred to as the “Subject Properties,” said Subject Properties to be acquired for open space and recreational purposes within the meaning of Article XX, § 1 of the Colorado Constitution, Article 8, Section 4 of the City of Black Hawk Home Rule Charter, C.R.S. § 38-6-101, and C.R.S. § 31-25-201.

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

Section 1. Notice is hereby given that the City of Black Hawk, Colorado, intends to acquire the Subject Properties.

Section 2. The acquisition of the Subject Properties, and each of them individually and collectively, serve the public purposes of providing open space and a further public recreational purpose of a recreational trail system, and is necessary and essential to the City's ability to provide such facilities for the City within the meaning of C.R.S. § 38-6-101, C.R.S. § 31-25-201, and C.R.S. § 31-25-201. Said purposes are specifically authorized as set forth above and pursuant to Article XX, § 1 of the Colorado Constitution, and Article 8, Section 4 of the City of Black Hawk Home Rule Charter.

Section 3. The City further finds and determines as follows:

A. The City of Black Hawk finds that consistent with its home rule eminent domain authority, that the purpose of providing open space and the recreational trail purpose for which the Subject Properties are sought constitutes a valid public purpose within the meaning of Article XX, § 1
of the Colorado Constitution, C.R.S. § 38-6-101, and C.R.S. § 31-25-201; and

B. That it is necessary and essential that the City acquire the Subject Properties for the public purposes set forth herein.

Section 4. The staff of the City is directed to comply with all requirements of applicable law in the conduct of the within authorized eminent domain action.

Section 5. In the prosecution of the within authorized eminent domain action, the City shall retain all rights and powers lawfully delegated to it by the Colorado Constitution, the City of Black Hawk Home Rule Charter, and C.R.S. § 38-1-101, et seq.

Section 6. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 7. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 8. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 28th day of September, 2016.

David D. Spellman, Mayor

Melissa A. Greiner, City Clerk
Government Lot 72

Section 6, Township 3 South, Range 72 West

Buckeye Tract

Section 7, Township 3 South, Range 72 West
CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Council Bill 24, an Ordinance Authorizing the necessary steps toward the acquisition of various properties on Maryland Mountain along the tramway grade alignment.

RECOMMENDATION:
If City Council chooses to approve Council Bill 24, an Ordinance stating the intent of the City of Black Hawk to acquire certain properties for open space and recreational purposes, the recommended motion is as follows: "Approve Council Bill 24, an Ordinance stating the intent of the City of Black Hawk to acquire certain properties for open space and recreational purposes within the meaning of C.R.S. § 38-6-101, and C.R.S. § 31-25-201".

SUMMARY AND BACKGROUND OF SUBJECT MATTER:
The City of Black Hawk proposes to acquire certain properties for open space and recreational purposes on Maryland Mountain. The properties are located along the old alignment for the tramway and will allow the trail to be established.

FUNDING SOURCE: Preservation 203-0000-502-7102 Land

WORKSHOP DATE: September 28, 2016

ORIGINATED BY: Tom Isbester

STAFF PERSON RESPONSIBLE: Jack Lewis/Corey Hoffmann

PROJECT COMPLETION DATE: N/A

DOCUMENTS ATTACHED: ordinance

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

SUBMITTED BY: Thomas Isbester, Public Works Director

REVIEWED BY: Jack D. Lewis, City Manager
COLORADO REVISED STATUTES
SECTION 38-1-121

