



**REVISED**

## **REGULAR MEETING AGENDA**

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

**May 23, 2018**

**Work Session**

**2:00 p.m.**

**Budget and Personnel for 2019 and Beyond**

**Regular Meeting**

**Immediately Following Work Session**

**RINGING OF THE BELL:**

1. CALL TO ORDER:
2. ROLL CALL & PLEDGE OF ALLEGIANCE:
3. AGENDA CHANGES:
4. CONFLICTS OF INTEREST: (Council disclosures are on file w/City Clerk & Sec. of State)
5. PUBLIC COMMENT: *Please limit comments to 5 minutes*
6. APPROVAL OF MINUTES: May 9, 2018
7. PUBLIC HEARINGS:
  - A. CB9, An Ordinance Amending the Black Hawk Municipal Code by the Addition Thereto of a New Section 17-30 Adopting the City of Black Hawk Roadway Standards
  - B. CB10, An Ordinance Amending Section 16-24, 16-70, 16-76 and Section 16-263 of the Black Hawk Municipal Code to Address Short Term Rental Properties
8. ACTION ITEMS:
  - A. Resolution 38-2018, A Resolution Approving a Lease Agreement with Gary Gambino for the Lease of Ten (10) Inches of Church Ditch Water for a Period of Ten (10) Years
  - B. Resolution 39-2018, A Resolution Approving Change Order No. 2 in the Amount of \$176,125.00 for the City Hall Façade Restoration
9. CITY MANAGER REPORTS:
10. CITY ATTORNEY:
11. EXECUTIVE SESSION:
12. ADJOURNMENT:

### **MISSION STATEMENT**

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



**City of Black Hawk  
City Council**

**May 9, 2018**

**MEETING MINUTES**

Acting Fire Chief Mark Schaller rang the bell to open the meeting.

1. CALL TO ORDER: The regular meeting of the City Council was called to order, immediately following a Work Session, on Wednesday, May 9, 2018, 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, Acting Fire Chief Schaller, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, Senior Civil Engineer Ford, and Community Planning and Development Administrator Linker.

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

3. AGENDA CHANGES: City Clerk Greiner confirmed the addition of Item 8D, Resolution 37-2018, A Resolution Approving Change Order No. 1 in the amount of \$176,600.00 for the City Hall Façade Restoration.

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. No conflicts were 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 COMMENT: City Clerk Greiner confirmed that no one had signed up to speak.

6. APPROVAL OF MINUTES: April 25, 2018

**MOTION TO APPROVE** Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve the Minutes as presented.

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

7. PUBLIC HEARINGS:

**A. CB8, An Ordinance Approving a Lease Agreement Between the City of Black Hawk and the City of Northglenn**

Mayor Spellman read the title and opened the public hearing.

Senior Civil Engineer Ford explained some of the water trading that occurs with water rights and the new augmentation station. He confirmed that Water Attorneys for both parties are satisfied with the agreement and consider it a fair trade.

**PUBLIC HEARING:** Mayor Spellman declared a Public Hearing on CB8, an Ordinance approving a Lease Agreement between the City of Black Hawk and the City of Northglenn 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 CB8, an Ordinance approving a Lease Agreement between the City of Black Hawk and the City of Northglenn.

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

8. ACTION ITEMS:

**A. Resolution 34-2018, A Resolution Approving the City of Black Hawk Fee Schedule, as Amended**

Mayor Spellman read the title.

Community Planning and Development Administrator introduced this item and said the State Electrical Board last updated their fees on April 16, so this resolution updates our Fee Schedule to reflect those. She also explained additional Land Use and Building fee language changes due to some confusion from the business community.

**MOTION TO APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 34-2018, a Resolution approving the City of Black Hawk Fee Schedule, as amended.

**MOTION PASSED**

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

**B. Resolution 35-2018, A Resolution Amending Resolution 5-2018, Establishing a Designated Public Place for the Posting of Meeting Notices as Required by the Colorado Open Meetings Law**

Mayor Spellman read the title.

