

**RESIDENTIAL EXTERIOR PAINT PROGRAM AGREEMENT**

***THIS RESIDENTIAL EXTERIOR PAINT PROGRAM AGREEMENT*** (the “***Agreement***”) is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “***Effective Date***”) by and between the ***CITY OF BLACK HAWK***, a municipal corporation organized and existing under the laws of the State of Colorado (the “***City***”) and \_\_\_\_\_ (***Insert Applicant***) (the “***Property Owner***”), whose Residential Property address is:  
\_\_\_\_\_.

**RECITALS**

- A.** The City has made certain proceeds of the Exterior Paint Fund, available for the purpose of exterior painting of Residential Properties within the City Limits of the City of Black Hawk, when owners agree to use the funds in accordance with agreed upon specifications (the “***Residential Exterior Paint Program***”).
  
- B.** The Property Owner, who is the owner of a structure located at \_\_\_\_\_  
\_\_\_\_\_ (***Insert Property Address***), **Black Hawk, Colorado 80422**, (the “***Residential Property***”) submitted an application under the Exterior Paint Program.

## **AGREEMENT**

*NOW, THEREFORE*, in consideration of the above Recitals and the mutual covenants contained herein, the City and the Property Owner hereby agree as follows:

**1. Exterior Paint Grant.**

**1.1 Grant.** The City hereby agrees to reimburse Property Owner for work performed in compliance with this Agreement, an amount up to \$\_\_\_\_\_ (Insert Grant Amount) (the “Grant”) for the exterior paint of a Residential Property.

**1.2 Tax Payment.** To the extent permitted by law, the City hereby agrees to reimburse Property Owner for personal state and federal income taxes owed by Property Owner that are directly attributable to funds disbursed under the Grant (the “Tax Burden”) for the year in which the Grant is received. Property Owner shall provide evidence of the Tax Burden that is satisfactory to the City, in its sole discretion, prior to any payment of the Tax Burden by the City. Regardless of whether the Property Owner requests payment from the City prior to payment of his/her taxes, or Property Owner pays the Tax Burden him/herself and requests a reimbursement from the City, the City shall make such payment directly to the Property Owner.

**2. Agreement, Acknowledgement and Representation by Property Owner.** The Property Owner hereby agrees with, and acknowledges and represents to the City that:

**2.1 Review of Documents.** The Property Owner (a) has read this Agreement and the applicable “Residential Exterior Paint Program Guide to Programs,” (b) fully understands the terms and conditions of the Grant as set forth therein, and (c) agrees to be bound by those terms and conditions.

**2.2 Failure to Comply.** Any failure by the Property Owner to comply with the terms and conditions of this Agreement shall terminate the Property Owner’s right to any Grant payments.

**2.3 No Liability.** The City shall be in no manner liable to the Property Owner for any monies expended by the Property Owner in connection with the Exterior Paint Program, whether or not the Property Owner is actually paid any funds from the Grant.

3. **Undertaking.** The Property Owner will undertake the construction of improvements and other repairs of the Property approved by the City in a timely manner (the “**Project**”). The Property Owner has two (2) months to complete the Project, which time period shall begin upon the issuance of a building permit or upon disbursement of the first payment from the Grant by the City to begin the Project.

4. **Conditions Precedent to Disbursement of Funds.** Subject to Section 4 hereof, funds from the Grant shall be disbursed to the Property Owner upon satisfaction of:

**4.1 Evidence of Construction Costs.** The Property Owner shall provide the City, or its designee, all invoices, paid statements, building permits and such other supporting documents or certifications of the Property Owner evidencing the reasonableness and the appropriateness of the cost of the construction amount as the City, or its designee, may reasonably require.

**4.2 Building Permit.** If required by the nature of the project of the Residential Property as determined by the City in its sole discretion, the City, or its designee, shall be provided with a copy of the building permit issued by the City’s Building Official for the Project, which shall be in such form and with such content as the City, or its designee, may reasonably require.

**4.3 Other Documents or Requirements.** The Property Owner shall provide the City, or its designee, such other documents as may be required by the City, or its designee, in its sole discretion to satisfy the requirements of this Agreement.

**4.4 Completion of Improvements.** The Project shall have been satisfactorily completed in accordance with the City’s Residential Exterior Paint Program guidelines and design standards, as determined by the City or its designee, in its sole discretion, on or before two (2) months after the issuance of the building permit if required by the

City, or on or before two (2) months after the first disbursement is made to the Property Owner, whichever date comes first.