§ 38-1-121. Appraisals - negotiations

(1) As soon as a condemning authority determines that it intends to acquire an interest in property, it shall give notice of such intent, together with a description of the property interest to be acquired, to anyone having an interest of record in the property involved. If the property has an estimated value of five thousand dollars or more, such notice shall advise that the condemning authority shall pay the reasonable costs of an appraisal pursuant to subsection (2) of this section. Such notice, however, need not be given to any of such persons who cannot be found by the condemning authority upon the exercise of due diligence. Upon receipt of such notice, such persons may employ an appraiser of their choosing to appraise the property interest to be acquired. Such appraisal shall be made using sound, fair, and recognized appraisal practices which are consistent with law. The value of the land or property actually taken shall be the fair market value thereof. Within ninety days of the date of such notice, such persons may submit to the condemning authority a copy of such appraisal. The condemning authority immediately upon receipt thereof shall submit to such persons copies of its appraisals. If the property interest is being acquired in relation to a federal aid project, then the appraisals submitted by the condemning authority shall be those which have been approved by it pursuant to applicable statutes and regulations, if such approval is required. All of these appraisals may be used by the parties to negotiate in good faith for the acquisition of the property interest, but neither the condemning authority nor such persons shall be bound by such appraisals.

(2) If an appraisal is submitted to the condemning authority in accordance with the provisions of subsection (1) of this section, the condemning authority shall pay the reasonable costs of such appraisal. If more than one person is interested in the property sought to be acquired and such persons cannot agree on an appraisal to be submitted under subsection (1) of this section, the condemning authority shall be relieved of any obligation herein imposed upon it to pay for such appraisals as may be submitted to it pursuant to this section.

(3) Nothing in this section shall be construed as in any way limiting the obligation of the condemning authority to negotiate in good faith for the acquisition of any property interest sought prior to instituting eminent domain proceedings or as in any way limiting the discovery rights of parties to eminent domain proceedings.

(4) Nothing in this section shall prevent the condemning authority from complying with federal and state requirements to qualify the authority for federal aid grants.

(5) Nothing in this section shall be construed to limit the right of the condemning agency to institute eminent domain proceedings or to obtain immediate possession of property as permitted by law; except that an eminent domain proceeding may not proceed to trial on the issue of valuation until the ninety-day period provided in subsection (1) of this section has expired or the owner's appraisal has been submitted to the condemning authority, whichever is sooner.

(6) If the parties involved in the negotiations fail to reach agreement on the fair market value of the property being acquired, the condemning authority, prior to proceeding to trial on the issue of valuation, shall furnish all owners of record a written final offer.
RESOLUTION 7-2017

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND ALLISON S. REAGAN FOR THE ALMA LODE
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 7-2017

TITLE:  A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND ALLISON S. REAGAN FOR THE ALMA LODE

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

Section 1. The City Council hereby approves the Purchase and Sale Agreement between the City and Allison S. Reagan for the Alma Lode in the amount of $12,600.00, and authorizes the Mayor and the City Manager to execute the necessary documents on behalf of the City.

RESOLVED AND PASSED this 11th day of January, 2017.

_______________________________
David D. Spellman, Mayor

ATTEST:

_______________________________
Melissa A. Greiner, City Clerk
CONTRACT TO BUY AND SELL REAL ESTATE

ALLISON S. REAGAN as there interest may apply, hereinafter called "Owner", whose address is 17360 Beach Dr. NE, Lake Forest Park, WA 98155, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to CITY OF BLACK HAWK, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to wit:

See Exhibit A attached hereto,
and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of TWELVE THOUSAND SIX HUNDRED AND NO/100'S DOLLARS ($12,600.00), payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING
   (a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on January 9, 2017 (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder.

2. PRORATIONS
   Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE
   Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE
   Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.
5. **LEGAL AUTHORITY OF OWNER**

Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**

The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**

The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**

If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.
In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**
    The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**
    This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**
    When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**
    Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)
WITNESS my hand and seal this 6th day of December 2016.

OWNER:  Allison S. Reagan

STATE OF COLORADO  )
COUNTY OF King    ) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 6th day of December, 2016, by Allison S. Reagan.