City Clerk Greiner explained the City Hall Façade Restoration Project has necessitated the removal of the official posting board from the exterior of City Hall and that this resolution would allow the Post Office to constitute the public place for the posting of meeting notices temporarily during this project.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 35-2018, a Resolution amending Resolution 5-2018, establishing a designated public place for the posting of Meeting Notices as required by the Colorado Open Meetings Law.

**MOTION PASSED**

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

**C. Resolution 36-2018, A Resolution Approving the City of Black Hawk Purchasing Policy, as Revised**

Mayor Spellman read the title.

Finance Director Hillis explained the revision to the Purchasing Policy reflecting a single change of \$20,000 from \$10,000 in regards to competitive bidding purchase amounts.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 36-2018, a Resolution approving the City of Black Hawk Purchasing Policy, as revised.

**MOTION PASSED**

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

**D. Resolution 37-2018, A Resolution Approving Change Order No. 1 in the Amount of \$176,6000.00 for the City Hall Façade Restoration**

Mayor Spellman read the title.

Public Works Director Isbester explained that as the contractor started working on the mortar between the joints, they then realized there is nothing structural supporting the stone, it is basically just sand. Also, he said once the chimney started to receive its repair, it was determined that it will need to be rebuilt in its entirety, the question is to whether reconstruct in brick or stone. Council agreed to use brick.

**MOTION TO APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 37-2018, a Resolution approving Change Order No. 1 in the amount of \$176,600.00 for the City Hall Façade Restoration.

**MOTION PASSED**

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

9. CITY MANAGER REPORTS:

City Manager Lewis had nothing to report.

10. CITY ATTORNEY:

City Attorney Hoffmann had nothing to report.

11. EXECUTIVE SESSION:

City Attorney Hoffmann stated there would be no Executive Session.

12. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 3:11 p.m.

---

Melissa A. Greiner, CMC  
City Clerk

---

David D. Spellman  
Mayor

**COUNCIL BILL 9  
ORDINANCE 2018-9  
AN ORDINANCE  
AMENDING THE BLACK  
HAWK MUNICIPAL CODE  
BY THE ADDITION  
THERE TO OF A NEW  
SECTION 17-30 ADOPTING  
THE CITY OF BLACK  
HAWK ROADWAY  
STANDARDS**

STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB9

ORDINANCE NUMBER: 2018-9

**TITLE: AN ORDINANCE AMENDING THE BLACK HAWK MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW SECTION 17-30 ADOPTING THE CITY OF BLACK HAWK ROADWAY STANDARDS**

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

Section 1. The Black Hawk Municipal Code is amended by the addition thereto of a new Section 17-30 entitled Roadway Standards, to read as follows:

**Sec. 17-30. Roadway Standards.**

The City of Black Hawk hereby adopts the "City of Black Hawk Roadway Standards" attached to this Ordinance as Appendix A. The City Clerk shall maintain a copy of the "City of Black Hawk Roadway Standards" at all times, and make the same available for public inspection upon request.

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.

READ, PASSED AND ORDERED POSTED this 23<sup>rd</sup> day of May, 2018.

---

David D. Spellman, Mayor

ATTEST:

---

Melissa A. Greiner, CMC, City Clerk



**CITY OF BLACK HAWK**  
**REQUEST FOR COUNCIL ACTION**

---

**SUBJECT:**

An Ordinance amending the Black Hawk municipal code by the addition thereto of a new section 17-30 adopting the City of Black Hawk Roadway Standards.

**RECOMMENDATION:**

Motion to Approve CB9, An Ordinance amending the Black Hawk Municipal Code by the addition thereto of a new section 17-30 adopting the City of Black Hawk Roadway Standards.

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

Section 17-30 Roadway Standards

The City has no formal minimal roadway standards to assist in the design and development of properties within the City. The new standards provide minimum general guidelines for collector and local roadways.

