

**City of Black Hawk
City Council
211 Church Street
October 22, 2014
3:00 p.m.**

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*
(Notify the City Clerk if you wish to address Council on items not on the agenda)
6. **APPROVAL OF MINUTES:** October 8, 2014
7. **PUBLIC HEARINGS:**
 - A. 101 Hillside Street – Appeal on a decision by the Community Planning & Development Administrator
 - B. 171 Marchant Street – Appeal on a decision by the Community Planning & Development Administrator
 - C. CB21 – An Ordinance Amending Section 2-132 of the Black Hawk Municipal Code Concerning the Imposition of Court Costs to Cover the Costs of Insuring Community Service
 - D. CB22 – An Ordinance Approving the FTA Section 5311 Grant Agreement Between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk
8. **ACTION ITEMS:**
 - E. Resolution 81, A Resolution Approving the License Agreement Between the City of Black Hawk and Lochsmith, Inc. as Owner of the Property Located at 120 Main Street (**continued from October 8, 2014 meeting**)
 - F. Resolution 82, A Resolution Approving the license Agreement Between the City of Black Hawk and Edward E. Smith, Shirley J. Smith, Sherell J. Smith, Gregory Street LLC, and Smithloch LLC, as Owners of the Properties Located at 125, 131, 135, and 141 Gregory Street (**recommend continuation to November 12, 2014 meeting**)
 - G. Resolution 87, A Resolution Approving Bicycle Permit Application Fee
9. **CITY MANAGER REPORTS:** Request for Authorization to Dispose of Equipment
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 Minutes
October 8, 2014

Deputy City Clerk, Michele Martin, rang the bell.

1. CALL TO ORDER: The regular meeting of the City Council was called to order at 3:00 p.m. by Mayor Spellman on Wednesday, October 8, 2014.

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

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

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

3. AGENDA CHANGES: City Clerk Greiner explained there were three (3) changes to the agenda. Item 7(A) has been recommended to be tabled indefinitely, and items 8(G) and (H) have been recommended to be continued to October 22, 2014.

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. (a) INTRODUCTION OF NEW EMPLOYEE: Michele Martin, Deputy City Clerk.

(b) PUBLIC COMMENTS: City Clerk Greiner explained no one had signed up for public comments.

6. APPROVAL OF MINUTES September 24, 2014 – Alderman Armbright noted a change to page 5 of the public hearing section of 7(D). Hillside Street should be changed to High Street.

MOTION TO APPROVE Alderman Torres **MOVED** and was **SECONDED** by Alderman Armbright to approve the Minutes of the meeting with the one correction noted.

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

7. PUBLIC HEARINGS:
A. Resolution 73, A Resolution Conditionally Approving a Certificate of Appropriateness and Site Development Plan for the Proposed Porte Cochere for the Canyon Casino (Recommend Table Indefinitely) Mayor Spellman read the title and noted the recommendation to table the public hearing indefinitely.

City Attorney Hoffmann noted for the record that once the application was complete, staff would repost the public hearing.

MOTION TO TABLE INDEFINITELY Alderman Johnson **MOVED** and was **SECONDED** by Alderman Bennett to table this agenda item indefinitely.

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

B. CB18, An Ordinance Approving the 2015 Operating Plan and Budget for the Black Hawk Business Improvement District Mayor Spellman read the title.

City Attorney Hoffmann explained Council’s requirement, under Statute creating the Business Improvement District, to approve an Operating Plan and budget for the next year.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB18, An Ordinance approving the 2015 Operating Plan and Budget for the Black Hawk Business Improvement District 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 Ordinance 2014-18, An Ordinance approving the 2015 Operating Plan and Budget for the Black Hawk Business Improvement District.

MOTION PASSED

Alderman Torres noted on page 14, Exhibit 1 of the Operating Plan and Budget, Andrew Gentile was referenced under Fitzgerald’s and it should be the Saratoga. The motion **PASSED** unanimously.

C. CB19, A Bill for an Ordinance Rezoning Certain Property Located Along Bobtail Street and More Particularly Described as Lots 1, 2, and 3, Block 34, City of Black Hawk, Colorado to the HARD – History Appreciation Recreation Destination District

Mayor Spellman read the title.

Vince Harris, Baseline Consulting, explained the rezoning of City-owned property to the HARD zoning district. Any rezoning requires four (4) findings, which were included in the staff report.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB19, A Bill for an Ordinance rezoning certain property located along Bobtail Street and more particularly described as Lots 1, 2, and 3, Block 34, City of Black Hawk, Colorado to the HARD district open and invited anyone wanting to address the Board either “for” or “against” the appeal 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 Ordinance 2014-19 with staff's findings, An Ordinance rezoning certain property located along Bobtail Street and more particularly described as Lots 1, 2, and 3, Block 34, City of Black Hawk, Colorado to the HARD – History Appreciation Recreation Destination District.

MOTION PASSED

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

- D. CB20, A Bill for an Ordinance Rezoning Certain Property Located Along Hillside Street and More Particularly Described as Blocks 1, 2, and 3, City of Black Hawk, Colorado to the ECP – Environmental Character Preservation District
- E. Resolution 79, A Resolution Approving the Minor Subdivision for the City-Owned Property Located Along Hillside Street and More Particularly Described as Blocks 1, 2, and 3, City of Black Hawk, Colorado

Mayor Spellman combined agenda items 7(D) and 7(E) and read the titles.

Vince Harris, Baseline Consulting, explained that the property in question is platted into lots that were originally designed for single family uses (approximately 40'x100') but the terrain and access do not allow for the successful development of this use. The City, as owner, has made application to rezone these properties into the Environmental Character Preservation (ECP) District. The City also proposes to remove the internal lot lines of the blocks. The proposed Ordinance and Resolution support these actions. The findings for each of these applications are found in the packet.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB20, A Bill for an Ordinance rezoning certain property located along Hillside Street and more particularly described as Blocks 1, 2, and 3, City of Black Hawk, Colorado to the ECP – Environmental Character Preservation District and Resolution 79, A Resolution 79 approving the minor subdivision for the City-owned property located along Hillside Street and more particularly described as Blocks 1, 2, and 3, City of Black Hawk, Colorado open and invited anyone wanting to address the Board either “for” or “against” the appeal to come forward.

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

MOTION TO APPROVE

Alderman Moates **MOVED** and was **SECONDED** by Alderman Armbricht to approve Ordinance 2014-20 with staff’s findings, A Bill for an Ordinance rezoning certain property located along Hillside Street and more particularly described as Blocks 1, 2, and 3, City of Black Hawk, Colorado to the ECP – Environmental Character Preservation District.

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 79 with staff’s findings, A Resolution approving the minor subdivision for the City-owned property located along Hillside Street and more particularly described as Blocks 1, 2, and 3, City of Black Hawk, Colorado.

MOTION PASSED

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

8. ACTION ITEMS:

F. Resolution 80, A Resolution Conditionally Approving a Certificate of Appropriateness for a Standard Sign Plan for the Property Located at 231 Gregory Street

Mayor Spellman read the title.

Vince Harris, Baseline Consulting, explained the two components of this agenda item. The applicant, 5B1S, LLC doing business as 1859, has submitted an application for a Certificate of Appropriateness for a Standard Sign Plan and staff has found the plan to be in compliance with the City’s Sign Code. Staff has identified that the two proposed blade signs project into the City owned right-of-way along Gregory Street and a License

Agreement is the second component of this Resolution to adequately describe the encroachment.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 80, A Resolution conditionally approving a Certificate of Appropriateness for a Standard Sign Plan for the property located at 231 Gregory Street.

MOTION PASSED

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

G. Resolution 81, A Resolution Approving the License Agreement Between the City of Black Hawk and Lochsmith, Inc. as Owner of the Property Located at 120 Main Street

H. Resolution 82, A Resolution Approving the License Agreement Between the City of Black Hawk and Edward E. Smith, Shirley J. Smith, Sherell J. Smith, Gregory Street LLC, and Smithloch LLC, as owners of the properties located at 125, 131, 135, and 141 Gregory Streets

Mayor Spellman read the combined agenda items 8(G) and 8(H) and noted the recommendation to continue these items until the October 22, 2014 meeting.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Bennett to continue Resolution 81, A Resolution approving the License Agreement between the City of Black Hawk and Lochsmith, Inc. as owner of the property located at 120 Main Street, and Resolution 82, A Resolution approving the License Agreement between the City of Black Hawk and Edward E. Smith, Shirley J. Smith, Sherell J. Smith, Gregory Street LLC, and Smithloch LLC, as owners of the properties located at 125, 131, 135, and 141 Gregory Streets to October 22, 2014.

MOTION PASSED

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

I. Resolution 83, A
Resolution Approving
an Agreement Between
the City of Black Hawk
and CDG Environmental
for the Purchase of the
Chlorine Dioxide
Generator for the
Hidden Valley Water
Treatment Plant.

Mayor Spellman read the title.

Senior Engineer Ford, explained that the Hidden Valley Water Treatment Plant is approaching the maximum contaminant level set by the CDPHE and EPA due to the high total organic carbon contaminants during spring runoff reacting with chlorine to form disinfection byproducts, which can have negative health effects and put the City in violation. The proposed generator is the exact same system being installed at the Dory Hill Water Treatment Plant. Ford noted that only one bid was received by CDG for \$48,780.

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 83, A Resolution approving an Agreement between the City of Black Hawk and CDG Environmental for the purchase of the Chlorine Dioxide Generator for the Hidden Valley Water Treatment Plant.

MOTION PASSED

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

J. Resolution 84, A
Resolution Approving
the Agreement of
Lease Between the
City of Black Hawk as
Lessor and Allensworth
Concepts, LLC as
Lessee for 135 Clear
Creek Street

Mayor Spellman read the title.

Finance Director Hillis explained that this was a Transfer of Lease Agreement for Mountain Mocha for the new owners.

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 84, A Resolution approving the

Agreement of Lease between the City of Black Hawk as Lessor and Allensworth Concept, LLC as Lessee for 135 Clear Creek Street.

MOTION PASSED

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

K. Resolution 85, A
Resolution Making
Findings of Fact in
Support of the
Decision to Deny
the Appeal of the
Decision by the
Community Planning
and Development
Administrator Regarding
151 Marchant Street

Mayor Spellman read the title.

City Attorney Hoffmann explained the history of the appeal. At their September 24, 2014 meeting, Council conducted a hearing on an appeal by the property owner. Following the presentation of evidence, Council moved to deny the appeal and directed the denial be memorialized in findings of fact.

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 85, A Resolution making Findings of Fact in support of the decision to deny the appeal of the decision by the Community Planning and Development Administrator regarding 151 Marchant Street.

MOTION PASSED

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

L. Resolution 86, A
Resolution Making
Findings of Fact in
Support of the
Decision to Deny
the Appeal of the
Decision by the
Community Planning
and Development
Administrator Regarding
321 High Street

Mayor Spellman read the title.

City Attorney Hoffmann explained this was the same process as the previous agenda item.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 86, A Resolution making Findings of Fact in support of the decision to deny the appeal of the decision by the Community Planning and Development Administrator regarding 321 High Street.

MOTION PASSED

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

9. CITY MANAGER REPORTS:

City Manager Lewis explained the proposed budget will be in their Dropbox Account by Friday, October 10, 2014, with hard copies to follow.

City Manager Lewis recommended scheduling the Budget Study Session for 1:00 p.m. at November 5, 2014. All were in favor.

10. CITY ATTORNEY:

City Attorney Hoffmann asked for the minutes to reflect that by providing the proposed budget into Council's Dropbox by October 15 satisfies the City Manager's requirement as per Statute, and that the hard copies did not have to meet that same date.

11. EXECUTIVE SESSION: City Attorney Hoffmann recommended item number 2 and 5 for executive session for specific legal issues relate to potential legislation pending litigation and legal advice regarding property acquisition, as well as legal advice regarding a personnel policy.

MOTION TO ADJOURN INTO EXECUTIVE SESSION

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:30 p.m. to hold a conference with the City's Attorney to receive legal advice on specific legal questions pursuant to C.R.S., § 24-6-402(b) and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiations, pursuant to C.R.S., § 24-6-402(e).

MOTION PASSED

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

**MOTION TO
ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the executive session 5:00 p.m.

MOTION PASSED

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

12. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 5:00 p.m.

Melissa Greiner
City Clerk

David D. Spellman
Mayor

DRAFT

**101 HILLSIDE STREET
APPEAL ON A DECISION
BY THE COMMUNITY
PLANNING &
DEVELOPMENT
ADMINISTRATOR**

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Appeal of a Denial of a request for a Historic Restoration and Community Preservation Site Work Component Grant

The intent of this submittal is an ‘Appeal’ of the City staff’s decision to partially Deny the grant request for several improvements around George W. Works home at 101 Hillside Street.

RECOMMENDATION:

Staff recommends the Appeal documentation to be reviewed by the City Council and make findings to substantiate the decision to uphold the partial Denial; or overturn the decision and provide direction on next steps for staff.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Residential properties within a National Historic Landmark District or within an area listed on the National Register of Historic Places are allowed to participate in the City of Black Hawk Historic Preservation Easement Program. Participation in the program is further determined in Section 3 of the City of Black Hawk Historic Restoration and Community Preservation Guide.

On September 19, 2014 the City of Black Hawk received an Appeal of a Denial for a Historic Restoration and Community Preservation Program grant from George W. Works, owner of the property located at 101 Hillside Street.

The proposed Appeal has been reviewed by staff, below, for compliance with Chapter 16 (Zoning Code) Section 16-366 related to an Appeal related to a decision of the Black Hawk Planning Department staff as authorized thru the Municipal Code.

According to Section 16-366(2) of the City of Black Hawk Municipal Code, “requests for relief from the regulations and development standards of this Chapter 16 (Zoning) may be taken to the Board of Appeals (Board of Aldermen) when the strict application of this Chapter will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding.”

FUNDING SOURCE:

203-0000-5025824

WORKSHOP DATE:

October 22, 2014

ESTIMATED DATE OF PROJECT COMPLETION:

To be determined

ORIGINATED BY:

George W. Works

STAFF PERSON RESPONSIBLE:

Cynthia L. Linker, CP&D

DOCUMENTS ATTACHED:

Staff Report & Appendix 1-7

RECORD:

[] Yes [X] No

CITY ATTORNEY REVIEW:

[] Yes [] No [X] N/A
INITIALS _____

SUBMITTED BY:

Cynthia L. Linker

Cynthia L. Linker, CP&D Administrator

REVIEWED BY:

Jack D. Lewis

10/16/2014

Jack D. Lewis, City Manager

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Black Hawk Board of Aldermen (as the Board of Appeals) shall hold a public hearing to hear and decide an appeal on a decision by the Community Planning and Development Administrator, located on property described in Exhibit A and generally located at 101 Hillside Street, pursuant to the City of Black Hawk Municipal Code. Such Appeal has been submitted by the property owner of 101 Hillside Street.

The public hearing is to be held before the City of Black Hawk Board of Aldermen (as the Board of Appeals) on Wednesday, October 22, 2014 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, CO 80422, or at such other time or place in the event this hearing is adjourned.

ALL INTERESTED PARTIES MAY ATTEND

EXHIBIT A
101 Hillside Street
Black Hawk, CO 80422

Legal Summary: S: 7 T: 3S R: 72W Subd: BLACK HAWK Block: 004 Lot: 008 THRU:- Lot:
010 PT OF LTS LYING N OF ACCESS RD DESC 500/332 & IMPS

Melissa Greiner
City Clerk

Staff Report



STAFF REPORT: Appeal of a Denial of a Request for a Historic Restoration and Community Preservation Site Work Component Grant

For: Board of Appeals (City Council)
Project: 101 Hillside Street – Site Work Component Grant Appeal Case
Property Address: 101 Hillside Street
Applicants: George W. Works, Property Owner/Applicant
Zoning: Historic Residential (HR)
Prepared by: Cynthia Linker, CP&D

BACKGROUND:

On September 19, 2014, the City of Black Hawk received an appeal of a denial for a Historic Restoration and Community Preservation Site Work Component grant from George W. Works, owner/applicant, of the property located at 101 Hillside Street (see Image 1, red outline). The intent of this submittal is to appeal the City’s decision to partially deny the grant funding request to repair/replace all rock walls and fences surrounding Mr. Works’ home. In addition, the application also requested funds to control erosion at the rear of the house and re-install a previously demolished rock wall at the intersection of Horn and Hillside Streets. The City has offered to provide funding to repair the rock walls identified at specific terraced locations and to remove and reattach existing fencing where applicable on top of specified repaired walls. However, the request for funds to control erosion at the rear of the house and reconstruction of a previously demolished wall at the intersection of Horn and Hillside Streets was denied. Mr. Works would like to receive financial support to address all requests rather than just a portion of those listed.



Image 1: Location and Vicinity Map

The Historic Restoration and Community Preservation Program was established for restoration and preservation of buildings and improvements within the City of Black Hawk. The program provides assistance under four categories: Full Site and Building Component, Site Work Component, Emergency Component, and Radon Mitigation Component.

Mr. Works applied for a grant under the Site Work Component. This component is available for site stabilization and structural support, site drainage, and site remediation of Qualified Properties. Projects filed under this category may include: the repair or replacement of existing rock walls, the construction of new rock walls or other type of retaining structures to stabilize or support a site, and site drainage projects to allow for appropriate drainage to, thru, or from a site. Also, grants under the Site Work Component can cover site remediation projects and the addition of a fence to secure a perimeter of a Qualified Property.

Mr. Works' original application, under the Historic Rock Wall Restoration Program, was received August 16, 2011 and was placed in the queue. Since funding from this program is no longer available, Staff requested Mr. Works submit a new Site Work Component grant application, received on June 20, 2014, under the current Historic Restoration and Community Preservation program. The applicant requested the City repair or replaces all rock walls and fences surrounding his property, assist in controlling erosion at the rear of the property, and replace a previously demolished rock wall at the intersection of Horn and Hillside Streets. On July 1, 2014, Consilium Partners, acting as the City's Owners Representative, met with the applicant's sister, Nan Works, to conduct a review of existing conditions related to the request. As observed by Consilium Partners, the rock walls which create terraces around the property have deteriorated from age. None of the walls currently exhibit imminent, significant failure or damage (see Image 2, 3, and 4). The existing fences on top of the deteriorating walls are in good condition. During the site visit, the applicant indicated that in the past rocks have fallen down their property from the hillside and impacted the house (Image 5). The tendency for rock fall in the area behind the property is due to natural conditions and topography of the area (Image 6). The applicant also indicated there is a need to rebuild a previously demolished rock wall at the intersection of Horn and Hillside Street. Staff has been unable to evaluate the details of this request as no specific information for the need or evidence indicating the rock wall previously existed in photographs or survey was provided or made available by the applicant. If the applicant is unable to produce evidence of the wall in its previous location and provide a detailed explanation for the necessity to replace, Staff recommends funding from the Historic Restoration and Community Preservation Program not be approved.



Image 2: Terrace rock wall at 101 Hillside Street



Image 3: Terrace rock wall at 101 Hillside Street



Image 4: Terrace rock wall at 101 Hillside Street



Image 5: Rock fall area behind 101 Hillside Street



Image 6: Natural conditions behind 101 Hillside Street – looking uphill

Staff from Public Works and Community Planning and Development have also evaluated the application and report generated by Consilium Partners and recommend the rock walls in specified terraced locations be repaired. Fencing located on the rock walls identified for preservation shall be removed and reattached upon completion of the repairs. Staff is not recommending any additional or new fencing. Staff believes the erosion control and rock fall at the rear of the structure is an applicant responsibility and should not be addressed by the City. The request to recreate a demolished rock wall that may have existed along Hillside and Horn cannot be addressed by Staff as the owner was unable to produce evidence (photographs, survey, etc.) of its previous existence and location or provide an explanation why the replacement is necessary or how the reconstruction of the wall would benefit the property.

The proposed request for this Appeal has been reviewed by Staff for compliance with Chapter 16 (Zoning Code) Section 16-366 (Variances and Appeals) of the Black Hawk Municipal Code.

APPLICABLE CITY OF BLACK HAWK REGULATIONS:

Section 16-366 (Zoning Code) of the Municipal Code regulates the appeal process. This staff report summary and catalogue of information relates to the need for the Board of Appeals (City Council) to review and take action on the Appeal. The Black Hawk Municipal Code requires a public hearing which necessitates a notice in the paper and a posting on the property. Both the notification and posting have been completed.

According to Section 16-366(2) of the City of Black Hawk Municipal Code, “requests for relief from the regulations and development standards of this Chapter 16 (Zoning) may be taken to the Board of Appeals (Board of Aldermen) when the strict application of this Chapter will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district

because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding.”

Residential properties within a National Historic Landmark District or within an area listed on the National Register of Historic Places are allowed to participate in the City of Black Hawk Historic Preservation Easement Program. Participation in the program is further determined in Section 3 of the City of Black Hawk Historic Restoration and Community Preservation Guide.

Excerpts from:

*The City of Black Hawk
Municipal Code
Chapter 16 – Zoning Code*

Sect.16-366. Variances and appeals.

All appeals of decisions and requests for a variance shall be processed as described below.