WITNESS my hand and official seal:

My commission expires: 6/24/119

Notary Public

CITY OF BLACK HAWK, COLORADO

BY: ____________________________
    David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney
EXHIBIT A

The Alma Lode, City Title, described as follows:

All that portion of the Alma Lode within the Townsite of the City of Black Hawk, said lode being described as follows: Beginning as the S.E. corner whence Cor. No. 8 survey No. Mountain Lode and Mill Site bears S. 52 degrees W., 358 feet; thence S. 62 degrees 30' W., 1165 feet; thence S. 51 degrees W., 335 feet; thence N. 33 degrees 15' W., 150.75 feet; then N. 51 degrees E., 335 feet; thence N. 62 degrees 30' E., 1165 feet; thence S. 33 degrees 15' E., 150.75 feet to the S.E. Corner, the Place of Beginning,

Exclusive of its conflict with Survey No. 95 Mountain Lode and Mill Site, Sur. No. 903, Peru Lode, the 94 Lode and Mill Site No. 4,

City of Black Hawk,

And except any mine of Gold, Silver, Cinnabar or Copper or to any valid mining claim or possession held under existing laws, as shown in Patent to the City of Black Hawk, recorded in Book 56 at Page 555 and in Book 62 at Page 456,

County of Gilpin, State of Colorado.
RESOLUTION 8-2017

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND SILVER AGE EXPLORATION, LLC FOR GOVERNMENT LOT 65
STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 8-2017

TITLE: A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND SILVER AGE EXPLORATION, LLC FOR GOVERNMENT LOT 65

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

Section 1. The City Council hereby approves the Purchase and Sale Agreement between the City and Silver Age Exploration, LLC for Government Lot 65 in the amount of $18,850.00, and authorizes the Mayor and the City Manager to execute the necessary documents on behalf of the City.

RESOLVED AND PASSED this 11th day of January, 2017.

__________________________________________
David D. Spellman, Mayor

ATTEST:

__________________________________________
Melissa A. Greiner, City Clerk
CONTRACT TO BUY AND SELL REAL ESTATE

SILVER AGE EXPLORATION, LLC as their interest may apply, hereinafter called "Owner", whose address is 1150 Golden Circle #511, Golden, Colorado 80401, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to CITY OF BLACK HAWK, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See Exhibit A attached hereto,
and by this reference made a part hereof,


together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of EIGHTEEN THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS ($18,800.00), payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. **TITLE TRANSFER AT CLOSING**
   (a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on January 9, 2017 (or by mutual agreement, at an earlier date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder.

2. **PRORATIONS**
   Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. **PROPERTY DAMAGE**
   Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. **PERFORMANCE**
   Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.
5. **LEGAL AUTHORITY OF OWNER**
Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**
Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**
The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**
The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**
If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.
In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**
   The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**
   This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**
   When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**
   Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)
WITNESS my hand and seal this 14th day of December, 2016.

OWNER: Silver Age Exploration, LLC

STATE OF COLORADO )
COUNTY OF Jefferson ) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 14th day of December, 2016, by Silver Age Exploration, LLC.

WITNESS my hand and official seal:

My commission expires: 9/12/2019

RAMONA IMANI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20114052715
MY COMMISSION EXPIRES 09/12/2019

Notary Public

CITY OF BLACK HAWK, COLORADO

BY: David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney
Dec. 16, 2016

RE: Requested paperwork for Lot 65

Nancy,

Please note the changes in the amount on the contract to buy and sell real estate form (page 4). It is my understanding per our conversation, that as soon as you received this paperwork you would issue the check. The contract mentions there would be a closing on Jan. 9th 2017, we have changed that to say (or by mutual agreement at an earlier date) I hope this is acceptable. Please notify me by email that you received everything you needed.

Thank you for your help in this matter.

Wallie Robinson
RESOLUTION 9-2017

A RESOLUTION
APPROVING A PURCHASE
AND SALE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
STEVEN A. WORKMAN
AND CHERYL D.
WORKMAN FOR THE
BUCKEYE LODE
STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK  

Resolution No. 9-2017  

TITLE: A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND STEVEN A. WORKMAN AND CHERYL D. WORKMAN FOR THE BUCKEYE LODE  

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

Section 1. The City Council hereby approves the Purchase and Sale Agreement between the City and Steven A. Workman and Cheryl D. Workman for the Buckeye Lode in the amount of $11,000.00, and authorizes the Mayor and the City Manager to execute the necessary documents on behalf of the City.  