**FUNDING SOURCE:**

N/A

**WORKSHOP DATE:**

May 23, 2018

**ORIGINATED BY:**

Thomas Isbester

**STAFF PERSON RESPONSIBLE:**

Thomas Isbester

**PROJECT COMPLETION DATE:**

N/A

**DOCUMENTS ATTACHED:**

Roadway Standards

**CITY ATTORNEY REVIEW:** [  ]Yes [  ]No [  ]N/A INITIALS \_\_\_\_\_

**SUBMITTED BY:**

\_\_\_\_\_  
Thomas Isbester, Public Works Director

**REVIEWED BY:**

\_\_\_\_\_  
Jack D. Lewis, City Manager



## Appendix A



# CITY OF BLACK HAWK ROADWAY STANDARDS

These standards shall apply to all proposed roadways. Existing roadways shall, upon redevelopment or the issuance of a building permit for new construction, be improved to meet these standards..

The City of Black Hawk has three types of roadway classifications:

Arterials provide a means of intra-county travel. They allow for higher traffic speeds with relatively few intersections. Example: Colorado State Highway 119.

Collectors provide a link between local roads and arterials, and provide access through neighborhoods. Examples: Main Street, Gregory Street.

Local Access Roads provide access to individual properties. Examples: Chase Street, High Street.

All proposed Local Access Roads and Collectors shall meet the following design criteria:

**Minimum Right-of-Way:** 34 feet. This will allow for two 12-foot travel lanes between flowlines and 5 feet on each side for sidewalks, utilities, and landscaping.

**Sight triangles and stopping sight distances** shall be provided per the current edition of AASHTO's A Policy on Geometric Design of Highways and Streets.

**Dead-end roads** in excess of 150 feet shall be designed with geometry to turn around emergency vehicles in accordance with the current edition of the International Fire Code, Appendix D. The total length of a dead-end road shall not be greater than 500 feet without sufficient water supply for fire protection.

**Roadway surface** shall be asphalt, concrete or other approved durable surface capable of supporting the imposed loads of the City's heaviest fire apparatus.

**Grades:** Roadway slope shall not exceed 10%.

**Cross-Slope:** Roadways shall be crowned with a 2% cross-slope.

**Drainage:** All proposed storm sewer shall be designed to accommodate the 10-year rainfall event. Runoff shall be confined to the public right-of-way during the 100-year storm.

**COUNCIL BILL 10  
ORDINANCE 2018-10  
AN ORDINANCE  
AMENDING SECTIONS  
16-24, 16-70, 16-76 AND  
SECTION 16-263 OF THE  
BLACK HAWK  
MUNICIPAL CODE TO  
ADDRESS SHORT TERM  
RENTAL PROPERTIES**

STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB10

ORDINANCE NUMBER: 2018-10

**TITLE: AN ORDINANCE AMENDING SECTIONS 16-24, 16-70, 16-76 AND SECTION 16-263 OF THE BLACK HAWK MUNICIPAL CODE TO ADDRESS SHORT TERM RENTAL PROPERTIES**

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

Section 1. Section 16-24 of the Black Hawk Municipal Code is amended by the addition thereto of the following definition:

*Short term rental* means a dwelling occupied by a paying guest on a temporary or transient basis, not exceeding thirty (30) days, where kitchen and other food preparation facilities may be provided, and which may or may not be owner occupied. A vacation rental does not include owner-occupied bed-and-breakfast establishments, but does include cabins and similar structures designed and intended to be occupied by the traveling public for less than thirty (30) consecutive days.

Section 2. Section 16-64, subsection (b)(4) of the Black Hawk Municipal Code is amended to read as follows:

(b) Permitted accessory uses.

\* \* \*

(4) Bed and breakfasts and short term rentals.

Section 3. Section 16-70, subsection (b)(5) of the Black Hawk Municipal Code is amended to read as follows:

(b) Permitted accessory uses.

\* \* \*

(5) Bed and breakfasts and short term rentals.

Section 4. Section 16-76, subsection (b)(4) of the Black Hawk Municipal Code is amended to read as follows:

(b) Permitted accessory uses.

\* \* \*

(4) Bed and breakfasts and short term rentals.

Section 5. Section 16-263 of the Black Hawk Municipal Code is amended to read as follows:

**Sec. 16-263. Number of parking spaces required.**

(a) All uses shall, at a minimum, provide the number of off-street parking spaces listed below. Buildings with more than one (1) use shall provide parking required for each use.