(1) Appeals of decisions.

a. Who may apply. Appeals to the Board of Appeals may be made by any person aggrieved by the inability to obtain a building permit (except where inability to obtain a building permit is due to denial of rezoning application by the Board of Aldermen or by decision of any administrative officer in the City based upon or made in the course of the administration or enforcement of the provisions of this Chapter). Appeals to the Board of Appeals may be made by any officer, department, board or bureau of the City affected by the grant or refusal of the building permit or by other decision of the administrative officer or agency, based on or made in the course of administration or enforcement of this regulation.

b. Time limit. Appeals to the Board of Appeals must be made in writing and filed with the City Clerk within ten (10) days of the action or decision appealed.

c. Stay of proceedings. An appeal stays all proceedings and furtherance of the action appealed from unless the officer from whom the appeal is taken certified to the Board of Appeals, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril of life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or a court of record on application and on notice to the officer from whom the appeal is taken and on due cause shown.

(3) Hearing. Hearings of the Board of Appeals shall commence no later than the next regularly scheduled meeting following the completion of required notice procedure. The Board of Appeals may continue a hearing as may be necessary to obtain necessary information and make its decision. Public hearings shall be conducted in the manner provided in this Code.

In considering such Appeal requests the Board of Appeals needs to evaluate the information provided by the applicant, information available and provided from staff, and then make findings of fact related to the Appeal criteria below. Some of the criteria have been worded and set to be related to the Appeal of an Administrative Decision to not approve a requested Grant application from the property owner so that the Board of Appeals can learn the background, evaluate the information, compare it to relevant criteria, and then make Findings to overturn the Denial and allow a Grant application to proceed for

the related and necessary work; or to agree with Denial and not authorize any further proceedings related to a Grant application:

1. *Due to exceptional and extraordinary circumstances unique to the property or structure for which the appeal is sought, the strict enforcement of the provisions of the Grant Program would cause an unnecessary hardship to the applicant.*

Many Staff have visited the property at 101 Hillside Street. It is important to note Consilium Partners and Public Works were only tasked with performing a site visit and to provide initial opinions on the condition of the existing rock walls and other items requested on the application. Although both parties have civil engineer backgrounds, neither party was tasked with performing a thorough investigation. This task would be accomplished by the City's on-call Civil / Structural Engineer as the need arises.

The house was built into a hillside and natural conditions are not the typical, being somewhat unique to the property and the surrounding area. The structures are situated on a hillside that naturally requires the site to utilize terraced rock walls for soil erosion and control. The structures underwent full rehabilitation in 2005. If any concern about the structural integrity of the walls existed, it would have been noted during the 2005 rehabilitation. No significant or immediate damage to the existing structures or failure of the terraced rock walls seem evident or imminent. To Staff's knowledge, no previous or current reports of significant damage to the existing structures or failure of the rock walls have been reported. It appears the deteriorated condition of the rock walls is due to the natural environmental elements combined with owner neglect. This combination has contributed to the deterioration to the point where rehabilitation would be beneficial. The walls are original to the property and appear to have been erected near the turn of the century (1900s). Staff believes rehabilitation and repair would greatly contribute to the general aesthetics, appearance and historic significance of the property. The site visit revealed a significant level of owner neglect of the existing walls. Vegetation in some areas around the walls has not been cleared for a significant amount of time and has contributed to the reported wall problems and deterioration.

Based on historic images, the existing fence on top of terraced walls has been in place for approximately 10 years. General appearance of the fence and its condition is good. Staff recommends the fencing located on the walls identified for rehabilitation shall be removed and reattached upon completion of the repair. No additional or new fence work is proposed.

The current soil conditions above the house have been present since the house was first constructed. The property is situated on a hillside that has loose soil and fractured weathering rock and is covered with vegetation that provides support for some of the soil. These natural conditions existed prior to and after the construction of the house in the late 1800s. No previous reports or significant damage to the house have been reported in the past to staff's knowledge. Significant or immediate damage or danger does not seem evident. Soil erosion due to the surrounding topography is expected to be a normal occurrence. Scheduled maintenance of the area at the back of the house could prevent rocks from sliding down the hill. This maintenance should be part of the applicant's general upkeep of the property.

2. *The Appeal requested is the minimum deviation or solution necessary;*

The applicant is requesting all items listed on the application to be approved for funding. This request conflicts with the decision of Staff to only approve grant funding for the areas determined to be in need of rehabilitation or repair. Items such as erosion control fall strictly under general homeowner maintenance responsibilities and as such cannot be taken care with grant funding. The request to recreate a demolished rock wall that may have existed along Hillside and Horn cannot be addressed as the owner was unable to produce evidence (photographs, survey, etc.) of its previous existence and location or explain why the replacement is necessary and how the reconstruction of the wall would benefit the property.

A variety of options are available for the property owner. One of those options is to accept the City's offer to repair some of the existing walls and fences and address all other issues through alternative means of funding by the property owner. The existing terrace rock walls are not in dire need of repair. However, the City has offered to repair those walls since they have been in place since the house was originally built. The repair of the walls will contribute to the general aesthetics and the appearance of the historic area.

The owner has various options to prevent the rock fall and ground erosion to settle behind the house. General maintenance and removal of rocks of the property behind the house would prevent rocks from sliding down the hillside.

3. *The granting of the Appeal will be consistent with the spirit, purpose and intent of the Grant Program and will not create a situation which alters the character of the area surrounding the property for which the Appeal is granted;*

The granting of the Appeal would not be consistent with the spirit, purpose or intent of the Grant program. The goal and essence of the grant program is to provide resources to promote the rehabilitation and historic preservation of Qualified Properties. The City has offered to assist the owner with repairing the terraced walls that have been in place for a significant period of time and have deteriorated over time due to age, weather and neglect. The preservation of the walls would greatly contribute to the overall appearance, quality and historic significance of the property and area in general.

The grant program is not designed to have the City perform maintenance for property owners with slopes on their property that may have unstable rock, debris, or extreme topography. It would seem appropriate that the owner would work to clear their own land of any perceived unstable rock or debris. The grant program is not designed to specifically maintain all residents' property with normal mountainous terrain, which is typical for the City of Black Hawk.

The grant program is not intended to have the City perform maintenance for property owners who simply own a lot and/or a building located in the Historic Residential zone district and Historic Landmark District. For this reason, City Staff believes funding to provide soil erosion control and rock fall behind the property owner's home should be denied. It would seem appropriate that the owner would provide their own general maintenance to limit the amount of erosion and rock fall on their property.

4. *The Appeal will secure and in no way diminish the public safety and welfare; nor impair prevention of or increase risk of fire; flood, traffic congestion or other hazard; (at a reasonable cost)*

No previous or current reports of significant damage to the house due to soil erosion or the collapse of any rock walls due to deterioration have been reported in the past or present to staff's knowledge.

STAFF COMMENTS:

The applicant is requesting grant funding for several improvements around the property at 101 Hillside Street. The original request included a repair or replacement of all rock walls that create terraces around the house, fence replacement, erosion control, and replacement of previously removed rock wall at the perimeter of the house near the intersection of Horn and Hillside Streets.

After visiting the property and considering the information provided by the Owners Representative and the Public Works Department, Staff believes the terraced rock walls are eligible to be rehabilitated in specific locations due to age, deterioration and simple neglect. Additionally, since the fence currently atop the terraced rock walls is in good condition, Staff recommends the fence be removed and replaced upon completion of the rehabilitation. No additional or new fence is being proposed. It is important to note Staff and Public Works observed a significant lack of maintenance around the existing terraced rock walls.

This home has previously undergone a full restoration. If any concern about loose soil was identified during the restoration, the property owner would have been informed about it. Since it is believed that the owner was fully aware of conditions on the property prior to purchase, it seems fair to expect that it would be the owner's responsibility to maintain his or her own property and keep the loose rocks and debris to a minimum with regular maintenance.

Remediation of soil erosion and reported rock fall is not the responsibility of the City. The reported issue should be taken care of by the property owner as part of their general property maintenance. Staff considers soil erosion maintenance the sole responsibility of the owner. The property owner should have been aware of the existing natural conditions since these conditions would have been evident at the time the property was purchased. It seems fair to expect that it would be the owner's responsibility to maintain his and her own property and keep any deterioration to a minimum with regular maintenance. Staff believes that the applicant should explore an alternative solution regarding their concern to maintain the soil erosion. These items are considered general homeowner maintenance items and the City is unable to accommodate the request for their maintenance improvement.

Lastly, Staff recommends the City not provide funding to rebuild a previously removed rock wall at the intersection of Horn Street and Hillside Street as the applicant was unable to provide sufficient evidence and information to support the previous existence of this wall as part of the request. If the applicant is unable to produce evidence of the wall in its previous location and provide a detailed explanation for the necessity to replace, Staff recommends funding from the Historic Restoration and Community Preservation Program not be approved.

The City of Black Hawk is willing to assist the applicant as indicated in the correspondence dated September 11, 2014 and provide partial support for maintenance and improvements on the property.

RECOMMENDATION:

Staff recommends the Appeal documentation to be reviewed by the City Council and make findings to substantiate the decision to uphold the partial Denial; or overturn the decision and provide direction on next steps for Staff.

APPENDIX:

1. Grant request application
2. Grant request application denial letter
3. Consilium Partners – Site work Grant Request
4. Cultural Resource Re-evaluation Form
5. Public Works comments
6. Applicant appeal email
7. Applicant appeal letter

Appendix 1
101 Hillside Street

Appendix 1



City of Black Hawk
Community Planning and Development
211 Church Street
P.O. Box 68
Black Hawk, CO 80422
Ph: 303-582-0615 / 303-582-2223

Grant No: 2014.12
Project No: _____

For Office Use Only

HISTORIC RESTORATION AND COMMUNITY PRESERVATION FUND - APPLICATION

GENERAL INFORMATION:

Grant Year: 2014

Today's Date: 6-20-14

Property Street Address: 101 HILLSIDE

Property Owner(s): G. WORKS / N. WORKS

Owner(s) Mailing Address: 1700 PACIFIC 4TH BLVD, DALLAS 75201

Owner(s) Telephone No.: (H) 214-668-2009 (W) 214-720-2002 (Cell) _____

Email Address: G.W. WORKS @ att.net

Contact Person (if different from owner) _____

Contact Telephone No.: (H) _____ (W) _____ (Cell) _____

Email Address: _____

Applications can be made by individuals other than the property owners with the owner's written permission (written permission must be signed and notarized on a form "Affidavit of Permission" or "Power-of-Attorney" provided by the applicant).

Please check the appropriate box of the type of grant you are applying for. Refer to the "Guide to Programs" for information relating to each program. PLEASE NOTE: YOU WILL NEED A SEPARATE NARRATIVE FOR EACH GRANT COMPONENT.

- Full Site and Building Component Rehabilitation (Interior)
- Site Work Component
- Exterior Maintenance Component
- Emergency Component
- Radon Mitigation Component

Office Use Only. Do not write below this line.

Date Received: 6-27-14 Grant No.: 2014-12

HPC Review Date: _____ Board of Aldermen Approval Date: _____

Amount Approved: _____

Comments or Conditions: _____

Authorization Signature: _____ Date: _____

Associated Grant Numbers: _____

PROJECT INFORMATION:

1. Please provide a general description of the project (If additional room is needed, attach additional paper):

Repair/replace all brick walls and fences - Rear of house on Access Rd, Horn St, Perimeter wall and over where city has paved and on Horn St where city has snowplowed over snow piles

Even though a property is located in the National Historic Landmark District, completion of an application does not guarantee the property is eligible to participate in the Historic Restoration and Community Preservation program. Once the property owner makes an official application submittal, Black Hawk staff, and the Owner's Representative will meet with the property owner for an orientation meeting and on-site property visit and inspection. Subsequently, a current conditions report and scope of work will be prepared and presented to City Council with recommendations from City staff and the Owner's Representative regarding program eligibility. Property owner will be notified by the Community Planning and Development with a decision and the next steps in the program process, if applicable.

Applicant to check the box that applies to this application:

- Grant Program Agreement (Full Site & Building-Interior/Exterior Maintenance/Emergency)
- Preservation Easement Agreement (Full Site & Building - Exterior) - Applicant understands and agrees that prior to any construction, applicant shall grant to the City temporary construction easements necessary to complete the work, and shall execute a deed restriction in favor of the City in the forms attached hereto as Exhibit A.
- Site Work

In accordance with the City of Black Hawk's Resolution 10-2010 Titled "A resolution amending the City of Black Hawk Community Restoration and Preservation Fund Guide to provide a process for determining payment of Federal potential income tax liability." A copy of Resolution 10-2010 is attached hereto as Exhibit B.

For the purpose of determining reimbursement of State of Colorado income tax liability, the City Council further determines that a recipient of a residential grant must elect in writing prior to the receipt of any grant proceeds whether to seek the Colorado income tax credit for qualifying rehabilitation projects pursuant to C.R.S. § 39-22-514, or whether to apply to the City Manager consistent with C.R.S. §12-47.1-1301, as amended, for the reimbursement of any Colorado income tax liability paid as a result of the receipt of the grant.

- I certify that I **WILL NOT** submit an application to the Colorado Historical Preservation Income Tax Credit program, but will apply for reimbursement through the City of Black Hawk.
- I certify that I **WILL** apply for the Colorado Historical Preservation Income Tax Credit through the State of Colorado and understand that **NO** reimbursement will be available from the City of Black Hawk. The most current information on the Colorado Preservation tax credit program can be found at <http://www.historycolorado.org/ohhp/preservation-tax-credits>.

G.W.W.
N.W.W.

Property Owner Signature

6-21-14
6-20-14

Date



City of Black Hawk
 Community Planning and Development
 271 Gregory Street
 P.O. Box 68
 Black Hawk, CO 80422
 Ph: 303-582-0615 Fax: 303-582-2239

Project # RW 18 - 11
 For Office Use Only

RECEIVED

AUG 16 2011

CITY OF BLACK HAWK
 PLANNING DEPT.

**HISTORIC ROCK WALL RESTORATION
 APPLICATION FORM**

GENERAL INFORMATION:

You must fill out a separate application for each address.

Today's Date: 8-16-11

Property Street Address: 101 Hillside

Property Owner(s): George Wook

Owner(s) Mailing Address: 1700 PACIFIC #4590, PHILLIPS 75201

Owner(s) Telephone No.: (H) _____ (W) 214-720-2002 (Cell) _____

Email Address: _____

Contact Person (if different from owner): _____

Contact Telephone No.: (H) _____ (W) _____ (Cell) _____

Email Address: _____

Applications can be made by individuals other than the property owners with the owner's written permission (written permission must be signed and notarized on a form "Affidavit of Permission" or "Power-of-Attorney" provided by the applicant).

PROJECT INFORMATION:

1. Please provide a general description, sketch and measurements of the project (If additional room is needed, attach additional paper). If your project includes a fence, please stop by the Community Planning and Development Department to see what type of fences have been approved.

Repair / Replace Rock Walls around Home
Repair Wall in Rear (Hillside St. Side) of Main Home -
Repair Wall on Horn Street (Next to Tank)
Restore Perimeter Wall & Fence on Access Road (See Plans), From Tank House to frontage on Horn Street
Length & Measurements vary as per survey
Changes and Asphalt removed. Gas
All Walls shall have fences to Match & Close

READ THIS!

All information submitted is true to the best of my knowledge and belief. I acknowledge that any error may affect the review and approval of this application. Furthermore, I understand that if I wish to change any aspect of the project after it has been approved, I must request any changes in writing and receive written consent from the City of Black Hawk.

Signature: [Handwritten Signature] Date: 8-16-11
Signature: _____ Date: _____

After you have signed and dated the application, attach all requirements. You must submit a complete application. The City of Black Hawk will not be able to process the application without a complete submittal.

If you have questions please feel free to contact us at:

City of Black Hawk
Community Planning and Development
P.O. Box 68
Black Hawk, CO 80422
(303) 582-0615

Office-Use Only. Do not write below this line.

Date Received: Aug 16 2011 Project No.: 18-11

Planning and Development Approval
Authorization Signature: _____ Date: _____

Board of Aldermen Approval:

Total projected cost for work: \$ _____ Amount Approved: \$ _____

Comments or Conditions: _____

Appendix 2
101 Hillside Street

Appendix 2



City of Black Hawk
Community Planning and Development
211 Church Street
P.O. Box 68
Black Hawk, CO 80422
Ph: 303-582-0615 / 303-582-2223 or Fax: 303-582-2239

September 11, 2014

George Works
Nan Works
1700 Pacific Avenue, Suite 4580
Dallas, Texas 75201

RE: 101 Hillside Street – Application for Site Work

Dear George and Nan:

We are writing on behalf of the City of Black Hawk to inform you Community Planning & Development has reviewed and partially approved your application for grant funds to address the rock walls, stairs and fences at your property at 101 Hillside Street. The City Manager has informed City Council of the decision. You have the right to appeal this decision to the City of Black Hawk Board of Aldermen if you choose to do so, per the terms of the current Historic Restoration and Community Preservation Fund Guide to Programs (attached). Please be aware an appeal must be filed within 10 days of this letter, or September 21, 2014.

The requested scopes of work have been approved/denied as follows:

1. Rock wall repair/replacement in requested terrace locations will be addressed
2. Fence replacement where applicable on top of any replaced walls will be addressed – If rock wall is only repaired and fence is not impacted, fence replacement will not be included in those areas
3. Erosion control at the rear of the house will not be addressed
4. Installation of previously removed rock walls at the perimeter of the property at the intersection of Horn/Hillside Streets will not be addressed

You are able to contract and complete the denied work yourself. You will be required to obtain a Certificate of Appropriateness for the work once a scope is established, which will need to be reviewed by the Historic Preservation Commission and City Council. Dates for these meetings, and deadlines for turning in documents for information packets, are available from the Community Planning and Development office.

Please let us know if you have any additional questions or concerns.

Sincerely,

Jessica M. Killian, PE, LEED GA
Senior Project Manager

CC: Cynthia L. Linker and Tami Archer – City of Black Hawk

Encl: Application, Appeal Guidelines

Appendix 3
101 Hillside Street



Appendix 3



101 Hillside Street – Sitework Grant Request

The property owners at 101 Hillside Street have requested a Sitework Component Community Restoration and Historic Preservation Fund Grant for repair/replacement of all rock walls and fences throughout their property (see attached application request). On July 1, 2014, Consilium Partners met with Nan Works (“Owner”) to review the existing conditions related to this request.

Based on Consilium Partners’ review and the attached pictures, Consilium Partners notes the rock walls which create the terraces around the property appear to be original walls that have deteriorated from age. Although continued deterioration is likely, Consilium Partners did not observe any areas of significant failure, or potential damage to any structures. However, if a failure occurs, certain damage to fences or yard areas may occur. The fences currently installed at the property appear to be sufficient and in average condition.

At the rear of the house, large rocks have fallen down the hillside and impacted the house, causing minor damage. Due to the slope of the hillside and the location of downfall, there does not appear to be a long term solution for structure protection in this area. The hill could be scarified and then a protective netting placed if there is a continued concern for major damage.

Cosmetic repairs are recommended for certain rock walls around the property, if deemed acceptable by the City.