RESOLVED AND PASSED this 11th day of January, 2017.  

______________________________________________  
David D. Spellman, Mayor  

ATTEST:  

______________________________________________  
Melissa A. Greiner, City Clerk
CONTRACT TO BUY AND SELL REAL ESTATE

STEVEN A. & CHERYL D. WORKMAN as their interest may apply, hereinafter called "Owner", whose address is 16941 Vanover Circle, Eagle River, AK 99577, in consideration, noted below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, agrees to sell to CITY OF BLACK HAWK, a municipal corporation, P. O. Box 68, Black Hawk, Colorado, 80422, hereinafter called "City", and City agrees to purchase, the following described real estate interests, hereinafter referred to as "Property", situate in the County of Gilpin, State of Colorado, to-wit:

See Exhibit A attached hereto,

and by this reference made a part hereof,

together with all improvements thereon and appurtenances thereto currently on the Property, in their present condition, ordinary wear and tear excepted, for the purchase price of ELEVEN THOUSAND AND NO/100'S DOLLARS ($11,000.00), payable by cash or certified funds, delivered to Owner at closing and upon delivery of deed as set forth in Paragraph 1 below, at the time and place of closing to be mutually agreed to by the parties hereto, less any amounts to be withheld in accordance with this contract, and further subject to all terms and conditions hereof as follows:

1. TITLE TRANSFER AT CLOSING
   (a) Owner shall execute and deliver to City a Warranty Deed for and possession of the Property at the closing to be held on January 9, 2017 (or by mutual agreement, at a later date), conveying, said Property described on Exhibit A, free and clear of all taxes, except the general taxes for the year of closing, and free and clear of all liens for special improvements installed as of the date of closing, whether assessed or not, free and clear of all liens, encumbrances, tenancies, leases, restrictive covenants and easements, and as set forth in paragraph # 8 hereunder.

2. PRORATIONS
   Owner shall pay all personal property taxes on fee interests to be conveyed to City due for the year of closing and all preceding years. General property taxes for the year of closing shall be apportioned between the parties to the date of delivery of deed; however, Owner shall be responsible for taxes, interest and penalties for the preceding years. Prepaid rents, water rents, and sewer rents, if any, shall be apportioned to date of delivery of deed.

3. PROPERTY DAMAGE
   Loss or damage to the Property from any cause, including, but not limited to, fire, vandalism, or acts of God, from the date of this contract until the conveyance of said Property from Owner to City, shall be at the risk of Owner. If, prior to closing, said Property is destroyed or damaged in whole or in part, this contract may be canceled at the option of City. City, at its option shall have the right to proceed with specific performance of this contract despite such damage, provided that City shall be entitled to all the credit for insurance proceeds resulting from such damage, not exceeding, however, the total purchase price. Owner shall maintain casualty insurance coverage on any improvements located on the Property from the date of this contract to the date of closing.

4. PERFORMANCE
   Time is of the essence hereof, and all terms, conditions and covenants shall be tendered or performed as specified herein.
5. **LEGAL AUTHORITY OF OWNER**
Owner represents and covenants to City that they comprise all of the parties who have a fee interest in said Property described in the attached exhibits, and that they have full and lawful authority to enter into this contract.

6. **REPRESENTATIONS AND WARRANTIES**
Owner represents and warrants to City: (a) Owner has no actual knowledge and has received no written notice of violation of any federal, state, or local laws, statutes, ordinances, codes, orders, regulations or other requirements of governmental entities having jurisdiction over and affecting the Property, and further that it will notify City if it obtains actual knowledge of or receives written notice of any such violation prior to Closing; (b) Owner has no actual knowledge of any pending lawsuits, legal proceedings or governmental investigations or proceedings involving the Property other than the potential or threat of a condemnation proceeding filed by the City against Owner; and (c) Owner has no actual knowledge of any environmental contamination.