<u>Use</u>	<u>Number of Spaces Required</u>
Studio or 1 bedroom:	1.5/dwelling unit
2 or more bedrooms:	2/dwelling units
In addition, multi-family dwellings:	1/guest space per 5 dwelling units
Hotels and motels:	1.12/room, suite/individual exit
Bed and breakfasts and short term rentals:	1/guest room in addition to those required for related residential use
Schools, academies, colleges, trade or business schools:	1/instructor and/or administrative personnel and 0.5/student
Health & athletic clubs, aerobics, recreational, amusement & entertainment facilities:	1/125 sf.
Theaters & public assembly, places of worship, social clubs, funeral home & crematoriums:	1/space per 3 seats provided within the facility
General office:	1/250 sf. (minimum 3/business)
Medical office, clinic:	1/135 sf.
Hospitals:	1/2 beds & 1/resident doctor & 1/2 employees (full or part-time) per shift
Dining & drinking establishments:	1/75 sf.
if dancing and/or entertainment is provided:	1/50 sf.
Outdoor dining & drinking areas:	1/75 sf. x (outdoor dining area) (gross indoor area)
Gaming establishments:	1/75 sf. of gaming area with seating, 1/50 sf. of gaming area or 1 per gaming device for areas without seating, whichever is more, in addition to those spaces required for other uses as provided in this Chapter.
General commercial and retail sales:	1/300 sf.
Manufacturing & industrial uses, contractors' yards, business services, printing, fabrication plants:	1/500 sf.
Furniture store, warehousing & storage facilities:	1/500 sf. for first 10,000 sf. and 1/5,000 sf. for remaining area
Mini-storage facilities	1/5,000 sf.

Note: In Industrial Zone Districts, the applicant may demonstrate to the Board of Aldermen that the required number is too high, in which case, if approved by the Board of Aldermen, the applicant may develop the approved number of spaces but shall provide additional area for expanded parking, and such area shall be landscaped with ground cover.

Section 6. 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 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 23<sup>rd</sup> day of May, 2018.

---

David D. Spellman, Mayor

ATTEST:

---

Melissa A. Greiner, CMC, 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 Amending Chapter 16 of the Black Hawk Municipal Code to Regulate Vacation Rentals, 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, May 23, 2018 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, CMC  
City Clerk

**CITY OF BLACK HAWK**  
**REQUEST FOR COUNCIL ACTION**

---

**SUBJECT:** To consider an Ordinance amending Sections 16-24, 16-70, 16-76 and Section 16-263 of the Black Hawk Municipal Code to address short term rental properties.

**RECOMMENDATION:**

**MOTION TO APPROVE** CB-10, Ordinance Number 2018-10, amending Sections 16-24, 16-70, 16-76 and Section 16-263 of the Black Hawk Municipal Code to address short term rental properties.

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

Over the past several months, the City has received a number of inquiries from property owners interested in utilizing their property as a Short Term Vacation Rental.

The City of Black Hawk recognizes that there are benefits to allowing owners of residential units within the City to rent their dwelling units for periods of time not exceeding (30) days. Short term rental of dwelling units bring additional visitors to the City, can allow owners to recoup housing costs, and provide revenues for the City through additional permit and tax collections. The provision of short term rental offers additional diversification to a resort destination and a traveler's accommodations market. However, due to the potential for adverse impacts, short term rentals must be regulated by the City to protect the health, safety, and welfare of owners, neighbors, and visitors.

The Ordinance before City Council today is an interim solution to regulating short term rental properties. If approved, the City Attorney and City staff will begin work preparing a separate, subsequent Ordinance for Council consideration that develops a full permitting and enforcement program. The intent of the proposed regulations will address the City's objectives that endorse and regulate short-term rentals while limiting unwanted effects on Black Hawk's residential neighborhoods.