Thank you,
Jessica Killian
Consilium Partners
July 17, 2014



Photographs of Existing Conditions



Existing terraced walls





® Existing terraced walls



Existing terraced walls



Fencing



Rockfall area





®

Hillside above house



Evidence of rockfall behind house

Appendix 4
101 Hillside Street

Appendix 4

BLACK HAWK CULTURAL RESOURCE SURVEY
Cultural Resource Re-evaluation Form
(page 1 of 2)

1. Current Address: **101 Hillside**
2. Resource Number: **5GL.7.425**
3. NHL Resource Number: **B4-3**
4. Resource Name:
5. Purpose of this current site visit (check as many as apply)
 - Site is within a current project area
 - Resurvey
 - Update of previous site form(s)
 - Surface collection
 - Testing to determine eligibility
 - Excavation
 - Other
6. Previous Recordings:

<input checked="" type="checkbox"/> 1986 National Park Service Survey	<input checked="" type="checkbox"/> Photograph	
<input checked="" type="checkbox"/> 1991 National Historic Landmark Nomination	No Photographs	<input checked="" type="checkbox"/> Contributing
<input checked="" type="checkbox"/> 1998 Re-survey	<input checked="" type="checkbox"/> Photograph	
<input checked="" type="checkbox"/> 2004 Photo survey	<input checked="" type="checkbox"/> Photograph	
<input type="checkbox"/> Other:	<input type="checkbox"/> Photograph	
7. Exterior alterations since 1986: **1997 – Historic preservation permit valuation \$25,000. 1998 – Historic preservation permit valuation \$3,800. 2001 – Unspecified repairs, permit valuation \$25,000. 2005 – Historic preservation restoration, permit valuation \$96,000; new stem wall and flooring, \$30,000. Alterations include replacing non-historic wide siding.**
8. Additional historical background: **The house is visible in a historic photograph purportedly dating from 1890. The bunkhouse is not visible in photographs dating from ca. 1912. The Sanborn Maps do not cover Hillside. Deed research may determine a more accurate construction date.**

Ca. 1885 Construction date Estimate from 1986 NPS Survey New estimate

Sources of information:

Sanborn Maps

- 1886
- 1890
- 1895
- 1900

Current Address: **101 Hillside**

(page 2 of 2)

Resource Number: **5GL.7.425**

NHL Resource Number: **B4-3**

9. Changes to Location or Size Information: **n/a**

10. Revised National Historic Landmark District- Contributing Building Eligibility Assessment:

Contributing Non contributing Need data (**might count as 2 contributing buildings with additional research on bunk house**)

11. National Register - Individual Eligibility Assessment:

Eligible Not eligible Need data

12. Is there National Register district potential? Yes No

Discuss: **This property would contain two contributing buildings to a potential N.R. district if additional research confirms historic construction date for bunkhouse.**

13. Local Designation - Individual Eligibility Assessment:

Eligible Not eligible Need data

14. Is there Local district potential? Yes No

Discuss: **This property would contain two contributing buildings to a potential N.R. district.**

15. Photograph Types and Numbers: **Digital, <.jpg> format. -1.JPG**

16. Report Title: **Black Hawk Historic Resource Resurvey: 2009-2010**

17. Recorder(s): **Deon Wolfenbarger**

18. Date(s): **July 20, 2010**

19. Recorder Affiliation: **Three Gables Preservation**

20. Attachments

(check as many as apply)

Photographs

Site sketch map

U.S.G.S. map photocopy

Other _____

Other _____

21. Official determination

(OAHP USE ONLY)

Determined Eligible

Determined Not Eligible

Need Data

Nominated

Listed

Contributing to N.R. District

Not Contributing to N.R. Dist

Current Address: **101 Hillside**
Resource Number: **5GL.7.425**
NHL Resource Number: **B4-3**

Continuation Sheets

Current Photographs
Date: **04/09/2009 & 1/19/2010**



Current Address: **101 Hillside**
Resource Number: **5GL.7.425**
NHL Resource Number: **B4-3**

Continuation Sheets

2004 Photograph



Current Address: **101 Hillside**
Resource Number: **5GL.7.425**
NHL Resource Number: **B4-3**

Continuation Sheets

1998 Resurvey Photograph



1986 Survey Photograph



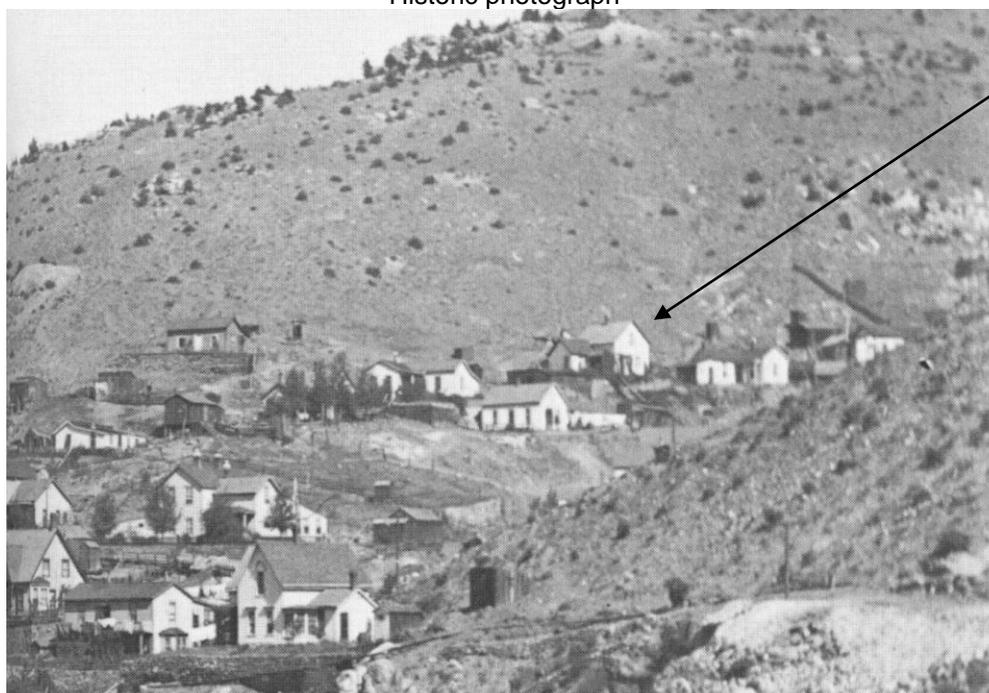
Current Address: **101 Hillside**
Resource Number: **5GL.7.425**
NHL Resource Number: **B4-3**

Continuation Sheets

Gilpin County Assessor's Photographs



Historic photograph

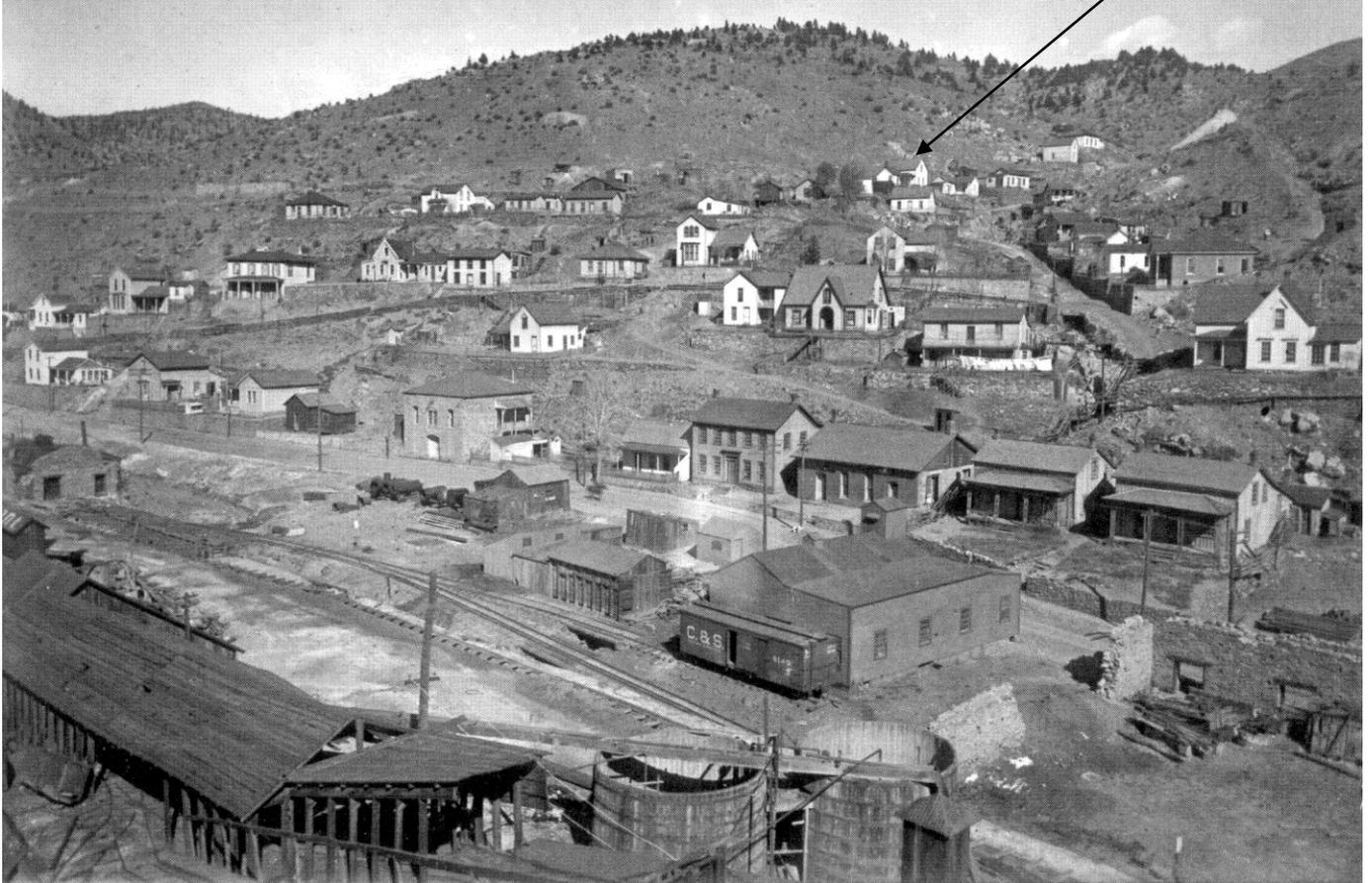


Ca. 1899

Current Address: **101 Hillside**
Resource Number: **5GL.7.425**
NHL Resource Number: **B4-3**

Continuation Sheets

Historic photographs (cont.)



ca. 1912

Appendix 5
101 Hillside Street

Appendix 5

From: Tom Isbester
Sent: Monday, July 21, 2014 11:24 AM
To: Cynthia Linker
Subject: RE: 101 Hillside Sitework Request

Cynthia:

I kind of agree with Jessica in that the smaller terrace walls could stand to be reconstructed as they appear to be original, and over time have deteriorated. ***However, there has obviously been years of complete neglect*** which I think should be mentioned. Some of the shrubbery that has been left unchecked has contributed to the problems. There is nothing to do on the rear of the structure. It has lasted 100+ years. Homeowner needs to address anything that looks suspect and scale it off. Fences appear to be fine except for complete neglect again. I can't read what they have written on the request but appears to point to the City being responsible for some of it which is a misunderstanding, and on that aspect would concur with your approach.

Thomas Isbester
City of Black Hawk Public Works Director
987 Miners Mesa Road
P.O. Box 68
Black Hawk, CO 80422
303-582-1324

Appendix 6
101 Hillside Street

Appendix 6

Zeljko Spiric

From: G W Works <g.w.works@att.net>
Sent: Friday, September 19, 2014 10:11 AM
To: Cynthia Linker; Jessica Killian
Subject: Appeal of staff decision to deny portions of site restoration for 101 hillside, blackhawk co.

We are pleased that the city of black hawk has granted a portion of the long awaited grant request for site restoration for 101 hillside street. We hereby appeal the staff decision to deny the other requested and shall visit in detail regarding the status of same in the near future...I should should add to this appeal, that to make a reasonable determination the city should be forthcoming regarding the actual survey of the property and city property to ascertain the appropriateness of the appeal. Thanks again, George Works

Sent from my iPad

Appendix 7
101 Hillside Street

Appendix 7

G. W. Works & Company

FAX Transmission

From: George Works
To: Cynthia Linker
Company: Black Hawk

Date: October 7, 2014
Time: 10:15 AM
FAX #: 1303.582.2239

RE: 101 Hillside Street. Appeal to City Council concerning site restoration

Although we are pleased that the city has approved our site restoration grant for partial restoration of deteriorated rock walls at the above address, such action still leaves unresolved the issue of original walls on the lower perimeter of the property that have become nonexistent due to street repairs, paving and plowing on both Horn Street and the private access road shared by Armbright and Works.

Thank you.

GWWorks

VOICE: 214-720-2002 FAX: 214-720-7571

1700 Pacific Avenue 4580, Dallas, Texas 75201

Applicant's Submittal

Applicant's additional information on following pages provided to the City of Black Hawk for consideration by City Council with this Appeal case

Zeljko Spiric

From: G W Works <g.w.works@att.net>
Sent: Friday, September 19, 2014 10:11 AM
To: Cynthia Linker; Jessica Killian
Subject: Appeal of staff decision to deny portions of site restoration for 101 hillside, blackhawk co.

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Sent from my iPad

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Thank you.

GWWorks

VOICE: 214-720-2002 FAX: 214-720-7571

1700 Pacific Avenue 4580, Dallas, Texas 75201

**171 MARCHANT STREET
APPEAL ON A DECISION
BY THE COMMUNITY
PLANNING &
DEVELOPMENT
ADMINISTRATOR**

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Appeal of a Denial of a request for a Historic Restoration and Community Preservation Site Work Component Grant

The intent of this submittal is an 'Appeal' of the City staff's decision to partially Deny the grant request for several improvements around George W. Works home at 171 Marchant Street.

RECOMMENDATION:

Staff recommends the Appeal documentation to be reviewed by the City Council and make findings to substantiate the decision to uphold the Denial; or overturn the decision and provide direction on next steps for staff.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Residential properties within a National Historic Landmark District or within an area listed on the National Register of Historic Places are allowed to participate in the City of Black Hawk Historic Preservation Easement Program. Participation in the program is further determined in Section 3 of the City of Black Hawk Historic Restoration and Community Preservation Guide.

On September 19, 2014 the City of Black Hawk received an Appeal of a Denial for a Historic Restoration and Community Preservation Program grant from George W. Works, owner of the property located at 171 Marchant Street.

The proposed Appeal has been reviewed by staff, below, for compliance with Chapter 16 (Zoning Code) Section 16-366 related to an Appeal related to a decision of the Black Hawk Planning Department staff as authorized thru the Municipal Code.

According to Section 16-366(2) of the City of Black Hawk Municipal Code, "requests for relief from the regulations and development standards of this Chapter 16 (Zoning) may be taken to the Board of Appeals (Board of Aldermen) when the strict application of this Chapter will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding."

FUNDING SOURCE: 203-0000-5025824

WORKSHOP DATE: October 22, 2014

ESTIMATED DATE OF PROJECT COMPLETION: To be determined

ORIGINATED BY: George W. Works

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

DOCUMENTS ATTACHED: Staff Report, Appendix 1-7

RECORD: []Yes [X]No

CITY ATTORNEY REVIEW:

[] Yes [] No [X] N/A
INITIALS _____

SUBMITTED BY:

Cynthia L. Linker 10/15/14
Cynthia L. Linker, CP&D Administrator

REVIEWED BY:

Jack D. Lewis 10/17/14
Jack D. Lewis, City Manager

Staff Report

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Black Hawk Board of Aldermen (as the Board of Appeals) shall hold a public hearing to hear and decide an appeal on a decision by the Community Planning and Development Administrator, located on property described in Exhibit A and generally located at 171 Marchant Street, pursuant to the City of Black Hawk Municipal Code. Such Appeal has been submitted by the property owner of 171 Marchant Street.

The public hearing is to be held before the City of Black Hawk Board of Aldermen (as the Board of Appeals) on Wednesday, October 22, 2014 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, CO 80422, or at such other time or place in the event this hearing is adjourned.

ALL INTERESTED PARTIES MAY ATTEND

EXHIBIT A
171 Marchant Street
Black Hawk, CO 80422

Legal Summary: S: 7 T: 3S R: 72W Subd: BLACK HAWK Block: 008 Lot: 001 THRU:- Lot:
003 (UND 1/2) W 27FT & IMPS

Melissa Greiner
City Clerk



STAFF REPORT: Appeal of a Denial of a Request for a Historic Restoration and Community Preservation Site Component Grant

For: Board of Appeals (City Council)
Project: 171 Marchant Street - Site Work Component Grant Appeal Case
Property Address: 171 Marchant Street
Applicants: George W. Works, Applicant/Property Owner
Zoning: Historic Residential (HR)
Prepared by: Cynthia Linker, CP&D

BACKGROUND:

On September 19, 2014, the City of Black Hawk received an appeal of a denial for a Historic Restoration and Community Preservation Program Site Work Component grant from George W. Works, applicant/owner of the property located at 171 Marchant Street (see Image 1, red outline). The intent of this submittal is to appeal the City’s decision to partially deny the grant funding request for retaining rock wall work, repairs to stairs and fences, and remediation of water intrusion inside of the structure at Mr. Works’ home. The City has offered to repair the existing stairs that lead to the front of the house. All other requests were denied.



Image 1: Location and Vicinity Map

The Historic Restoration and Community Preservation Program was established for restoration and preservation of buildings and improvements within the City of Black Hawk. The program provides assistance under four categories: Full Site and Building Component, Site Work Component, Emergency Component, and Radon Mitigation Component.

Mr. Works applied for the grant under Site Work Component. This component is available for site stabilization and structural support, site drainage, and site remediation of Qualified Properties. Projects filed under this category may include: the repair or replacement of existing rock walls, the construction of new rock walls or other type of retaining structures to stabilize or support a site, and site drainage projects to allow for appropriate drainage to, thru, or from a site. Also, grants under the Site Work Component can cover site remediation projects and the addition of a fence to secure a perimeter of a Qualified Property.

Mr. Works' original application, under the Historic Rock Wall Restoration Program, was received June 21, 2011 and was placed in the queue. Since funding for this program is no longer available, Staff requested Mr. Works submit a new Site Work Component grant application, received June 20, 2014, under the current Historic Restoration and Community Preservation program. On July 1, 2014 Consilium Partners, acting as the City's Owners Representative, met with the applicant's sister, Nan Works, to conduct a review of existing conditions related to the request. As observed by Consilium Partners, the retaining wall along Marchant Street appears to be bowing out (see Image 2). In addition, the applicant has indicated that repairs to the stairs and fence are needed as well as remediation of water intrusion inside of the home. The review of conditions revealed that the stairs and fence are in fair condition (Image 3 and 4). The stairs are in need of repair due to normal wear and tear. However, the fence appears to be in good condition and perceived damage is due to natural weathering. The applicant has indicated exterior water intrusion is due to the drainage swale at the back of the house filling up with water. Due to natural erosion from the hillside, the swale has filled with dirt which has allowed the drains to become completely blocked. Consilium Partners indicated that homeowner maintenance for this part of the house has not been maintained in a frequent enough manner and the water intrusion is a direct result from lack of homeowner maintenance to keep the drains and drainage swale clear and free of debris (see Image 5, 6, 7 and 8).



Image 2: Retaining wall along 171 Marchant Street

Consilium Partners recommended the on-call structural engineer for the City of Black Hawk investigate the current condition of the retaining wall along Marchant Street. The repair of the stairs and fence could be considered for repair if the City feels it appropriate.



Image 3: Condition of stairs at 171 Marchant Street



Image 4: Condition of stairs at 171 Marchant Street



Image 5: 171 Marchant Street drainage swale



Image 6: 171 Marchant Street location of potential water intrusion



Image 7: 171 Marchant Street debris at west drain



Image 8: 171 Marchant Street potential location of blocked drain

Staff from Public Works and Community Planning and Development has evaluated the application, report generated by Consilium Partners and agrees the concrete stairs leading from Marchant Street up to the front entrance is eligible under the grant program and recommend the stairway be replaced with code compliant concrete stairs. No integral color or paint will be included with the staircase replacement. Staff believes the wooden fence running along the south side of the property is in fair condition and any minor repairs required would fall under homeowner maintenance. Remediation of water intrusion also falls under homeowner maintenance. The applicant is responsible for keeping the drainage swale and drains free and clear of debris. Although further investigation by an engineer was recommended for the front wall along Marchant Street, none of the walls on the property appear to have areas of significant failure or identifiable damage to surrounding structures.

The proposed request for an Appeal has been reviewed by staff for compliance with Chapter 16 (Zoning Code) Section 16-366 (Variances and Appeals) of the Black Hawk Municipal Code.

APPLICABLE CITY OF BLACK HAWK REGULATIONS:

Section 16-366 (Zoning Code) of the Municipal Code regulates the appeal process. This staff report summary and catalogue of information relates to the need for the Board of Appeals (City Council) to review and take action on the Appeal. The Black Hawk Municipal Code requires a public hearing which necessitates a notice in the paper and a posting on the property. Both the notification and posting have been completed.

According to Section 16-366(2) of the City of Black Hawk Municipal Code, “requests for relief from the regulations and development standards of this Chapter 16 (Zoning) may be taken to the Board of Appeals (Board of Aldermen) when the strict application of this Chapter will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zoning district

because of special circumstances applicable to a property, including its size, shape, topography, location or surrounding.”

Residential properties within a National Historic Landmark District or within an area listed on the National Register of Historic Places are allowed to participate in the City of Black Hawk Historic Preservation Easement Program. Participation in the program is further determined in Section 3 of the City of Black Hawk Historic Restoration and Community Preservation Guide.

Excerpts from:

*The City of Black Hawk
Municipal Code
Chapter 16 – Zoning Code*

Sect.16-366. Variances and appeals.

All appeals of decisions and requests for a variance shall be processed as described below.

(1) Appeals of decisions.

a. Who may apply. Appeals to the Board of Appeals may be made by any person aggrieved by the inability to obtain a building permit (except where inability to obtain a building permit is due to denial of rezoning application by the Board of Aldermen or by decision of any administrative officer in the City based upon or made in the course of the administration or enforcement of the provisions of this Chapter. Appeals to the Board of Appeals may be made by any officer, department, board or bureau of the City affected by the grant or refusal of the building permit or by other decision of the administrative officer or agency, based on or made in the course of administration or enforcement of this regulation.

b. Time limit. Appeals to the Board of Appeals must be made in writing and filed with the City Clerk within ten (10) days of the action or decision appealed.

c. Stay of proceedings. An appeal stays all proceedings and furtherance of the action appealed from unless the officer from whom the appeal is taken certified to the Board of Appeals, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril of life and property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or a court of record on application and on notice to the officer from whom the appeal is taken and on due cause shown.

(3) Hearing. Hearings of the Board of Appeals shall commence no later than the next regularly scheduled meeting following the completion of required notice procedure. The Board of Appeals may continue a hearing as may be necessary to obtain necessary information and make its decision. Public hearings shall be conducted in the manner provided in this Code.

In considering such Appeal requests the Board of Appeals needs to evaluate the information provided by the applicant, information available and provided from staff, and then make findings of fact related to the Appeal criteria below. Some of the criteria have been worded and set to be related to the Appeal of an Administrative Decision to not approve a requested Grant application from the property owner so that the Board of Appeals can learn the background, evaluate the information, compare it to relevant criteria, and then make Findings to overturn the Denial and allow a Grant application to proceed for

related and necessary work; or to agree with Denial and not authorize any further proceedings related to a Grant application:

- 1. Due to exceptional and extraordinary circumstances unique to the property or structure for which the appeal is sought, the strict enforcement of the provisions of the Grant Program would cause an unnecessary hardship to the applicant.*

Many Staff have visited the property at 171 Marchant Street. It is important to note Consilium Partners and Public Works were only tasked with performing a site visit and to provide initial opinions on the condition of the existing rock walls and other items requested on the application. Although both parties have civil engineer backgrounds, neither party was tasked with performing a thorough investigation. This task would be accomplished by the City's on-call Civil / Structural Engineer as the need arises.