7. **SURVIVAL OF REPRESENTATIONS AND COVENANTS**
The parties hereto agree that, except for such of the terms, conditions, covenants and agreements hereof which are, by their very nature, fully and completely performed upon the closing of the purchase-sale transaction herein provided for, all of the terms, conditions, representations, warranties, covenants and agreements herein set forth and contained shall survive the closing of any purchase-sale transaction herein provided for, and shall continue after said closing to be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

8. **TITLE**
The City shall obtain and pay for a commitment for title insurance policy to be issued by a title insurance company selected by the City. In the event the commitment for title insurance shows that Owner does not have good and merchantable fee simple title to said Property or is not the sole owner of said Property, or shows outstanding liens against or encumbrances upon the Property, or in the event said commitment or other investigation shows rights of parties in possession other than those listed as Owner, the Owner, at its cost, shall obtain a release and/or conveyance to the City of any rights or interests identified in title commitment or by other investigation. City shall deliver a copy of the title commitment to Owner within 10 days of approval of the Contract together with a notice of City's objection to title and requirements to cure such title defects.

9. **DEFAULT**
If the Owner is unable or unwilling to convey good and merchantable title to the City, in accordance with the provisions of this Contract, or Owner otherwise is in default of the Contract, the City may, at its option, (a) extend the closing up to a maximum of 90 days to allow the Owner to clear the title to and deliver a general warranty deed and attached easement documents for the Property as provided herein, (b) terminate this contract and proceed to acquire the Property by condemnation, provided, however, the City may use this executed contract in said condemnation action to establish the fair market value of the Property being acquired; (c) proceed with this contract and waive any defects in title which the City, in its sole discretion, determines can be waived; (d) any combination of (a), (b), and (c) above; or (e) bring an action against Owner for specific performance or damages, or both and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.
In the event City should default in its obligation to acquire the Property in accordance with this Contract, Owner shall have the right to bring action against City for specific performance and the prevailing party shall be entitled to costs and reasonable attorney's fees against the non-prevailing party for its failure to perform hereunder.

10. **RELEASE**

The City and Owner, on behalf of themselves as well as their successors, assigns, representatives and heirs hereby release and discharge each other and all of each other's agents, employees, representatives, attorneys, successors and assigns, fully and finally, from and against any and all rights, demands, claims, disputes, actions, liabilities, set-offs, causes of action, suits, debts, sums of money, accounts, controversies, trespasses, damages, attorney's fees, costs and expert witness fees, whether claimed or unclaimed, contingent or unforeseen, including but not limited to injuries or damages of any kind or nature or which may thereafter in any way grow out of or be connected with the City's acquisition of property rights, other than claims to enforce this Agreement.

11. **COMPLETE AGREEMENT**

This contract is an integration and expresses the entire agreement between all the parties, and the parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees, hereto.

12. **VALID CONTRACT**

When duly executed by all the parties, this agreement shall be specifically enforceable by any court of competent jurisdiction. If this agreement is executed by all parties hereto this instrument shall become a contract between said parties and shall be binding upon and shall inure to the benefit of the parties, their heirs, successors and assigns.

13. **BINDING EFFECT**

Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders. All of the covenants herein contained shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns.

(Balance of page left intentionally blank)
WITNESS my hand and seal this 9th day of December, 2016.

OWNER: Steven A. Workman  
[Signature]

OWNER: Cheryl D. Workman  
[Signature]

STATE OF Arizona )
COUNTY OF Pinal ) ss.

The above and foregoing Contract to Buy and Sell Real Estate was acknowledged before me this 9th day of December, 2016, by Steven A. Workman and Cheryl D. Workman.

WITNESS my hand and official seal:

My commission expires: 03/31/2020  
[Seal]

Mikayla Ann Strader  
Notary Public  
Pinal County, Arizona  
My Comm. Expires 03-31-2020

CITY OF BLACK HAWK, COLORADO

BY: David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

Approved as to form:

Corey Hoffmann, City Attorney
EXHIBIT A

The Buckeye Tract,
Section 7, Township 3 South, Range 72 West