<b><u>AGENDA DATE:</u></b>	May 23, 2018
<b><u>WORKSHOP DATE:</u></b>	N/A
<b><u>FUNDING SOURCE:</u></b>	N/A
<b><u>DEPARTMENT DIRECTOR APPROVAL:</u></b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b><u>STAFF PERSON RESPONSIBLE:</u></b>	Cynthia L. Linker CP&D Administrator
<b><u>DOCUMENTS ATTACHED:</u></b>	Council Bill-10 Ordinance 2018-10

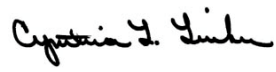
**RECORD:**

Yes       No

**CITY ATTORNEY REVIEW:**

Yes       N/A

**SUBMITTED BY:**



5/17/18

---

Cynthia L. Linker, CP&D

**REVIEWED BY:**



---

Jack D. Lewis, City Manager



**RESOLUTION 38-2018**  
**A RESOLUTION**  
**APPROVING A LEASE**  
**AGREEMENT WITH**  
**GARY GAMBINO FOR**  
**THE LEASE OF TEN (10)**  
**INCHES OF CHURCH**  
**DITCH WATER FOR A**  
**PERIOD OF TEN (10)**  
**YEARS**

STATE OF COLORADO  
COUNTY OF GILPIN  
CITY OF BLACK HAWK

Resolution No. 38-2018

**TITLE: A RESOLUTION APPROVING A LEASE AGREEMENT WITH GARY GAMBINO FOR THE LEASE OF TEN (10) INCHES OF CHURCH DITCH WATER FOR A PERIOD OF TEN (10) YEARS**

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 lease agreement attached hereto as **Exhibit A** (the "Lease Agreement") for the lease of ten (10) inches of Church Ditch Water for a period of ten (10) years, and authorizes the Mayor to execute the Lease Agreement on behalf of the City.

RESOLVED AND PASSED this 23<sup>rd</sup> day of May, 2018.

\_\_\_\_\_  
David D. Spellman, Mayor

ATTEST:

\_\_\_\_\_  
Melissa A. Greiner, City Clerk



**CITY OF BLACK HAWK**  
**REQUEST FOR COUNCIL ACTION**

---

**SUBJECT:**

Approve Resolution 38-2018, a Resolution approving the Lease Agreement with Mr. Gary Gambino of Arvada, CO that allows the Lease of 10-inches of the City of Black Hawk's Church Ditch water right for the next ten years.

**RECOMMENDATION:**

If City Council chooses to approve Resolution 38-2018, the recommended motion is as follows: "Approve Resolution 38-2018, a Resolution approving a Lease Agreement with Gary Gambino for the lease of 10-inches of Church Ditch water for a period of ten years.

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

Currently the City has an abundance of Church Ditch inches that will not be needed until our potable water demand increases significantly. This lease agreement allows the City to put 10-inches of its unused Church Ditch water right to beneficial use. Until a water right is put to beneficial use, the right is considered conditional and the decree is not perfected (complete). Putting the water to beneficial use enables the City to claim diligence on the leased water thereby making that right absolute. Diligence is required by the Water Court every six years to prove the City is not being speculative with its water rights. This lease agreement is for 10 years and may be renewed annually after the initial ten year term. The lease agreement may also be terminated by written agreement by either party.

**FUNDING SOURCE:**

501-3-5131-4604103  
Utilities / Water Leases

**WORKSHOP DATE:**

May 23, 2018

**ORIGINATED BY:**

Jim Ford

**STAFF PERSON RESPONSIBLE:**

Jim Ford

**PROJECT COMPLETION DATE:**

October 31, 2028

**DOCUMENTS ATTACHED:**

Lease Agreement

**CITY ATTORNEY REVIEW:** [ ]Yes [ ]No [ ]N/A INITIALS \_\_\_\_\_

**SUBMITTED BY:**

---

**Thomas Isbester, Public Works Director**

**REVIEWED BY:**

---

**Jack D. Lewis, City Manager**

**CHURCH DITCH WATER RIGHTS LEASE**

This AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the **City of Black Hawk** ("Black Hawk"), a municipal corporation organized under the laws of the State of Colorado, whose address is 201 Selak Street, Black Hawk, Colorado, 80422, and **Mr. Gary Gambino**, (Lessee) whose address is 11950 W. 76th Ave., Arvada, CO 80005. Black Hawk and Mr. Gambino may sometimes be referred to herein collectively as the "Parties."