The house was built into a hillside and natural conditions are not typical but somewhat unique to the property and the area. The property is situated on a hillside that naturally required the property to utilize retaining walls for soil control throughout the property. Review of historic images shows the rock walls have been in place since at least the 1900s. The house underwent full renovation in 2005. If any concern about the structural integrity of the walls existed, it would have been noted during the 2005 renovations. No significant or immediate damage to existing structures or failure of the rock walls seem evident or imminent. No previous report of significant property damage or rock wall failure of any kind has been reported to Staff's knowledge. Further evaluation of the Marchant Street wall by a certified engineer is likely before recommending any need for repair or replacement.

The existing fence has been in place for an extensive time period. Based on the historic images, the entire or a portion of the fence is approximately, 28 years old. Natural weather conditions have most likely led to its current appearance and condition. As such, it is appropriate to recommend the applicant be responsible for regular property maintenance.

The current soil erosion conditions above the house have been present since the house was first constructed and is expected to be a normal occurrence. Regularly scheduled maintenance of the swale at the back of the house by the applicant would prevent the drains from clogging, overfilling and permitting water to then enter the house.

- 2. The Appeal requested is the minimum deviation or solution necessary;*

A variety of options are available for the property owner. The site visit observation of the retaining rock walls did not indicate an immediate or urgent need to repair or replace. Repair or replacement of these walls would likely be very expensive and is impractical at this time. Leaving the walls 'as is' is likely the best solution.

The applicant, as part of a regular property maintenance program, could make any associated repairs to extend the life of the wooden fence.

Similarly, the owner has the option to prevent the intrusion of water into the house by regular cleaning of the swale and unclogging the swale drains so as to prevent water accumulation.

- 3. The granting of the Appeal will be consistent with the spirit, purpose and intent of the Grant Program and will not create a situation which alters the character of the area surrounding the property for which the Appeal is granted;*

The granting of the Appeal would not be consistent with the spirit, purpose or intent of the Grant program. The goal and essence of the grant program is to provide resources to promote the rehabilitation and historic preservation of Qualified Properties.

The City has offered to assist the owner by replacing the front staircase, since this item was not addressed during the 2005 renovation. Replacing the staircase would greatly contribute to the overall appearance and quality of the property and surrounding area in general.

- 4. The Appeal will secure and in no way diminish the public safety and welfare; nor impair prevention of or increase risk of fire; flood, traffic congestion or other hazard; (at a reasonable cost)*

No previous or current reports of significant damage to any structures due to soil erosion or the collapse of any rock walls due to deterioration have been reported in the past or present to staff's knowledge.

STAFF COMMENTS:

The applicant is requesting funds for several improvements around the house at 171 Marchant Street. The original request included retaining rock wall repairs, fence replacement, replacement of the existing front concrete stairs, and remediation of water intrusion into the house.

After visiting the property and considering all the information provided, Staff is under the impression that it would be unnecessary to repair the existing retaining rock walls. It is important to note the Public Works Department and Consilium Partners were only tasked with performing a site visit and provide initial opinions on the quality of the existing wall. Although both parties have civil engineer backgrounds, neither party was tasked with performing a thorough investigation. This task would be accomplished by the City's on-call Civil / Structural Engineer as the need arises.

Also, the existing fence, located on top of the retaining rock wall, is in fair condition and general maintenance by the owner could improve its appearance and longevity.

Remediation of water intrusion is not the responsibility of the City. The reported damage appears to be a direct result from intrusion of water due to the lack of maintenance of the swale and swale drains at the back of the house. The maintenance of the swale and drains is the responsibility of the homeowner.

In addition, this home has undergone a full restoration. If any concern about the condition of the rock walls, fence and the swale was identified during the restoration, the property owner would have been informed about it. Since it is believed that the owner was fully aware of conditions on the property prior to purchase, it seems fair to expect that it would be the owner's responsibility to maintain his or her own property and keep any deterioration to a minimum with regular maintenance.

Staff is aware that other property owners in the City have applied for grants in the past and that sometimes certain items have been approved for repair or replacement. The circumstances under which those grants were allowed were different, with the grant program evolving and the amount of funding available as well as the policies of the grant program and the amount of available funds over the years.

The applicant always has the option to explore alternative solutions regarding his concerns for the condition of the retaining rock walls, fence and water intrusion into the house at his own expense.

As indicated in the correspondence dated September 9, 2014, the City is willing to assist the applicant and provide partial support for improvements on the property. The City will address the request to replace the existing stairs that lead from Marchant Street up to the front entrance of the house with a code compliant concrete stair in kind, excluding integral color or paint. As noted, the stairs were not part of the original rehabilitation in 2005.

RECOMMENDATION:

Staff recommends the Appeal documentation to be reviewed by the City Council and make findings to substantiate the decision to uphold the partial Denial; or overturn the decision and provide direction on next steps for staff.

APPENDIX:

1. Grant request application
2. Grant request application denial letter
3. Consilium Partners – Site Work Grant Request
4. Public Works Department comments
5. Cultural Resource Re-evaluation Form
6. Applicant appeal email
7. Applicant appeal letter

Appendix 1
171 Marchant Street

Appendix 1



City of Black Hawk
Community Planning and Development
211 Church Street
P.O. Box 68
Black Hawk, CO 80422
Ph: 303-582-0615 / 303-582-2223

Grant No: 2014.13
Project No: _____
For Office Use Only

HISTORIC RESTORATION AND COMMUNITY PRESERVATION FUND - APPLICATION

GENERAL INFORMATION:

Grant Year: 2014 Today's Date: 6-20-14
Property Street Address: 171 Marquette
Property Owner(s): G. WORKS / N. WORKS
Owner(s) Mailing Address: 1700 Pacific 9580, Dulles 75201
Owner(s) Telephone No.: (H) 214-668-2000 (W) 214-720-2002 (Cell) _____
Email Address: G.W. WORKS @ ATT.NET
Contact Person (if different from owner) _____
Contact Telephone No.: (H) _____ (W) _____ (Cell) _____
Email Address: _____

Applications can be made by individuals other than the property owners with the owner's written permission (written permission must be signed and notarized on a form "Affidavit of Permission" or "Power-of-Attorney" provided by the applicant).

Please check the appropriate box of the type of grant you are applying for. Refer to the "Guide to Programs" for information relating to each program. PLEASE NOTE: YOU WILL NEED A SEPARATE NARRATIVE FOR EACH GRANT COMPONENT.

- Full Site and Building Component Rehabilitation (Interior)
- Site Work Component
- Exterior Maintenance Component
- Emergency Component
- Radon Mitigation Component

Office Use Only. Do not write below this line.

Date Received: 6.27.14 Grant No.: 2014-13
HPC Review Date: _____ Board of Aldermen Approval Date: _____
Amount Approved: _____
Comments or Conditions: _____
Authorization Signature: _____ Date: _____
Associated Grant Numbers: _____

PROJECT INFORMATION:

1. Please provide a general description of the project (If additional room is needed, attach additional paper):

*Repair and Reconstruct all such walls
and stairs and fences on Property.
Retention wall in rear, front, stairs
and front walls and all adjoining
such wall on all side*

Even though a property is located in the National Historic Landmark District, completion of an application does not guarantee the property is eligible to participate in the Historic Restoration and Community Preservation program. Once the property owner makes an official application submittal, Black Hawk staff, and the Owner's Representative will meet with the property owner for an orientation meeting and on-site property visit and inspection. Subsequently, a current conditions report and scope of work will be prepared and presented to City Council with recommendations from City staff and the Owner's Representative regarding program eligibility. Property owner will be notified by the Community Planning and Development with a decision and the next steps in the program process, if applicable.

Applicant to check the box that applies to this application:

- Grant Program Agreement (Full Site & Building-Interior/Exterior Maintenance/Emergency)
- Preservation Easement Agreement (Full Site & Building - Exterior) - Applicant understands and agrees that prior to any construction, applicant shall grant to the City temporary construction easements necessary to complete the work, and shall execute a deed restriction in favor of the City in the forms attached hereto as Exhibit A.

Site Work

In accordance with the City of Black Hawk's Resolution 10-2010 Titled: A resolution amending the City of Black Hawk Community Restoration and Preservation Fund Guide to provide a process for determining payment of Federal potential income tax liability. A copy of Resolution 10-2010 is attached hereto as Exhibit B.

For the purpose of determining reimbursement of State of Colorado income tax liability, the City Council further determines that a recipient of a residential grant must elect in writing prior to the receipt of any grant proceeds whether to seek the Colorado income tax credit for qualifying rehabilitation projects pursuant to C.R.S. § 39-22-514, or whether to apply to the City Manager consistent with C.R.S. §12-47.1-1301, as amended, for the reimbursement of any Colorado income tax liability paid as a result of the receipt of the grant.

I certify that I **WILL NOT** submit an application to the Colorado Historical Preservation Income Tax Credit program, but will apply for reimbursement through the City of Black Hawk.

I certify that I **WILL** apply for the Colorado Historical Preservation Income Tax Credit through the State of Colorado and understand that **NO** reimbursement will be available from the City of Black Hawk. The most current information on the Colorado Preservation tax credit program can be found at <http://www.historycolorado.org/ohp/preservation-tax-credits>.

*G. W. W. S.
N. V. H.*

Property Owner Signature

*6/20/17
G. W. W. S.*

Date

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 10 -2010

TITLE: A RESOLUTION AMENDING THE CITY OF BLACK HAWK COMMUNITY RESTORATION AND PRESERVATION FUND GUIDE TO PROVIDE A PROCESS FOR DETERMINING PAYMENT OF FEDERAL POTENTIAL INCOME TAX LIABILITY

WHEREAS, with the adoption of HB 04-138, a provision of C.R.S. § 12-47.1-1301(3) that prohibited the payment of income tax liability associated with the receipt of a residential grant within the City of Black Hawk was deleted from C.R.S. § 12-47.1-1301(3) for all residential grants awarded on or after May 12, 2004;

WHEREAS, the City Council of the City of Black Hawk desires to provide for payment of federal income tax liability associated with the receipt of a residential grant awarded on or after May 12, 2004, and at the same time protect the confidential financial information of those individuals that may be entitled to such payment pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*; and

WHEREAS, the City Council of the City of Black Hawk desires to develop a process for paying the federal income tax liability associated with the receipt of a residential grant that is in accord with the law and provides notice to the public of the expenditure of public funds and at the same time protects the privacy interests related to confidential financial information of those individuals receiving such grant funds.

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

Section 1. The recipient of a residential grant approved by the City Council pursuant to the City of Black Hawk Community Restoration and Preservation Fund Guide to Programs (the "Grant Program") seeking payment of federal income tax liability shall submit to the City of Black Hawk Finance Department a copy of the documents described hereinbelow in order to qualify for consideration to receive the payment of federal income tax liability associated with the preservation and restoration of the recipient's residential property.

A. A copy of a letter from a Certified Public Accountant or Enrolled Agent specifying the specific federal tax liability amount for the tax year in question associated with the receipt of a grant pursuant to the Grant Program, and

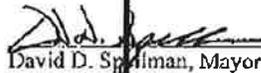
B. A fully executed document in the form attached hereto as Exhibit A and incorporated herein by this reference, signed by the grant recipient(s).

Section 2. The City Manager, in coordination and consultation with the Finance Director, shall provide to the City Council a report indicating the total federal income tax liability due grant recipients on a quarterly basis based on receipt of the information set forth in Section 1 of this Resolution, and the City Council shall consider by separate Resolution whether to approve the federal income tax liability for its residential grant program on a quarterly basis. If the City Council approves the payment of federal income tax liability by Resolution, said Resolution will identify the recipients of payment for federal income tax liability, but shall not disclose the amount paid to each recipient.

Section 3. The City Council may also determine to budget a certain amount within the City's annual budget for the payment of such federal income tax liability, and if the amount has been duly budgeted, and the approval of the grant included approval of an amount to be determined for federal income tax liability, the City Manager may approve the expenditure of the federal income tax liability, subject to ratification by the City Council by Resolution in accordance with section 2 of this Resolution, and provided said applicant has provided the necessary documentation as provided in Section 1 of this Resolution.

Section 4. For the purpose of determining reimbursement of State of Colorado income tax liability, the City Council further determines that a recipient of a residential grant must elect in writing prior to the receipt of any grant proceeds whether to seek the Colorado income tax credit for qualifying rehabilitation projects pursuant to C.R.S. § 39-22-514, or whether to apply to the City Manager consistent with C.R.S. § 17-47.1-1301, as amended, for the reimbursement of any Colorado income tax liability paid as a result of the receipt of the grant.

RESOLVED AND PASSED this 28 day of April, 2010.


David D. Spillman, Mayor

ATTEST:

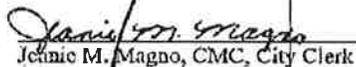

Jennie M. Magno, CMC, City Clerk

Exhibit A

Federal Income Tax Liability

City of Black Hawk
Attn: Finance Director
P.O. Box 68
Black Hawk, Colorado 80422

Dear Sir or Madam:

I (We) have completed our Federal Tax Returns for tax year 20____, and are requesting that the City of Black Hawk issue a check to cover our total federal income tax liability for receipt of the residential grant for my (our) property located at _____ in the amount of \$_____.

I (We) certify that for the Federal Income Tax Return filed for tax year 20____, my (our) total tax liability is \$_____ and my tax liability would have been \$_____ without reporting the grant.

I (We) certify that an application for the Colorado Historical Preservation Income Tax Credit has been submitted and I (we) understand that no reimbursement will be available from the City of Black Hawk for my State income tax liability.

Or

I (We) certify that I (we) will not submit an application for the Colorado Historical Preservation Income Tax Credit and are asking for reimbursement from the City in the amount of \$_____ for my State income tax liability.

I (We) certify that the above information is true and correct. To the extent the information is not correct, I (we) understand that I (we) may be held personally liable to repay all money received hereunder and to pay interest, costs, and attorneys' fees incurred by the City of Black Hawk in collecting such amounts, and that I (we) may also be subject to criminal prosecution.

(Name)

Date

6/26/2014

Print

Subject: Fwd: Historic rock wall restoration
From: Nancy Works (nancyaworks@aol.com)
To: g.w.works@att.net;
Date: Tuesday, June 24, 2014 11:48 AM

Sent from my iPhone

Begin forwarded message:

From: Tam Archer <TArcher@cityofblackhawk.org>
Date: June 24, 2014 at 10:33:40 AM CDT
To: "nancyaworks@aol.com" <nancyaworks@aol.com>
Cc: Cynthia Linker <CLinker@cityofblackhawk.org>, "Killian, Jessica" <jessica.killian@nv5.com>
Subject: Historic rock wall restoration

Good morning Nan! Hope you are well.

I am writing today regarding your application for repairs to your rock walls. We have changed the program and need you to fill out a new application if you are still interested in staying in the program.

I have attached the application for you, and also the application you provided in 2011. Please complete and return the application to me via email or regular mail at your earliest convenience. The component you are requesting is site work.

Please feel free to contact me if you have any questions.

Thank you.

Exhibit A
Federal Income Tax Liability

City of Black Hawk
Attn: Finance Director
P.O. Box 68
Black Hawk, Colorado 80422

Dear Sir or Madam:

I (We) have completed our Federal Tax Returns for tax year 20____, and are requesting that the City of Black Hawk issue a check to cover our total federal income tax liability for receipt of the residential grant for my (our) property located at _____ in the amount of \$_____.

I (We) certify that for the Federal Income Tax Return filed for tax year 20____, my (our) total tax liability is \$_____ and my tax liability would have been \$_____ without reporting the grant.

I (We) certify that an application for the Colorado Historical Preservation Income Tax Credit has been submitted and I (we) understand that no reimbursement will be available from the City of Black Hawk for my State income tax liability.

Or

I (We) certify that I (we) will not submit an application for the Colorado Historical Preservation Income Tax Credit and are asking for reimbursement from the City in the amount of \$_____ for my State income tax liability.

I (We) certify that the above information is true and correct. To the extent the information is not correct, I (we) understand that I (we) may be held personally liable to repay all money received hereunder and to pay interest, costs, and attorneys' fees incurred by the City of Black Hawk in collecting such amounts, and that I (we) may also be subject to criminal prosecution.

(Name)

Date

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 10-2010

TITLE: A RESOLUTION AMENDING THE CITY OF BLACK HAWK COMMUNITY RESTORATION AND PRESERVATION FUND GUIDE TO PROVIDE A PROCESS FOR DETERMINING PAYMENT OF FEDERAL POTENTIAL INCOME TAX LIABILITY

WHEREAS, with the adoption of HB 04-1381, a provision of C.R.S. § 12-47.1-1301(3) that prohibited the payment of income tax liability associated with the receipt of a residential grant within the City of Black Hawk was deleted from C.R.S. § 12-47.1-1301(3) for all residential grants awarded on or after May 12, 2004;

WHEREAS, the City Council of the City of Black Hawk desires to provide for payment of federal income tax liability associated with the receipt of a residential grant awarded on or after May 12, 2004, and at the same time protect the confidential financial information of those individuals that may be entitled to such payment pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*; and

WHEREAS, the City Council of the City of Black Hawk desires to develop a process for paying the federal income tax liability associated with the receipt of a residential grant that is in accord with the law and provides notice to the public of the expenditure of public funds and at the same time protects the privacy interests related to confidential financial information of those individuals receiving such grant funds.

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

Section 1. The recipient of a residential grant approved by the City Council pursuant to the City of Black Hawk Community Restoration and Preservation Fund Guide to Programs (the "Grant Program") seeking payment of federal income tax liability shall submit to the City of Black Hawk Finance Department a copy of the documents described hereinbelow in order to qualify for consideration to receive the payment of federal income tax liability associated with the preservation and restoration of the recipient's residential property.

A. A copy of a letter from a Certified Public Accountant or Enrolled Agent specifying the specific federal tax liability amount for the tax year in question associated with the receipt of a grant pursuant to the Grant Program, and

B. A fully executed document in the form attached hereto as Exhibit A and incorporated herein by this reference, signed by the grant recipient(s).

Section 2. The City Manager, in coordination and consultation with the Finance Director, shall provide to the City Council a report indicating the total federal income tax liability due grant recipients on a quarterly basis based on receipt of the information set forth in Section 1 of this Resolution, and the City Council shall consider by separate Resolution whether to approve the federal income tax liability for its residential grant program on a quarterly basis. If the City Council approves the payment of federal income tax liability by Resolution, said Resolution will identify the recipients of payment for federal income tax liability, but shall not disclose the amount paid to each recipient.

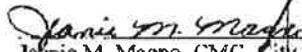
Section 3. The City Council may also determine to budget a certain amount within the City's annual budget for the payment of such federal income tax liability, and if the amount has been duly budgeted, and the approval of the grant included approval of an amount to be determined for federal income tax liability, the City Manager may approve the expenditure of the federal income tax liability, subject to ratification by the City Council by Resolution in accordance with section 2 of this Resolution, and provided said applicant has provided the necessary documentation as provided in Section 1 of this Resolution.

Section 4. For the purpose of determining reimbursement of State of Colorado income tax liability, the City Council further determines that a recipient of a residential grant must elect in writing prior to the receipt of any grant proceeds whether to seek the Colorado income tax credit for qualifying rehabilitation projects pursuant to C.R.S. § 39-22-514, or whether to apply to the City Manager consistent with C.R.S. § 11-47.1-1301, as amended, for the reimbursement of any Colorado income tax liability paid as a result of the receipt of the grant.

RESOLVED AND PASSED this 28 day of April, 2010.


David D. Spillman, Mayor

ATTEST:


Jeanie M. Magno, CMC, City Clerk

Appendix 2
171 Marchant Street

Appendix 2



City of Black Hawk
Community Planning and Development
211 Church Street
P.O. Box 68
Black Hawk, CO 80422
Ph: 303-582-0615 / 303-582-2223 or Fax: 303-582-2239

September 9, 2014

George Works
Nan Works
1700 Pacific Avenue, Suite 4580
Dallas, Texas 75201

RE: 171 Marchant Street – Application for Site Work

Dear George and Nan:

We are writing on behalf of the City of Black Hawk to inform you Community Planning and Development has reviewed and partially approved your application for grant funds to address the rock walls, stairs and fences at your property at 171 Marchant Street. The City Manager has informed City Council of the decision. You have the right to appeal this decision to the City of Black Hawk Board of Aldermen if you choose to do so, per the terms of the current Historic Restoration and Community Preservation Fund Guide to Programs (attached). Please be aware an appeal must be filed within 10 days of this letter, or September 19, 2014.

The requested scopes of work have been approved/denied as follows:

1. Rock wall repair/replacement shall not be addressed
2. Repairs to the wooden fence shall not be addressed
3. Remediation of water intrusion shall not be addressed
4. Concrete stairs leading from Marchant Street up to the front entrance shall be replaced with code compliant concrete stairs in kind. No integral color or paint will be included.

You are able to contract and complete the denied work yourself. You will be required to obtain a Certificate of Appropriateness for the work once a scope is established, which will need to be reviewed by the Historic Preservation Commission and City Council. Dates for these meetings, and deadlines for turning in documents for information packets, are available from the Community Planning and Development office.

Please let us know if you have any additional questions or concerns.