5. **Disbursement.**

**5.1 Grant Disbursement.** The Property Owner is responsible for providing the City invoices for work on the Project. Each invoice shall contain sufficient detail regarding work that has been done, or will be performed, for each aspect of the Project. The invoice shall also relate directly to the items outlined on the original proposal or bid provided to the Property Owner by the Contractor. When the invoice is considered complete and payable, the City will write the check for the invoice amount directly to the Property Owner within two (2) weeks of this determination. The Property Owner is then responsible for the disbursement of these funds directly to the Contractor as outlined in the FBO (For the Benefit Of) payments process.

6. **Termination of the Grant.** In the event the Property Owner fails to satisfy the conditions precedent set forth in Section 4 hereof on or before, \_\_\_\_\_, 20\_\_\_\_ (The "***Termination Date***"), the Property Owner's right to be paid the Grant or any portion thereof shall automatically terminate.

7. **Sale or Transfer of Property.**

**7.1 Reimbursement.** In the event the amount of the Grant plus the Tax Burden (the "***Combined Amount***") set forth in Section 1 exceeds fifty thousand dollars (\$50,000.00) and the Property Owner sells or transfers the Residential Property within five years of the Effective Date, the Property Owner shall reimburse the City the amount of the Combined Amount less an amount equal to one-sixtieth of the amount of the Combined Amount for each full month occurring between the date of this Agreement and the date of the sale or transfer of the Residential Property (the "***Reimbursement Amount***").

**7.2 Security.** In the event that Property Owner seeks to sell or transfer the Residential Property within five years of the Effective Date and Property Owner has not paid the

City the Reimbursement Amount, prior to any sale or transfer Property Owner shall (1) notify the City of the intended sale or transfer; (2) execute a promissory note in favor of the City for the Reimbursement Amount, which shall be calculated as if the Residential Property will be sold on the date of execution of the deed of trust (“*Estimated Reimbursement Amount*”); and (3) execute a deed of trust for the benefit of the City to secure the Estimated Reimbursement Amount. Should the Estimated Reimbursement Amount exceed the actual Reimbursement Amount, the City shall pay the difference back to the Owner after the transfer or sale and upon the City’s receipt of the Estimated Reimbursement Amount.

**7.3 Avoidance of Security Requirement.** Property Owner need not comply with the requirements of Section 7.2 if prior to the sale or transfer of the Residential Property, Property Owner deposits the Estimated Reimbursement Amount in an escrow account payable to the City upon the sale or transfer of the Residential Property. If upon the sale or transfer of the Residential Property, the Estimated Reimbursement Amount exceeds the actual Reimbursement Amount, the difference shall be returned to the Property Owner.

8. **Non-Transferable.** The rights granted to the Property Owner herein are non-transferable and may not be transferred or assigned. Any attempted transfer or assignment shall automatically be deemed to be null and void and shall be grounds for termination of this Agreement.

9. **Notices.** All notices required or permitted under this Agreement shall be deemed given upon personal delivery by hand to the authorized representatives of either the Property Owner or the City or three (3) days after being sent by certified mail, return receipt requested, postage prepaid, addressed to the respective party at its mailing address below:

**If to the City:**

**City of Black Hawk  
P.O. Box 68  
Black Hawk, CO 80422  
ATTN: Community Planning & Development**

**If to the Property Owner:**

**(Insert Name & Address)**

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Each Party may change its or his/her address as set forth herein by written notice to such effect directed to the other party.

**10. Miscellaneous:**

**10.1 Amendments and Supplements:** This Agreement may not be amended, modified or supplemented in any manner except by a written agreement executed by both the City and the Property Owner.

**10.2 Severability.** In the event any provision of this Agreement is deemed to be illegal, invalid or unenforceable by a court of competent jurisdiction, such provisions shall not affect the remainder thereof.

**10.3 Standard of Approval.** Where within this Agreement, the approval of the City or its designee is required or permitted, the City or its designee may grant or withhold its approval or its consent in its sole, absolute and uncontrolled discretion.

**10.4 Waiver.** The waiver by the City, or its designee, of any failure by the Property Owner to comply with any of the terms and conditions of this Agreement must be in writing and in any event shall not be deemed to be a waiver of any subsequent failure of the Property Owner to comply with the terms or conditions of this Agreement.

**10.5 Time of the Essence.** Time is of the essence in the performance of each and every term and condition of this Agreement by the parties hereto.

**10.6 Governing Law.** This Agreement, its construction, validity and effect, shall be governed and construed by and in accordance with the laws of the State of Colorado.

**IN WITNESS WHEREOF**, the Property Owner and the City have executed this Agreement on the date first above written.

**CITY OF BLACK HAWK**, a municipal corporation organized and existing under the laws of the State of Colorado

**CITY OF BLACK HAWK**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Corey Y. Hoffmann, City Attorney

**PROPERTY OWNER**

By: \_\_\_\_\_  
Property Owner

STATE OF COLORADO )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

My commission expires: \_\_\_\_\_

(S E A L)

\_\_\_\_\_  
Notary Public