**RECITALS**

- A. Black Hawk owns 187.05-inches Church Ditch Water Rights of which 10-inches shall be leased to Lessee as those inches are not needed at this time for Black Hawk's water supply.
- B. Lessee owns land under the Church Ditch that is legally entitled to irrigate with Church Ditch water.
- C. Lessee has a need for the Church Ditch water to irrigate land he owns.
- D. Lessee represents other owners of land ("Other Landowners") on the same Church Ditch lateral.
- E. Other Landowners have a need for the Church Ditch water to irrigate land they own (Land).
- F. Lessee wishes to lease Black Hawk's 10-inches of Church Ditch Water Rights for irrigation use on the Land.
- G. Lessee proposes to divert Black Hawk's 10-inches from the Church Ditch at headgate number 75 for use on the Land.

**AGREEMENT**

Now, therefore, in consideration of the foregoing recitals, and mutual covenants and agreements herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

- 1. Black Hawk agrees to lease 10-inches of Church Ditch Water Rights for 10 years subject the terms of this Lease.
- 2. Lessee will be assessed ditch losses, as assessed by the Church Ditch Water Authority, for water delivered at the Lessee's headgate. Such ditch loss assessment by the Church Ditch Water Authority may vary by month depending on total Church Ditch diversions.
- 3. Lessee shall be responsible for the operation of the leased water right.
- 4. There shall be a charge to Lessee of \$1,250 per year for 10-inches of Church Ditch water rights, which shall be paid on or before April 30 of each year. The lease price shall escalate annually by the All Urban Consumers (CPI-U) for all items and the lease price shall be calculated based on the CPI change from January 1 of the preceding year to January 1 of the current year.
- 5. Lessee shall be responsible for any payment to the Church Ditch Water Authority for any lease processing fee and any other fees required by the Authority.

6. Lessee shall also pay any other charges or assessments related to the 10-inches that become due to the Church Ditch Water Authority during the term of this Lease.
7. Lessee represents and affirms that Black Hawk's 10-inches will be used solely for irrigation on the Land during the lease period and that the Land is below the Church Ditch and legally irrigable with Church Ditch water.
8. Lessee may use Black Hawk's 10-inches for irrigation of the Land and in doing so may provide water available under Black Hawk's 10-inches to the Other Landowners for that purpose. Lessee shall not be allowed to sublease or otherwise provide water available under Black Hawk's 10-inches without Black Hawk's express written consent.
9. Lessee is responsible for following all Rules and Regulations of the Church Ditch Water Authority.
10. This Agreement may be terminated by Black Hawk or Lessee by written agreement of the parties.
11. All notices and other communications under this Agreement shall be in writing. All such notices and communications shall be deemed to have been duly given: on the date of service, if delivered and served personally, or served via e-mail or facsimile on the person to whom notice is given; on the next business day after deposit for overnight delivery by a courier service such as Federal Express; or on the third day after mailing, if mailed to the Party to whom payment and notice is to be given by first class mail, postage prepaid, and properly addressed as follows:

Black Hawk:                      City of Black Hawk  
   Public Works Director  
   201 Selak Street  
   P.O. Box 68  
   Black Hawk, CO 80422  
   E-mail: [tisbestercityofblackhawk.org](mailto:tisbestercityofblackhawk.org)

With a Copy to:                 David L. Kueter  
   Harvey W. Curtis and Associates  
   8310 South Valley Highway, Suite 230  
   Englewood, CO 80112  
   E-mail: [dkueter@curtis-law.com](mailto:dkueter@curtis-law.com)

Lessee:                               Gary Gambino  
   11950 West 76<sup>th</sup> Avenue  
   Arvada, CO 80005  
   E-mail: [usaschoolsgary@aol.com](mailto:usaschoolsgary@aol.com)

12. This Agreement is for the sole benefit of and binds the Parties, their successors and assigns. This Agreement affords no claim, benefit, or right of action to any third party.
13. Nothing in this Agreement shall be construed to waive Black Hawk's protection from liability or the limitations on liability due to sovereign immunity under the Colorado Governmental Immunity Act or otherwise.
14. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.


15. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that both Black Hawk and Lessee have contributed substantially and materially to the preparation of this Agreement
16. The Parties warrant that they have taken all actions necessary or required by their own procedures, bylaws, or applicable law, to authorize their respective signatories to sign this Agreement for them and to bind them to its terms.

Executed as of the date first set forth above.

**City of Black Hawk**

\_\_\_\_\_  
David D. Spellman  
Mayor

Approved as to content and form;

  
\_\_\_\_\_  
David L. Kueter  
Attorney

**Lessee**

  
\_\_\_\_\_  
Gary Gambino

**RESOLUTION 39-2018**  
**A RESOLUTION**  
**APPROVING CHANGE**  
**ORDER NO. 2 IN THE**  
**AMOUNT OF \$176,125.00**  
**FOR THE CITY HALL**  
**FAÇADE RESTORATION**

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

**Resolution No. 39-2018**

**TITLE: A RESOLUTION APPROVING CHANGE ORDER NO. 2 IN THE AMOUNT OF \$176,125.00 FOR THE CITY HALL FAÇADE RESTORATION**

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

**Section 1.** The City Council hereby approves Change Order No. 2 for the Black Hawk City Hall Façade Restoration in the amount of \$176,125 for the repointing of the entire stone faces, the reconstruction of the chimney on the south face, and sealing the entire stone faces of the City Hall building.

RESOLVED AND PASSED this 23<sup>rd</sup> day of May, 2018.

\_\_\_\_\_  
David D. Spellman, Mayor

ATTEST:

\_\_\_\_\_  
Melissa A. Greiner, CMC, City Clerk





**CITY OF BLACK HAWK**  
**REQUEST FOR COUNCIL ACTION**

---

**SUBJECT:**

Approve Resolution 39-2018, a Resolution authorizing the execution of Change Order number 2 for the repointing of the entire front brick face and the replacement of brick and flashing on the City Hall building to Hydro-Tech, Inc.

**RECOMMENDATION:**

Motion to Approve Resolution 39-2018, a Resolution approving Change Order No. 2 in the amount of \$176,125.00 for the City Hall Façade Restoration.

**SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

The numerous layers of paint have finally been removed from the brick face of City Hall. Unfortunately it revealed a lot of bad news. Over its 141 years many brick have been replaced or severely damaged. The left abutment and ½ of the arch on the main door has been replaced with a mixture of brick type and colors. The bottom 8-10 courses along the entire frontage have been affected by freeze thaw. It also appears that the entire architecturally intricate parapet has been completely rebuilt with newer type fired brick of many different colors.

To restore this building back to original will require the removal and replacement of approximately 500 individual bricks on the Main face and an additional 800 individual bricks on the parapet. The original bricks are a sand poured brick and the replacements are coming from an architectural salvage yard. The bricks all require cleaning prior to replacement.

There also is no flashing on the top row of bricks on the parapet. This has allowed water to freeze thaw and infiltrate into the building. A proper flashing will be installed.

The various repairs over the years have also consisted of different colors and hardness of mortar. Much of it came off with the paint removal operation. Therefore, the entire face will also require repointing. This will involve cutting out ¾" deep of the existing mortar and replacing it with a new color matched mortar.