Sincerely,

Jessica M. Killian, PE, LEED GA
Senior Project Manager

CC: Cynthia L. Linker and Tami Archer – City of Black Hawk

Encl: Application, Appeal Guidelines

Appendix 3

171 Marchant Street



Appendix 3



171 Marchant Street – Sitework Grant Request

The property owners at 171 Marchant Street have requested a Sitework Component Community Restoration and Historic Preservation Fund Grant for rock wall work throughout their property, repairs to stairs and fences, and remediation of water intrusion at the rear of the house (see attached application request). On July 1, 2014, Consilium Partners met with Nan Works (“Owner”) to review the existing conditions related to this request. Please note, the house was previously renovated utilizing City of Black Hawk Historic Restoration and Community Preservation Grant funds in 2005.

Based on Consilium Partners’ review and the attached pictures, Consilium Partners notes the following:

Rock Wall Repairs

The rock wall on the south side of the property, along Marchant Street, is bowing out slightly. This is indicative of a partial failure and may eventually result in significant damage. Consilium Partners would recommend the walls along Marchant Street, on both sides of the stairs, be further investigated by an engineer. Rock walls located to the east of the house appear to be original walls that have deteriorated from age. Although continued deterioration is likely, Consilium Partners did not observe any areas of significant failure, or potential damage to any structures.

Repairs to Stairs and Fences

The stairs which run from Marchant Street up to the level of the house are deteriorated in certain areas, and may cause trip hazards. These stairs were not included in the previous Grant work. Replacement could likely be done in parts where damage was significant, however, matching the color of the remaining stair areas would be difficult. A wooden fence runs along the south side of the property and appears to be in fair condition, although does show some deterioration potentially due to movement of the rock wall adjacent to it. Any repairs would likely be minor and could fall under homeowner maintenance.

Remediation of Water Intrusion

Due to erosion, the drainage swale at the back of the house was reported to fill up and at times allows water into the house. It appears that homeowner maintenance in this area has not been completed as frequently as required, which has allowed one drain to be completely blocked, and the other to be partially blocked. Additionally, as this area was reviewed and constructed via the Grant Program previously, Consilium Partners would anticipate that the current issues are a result of homeowner maintenance.

In summary, Consilium Partners would recommend additional investigation to the streetside walls along Marchant Street, at minimum. Additional consideration to repairs at the stairs and the fences could be considered if City staff feels this is appropriate.

Thank you,
Jessica Killian
Consilium Partners
July 17, 2014



Photographs of Existing Conditions



Marchant Street wall





®

Marchant Street wall



Site walls



Site stairs



Deterioration at stairs





® *Wood fence*



Drainage swale





Location of potential water intrusion



Debris at west drain



Potential location of blocked drain

Appendix 4
171 Marchant Street

Appendix 4

From: Tom Isbester
Sent: Friday, October 03, 2014 10:34 AM
To: Cynthia Linker
Subject: FW: 171 Marchant - Additional Information

From: Matthew J. Reed
Sent: Friday, October 03, 2014 8:39 AM
To: Tom Isbester
Subject: RE: 171 Marchant - Additional Information

Following are our comments regarding the Site Work Scope of Work:

1. The City should have no responsibility to clean out the rear concrete drainage pan.
2. However, I could see the grant program constructing a new set of stairs.
3. Also, I could see this being a rock wall project, though not necessarily because the front wall is “bowing out slightly” and should be “further evaluated by an engineer”. More because this would allow the gas line and other utilities to be installed behind the wall. Rebuilding this wall could also improve aesthetics, if that’s important to the City. The fence would need to be removed and reset/rebuilt if the wall comes down.

Thomas Isbester
City of Black Hawk Public Works Director
987 Miners Mesa Road
P.O. Box 68
Black Hawk, CO 80422
303-582-1324

Appendix 5
171 Marchant Street

Appendix 5

BLACK HAWK CULTURAL RESOURCE SURVEY
Cultural Resource Re-evaluation Form
(page 1 of 2)

1. Current Address: **171 Marchant**
2. Resource Number: **5GL.7.409** 3. NHL Resource Number: **B7-5**
4. Resource Name:
5. Purpose of this current site visit (check as many as apply)

- Site is within a current project area
 Resurvey
 Update of previous site form(s)
 Surface collection
 Testing to determine eligibility
 Excavation
 Other

6. Previous Recordings:

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 1986 National Park Service Survey | <input checked="" type="checkbox"/> Photograph | |
| <input checked="" type="checkbox"/> 1991 National Historic Landmark Nomination | No Photographs | <input checked="" type="checkbox"/> Contributing |
| <input checked="" type="checkbox"/> 1998 Re-survey | <input checked="" type="checkbox"/> Photograph | |
| <input checked="" type="checkbox"/> 2004 Photo survey | <input checked="" type="checkbox"/> Photograph | |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Photograph | |

7. Exterior alterations since 1986: **1998: Historic Preservation grant, alteration permit, \$25,000. 2002: "upgrades," \$46,000. 2005: Historic Preservation grant, \$260,000. Alterations include metal roof replacing former shingle roof, replacement windows. Site location and vegetation make it difficult to photograph and evaluate.**

8. Additional historical background: **The house is visible in the 1886-1900 Sanborn maps, although the maps appear to have the lots numbered incorrectly. It is also seen in historic photographs purporting to date from 1888. The numerous additions date at least from 1886. Deed research may reveal a more accurate construction date, as the house has architectural features typical of an earlier construction date.**

Ca. 1880s Construction date Estimate from 1986 NPS Survey New estimate

Sources of information: **Digital Image Collection, Western History & Genealogy, Denver Public Library; The Gilpin Railroad Era (Abbot)**

Sanborn Maps

- 1886
 1890
 1895
 1900

Current Address: **171 Marchant**

(page 2 of 2)

Resource Number: **5GL.7.409**

NHL Resource Number: **B7-5**

9. Changes to Location or Size Information: **Block 8, lot 1-3 (w 27' of 3)**

10. Revised National Historic Landmark District- Contributing Building Eligibility Assessment:
Contributing Non contributing Need data

11. National Register - Individual Eligibility Assessment:
Eligible Not eligible Need data

12. Is there National Register district potential? Yes No
Discuss: **This building would contribute to a potential N.R. district.**

13. Local Designation - Individual Eligibility Assessment:
Eligible Not eligible Need data

14. Is there Local district potential? Yes No
Discuss: **This building would contribute to a potential local district**

15. Photograph Types and Numbers: **Digital, <.jpg> format. 171 Marchant-1.JPG, 171 Marchant-2.JPG, 171 Marchant-3.JPG**

16. Report Title: **Black Hawk Historic Resource Resurvey: 2009-2010**

17. Recorder(s): **Deon Wolfenbarger**

18. Date(s): **July 15, 2010**

19. Recorder Affiliation: **Three Gables Preservation**

20. Attachments
(check as many as apply)
 Photographs
 Site sketch map
 U.S.G.S. map photocopy
 Other _____
 Other _____

21. Official determination
(OAHF USE ONLY)
 Determined Eligible
 Determined Not Eligible
 Need Data
 Nominated
 Listed
 Contributing to N.R. District
 Not Contributing to N.R. Dist

Current Address: **171 Marchant**
Resource Number: **5GL.7.409**
NHL Resource Number: **B7-5**

Continuation Sheets

Current Photographs
Date: **1/19/2010, 1/21/2010**



Current Address: **171 Marchant**
Resource Number: **5GL.7.409**
NHL Resource Number: **B7-5**

Continuation Sheets

Current Photograph
Date: **04/09/2009**



2004 Photograph



Current Address: **171 Marchant**
Resource Number: **5GL.7.409**
NHL Resource Number: **B7-5**

Continuation Sheets

1998 Resurvey Photograph



1986 Survey Photograph



Current Address: 171 Marchant
Resource Number: 5GL.7.409
NHL Resource Number: B7-5

Continuation Sheets

Gilpin County Assessor's Photographs



Current Address: **171 Marchant**
Resource Number: **5GL.7.409**
NHL Resource Number: **B7-5**

Continuation Sheets

Historic photographs



Ca. 1888

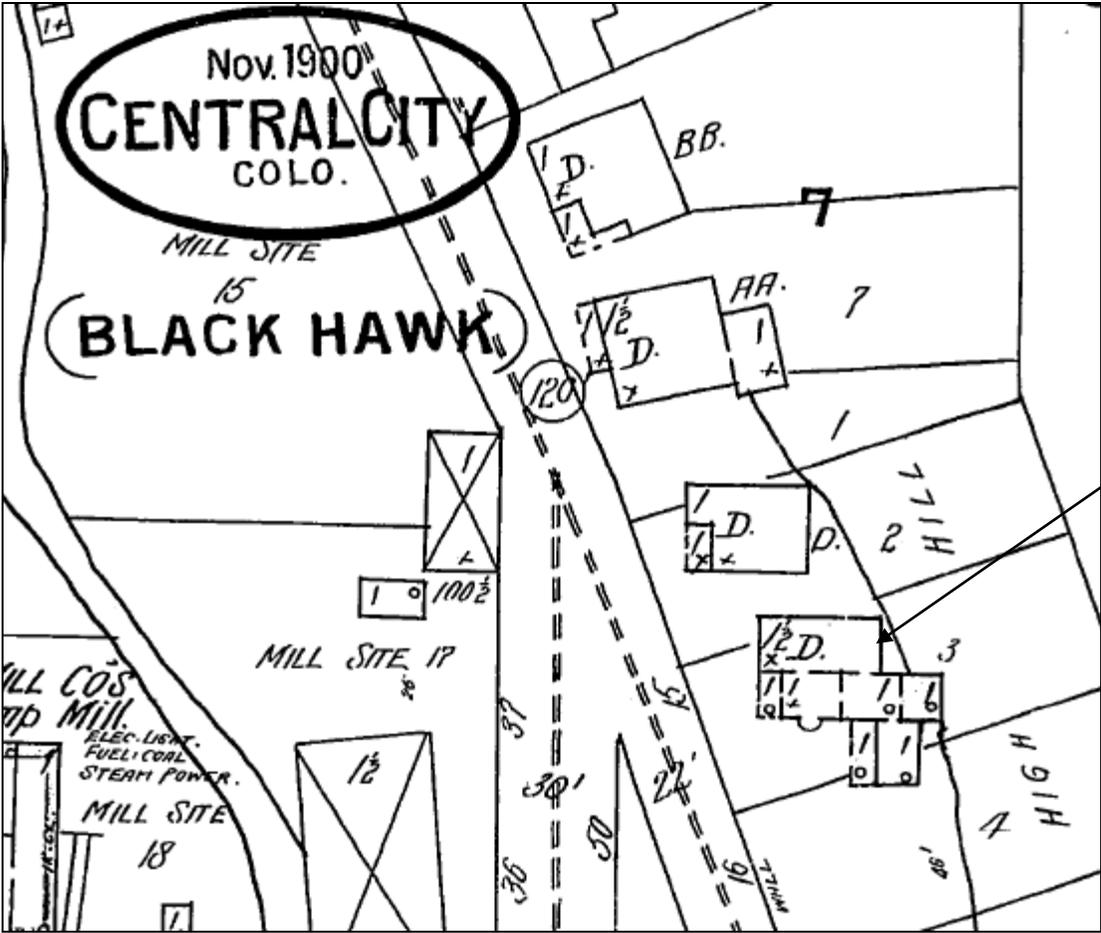


Ca. 1910

Current Address: 171 Marchant
Resource Number: 5GL.7.409
NHL Resource Number: B7-5

Continuation Sheets

1900 Sanborn Map



Appendix 6
171 Marchant Street

Appendix 6

Zeljko Spiric

From: G W Works <g.w.works@att.net>
Sent: Friday, September 19, 2014 9:43 AM
To: Cynthia Linker; Jessica Killian
Subject: Appeal of staffers decision re 171 marchant st, blackhawk colorado

Follow Up Flag: Follow up
Flag Status: Flagged

Although we are pleased and grateful that our request for replacing rock walls and site improvements at 171 marchant was partially granted, we respectfully appeal such decision as it Denies other requested items that were integral in the scope of the long awaited grant request. Please inform us as to our further commitments to present evidence as to necessity and/ or appropriateness of the requested site work. Thanks for working with us on this matter.. George Works

Sent from my iPad

Appendix 7
171 Marchant Street

Appendix 7

G. W. Works & Company

FAX Transmission

From: George Works
To: Cynthia Linker
Company: Black Hawk

Date: October 7, 2014
Time: 10:03 AM
FAX #: 1303.582.2239

RE: 171 Marchant..Appeal to City Council concerning site restoration

Although we are pleased that the city has approved our site restoration grant for replacement for the front stairs at the above site, we are disturbed that the grant does not include the rock wall repairs and fence replacement items that were the original requested items and were not done at the house restorations previously. When a high city official recommended we get on the rock wall restoration list as he noticed the bowing of the wall and the obvious deterioration of the wall.. In my materials, it should be noted that a city engineer concurs as to the need for work on the wall and such is the scope of our appeal.

Thank you.

GWWorks



VOICE: 214-720-2002 FAX: 214-720-7571

1700 Pacific Avenue 4580, Dallas, Texas 75201

Applicant's Submittal

Applicant's additional information on following pages provided to the City of Black Hawk for consideration by City Council with this Appeal case

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Sent: Friday, September 19, 2014 9:43 AM
To: Cynthia Linker; Jessica Killian
Subject: Appeal of staffers decision re 171 marchant st, blackhawk colorado

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Thank you.

GWWorks



VOICE: 214-720-2002 FAX: 214-720-7571

1700 Pacific Avenue 4580, Dallas, Texas 75201

COUNCIL BILL 21
ORDINANCE 2014-21
AN ORDINANCE AMENDING
SECTION 2-132 OF THE BLACK
HAWK MUNICIPAL CODE
CONCERNING THE
IMPOSITION OF COURT
COSTS TO COVER THE COST
OF INSURING COMMUNITY
SERVICE

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

COUNCIL BILL NUMBER: CB21

ORDINANCE NUMBER: 2014-21

TITLE: AN ORDINANCE AMENDING SECTION 2-132 OF THE BLACK HAWK MUNICIPAL CODE CONCERNING THE IMPOSITION OF COURT COSTS TO COVER THE COST OF INSURING COMMUNITY SERVICE

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

Section 1. Section 2-132 of the Black Hawk Municipal Code is amended by the addition thereto of a new subsection (a)(10), to read as follows:

(10) The amount necessary to pay for the actual cost to the City of obtaining insurance coverage for those persons ordered to perform community service.

Section 2. 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 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 22nd day of October, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance amending Section 2-132 of the Black Hawk Municipal Code concerning the imposition of court costs by the Black Hawk Municipal Court to cover the expense of providing worker's compensation insurance to convicted offenders participating in court ordered community service.

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

MOTION OF APPROVAL to approve Council Bill 21, an ordinance amending Section 2-132 of the Black Hawk Municipal Code.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: The Black Hawk Municipal Court frequently requires convicted offenders to participate in community service as part of the offender's sentencing. Some community service agencies refuse to allow individuals sentenced by the Black Hawk Municipal Court to participate in their programs due to a lack of worker's compensation insurance coverage. The City of Black Hawk Municipal Court seeks an ordinance allowing the Municipal Court to include the cost of worker's compensation insurance into the community service participant's court cost. The ordinance will increase the number of venues available for offenders to complete community service. The City Attorney drafted the attached ordinance amending Section 2-132 of the Municipal Code to allow the court cost to be imposed by the court.

FUNDING SOURCE: N/A

WORKSHOP DATE: N/A

ORIGINATED BY: Sally Canady, Municipal Court Clerk

STAFF PERSON RESPONSIBLE: Sally Canady, Municipal Court Clerk

DOCUMENTS ATTACHED: Council Bill 21

CITY ATTORNEY REVIEW: [X]Yes []No []N/A INITIALS _____

SUBMITTED BY: Stephen Cole, Chief of Police



Stephen Cole
Police Chief



Jack D. Lewis
City Manager

**COUNCIL BILL 22
ORDINANCE 2014-22
AN ORDINANCE APPROVING
THE FTA SECTION 5311
GRANT AGREEMENT
BETWEEN THE COLORADO
DEPARTMENT OF
TRANSPORTATION, DIVISION
OF TRANSIT AND RAIL AND
THE CITY OF BLACK HAWK**

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

COUNCIL BILL NUMBER: CB22

ORDINANCE NUMBER: 2014-22

TITLE: AN ORDINANCE APPROVING THE FTA SECTION 5311 GRANT AGREEMENT BETWEEN THE COLORADO DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSIT AND RAIL AND THE CITY OF BLACK HAWK

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

Section 1. The City of Black Hawk hereby approves the FTA Section 5311 Grant Agreement between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, and authorizes the Mayor to execute the same on behalf of the City.

Section 2. 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 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 22nd day of October, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk



CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Execute a grant from CDOT for partial funding of a utility tractor for the bus barn facility.

RECOMMENDATION:

If City Council chooses to approve Council Bill 22, the recommended motion is as follows: “Approve Council Bill 22, An Ordinance Approving the FTA Section 5311 Grant Agreement between the Colorado Department of Transportation, Division of Transit and Rail and the City of Black Hawk”

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The City applied for the grant back in early 2013. The award was announced in October of 2013 but CDOT was not able to get contracts out until just recently. The grant is for \$44,000 with a minimum 20% local match. The unit staff has selected is a mini-wheel loader. The unit is very versatile and will have forks for unloading palletized parts and drums of product for the car wash. In addition there will be a bucket and a 10 foot snow pusher for cleaning the parking lots around the bus barn. The quote for the unit is \$75,625. The difference of \$31,625 will be funded from various Streets and Fleet accounts from the 2014 budget.

FUNDING SOURCE: various streets & fleet line items

WORKSHOP DATE: 22-Oct-14

ORIGINATED BY: Tom Isbester

STAFF PERSON RESPONSIBLE: Tom Isbester

PROJECT COMPLETION DATE: December 31, 2015

DOCUMENTS ATTACHED: ordinance & contract

CITY ATTORNEY REVIEW: []Yes []No []N/A INITIALS _____

SUBMITTED BY:

REVIEWED BY:

Thomas Isbester, Public Works Director

Jack D. Lewis, City Manager

STATE OF COLORADO
Colorado Department of Transportation
Division of Transit and Rail
FTA Section 5311 Grant Agreement
with
CITY OF BLACK HAWK

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1. PARTIES

This Grant (“Grant”) is entered into by and between CITY OF BLACK HAWK (“Grantee”), and the STATE OF COLORADO acting by and through the Colorado Department of Transportation, Division of Transit and Rail (“State” or “CDOT”). Grantee and the State hereby agree to the following terms and conditions.

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Grant shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (“Effective Date”). Except as provided in Section 7(B)(v), the State shall not be liable to pay or reimburse Grantee for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority to enter into this Grant exists in CRS §§43-1-106, 43-1-110, 43-1-117.5, 43-1-701, 43-1-702 and 43-2-101(4)(c) as amended, and funds have been budgeted, appropriated and otherwise made available pursuant to MAP-21, SAFETEA_LU, 23 USC §104 and 23 USC §149 and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Grant.

C. Purpose

In accordance with 49 USC §5311, the purpose of this Grant is to provide funding to support public transportation in areas with a population of less than 50,000, or non-urbanized areas. The work to be completed under this Grant by the Grantee is more specifically described in **Exhibit A**.

D. References

All references in this Grant to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Budget

“Budget” means the budget for the Work described in **Exhibit A**.

B. Evaluation

“Evaluation” means the process of examining Grantee’s Work and rating it based on criteria established in §6 and **Exhibits A, B, C and D**.

C. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Scope of Work and Budget), **Exhibit B** (Additional FTA Requirements), **Exhibit C** (Non-Discrimination Notice), **Exhibit D** (Certifications and Assurances), **Exhibit E** (Verification of Payment), **Exhibit F** (Supplemental Federal Provisions), **Exhibit G** (Security Agreement), and **Exhibit H** (Procurement Authorization).

D. Federal Funds

“Federal Funds” means the funds provided by the Federal Transit Administration (“FTA”) to fund performance of the work.

E. Goods

“Goods” means tangible material acquired, produced, or delivered by Grantee either separately or in conjunction with the Services Grantee renders hereunder.

F. Grant

“Grant” means this Grant, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this Grant, and any future modifying agreements, exhibits, attachments or references incorporated herein.

G. Grant Funds

“Grant Funds” means available funds payable by the State to Grantee pursuant to this Grant.

- H. Grantee**
“Grantee” for the purposes of this Grant means the Grantee named in Section 1.
- I. Local Funds**
“Local Funds” means funds provided by any city, county, or entity (public or private) for performance of the Work and includes in-kind contribution.
- J. Master Agreement**
“Master Agreement” means the FTA document incorporated by reference and made part of FTA’s standard terms and conditions governing the administration of a project supported with federal assistance awarded by FTA.
- K. Other than Urbanized (Non-urbanized) Area**
“Other than Urbanized (Nonurbanized) Area” means any area outside of an urbanized area. The term “nonurbanized area” includes Rural Areas and urban areas under 50,000 in population not included in an Urbanized Area.
- L. Party or Parties**
“Party” means the State or Grantee and “Parties” means both the State and Grantee.
- M. Project**
“Project” means Work identified in **Exhibit A**.
- N. Public Transportation**
“Public Transportation” for purposes of the federal transit program, has the same meaning as “transit,” and “mass transportation,” and:
(1) Includes transportation by a conveyance that provides regular and continuing:
a. General transportation to the public, or
b. Special transportation to the public, but
(2) Does not include:
a. School bus transportation,
b. Charter transportation
c. Sightseeing transportation,
d. Intercity bus transportation, or
e. Intercity passenger rail transportation provided by Amtrak or a successor to the entity described in 49 USC chapter 243 (Amtrak).
- O. Review**
“Review” means examining Grantee’s Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in **§6, §19 and Exhibit A**.
- P. Rural Area**
“Rural Area” means an area with low population and density outside the boundaries of an urban area. However, the term “rural” is commonly used to refer to all areas other than urbanized areas and is so used in this Grant.
- Q. Services**
“Services” means the required services to be performed by Grantee pursuant to this Grant.
- R. Subgrantee**
“Subgrantee” means third-parties, if any, engaged by Grantee to aid in performance of its obligations.
- S. Third Party Participant**
“Third Party Participant” means, unless FTA determines otherwise in writing, all participants in the Grantee’s Project that are not CDOT or FTA, such as:
1. Subgrantees,
2. Lessees,
3. Third party contractors,
4. Third party subcontractors, and
5. Other participants in the Grantee’s Project.

T. Urban Area

“Urban Area” means an area that includes a municipality or other built-up place that the Secretary of Commerce, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in a locality.

U. Urbanized Area

“Urbanized Area” means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce. “Small urbanized areas” as used in the context of FTA formula grant programs are urbanized areas with a population of at least 50,000 but less than 200,000.

V. Work

“Work” means the tasks and activities Grantee is required to perform to fulfill its obligations under this Grant and **Exhibit A**, including the performance of the Services and delivery of the Goods.

W. Work Product

“Work Product” means the tangible or intangible results of Grantee’s Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM

A. Initial Term-Work Commencement

The Parties’ respective performances under this Grant shall commence on **the Effective Date**. This Grant shall terminate on **December 31, 2016** unless sooner terminated or further extended as specified elsewhere herein.

B. Two Month Extension

The State, at its sole discretion upon written notice to Grantee as provided in §16, may unilaterally extend the term of this Grant for a period not to exceed two months if the Parties are negotiating a replacement Grant (and not merely seeking a term extension) at or near the end of any initial term or any extension thereof. The provisions of this Grant in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two month extension. The two-month extension shall immediately terminate when and if a replacement Grant is approved and signed by the Colorado State Controller.

6. STATEMENT OF WORK / CONTRACT OBJECTIVE PLAN

A. Completion

Grantee shall complete the Work and its other obligations as described herein and in **Exhibit A** on or before **December 31, 2016**. Except as provided in §7(B)(v), the State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant.

B. Goods and Services

Grantee shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Grant Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Grantee or Subgrantee(s) shall be considered Grantee’s or Subgrantee’s employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Grant.

D. Federal Laws, Rules and Regulations

If the Grant Funds involves federal funding, Grantee understands and agrees that federal laws, rules and regulations will control the Work and its implementation. Unless a written waiver is granted, Grantee agrees to comply with all required federal laws, rules and regulations applicable to the Work, in addition to all State requirements.

7. PAYMENTS TO GRANTEE

The State shall, in accordance with the provisions of this §7, pay Grantee in the following amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Grant to Grantee by the State is \$44,000.00, as determined by the State from available funds. Grantee agrees to provide any additional funds required for the successful completion of the Work. Payments to Grantee are limited to the unpaid obligated balance of the Grant as set forth in Exhibit A.

B. Payment

i. Invoicing

Any advance payment allowed under this Grant shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant. Grantee shall initiate any payment requests by submitting invoices to the State in the form and manner set forth and approved by the State.

ii. Interest

The State shall fully pay each invoice within 30 days of receipt thereof if the amount invoiced represents performance by Grantee previously accepted by the State. Uncontested amounts not paid by the State within 30 days may, if Grantee so requests, bear interest on the unpaid balance beginning on the 31st day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Grantee shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making fiscal commitments beyond the term of the State's current fiscal year. Therefore, Grantee's compensation is contingent upon the continuing availability of State appropriations as provided in the Colorado Special Provisions, set forth below. If federal funds are used with this Grant in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Grant shall be made only from available funds encumbered for this Grant and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Grant, the State may immediately terminate this Grant in whole or in part without further liability in accordance with the provisions herein.

iv. Erroneous Payments

At the State's sole discretion, payments made to Grantee in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Grantee, may be recovered from Grantee by deduction from subsequent payments under this Grant or other Grants, grants or agreements between the State and Grantee or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

v. Retroactive Payments

The State shall pay Grantee for costs or expenses incurred or performance by the Grantee prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules and regulations applicable to the Work provide for such retroactive payments to the Grantee. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Grant or such Exhibit. Grantee shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State. As authorized by the FTA, such Grantee share (local funds) may include costs or expenses incurred or performance by the Grantee prior to the Effective Date.

C. Use of Funds

Grant Funds shall be used only for eligible costs identified herein and/or in the Budget.

D. Local Funds

Grantee shall provide Local Funds as provided in **Exhibit A**. Payments to Grantee of Grant Funds will be made for Project expenditures reported by Grantee and submitted to and accepted by the State for payment based on the ratio of required Federal Funds and Local Funds for which Grantee has submitted to the State.

E. Payment Compliance

All Grant reimbursements shall comply with 49 CFR Part 18 of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Additionally, Grantee shall only be reimbursed for costs allowable under 2 CFR Part 125, Appendix A.

8. REPORTING - NOTIFICATION

Reports, Evaluations, and Reviews required under this §8 shall be in accordance with the procedures of and in such form as prescribed by the State, if applicable.

A. Performance, Progress, Personnel, and Funds

State shall submit a report to the Grantee upon expiration or sooner termination of this Grant, containing an Evaluation and Review of Grantee's performance and the final status of Grantee's obligations hereunder. In addition, Grantee shall comply with all reporting requirements, if any, set forth in the Manual and/or **Exhibits B and F**.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Grant or which may affect Grantee's ability to perform its obligations hereunder, Grantee shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of CDOT.

C. Noncompliance

Grantee's failure to provide reports and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or termination as provided under this Grant.

D. Subgrants

Copies of any and all subgrants entered into by Grantee to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subgrants entered into by Grantee related to its performance hereunder shall comply with all applicable federal and State laws and shall provide that such subgrants be governed by the laws of the State of Colorado.

9. GRANTEE RECORDS

Grantee shall make, keep, maintain and allow inspection and monitoring of the following records:

A. Maintenance

Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Grantee shall maintain such records until the last to occur of the following: (i) a period of three years after the date this Grant is completed or terminated, or (ii) final payment is made hereunder, whichever is later, or (iii) for such further period as may be necessary to resolve any pending matters, or (iv) if an audit is occurring, or Grantee has received notice that an audit is pending, then until such audit has been completed and its findings have been resolved (the "Record Retention Period").

B. Inspection

Grantee shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Grantee's records related to this Grant during the Record Retention Period for a period of three years following termination of this Grant or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate Grantee's performance hereunder. The State reserves the right to inspect the Work at all reasonable

times and places during the term of this Grant, including any extension. If the Work fails to conform to the requirements of this Grant, the State may require Grantee promptly to bring the Work into conformity with Grant requirements, at Grantee's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Grantee to take necessary action to ensure that future performance conforms to Grant requirements and exercise the remedies available under this Grant, at law or in equity in lieu of or in conjunction with such corrective measures.

C. Monitoring

Grantee shall permit the State, the federal government, and other governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Grantee pursuant to the terms of this Grant using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Grantee's performance hereunder.

D. Final Audit Report

If an audit is performed on Grantee's records for any fiscal year covering a portion of the term of this Grant, Grantee shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Grantee shall comply with the provisions of this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information, includes, but is not necessarily limited to, any State records, personnel records, and information concerning individuals. Such information shall not include information required to be disclosed pursuant to the Colorado Open Records Act, CRS §24-72-101 *et seq.*

A. Confidentiality

Grantee shall keep all State records and information confidential at all times and to comply with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Grantee shall be immediately forwarded to the State's principal representative.

B. Notification

Grantee shall notify its agent, employees, Subgrantees, and assigns who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before they are permitted to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Grantee or its agents in any way, except as authorized by this Grant or approved in writing by the State. Grantee shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Grantee or its agents, except as permitted in this Grant or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Grantee for any reason may be cause for legal action by third parties against Grantee, the State or their respective agents. To the extent permitted by law, the Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to this §10.

11. CONFLICTS OF INTEREST

Grantee shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Grantee's obligations hereunder. Grantee acknowledges that with respect to this Grant, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations to the State hereunder. If a conflict or appearance exists, or if Grantee is uncertain whether a conflict or the appearance of a conflict of interest exists, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Grant.

12. REPRESENTATIONS AND WARRANTIES

Grantee makes the following specific representations and warranties, each of which was relied on by the State in entering into this Grant.

A. Standard and Manner of Performance

Grantee shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in the industry, trades or profession and in the sequence and manner set forth in this Grant.

B. Legal Authority – Grantee and Grantee's Signatory

Grantee warrants that it possesses the legal authority to enter into this Grant and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Grant, or any part thereof, and to bind Grantee to its terms. If requested by the State, Grantee shall provide the State with proof of Grantee's authority to enter into this Grant within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Grantee represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorization required by law to perform its obligations hereunder. Grantee warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Grant, without reimbursement by the State or other adjustment in Grant Funds. Additionally, all employees and agents of Grantee performing Services under this Grant shall hold all required licenses or certifications, if any, to perform their responsibilities. Grantee, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Grantee to properly perform the terms of this Grant shall be deemed to be a material breach by Grantee and constitute grounds for termination of this Grant.

13. INSURANCE

Grantee and its Subgrantees shall obtain and maintain insurance as specified in this section at all times during the term of this Grant: All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Grantee and the State.

A. Grantee

i. Public Entities

If Grantee is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, as amended (the "GIA"), then Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Grantee shall show proof of such insurance satisfactory to the State, if requested by the State. Grantee shall require each Grant with Subgrantees that are public entities, providing Goods or Services hereunder, to include the insurance requirements necessary to meet Subgrantee's liabilities under the GIA.

ii. Non-Public Entities

If Grantee is not a "public entity" within the meaning of the GIA, Grantee shall obtain and maintain during the term of this Grant insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to Subgrantees that are not "public entities".

B. Grantee and Subgrantees

Grantee shall require each Grant with Subgrantees, other than those that are public entities, providing Goods or Services in connection with this Grant, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Grantee and Subgrantee employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

Grantee and the State shall be named as additional insured on the Commercial General Liability Insurance policy (leases and construction Grants require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent).

v. Primacy of Coverage

Coverage required of Grantee and Subgrantees shall be primary over any insurance or self-insurance program carried by Grantee or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 45 days prior notice to the Grantee and Grantee shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Grantee's receipt of such notice.

vii. Subrogation Waiver

All insurance policies in any way related to this Grant and secured and maintained by Grantee or its Subgrantees as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Grantee or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Grantee and all Subgrantees shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Grant. No later than 15 days prior to the expiration date of any such coverage, Grantee and each Subgrantee shall deliver to the State or Grantee certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Grant or any subgrant, Grantee and each Subgrantee shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Grant, the failure of either Party to perform any of its material obligations hereunder, in whole or in part or in a timely or satisfactory manner, constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Grantee, or the appointment of a receiver or similar officer for Grantee or any of

its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Grant in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Grantee is in breach under any provision of this Grant, the State shall have all of the remedies listed in this §15 in addition to 49 CFR §18.43 and all other remedies set forth in other sections of this Grant following the notice and cure period set forth in §14(B), provided however, that the State may terminate this Grant pursuant to §15(B) without a breach. The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

If Grantee fails to perform any of its obligations hereunder with such diligence as is required to ensure its completion in accordance with the provisions of this Grant and in a timely manner, the State may notify Grantee of such non-performance in accordance with the provisions herein. If Grantee thereafter fails to promptly cure such non-performance within the cure period, the State, at its option, may terminate this entire Grant or such part of this Grant as to which there has been delay or a failure to properly perform. Exercise by the State of this right shall not be deemed a breach of its obligations hereunder. Grantee shall continue performance of this Grant to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Grantee shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Grantee shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Grant's terms. At the sole discretion of the State, Grantee shall assign to the State all of Grantee's right, title, and interest under such terminated orders or subgrants. Upon termination, Grantee shall take timely, reasonable and necessary action to protect and preserve property in the possession of Grantee in which the State has an interest. All materials owned by the State in the possession of Grantee shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Grantee to the State and shall become the State's property.

ii. Payments

The State shall reimburse Grantee only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Grantee was not in breach or that Grantee's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Grant had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Grantee also shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Grant by Grantee and the State may withhold any payment to Grantee for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Grantee is determined. The State may withhold any amount that may be due to Grantee as the State deems necessary to protect the State, including loss as a result of outstanding liens or claims of former lien holders, or to reimburse the State for the excess costs incurred in procuring similar goods or services. Grantee shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Grant for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or courts. If this Grant ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Grant in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This subsection shall not apply to a termination of this Grant by the State for cause or breach by Grantee, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Grantee of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Grant.

ii. Obligations and Rights

Upon receipt of a termination notice, Grantee shall be subject to and comply with the same obligations and rights set forth in §15(A)(i).

iii. Payments

If this Grant is terminated by the State pursuant to this §15(B), Grantee shall be paid an amount which bears the same ratio to the total reimbursement under this Grant as the Services satisfactorily performed bear to the total Services covered by this Grant, less payments previously made. Additionally, if this Grant is less than 60% completed, the State may reimburse Grantee for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Grant) incurred by Grantee which are directly attributable to the uncompleted portion of Grantee's obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Grantee hereunder.

C. Remedies Not Involving Termination

The State, in its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Grantee's performance with respect to all or any portion of this Grant pending necessary corrective action as specified by the State without entitling Grantee to an adjustment in price/cost or performance schedule. Grantee shall promptly cease performance and incurring costs in accordance with the State's directive and the State shall not be liable for costs incurred by Grantee after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Grantee until corrections in Grantee's performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed, that due to Grantee's actions or inactions, cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Demand removal of any of Grantee's employees, agents, or Subgrantees whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Grant is deemed to be contrary to the public interest or not in the State's best interest.

v. Intellectual Property

If Grantee infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Grant, Grantee shall, at the State's option (a) obtain for the State or Grantee the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. State:

Rob Andresen
Division of Transit and Rail
4201 E. Arkansas Ave.
Denver, CO 80222
rob.andresen@state.co.us

B. Grantee:

Tom Isbester
CITY OF BLACK HAWK
PO BOX 68
BLACK HAWK, CO, 80422
tisbester@cityofblackhawk.org

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Grantee agrees to provide to the State a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use the Work Product described herein, for the Federal Government and State purposes. All Work Product shall be delivered to the State by Grantee upon completion or termination hereof.

18. GOVERNMENTAL IMMUNITY

Notwithstanding any other provision to the contrary, nothing herein shall constitute a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the GIA. Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the GIA and the risk management statutes, CRS §24-30-1501, *et seq.*, as amended.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Grantee under this Grant is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Grantee agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state Grants and inclusion of Grant performance information in a statewide Contract Management System.

Grantee's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Grant, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Grantee's performance shall be part of the normal Grant administration process and Grantee's performance will be systematically recorded in the statewide Contract Management System. Areas of

Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Grantee's obligations under this Grant shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Grantee's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Grant term. Grantee shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Grantee demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by CDOT and showing of good cause, may debar Grantee and prohibit Grantee from bidding on future Grants. Grantee may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Grantee, by the Executive Director, upon a showing of good cause.

20. GENERAL PROVISIONS

A. Assignment and Subgrants

Grantee's rights and obligations hereunder are personal and may not be transferred, assigned or subgranted without the prior, written consent of the State. Any attempt at assignment, transfer, or subgranting without such consent shall be void. All assignments, subgrants, or Subgrantees approved by Grantee or the State are subject to all of the provisions hereof. Grantee shall be solely responsible for all aspects of subgranting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Grant are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Grant may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Grant represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

F. Indemnification-General

Grantee shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Grantee, or its employees, agents, Subgrantees, or assignees pursuant to the terms of this Grant; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the GIA, or the Federal Tort Claims Act, 28 USC 2671 *et seq.*, as applicable, as now or hereafter amended.

G. Jurisdiction and Venue

All suits, actions, or proceedings related to this Grant shall be held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. Modification

i. By the Parties:

Except as specifically provided in this Grant, modifications of this Grant shall not be effective unless agreed to in writing by the Parties in an amendment to this Grant, properly executed and approved in

accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

ii. By Operation of Law

This Grant is subject to such modifications as may be required by changes in federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Grant on the effective date of such change, as if fully set forth herein.

I. Order of Precedence

The provisions of this Grant shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Grant and its exhibits and attachments including, but not limited to, those provided by Grantee, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Exhibit F** (Supplemental Federal Provisions),
- ii. Exhibit B** (Additional FTA Requirements),
- iii.** Colorado Special Provisions,
- iv.** The Provision of the main body of this Grant,
- v. Exhibit A** (Scope of Work and Budget),
- vi. Additional Exhibits** in the order in which they appear.

J. Severability

Provided this Grant can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof.

K. Survival of Certain Grant Terms

Notwithstanding anything herein to the contrary, provisions of this Grant requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Grantee fails to perform or comply as required.

L. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 *et seq.* Such exemptions apply when materials are purchased or services rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Grantee shall be solely liable for paying such taxes as the State is prohibited from paying for or reimbursing Grantee for them.

M. Third Party Beneficiaries

Enforcement of this Grant and all rights and obligations hereunder are reserved solely to the Parties, and not to any third party. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

N. Waiver

Waiver of any breach of a term, provision, or requirement of this Grant, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

O. CORA Disclosure

To the extent not prohibited by federal law, this Grant and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, *et seq.*

21. COLORADO SPECIAL PROVISIONS

These Special Provisions apply to all Grants except where noted in italics.

A. CONTROLLER'S APPROVAL. CRS §24-30-202 (1)

This Grant shall not be deemed valid until it has been approved by the Colorado State Controller or designee.

B. FUND AVAILABILITY. CRS §24-30-202(5.5)

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY

No term or condition of this Grant shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 *et seq.*, or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 *et seq.*, as applicable now or hereafter amended.

D. INDEPENDENT CONTRACTOR

Grantee shall perform its duties hereunder as an independent contractor and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Unemployment insurance benefits will be available to Grantee and its employees and agents only if such coverage is made available by Grantee or a third party. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Grant. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Grantee shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this grant. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Grant, to the extent capable of execution.

G. BINDING ARBITRATION PROHIBITED.

The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Grant or incorporated herein by reference shall be null and void.

H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00

State or other public funds payable under this Grant shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Grant and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Grant, including, without limitation, immediate termination of this Grant and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Grant. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's services and Grantee shall not employ any person having such known interests.

J. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4

[Not applicable to intergovernmental agreements]

Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, *et seq.*; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. PUBLIC GRANTS FOR SERVICES. CRS §8-17.5-101

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services]

Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Grant and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Grant, through participation in the E-Verify Program or the State program established pursuant to CRS §8-17.5-102(5)(c), Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant or enter into a grant with a Subgrantee that fails to certify to Grantee that the Subgrantee shall not knowingly employ or contract with an illegal alien to perform work under this Grant. Grantee (a) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Grant is being performed, (b) shall notify the Subgrantee and the granting State agency within three days if Grantee has actual knowledge that a Subgrantee is employing or contracting with an illegal alien for work under this Grant, (c) shall terminate the subgrant if a Subgrantee does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the State program, Grantee shall deliver to the granting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 *et seq.*, the granting State agency, institution of higher education or political subdivision may terminate this Grant for breach and, if so terminated, Grantee shall be liable for damages.

L. PUBLIC GRANTS WITH NATURAL PERSONS. CRS §24-76.5-101

Grantee, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 *et seq.*, and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this Grant.

SPs Effective 1/1/09

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22. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS GRANT

<p>* Persons signing for Grantee hereby swear and affirm that they are authorized to act on Grantee's behalf and acknowledge that the State is relying on their representations to that effect.</p>	
<p style="text-align: center;">GRANTEE CITY OF BLACK HAWK</p> <p>By: _____ Print Name of Authorized Individual</p> <p>Title: _____ Print Title of Authorized Individual</p> <p>_____ *Signature</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, Governor Colorado Department of Transportation Donald E. Hunt – Executive Director</p> <p>By: _____ Signatory avers to the State Controller or delegate that, except as specified herein, Grantee has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules</p> <p>Date: _____</p>
<p style="text-align: center;">2nd Grantee Signature if Needed</p> <p>By: _____ Title: _____</p> <p>_____ *Signature</p> <p>Date: _____</p>	

ALL GRANTS REQUIRE APPROVAL BY THE STATE CONTROLLER

<p>CRS §24-30-202 requires the State Controller to approve all State grants. This Grant is not valid until signed and dated below by the State Controller or delegate. Grantee is not authorized to begin performance until such time. If Grantee begins performing prior thereto, the State of Colorado is not obligated to pay Grantee for such performance or for any goods and/or services provided hereunder.</p>
<p>STATE CONTROLLER Liliya Gershman, CPA</p> <p>By: _____ Colorado Department of Transportation</p> <p>Date: _____</p>

23. EXHIBIT A - SCOPE OF WORK AND BUDGET

City of Black Hawk - Black Hawk Tramway

Title of Project	2014, 5311, City of Black Hawk, Maintenance Equipment	ALI	11.42.06
Project Description	Purchase of Utility Work Machine and Accessories		
Recipient	City of Black Hawk - Black Hawk Tramway	DUNS	008384836
Contact Name	Tom Isbester, Public Works Director	Vendor Number	2000406
Address	460 Gregory Street Black Hawk, CO 80422	Phone	303-582-1324
Email	tisbester@cityofblackhawk.org	Fax	303-582-2250
Project Budget		*WBS	CO-18-0034.BHWK
	Federal Share (at 80% or less)	\$	44,000
	Local Share (at 20% or more)	\$	11,000
	Total Project Budget	\$	55,000

**The grants and line item WBS numbers may be replaced without changing the amount of the grant at CDOT's discretion.*

A. Agency Overview

The City of Black Hawk provides deviated fixed route service for the general public seven days a week with service hours extended from 10 am to 3 am to accommodate the many casino workers. The City provides over 22,000 rides monthly. No fares are charged to encourage Front Range guests to take coach services and for others to leave their cars parked once they arrive in the community.