**FUNDING SOURCE:** 203-0000-5025842 Preservation/City Hall

**WORKSHOP DATE:** May 23, 2018

**ORIGINATED BY:** Thomas Isbester

**STAFF PERSON RESPONSIBLE:** Thomas Isbester

**PROJECT COMPLETION DATE:** December 31, 2018

**DOCUMENTS ATTACHED:** C/O #2 scope of services

**SUBMITTED BY:**

---

Thomas Isbester, Public Works Director

**REVIEWED BY:**

---

Jack D. Lewis, City Manager

## **SECTION 012310-2 – ADDITIONAL SERVICES – EAST BRICK FACADE**

### **PART 1 - GENERAL**

#### **1.1 BACKGROUND INFORMATION**

- A. The removal of the lead-based paint from the brick façade exposed the existing condition of the brick units and mortar joints.
- B. REPOINTING BRICK FACADE
  - 1. The removal of the lead-based paint from the brick façade revealed that the existing mortar joints between the brick units are inconsistent in composition, color, and consistency.
- C. BRICK UNIT REPLACEMENT
  - 1. With the removal of the lead-based paint from the brick facade, the exposed brick units varied in color and a number of the brick units had deteriorated.
  - 2. The top nine (9) courses of brick appears to have been reconstructed prior to the painting of the façade. These bricks are a different shade of color than the balance of the east façade but appear uniform in color with each other and the mortar joints appear to be in good condition.
- D. ROOF PARAPET FLASHING
  - 1. With the removal of the lead-based paint, the top courses of the brick parapet wall were exposed to reveal that a concrete cap had been placed on top of the brick units to divert water off the flat brick surface. This concrete cap has deteriorated with numerous cracks and spalls.

#### **1.2 RECOMMENDATIONS**

- A. REPOINTING BRICK FAÇADE
  - 1. All of the existing exterior mortar joints between the brick units should be repointed to provide a uniform consistency and strength to the brick façade.
- B. BRICK UNITS
  - 1. On the east façade, numerous brick units have deteriorated and cracked. At a few locations near the top of the wall, brick units are missing and concrete was installed to fill the gaps. Additional brick units are of a different color than the surrounding brick units. The deteriorated and discolored brick units should be replaced with brick units matching the surrounding façade.

2. As an option, the top nine (9) courses of brick at the parapet appears to have been re-build prior to the façade being painted. The brick units in these 9 courses appear to be in sound condition and are uniform in color. While these brick units are a slightly different colorization than the remainder of the brick façade, it is an option that these 9 courses of brick remain in place.

C. ROOF PARAPET FLASHING

1. With the top surfaces of the brick parapet wall now exposed, a metal roof flashing system should be installed over the brick parapet units to minimize the infiltration of moisture at the parapet level.

**1.3 SCHEDULE OF ADDITIONAL SERVICES – REPOINTING BRICK FACADE**

- A. Additional Services No. B1: Repoint the east elevation mortar joints. Approximate lineal feet on the east elevation to be repointed is 5,000 lineal feet;

EAST ELEVATION ADDITIONAL REPOINTING PRICE: DOLLARS \$100,000

- B. Deduct Contracted Services No. B2: Deduct work item 76.3.2 – “Tuckpointing- Brick”;

Deduct Construction Cost for WI 76.3.2 (1,200 L.F.) DOLLARS \$24,000

- C. **TOTAL REPOINTING EAST BRICK FACADE ADDITIONAL SERVICE PRICE: DOLLARS \$76,000**

**1.4 SCHEDULE OF ADDITIONAL SERVICES – BRICK UNIT REPLACEMENT**

- A. Replace approximately 1300 brick units on the facade wall to match the balance of the east façade.

BRICK UNIT REPLACEMENT ADDITIONAL SERVICE PRICE: DOLLARS \$97,500

- B. Deduct Contracted Services No. U2: Deduct work item 80.1 – “Remove and Replace Spalled Face Brick”;

Deduct Construction Cost for WI 80.1 DOLLARS \$1,875

- C. **TOTAL REPLACE DETERIORATED BRICK UNITS ON EAST FACADE ADDITIONAL SERVICE PRICE: DOLLARS \$95,625**

**1.5 SCHEDULE OF ADDITIONAL SERVICES – ROOF PARAPET FLASHING**

- A. Additional Services No. F1: Install metal flashing unit on top of the brick parapet. Approximate lineal feet of metal flashing are 33 lineal feet;

ROOF FLASHING ADDITIONAL SERVICE PRICE: DOLLARS \$4,500

- B. **TOTAL ROOF FLASHING ADDITIONAL SERVICE PRICE: DOLLARS \$4,500**

- 1.6 TOTAL OF REPOINTING BRICK FAÇADE, BRICK UNIT REPLACEMENT, AND ROOF PARAPET FLASHING: DOLLARS \$176,125**
  
- 1.7 Option #1 DO NOT REPLACE BRICK UNITS AT PARAPET WALL – DEDUCT DOLLARS \$60,000**

**END OF SECTION 012310-2**

© Copyright 2018. All rights reserved. No part of this document may be reproduced in any form or by any means without permission from Walker Consultants.