The driver team is supervised by MV Public Transportation, Inc. Maintenance of the transit fleet is provided by the City of Black Hawk Fleet Shop. Customer service amenities include low-floor, ADA compliant buses, a comprehensive graphic identity for bus design, printed brochure and maps, and “real-time” arrival bus stop signage.

B. Project Description

This utility work machine will improve efficiency of maintenance service, specifically safety by clearing bus storage facility apron and minimizing potential on-the-job injury during transfer of 55 gallon drums of wash machine fluids.

The City of Black Hawk shall use FTA capital funds to purchase a gasoline powered four wheel drive loader, utility work machine (“Project Property”). Options may include but are not limited to, the following:

- Backup alarm
- Vibration insulated seating area
- Foldable mirrors
- Work lights
- F/N/R Joystick control
- Universal style skid steer quick hitch

- Construction bucket with 0.5 cubic yard plus capacity
- 72” snow pusher
- Dozer blade
- Fork tines for loading
- Auger and auger bits

The City of Black Hawk shall perform all project activities as described in the grant application(s) submitted to the State on December 2, 2013. The application and application update are incorporated herein by reference to the extent consistent with this Grant.

C. Performance Standards

1. Project Milestones

To the extent possible and practicable, provide details and information, data, explanations, descriptions, copies, and sample documents of milestone activities.

Grant Agreement with CDOT is Executed	<i>September 2014</i>
Submit Procurement Process and Quote Package to CDOT Project Manager for Approval	<i>September 2014</i>
Request for Quote is Released	<i>October 2014</i>
Quotes are Due	<i>November 2014</i>
Process Documentation Submitted to CDOT Project Manager for Concurrence	<i>December 2014</i>
Submit Procurement Authorization to CDOT Project Manager for Approval	<i>December 2014</i>
Issue Purchase Order to Vendor for Project Property	<i>January 2015</i>
Take Delivery of Project Property	<i>February 2015</i>
Submit Reimbursement Request (<i>see Procurement Packet</i>) to DTR	<i>March 2015</i>
IMPORTANT NOTE: All milestones in this scope of work must be completed no later than the contract expiration date of December 31, 2016	

2. The City of Black Hawk will utilize the Project Property purchased through this project in its transit operations to achieve the performance goals established by CDOT. The City of Black Hawk will comply with established CDOT requirements for maintenance of effort and effective utilization of equipment that maintains a State or Federal Interest.
3. Performance will be reviewed annually. If the State's review determines the City of Black Hawk performance does not meet the standards of performance set forth in this section, the following steps will be taken:
 - a. The State will notify the City of Black Hawk in writing that performance does not meet the requirements of this Grant.
 - b. Thirty (30) calendar days after date of such notification, the City of Black Hawk will submit to the State a written explanation of the cause(s) of the substandard performance, which shall include a written plan for improving performance.

- c. The State will review the plan for improvement and notify the City of Black Hawk of its approval within 21 days.
- d. If the plan is approved by the Department, the City of Black Hawk will implement the plan immediately upon receipt of the State's notification. If the plan is not approved by the Department remedial measures will be determined on a case by case basis. Such remedial measures may include termination of this Grant and return of the grant funds or capital equipment purchased with such funds, in accordance with the terms of this Grant.

D. Project Budget

- 1. The Total Project Budget is estimated to be and shall be shared as follows:

*WBS CO-18-0034.BHWK	
Federal Share (at 80% or less)	\$44,000
Local Share (at 20% or more)	\$11,000
TOTAL PROJECT BUDGET	\$55,000

- 2. The Total Project Budget shall not exceed the maximum allowable cost of **\$55,000**. The State will pay no more than 80% of the eligible, actual capital costs up to the maximum federal amount of **\$44,000**. In the event the final, actual Project cost is less than the maximum allowable cost, the State is not obligated to provide any more than 80% of the eligible, actual capital costs. The State will retain any remaining balance of the federal share. The City of Black Hawk shall be solely responsible for all costs incurred in the Project in excess of the amount paid by the State from federal funds for the federal share of eligible, actual costs.
- 3. No refund or reduction of the amount of the City of Black Hawk share to be provided will be allowed unless there is at the same time a refund or reduction of the federal share of a proportionate amount.
- 4. The City of Black Hawk may use federal funds for the local share, but those funds cannot be from other federal Department of Transportation (DOT) programs. The City of Black Hawk share, together with the federal share, must be enough to ensure payment of Total Project Budget.
- 5. The State shall have no obligation to provide State funds for use on this Project. The State will administer federal funds for this Project under the terms of this Grant, provided that the federal share of FTA funds to be administered by the State are made available and remain available. In no event shall the State have any obligation to provide State funds or provide federal FTA funds for the City of Black Hawk share of the Project. The City of Black Hawk shall initiate and prosecute to completion all actions necessary to enable the City of Black Hawk to provide its share of the total project budget at or prior to the time that such funds are needed to meet the total project budget.

E. Contract Expiration

This Grant will expire according to the terms and conditions of the Grant. The expiration date for this Grant is **December 31, 2016**.

F. Procurement

Procurement of this capital equipment will comply with State procurement procedures outlined in “A Handbook for the Procurement of Goods and Services using FTA/CDOT Funds, November 2009”, (found at: http://www.coloradodot.info/programs/transitandrail/transit/transit-grant-programs/procurement-policies-and-practices/2009%20Procurement%20Handbook%20and%20Appendices%20FINAL_11_16_09.pdf/) as well as the FTA’s requirements for Third Party Contracting outlined in Circular 4220.1F 11-01-08 (found at: http://www.fta.dot.gov/legislation_law/12349_8641.html). Where available, purchase by the Grantee of the capital equipment may be pursuant to the most current State Price Agreement, (found at: <http://www.gssa.state.co.us/co/portal.nsf/xpPriceAgreementsByCategory.xsp>).

In addition to the basic State requirements outlined below, State and FTA (where applicable) procedures for purchase of this Project Property must be followed and will be outlined prior to purchase.

1. Before proceeding with the purchase directly from the vendor, the City of Black Hawk shall submit Procurement Authorization along with a purchase order for the Project Property to CDOT for approval.
2. Once the purchase order is verified by CDOT and the Project Property is ordered, the State shall be notified of the agreed upon delivery date between the selected vendor and the City of Black Hawk and CDOT may choose to attend the delivery of the Project Property.
3. Upon delivery, the City of Black Hawk shall be responsible for having the Project Property inspected and accepted within **ten (10) working days of delivery** from the vendor; unless Project Property defects discovered during inspection prevents City of Black Hawk from accepting the Project Property in the 10 day time frame, of at which time the vendor will be contacted to rectify the issue(s) of concern.
4. The City of Black Hawk shall be responsible for reimbursing the entire amount of the Project Property to the selected vendor within **three (3) working days after acceptance** of the Project Property.
5. It is the City of Black Hawk’s responsibility to pay the Project Property vendor in full under the terms of this contract, unless financial hardship is proven by the grantee that does not allow a grantee agency to pay the entire amount prior to seeking reimbursement from the State. CDOT must approve this hardship request in advance. In these cases, CDOT will only approve the situation if the vendor is willing to accept payment within a 30 day timeframe and also willing to withhold title and Manufactures Statement of Origin (MSO) paperwork until full payment is received from the grantee. Title paperwork can also be sent to CDOT to withhold if the vendor deems necessary.

The Federal Share provided for this capital purchase is \$44,000.

G. Reimbursement Eligibility

Requests for reimbursement for project costs will be paid to the City of Black Hawk upon presentation of invoice(s) to the State for eligible costs incurred after the date of execution of this Grant through December 31, 2016 and within the limits of this Grant.

Grantees must bill the State for the state share specified within the provisions set forth in Paragraph F: Procurement or as otherwise specified by the State prior to the receipt of capital equipment. The state share must be paid to the vendor whether or not the Grantee has received the reimbursement from the State. Grantees who fail to ensure quick payment to vendors will be designated as a “High Risk Grantee” and could receive lower scores in future grant applications.

H. Federal Interest-Service Life

Federal Interest in the Project Property will expire as determined by the State. Federal Interest is defined by the service life of the capital equipment, which is determined by the State.

1. No later than three (3) days after the purchase and acceptance of the Project Property, the City of Black Hawk shall provide, in writing, to the State a “Certificate of Procurement and Acceptance” form.
2. Federal Interest of the Project Property is based on and applied to the useful life of the Project Property.
3. The City of Black Hawk shall not sell or otherwise release the Project Property to any party while there is Federal Interest in the Project Property without written approval from the State.

I. Training

In an effort to enhance transit safety, the City of Black Hawk shall make a good faith effort to ensure that appropriate training of agency and contracted personnel is occurring and that personnel are up to date in appropriate certifications. In particular, the City of Black Hawk shall ensure that driving personnel are provided professional training in defensive driving and training on the handling of mobility devices and transporting elderly and disabled clients.

J. Safety Data

The City of Black Hawk shall maintain and submit, as requested, data related to bus safety. This may include, but not be limited to, the number of vehicle accidents within certain measurement parameters set forth by the State; the number and extent of passenger injuries or claims; and, the number and extent of employee accidents, injuries and incidents.

K. Restrictions on Lobbying

The City of Black Hawk shall certify that it complies with P.L. 104-65, Section 10, amended from 49 CFR Part 19, Appendix A, Restrictions on Lobbying, prior to the expenditure of the Federal funds provided in this Grant.

L. Special Conditions

1. The City of Black Hawk will ensure contractors comply with the Federal Transit Administration Drug and Alcohol Regulations.
2. Any costs reimbursed to the City of Black Hawk from other grant programs funds may not be

listed as a cost to be shared by FTA on a reimbursement request (i.e., no double billing).

3. The City of Black Hawk shall maintain and report annually through submission of an annual report all information required by the National Transit Database and any other financial, fleet, service data set forth by the State for the purpose of annual reporting required of the State.
4. If the City of Black Hawk is unable to perform the activities described under Paragraph B., Project Description, or must significantly change its level of service described herein, the Grantee shall notify the State in writing.
5. Except as provided in §7(B)(v), the City of Black Hawk shall not be reimbursed for any purchase, issued purchase order, or leased capital equipment before the contract with the State has been issued.
6. The City of Black Hawk must obtain State approval if FTA funds are intended to be used for payment of a lease or for third-party contracts.
7. The City of Black Hawk sub-grantees must maintain bus safety records, if applicable. These records must be submitted to the State, if the State requests them. The records may include the number of vehicle accidents within certain time frames as requested by the State, the number and extent of passenger injuries and claims, and the number and extent of employee accidents, injuries, and incidents.
8. The City of Black Hawk sub-grantees must demonstrate a good faith effort to provide, and certify as applicable, safety-related training for drivers and other appropriate personnel.
9. The City of Black Hawk shall advertise its fixed route and/or rural based service as available to the general public and service will not be explicitly limited by trip purpose or client type.
10. The City of Black Hawk will provide comparable transportation services to persons with disabilities according to the Americans with Disabilities Act of 1990.
11. Meal delivery for homebound individuals must not conflict with providing public transportation service or reduce service to public transportation passengers.
12. The City of Black Hawk will work cooperatively with CDOT to market and/or publicize this project as requested by CDOT. Such efforts may include ribbon cuttings, news articles, photos, and/or other media to be supplied by the City of Black Hawk as appropriate.

24. EXHIBIT B - ADDITIONAL FTA REQUIREMENTS

1. Special Provisions for the Formula Grants for Rural Areas Program Authorized by MAP-21 For Projects Financed with Funding Made Available or Appropriated in Fiscal Year 2013 or a Subsequent Fiscal Year. Except as FTA determines otherwise in writing, the State understands and agrees to the following:

a. New Program. Section 20010 of MAP-21 amended 49 U.S.C. § 5311 to establish a new Formula Grants for Rural Areas Program without re-authorizing the Formula Grants for Other Than Urbanized Areas Program, thus effectively repealing the latter Program,

b. MAP-21 Amendments. Among other things, MAP-21 amended the former 49 U.S.C. § 5311(b)(2) to:

(1) Change the name of the program from the “Formula Grants for Other than Urbanized Areas” to the “Formula Grants for Rural Areas,”

(2) Substitute the term “rural” for “other than urbanized,”

(3) Authorize planning as an eligible activity for Subrecipients of Formula Grants for Rural Areas Program funding, apart from planning by the State or Indian tribe in connection with its administrative functions,

(4) Include Job Access and Reverse Commute (JARC) Projects and Project activities as eligible for funding under the Formula Grants for Rural Areas Program,

(5) Reduce the percentage of funding from fifteen (15) per cent to ten (10) per cent that may be used for the State or Indian tribe’s administration, planning, and technical assistance,

(6) Authorize a new Appalachian Development Public Transportation Assistance Program,

(7) Clarify that funding is available for “intercity bus facilities” and “joint-use facilities,”

(8) Authorize the use of the value of a private operator’s unsubsidized segment of intercity bus service costs to provide an in-kind local share for an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, and

(9) Amend the former 49 U.S.C. 5311(c) authorizing the discretionary Tribal Transit Program, to add a Public Transportation on Indian Reservations Grants Program,

c. Federal Laws, Regulations, and Guidance. In administering its Project and Project activities under the Formula Grants for Rural Areas Program supported with funding made available or appropriated for 49 U.S.C. § 5311(b)(2), as amended by MAP-21:

(1) The State agrees to comply with:

(a) The applicable requirements of 49 U.S.C. chapter 53, as amended by MAP-21,

(b) Other applicable Federal laws and regulations,

(c) Its Underlying Agreement and

(d) Applicable provisions of section 43 and other sections of this Master Agreement, and

(2) Except as FTA determines otherwise in writing, the State agrees to follow:

(a) The most recent edition of FTA Circular 9040.1, “Nonurbanized Area Formula Program Guidance and Grant Application Instructions,” to the extent consistent with:

1 Applicable requirements of 49 U.S.C. chapter 53, as amended by MAP-21, and

2 Applicable Federal laws, regulations, and guidance, and

(b) Other applicable Federal guidance, and

d. Other Special Provisions for the Formula Grants for Rural Areas Program.

(1) Eligible Project Activities. Federal funds provided for the underlying Grant Agreement and subagreements may be used for the following public transportation Projects in rural areas:

(a) Planning,

(b) Capital assistance,

(c) Operating assistance,

(d) Job access and reverse commute projects,

(e) Purchase of service agreements with private providers of public transportation service, and

(f) Meal delivery service, as permitted by former 49 U.S.C. § 5310(h)(7),

(2) Public Transportation Emergency Relief Project Requirements. For a Project that addresses an emergency as defined by 49 U.S.C. § 5324(a)(2) and is supported with funding made available or appropriated for 49 U.S.C. § 5311(b)(2), as amended by MAP-21, the State agrees to:

(a) Use that funding only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 *et seq.*, and

(b) Comply with the terms and conditions the Secretary determines are necessary for the Project,

(3) Funds transferred from other Federal programs must be used for Projects eligible for Section 5311(b)(2) funding,

(4) Intercity Transportation. Each fiscal year, it will:

(a) Spend a minimum of at least fifteen (15) percent of its 49 U.S.C. § 5311 funds for Intercity Transportation Projects as provided by 49 U.S.C. § 5311(f), or

(b) Provide a certification of the State's chief executive officer or that person's authorized designee that the intercity bus service needs within the State are adequately fulfilled,

(5) Transfer of Project Property. As provided by 49 U.S.C. § 5311(h), it may transfer Section 5311 funded property to another entity eligible to receive funding under 49 U.S.C. chapter 53, provided that:

(a) The subrecipient possessing the property consents to the transfer, and

(b) The transferred property will continue to be used for service in a rural area,

(6) Employee Protective Arrangements. Compliance with the employee protections of the U.S. DOL Special Warranty that applies to Formula Grants for Rural Areas, 49 U.S.C. § 5311, as amended by MAP-21,

(7) Reporting Requirements. It will, and assures that for each fiscal year it provides funding under 49 U.S.C. § 5311 to any public transportation operator, that public transportation operator will:

(a) Conform to:

- 1 The National Transit Database reporting system, and
- 2 The uniform system of accounts and records,

(b) Facilitate compliance with 49 U.S.C. § 5335(a) that authorized FTA's national transit database,

(c) Comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 C.F.R. part 630,

(d) Comply with any other applicable reporting regulations as provided in FTA directives, and

(e) Follow FTA directives, except as FTA determines otherwise in writing,

(8) Participation of Subrecipients. It will enter into a written agreement with each subrecipient, including provisions that:

(a) Describe the subrecipient's responsibilities, and

(b) Assure that the subrecipient will not compromise the Recipient's compliance with:

- 1 Any Federal requirements that apply to the Project,
- 2 The State's obligations under the underlying Grant Agreement, and
- 3 This Master Agreement, and

(9) Provisions Applicable to Indian Tribes.

(a) Formula Grants for Rural Areas Program. An Indian tribe subrecipient that receives funds authorized under 49 U.S.C. § 5311(b)(2) for the Formula Grants for Rural Areas Program agrees to comply with the requirements of this section 59 of this Master Agreement when using its Formula Grants for Rural Areas Program funding, except as FTA determines otherwise in writing, and

(b) Tribal Transit Program. Sections 59.a – d(10)(a) of this Master Agreement do not apply to a Public Transportation on Indian Reservations Project financed with Federal funds authorized under 49 U.S.C. § 5311(c)(1), as amended by MAP-21.

2. Special Provisions for the Formula Grants for Other Than Urbanized Areas Program for Projects or Grants for Projects or Grants That Use Funds Appropriated for Fiscal Year 2012 or a Previous Fiscal Year. Except as FTA determines otherwise in writing, the State understands and agrees to the following:

a. Program Repealed. Section 20010 of MAP-21 amended 49 U.S.C. § 5311 to establish a new Formula Grants for Rural Areas Program without re-authorizing the Formula Grants for Other Than Urbanized Areas Program, thus effectively repealing the latter Program,

b. MAP-21 Amendments. Among other things, MAP-21 amended the former 49 U.S.C. § 5311 to:

(1) Change the name of the program from the "Formula Grants for Other than Urbanized Areas" to the "Formula Grants for Rural Areas,"

(2) Substitute the term "rural" for "other than urbanized,"

- (3) Authorize planning as an eligible activity for Subrecipients receiving Rural Areas Program funding, separate from the State planning funding for administrative functions,
- (4) Include Job Access and Reverse Commute (JARC) Projects and Project activities as for funding under the Formula Grants for Rural Areas Program,
- (5) Reduce the percentage of funding from fifteen (15) percent to ten (10) per cent that may be used for the State administration, planning, and technical assistance,
- (6) Authorize a new Appalachian Development Public Transportation Assistance Program,
- (7) Clarify that funding is available for “intercity bus facilities” and “joint-use facilities,”
- (8) Authorize the use of the value of a private operator’s unsubsidized segment of intercity bus service costs to provide an in-kind local share for an intercity bus project that includes both feeder service and an unsubsidized segment of intercity bus service to which the feeder service connects, and
- (9) Amend the former discretionary Tribal Transit Program to add a formula program,

c. Federal Laws, Regulations, and Guidance. In administering its Project and Project activities under the Formula Grants for Other Than Urbanized Areas Program supported with funding made available or appropriated for Fiscal Year 2012 or a previous fiscal year for former 49 U.S.C. § 5311:

(1) The State agrees to comply with:

(a) The program and eligibility requirements applicable to the Formula Grants for Other Than Urbanized Areas, former 49 U.S.C. § 5311(b)(2), for that fiscal year in which the Federal appropriations:

1 Were then made available for its Formula Grants for Other Than Urbanized Areas Project and Project activities, or

2 Will be made available for its Formula Grants for Other Than Urbanized Areas Project and Project activities,

(b) Other applicable Federal laws and regulations,

(c) Its Underlying Agreement,

(d) The MAP-21 cross-cutting requirements listed in section 43.b(3) of this Master Agreement that supersede conflicting requirements of the Formula Grants for Other Than Urbanized Areas Program authorized by former 49 U.S.C. § 5311(b)(2) in effect in Fiscal Year 2012 or a previous fiscal year, and

(e) Other applicable provisions of this Master Agreement, and

(2) Except as FTA determines otherwise in writing, the State agrees to follow:

(a) The applicable edition of FTA Circular 9040.1, “Nonurbanized Area Formula Program Guidance and Grant Application Instructions,” to the extent consistent with:

1 The program and eligibility requirements applicable to the Formula Grants for Other Than Urbanized Areas Program, former 49 U.S.C. § 5311(b)(2), for that fiscal year in which funding was appropriated for the Project, except those requirements superseded by MAP-21 cross-cutting requirements, and

2 Applicable Federal laws, regulations, and guidance, and

(b) Other applicable Federal guidance, and

d. Other Special Provisions for the Formula Grants for Other Than Urbanized Areas Program in Effect in Fiscal Year 2012 or a Previous Fiscal Year.

(1) Eligible Project Activities. Federal funds provided for the underlying Grant Agreement and subagreements may be used for the following public transportation Projects in areas other than urbanized areas:

(a) Purchase of service agreements with private providers of public transportation service,

(b) Capital assistance,

(c) Operating assistance, and

(d) Meal delivery service, as permitted by former 49 U.S.C. § 5310(g),

(2) Funds transferred from other Federal programs must be used for Projects eligible for Section 5311(b)(2) funding,

(3) Intercity Transportation. Each fiscal year, it will:

(a) Spend a minimum of at least fifteen (15) percent of its 49 U.S.C. § 5311 funds for Intercity Transportation Projects as provided by 49 U.S.C. § 5311(f), or

(b) Provide a certification of the State's chief executive officer or that person's authorized designee that the intercity bus service needs within the State are adequately fulfilled,

(4) Transfer of Project Property. As provided by 49 U.S.C. § 5311(h), it may transfer Section 5311 funded property to another entity eligible to receive funding under 49 U.S.C. chapter 53, provided that:

(a) The subrecipient possessing the property consents to the transfer, and

(b) The transferred property will continue to be used for service in an other than urbanized area,

(5) Employee Protective Arrangements. The Recipient will comply with the employee protections of the U.S. DOL Special Warranty that applies to Formula Grants for Other Than Urbanized Areas Program authorized by 49 U.S.C. § 5311 in effect in Fiscal Year 2012 or a previous fiscal year,

(6) Reporting Requirements. It will, and assures that for each fiscal year it provides 49 U.S.C § 5311(b)(2) funding to any public transportation operator that public transportation operator will:

(a) Conform to:

- 1 The National Transit Database reporting system, and
- 2 The uniform system of accounts and records,

(b) Facilitate compliance with 49 U.S.C. § 5335(a) that authorized FTA's national transit database,

(c) Comply with FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 C.F.R. Part 630,

(d) Comply with any other applicable reporting regulations as provided in FTA directives, and

(e) Follow FTA directives, except as FTA determines otherwise in writing,

(7) Participation of Subrecipients. It will enter into a written agreement with each subrecipient, including provisions that:

(a) Describe the subrecipient's responsibilities, and

(b) Assure that the subrecipient will not compromise the State's compliance with:

1 Any Federal requirements that apply to the Project, and

2 The Recipient's obligations under the underlying Grant Agreement, and this Master Agreement, and

(8) Provisions Applicable to Indian Tribes.

(a) Formula Grants for Other Than Urbanized Area Program. The Recipient agrees to ensure that an Indian tribe subrecipient that receives funds authorized under 49 U.S.C. § 5311(c)(2) for the Formula Grants for Other Than Urbanized Areas Program agrees to comply with the requirements of this section 60 of this Master Agreement when using its Formula Grants for Other Than Urbanized Area Program funding, except as FTA determines otherwise in writing, and

(b) Tribal Transit Program. Sections 60.a – c(8)(a) of this Master Agreement do not apply to a Tribal Transit Project financed with Federal funds authorized under 49 U.S.C. § 5311(c)(1).

3. FTA Master Agreement

The Grantee understands that this Grant includes requirements specifically prescribed by federal law or regulation and does not encompass all federal laws, regulations, and directives that may apply to the Grantee or its Project. A comprehensive list of those federal laws, regulations and directives is contained in the Master Agreement at the FTA website <http://www.fta.dot.gov/documents/18-Master.pdf>. The clauses in this **Exhibit B** have been streamlined to remove most provisions not covered by statutory or regulatory certification and assurance requirements (see **Exhibit D**).

The Grantee also agrees to include these requirements in each subcontract to administer any system of records on behalf of the federal government financed in whole or in part with Federal Funds.

4. Compliance with Laws

Some of the clauses contained in this Grant are not governed solely by federal law, but are significantly affected by State law. The laws and regulations cited in this Grant are not all-inclusive of those which may apply to the successful completion of this Grant. The Grantee understands that it is its responsibility to learn what federal, state and local laws and regulations will apply to its operations under this Grant, and that Grantee is solely responsible for its lawful compliance with them.

5. Federal Changes

Grantee shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, as they may be amended or promulgated from time to time during the term of this Grant. Grantee's failure to so comply shall constitute a material breach of this Grant.

6. Coordination

- a. Public transit systems funded under the 49 USC §5311 Formula Program are required to participate in the local coordinated planning process for public transit-human service transportation in areas applying for funds under 49 USC §§5310, 5316 or 5317.
- b. FTA 49 USC §5311 Formula Program requires maximum feasible coordination of public transportation service with transportation assisted by other federal sources. (49 USC § 5311 (b)(2)(c)(ii)).

7. Buy America Provision

The Grantee agrees that, in its execution of this Grant, it will comply with the requirements of 49 USC §5323(j), with the FTA regulations "Buy America" Requirements at 49 CFR Part 661, and with any implementing guidance that the FTA may issue.

8. Equipment

- a. **General.** The State, on behalf of the Grantee, or the Grantee with the State's prior approval, shall purchase all Project equipment in accordance with applicable State law and the standards set forth by the Uniform Administration Requirement for Grant and Cooperative Agreement to State and Local Government (49 CFR §§18.31 – 18.34).
- b. **Maintenance.** The Grantee agrees that it will maintain its Project property in good operating order, as required by federal laws and regulations, and as provided in federal directives, except as FTA determines otherwise in writing.
- c. **Title to Equipment.** The Grantee shall hold title to Project equipment. The State shall be the first secured party. The State may enforce this provision through legal action to protect its security interests in Project equipment.
- d. **Use of Equipment.** The Grantee shall use Project equipment for transportation Services described in Exhibit A, and in compliance with FTA Circular 9040.1F. If any Project equipment is no longer needed for this Grant, the Grantee shall immediately notify the State and the State shall dispose of such Project equipment.
- e. **Equipment Records.** The Grantee agrees to keep satisfactory records pertaining to the use of the Project property, and submit to FTA upon request such information as may be required to assure compliance with Section 19 of the Master Agreement.

9. Reports

As required by 49 USC §5311(b)(4) and 49 USC §5335(a), any Grantee that is a public transportation operator which receives federal assistance authorized under 49 USC §5311(b) agrees to conform to, the reporting system and the uniform system of accounts and records required by 49 USC §5335(a) for FTA's national transit database, and will comply with the implementing FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 CFR Part 630, and any additional regulations and directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

a. Annual Program Status Report

The State is required to submit to the FTA regional office by October 31 of each year an annual program status report for the program of projects of each active grant, covering the 12-month period ending September 30. States must submit a narrative progress report, update of milestones (milestone status report (MSR) and a Federal Financial Report (FFR)).

b. National Transit Database Annual Report

SAFETEA-LU added the requirement that each grantee under 49 USC §5311 shall submit an annual report to the National Transit Database (NTD) which is FTA's primary national database for statistics on the transit industry. Items to be reported include total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size type, and related facilities; revenue vehicle miles; and ridership.

c. Milestone Activity Reports (VI-9 of Circular)

For activity line items (ALIs) for which milestones were required at the time of grant application (for example, for vehicle procurements, construction projects, and program reserve), the State shall enter revised milestone dates as part of the annual report. If the estimated completion date for the Grant has changed, the revised date should be entered, with an explanation as to why the date was changed.

d. Federal Financial Report (FFR)

The State must submit electronically an annual FFR for each active grant, for the period ending September 30. For the purpose of this report, funds are considered encumbered when this Grant is signed. States should prepare the reports using the accrual method of accounting.

10. Air Pollution

No facilities or equipment shall be acquired, constructed, or improved as a part of the Project unless the Grantee obtains satisfactory assurances that they are (or will be) designed and equipped to limit air pollution as provided in accordance with EPA regulations, applicable federally-approved State Implementation Plan(s), appropriate FTA directives and all other applicable standards.

11. Energy Conservation

The Grantee and its third party contractors shall recognize mandatory standards and policies relating to energy efficiency which are contained in the "State Energy Program Plan" issued in compliance with the Energy Policy and Conservation Act (42 USC §6321, *et seq.*).

12. Charter Service Operations

The Grantee agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 USC Chapter 53 or under 23 USC §§133 or 142, will engage in charter service operations, except as authorized by 49 USC §5323 (d) and FTA regulations, “Charter Service,” 49 CFR Part 604, and any Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. Any charter service agreement required by FTA regulations is incorporated by reference and made part of this Grant for the Project. The Grantee understands and agrees that in addition to any remedy specified in the charter service agreement, if a pattern of violations of that agreement is found, the violator will be barred from receiving federal transit assistance in an amount to be determined by FTA or State.

13. School Transportation

The Grantee, or any operator of mass transportation acting on its behalf, shall not engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as provided under 49 USC §5323 (f) and applicable regulations, “School Bus Operations,” set forth at 49 CFR Part 605, as amended. Any school bus agreement entered into under these regulations is incorporated into this Grant by reference.

14. Substance Abuse

The Grantee shall comply with FTA drug and alcohol rules as established in the “Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit,” set forth in 49 CFR Part 40 and Part 655; Drug-Free Workplace Act. Grantee understands and agrees that failure to comply with this section constitutes default pursuant to §15(A) of this Grant.

15. Ineligible Bidders

“Bidders” or “Suppliers” whose names appear on the US Comptroller General’s List of Ineligible Contractors are not eligible for award of, or participation in, any contract that may be awarded as a result of this Grant. Submission of a bid by any bidder constitutes certification that he or any subcontractor or suppliers to him, on this Grant, if one is awarded, are not on the Comptroller General’s List of Ineligible Contractors. A subsequent determination by FTA that a bidder knowingly made any misstatement of facts in this regard will be cause for immediate disqualification, suspension or termination of this Grant for cause.

16. Employee Political Activity

The provisions of 5 USC §§1501-1508 and 7324-7326 (the “Hatch Act”), and implementing regulations set forth in 5 CFR Part 151 are applicable to State and local agencies and their officers and employees to the extent covered by the statute and regulations. The Hatch Act restricts the political activity of an individual principally employed by a State or local executive agency in connection with a program financed in whole or in part by federal loans, grants, or cooperative agreements.

17. False or Fraudulent Statements or Claims

The Grantee acknowledges that, should it make a false, fictitious claim, statement, submission, or certification to the State or federal government in connection with this Project, FTA reserves the right to pursue the procedures and impose on the Grantee the penalties of 18 USC §1001, 31 USC §3801, *et seq.*, and/or 49 USC §5307(n)(1), as may be deemed by FTA to be appropriate.

18. Pre-Award and Post-Delivery Reviews

The Grantee shall comply with any regulations that may be issued to implement 49 USC §5323(m) and FTA regulations, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases,” 49 CFR Part 663, and any revision thereto.

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25. EXHIBIT C - NON-DISCRIMINATION NOTICE

The Grantee agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

1. Nondiscrimination in Federal Public Transportation Programs. The Grantee agrees to comply, and assures the compliance of each Subgrantee, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 USC §5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
2. Nondiscrimination – Title VI of the Civil Rights Act. The Grantee agrees to comply, and assures the compliance of each subsequent Subgrantee, lessee, third party contractor, or other participant at any tier, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 USC §§2000d et seq., and with DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act,” 49 CFR Part 21. Except to the extent FTA determines otherwise in writing, the Grantee agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Grantees,” and any other applicable federal directives that may be issued.
3. Access to Services for Persons with Limited English Proficiency. The Grantee agrees to facilitate compliance with the policies of Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 42 USC §2000d-1 note, and follow applicable provisions of DOT Notice, “DOT Policy Guidance Concerning Grantees’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.
4. Environmental Justice. The Grantee agrees to facilitate compliance with the policies of Executive Order No. 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” 42 USC §4321 note; and DOT Order 5620.3, “Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377 et seq., April 15, 1997, except to the extent that the Federal Government determines otherwise in writing.
5. Equal Employment Opportunity. The Grantee agrees to comply, and assures the compliance of each subsequent Subgrantee, lessee, third party contractor, or other participant at any tier, with all equal employment opportunity (EEO) provisions of 49 USC §5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 USC §2000e et seq., and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Grantee also agrees to follow all applicable federal EEO directives that may be issued. The Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Grantee agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
6. Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the US Department of Labor (DOL) to qualify as “construction,” the Grantee agrees to comply and assures the compliance of each subsequent Subgrantee, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq.; with implementing Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246 Relating to Equal Employment Opportunity,” 42 USC §2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

7. Disadvantaged Business Enterprise. To the extent authorized by federal law, the Grantee agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subsequent Subgrantee, lessee, third party contractor, or other participant at any tier will facilitate participation by DBEs in the project to the extent applicable as follows:
 - a. The Grantee agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 USC §101 note, and DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26.
 - b. The Grantee shall abide by the following clause and ensure that it is included in each DOT-assisted contract: The Grantee, Subgrantee or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted procurement and contracts of products and services contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as Grantee deems appropriate. [Note – This language is to be used verbatim, as is stated in §26.13(b).]
 - c. CDOT's DBE program, which has been approved by the DOT, is incorporated by reference and made part of this Grant and all projects administered in accordance therewith.
8. Nondiscrimination on the Basis of Sex. The Grantee agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 USC §§1681 *et seq.*, and with implementing DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR Part 25, that prohibit discrimination on the basis of sex.
9. Nondiscrimination on the Basis of Age. The Grantee agrees to comply with all applicable requirements of:
 - a. The Age Discrimination Act of 1975, as amended, 42 USC §§6101 *et seq.*, and with implementing US Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving federal financial assistance.
 - b. The Age Discrimination in Employment Act (ADEA) 29 USC §§621 through 634 and with implementing US Equal Employment Opportunity Commission regulations, "Age Discrimination in Employment Act," 29 CFR Part 1625, which prohibits discrimination against individuals on the basis of age.
10. Access for Individuals with Disabilities. The Grantee agrees to comply with 49 USC §5301(d), which states the federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Grantee also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC §§12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 USC §§4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Grantee agrees to comply with applicable implementing federal regulations and any later amendments thereto, and agrees to follow applicable federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:
 - a. US DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
 - b. US DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities

- Receiving or Benefiting from Federal Financial Assistance,” 49 CFR Part 27;
- c. Joint US Architectural and Transportation Barriers Compliance Board (US ATBCB)/US DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38;
 - d. US DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR Part 35;
 - e. US DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR Part 36;
 - f. US General Services Administration (US GSA) regulations, “Accommodations for the Physically Handicapped,” 41 CFR Subpart 101-19;
 - g. US EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630;
 - h. US Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 CFR Part 64, Subpart F;
 - i. US ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194; and
 - j. FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR Part 609; and Federal civil rights and nondiscrimination directives implementing those Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.
11. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. To the extent applicable, the Grantee agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 USC §§1101 et seq., the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 USC §§4541 et seq., and the Public Health Service Act of 1912, as amended, 42 USC §§290dd through 290dd-2, and any amendments thereto.
12. Other Nondiscrimination Laws. The Grantee agrees to comply with applicable provisions of other federal laws and regulations, and follow applicable federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

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26. EXHIBIT D - CERTIFICATIONS AND NOTICES

A. Standard Assurances

The Grantee assures that it will comply with all applicable federal statutes and regulations in carrying out any project supported by an FTA grant or cooperative agreement. The Grantee agrees that it is under a continuing obligation to comply with the terms and conditions of the incorporated by reference and made part of the latest amendment to its grant agreement or cooperative agreement with CDOT and the FTA issued for its Project. The Grantee recognizes that federal laws and regulations may be modified from time to time and those modifications may affect project implementation. The Grantee understands that Presidential executive orders and federal directives, including federal policies and program guidance may be issued concerning matters affecting the Grantee or its Project. The Grantee agrees that the most recent federal laws, regulations, and directives will apply to the Project, unless FTA issues a written determination otherwise.

B. Suspension and Debarment

The Grantee shall obtain from its third party contractors certifications required by Department of Transportation regulations, "Government-wide Debarment and Suspension (Nonprocurement)," 49 CFR Part 29, and otherwise comply with the requirements of those regulations.

C. US OMB Assurance

Consistent with US OMB assurances set forth in SF-424B and SF-424D, the Grantee assures that, with respect to itself or its Project, the Grantee:

1. Has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-federal share of the project cost) to assure proper planning, management, and completion of the Project described in its application;
2. Will give FTA, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to an the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
4. Will initiate and complete the work within the applicable Project time periods following receipt of FTA approval

D. Lobbying Certification

The Grantee or its subcontractor shall not use federal assistance funds for publicity or propoganda purposes designed to support or defeat legislation or appropriations pending before Congress or a state legislature.

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27. EXHIBIT E – VERIFICATION OF PAYMENT

VERIFICATION OF PAYMENT

This checklist is to assist the Grantee in preparation of its billing packets to CDOT. This checklist is provided as guidance and is subject to change by CDOT. CDOT shall provide notice of any such changes to Grantee. All items may not apply to your particular entity. CDOT's goal is to reimburse Grantees as quickly as possible and a well organized and complete billing packet helps to expedite payment.

Verification of Payment –

- ✓ General Ledger Report must have the following:
 - Identify check number or EFT number
 - If no check number is available, submit Accounts Payable Distribution report with the General Ledger
 - In-Kind (must be pre-approved by CDOT) and/or cash match
 - Date of the report
 - Accounting period
 - Current period transactions
 - Account coding for all incurred expenditures.
- ✓ If no General Ledger Report, all of the following are acceptable:
 - copies of checks
 - check registers
 - paycheck stub showing payment number
 - showing the amount paid, the check number or electronic funds transfer (EFT) and the date paid.
- ✓ CDOT needs to ensure that expenditures incurred by the local agencies have been paid by the local agency *before* CDOT is invoiced by the local agency.
- ✓ Payment amounts should match the amount requested on the reimbursement. Additional explanation and documentation is required for any variances.

In-Kind or Cash Match – If an entity wishes to use these types of match, they must be approved by CDOT prior to any work taking place.

- ✓ If in-kind or cash match is being used for the local match, the in-kind or cash match portion of the project must be included in the project application and the scope of work attached to the contract or purchase order. FTA does not require pre-approval of in-kind or cash match, but CDOT does.
- ✓ General ledger must also show the in-kind and/or cash match.

Indirect costs – If an entity wishes to use indirect costs, the rate must be approved by CDOT prior to applying it to the reimbursements.

- ✓ If indirect costs are being requested, an approved indirect letter from CDOT or your cognizant agency must be provided. The letter must state what indirect costs are allowed, the approved rate and the time period for the approval. The indirect cost plan must be reconciled annually and an updated letter submitted each year thereafter.

Fringe Benefits- Considered part of the Indirect Cost Rate and must be reviewed and approved prior to including these costs in the reimbursements.

- ✓ Submit an approval letter from cognizant agency that verifies fringe benefit or
- ✓ Submit the following fringe benefit rate proposal package to CDOT Audit Division:
 - Copy of Financial Statement
 - Personnel Cost Worksheet

- State of Employee Benefits
- Cost Policy Statement

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28. EXHIBIT F - SUPPLEMENTAL FEDERAL PROVISIONS

State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
As of 3-20-13

The contract, grant, or purchase order to which these Supplemental Provisions are attached may be funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. **Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
 - 1.1. **“Award”** means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:
 - 1.1.1. Grants;
 - 1.1.2. Contracts;
 - 1.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
 - 1.1.4. Loans;
 - 1.1.5. Loan Guarantees;
 - 1.1.6. Subsidies;
 - 1.1.7. Insurance;
 - 1.1.8. Food commodities;
 - 1.1.9. Direct appropriations;
 - 1.1.10. Assessed and voluntary contributions; and
 - 1.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

 - 1.1.12. Technical assistance, which provides services in lieu of money;
 - 1.1.13. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
 - 1.1.14. Any award classified for security purposes; or
 - 1.1.15. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
 - 1.2. **“Contract”** means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.
 - 1.3. **“Contractor”** means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
 - 1.4. **“Data Universal Numbering System (DUNS) Number”** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
 - 1.5. **“Entity”** means all of the following as defined at 2 CFR part 25, subpart C:
 - 1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
 - 1.5.2. A foreign public entity;

- 1.5.3. A domestic or foreign non-profit organization;
 - 1.5.4. A domestic or foreign for-profit organization; and
 - 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
 - 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
 - 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
 - 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
 - 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
 - 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
 - 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
 - 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
 - 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
 - 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
 - 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
 - 1.17. **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a

Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub-awards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Sub-recipient Reporting Requirements.** If Contractor is a Sub-recipient, Contractor shall report as set forth below.

- 7.1. **To SAM.** A Sub-recipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:
 - 7.1.1. Sub-recipient DUNS Number;
 - 7.1.2. Sub-recipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
 - 7.1.3. Sub-recipient Parent DUNS Number;
 - 7.1.4. Sub-recipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 7.1.5. Sub-recipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 7.1.6. Sub-recipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
- 7.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:
 - 7.2.1. Sub-recipient's DUNS Number as registered in SAM.
 - 7.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
8. **Exemptions.**
 - 8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
 - 8.2. A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
 - 8.3. Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.
 - 8.4. There are no Transparency Act reporting requirements for Vendors.
9. **Event of Default.** Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

29. EXHIBIT G - SECURITY AGREEMENT (IF APPLICABLE)

This Security Agreement is made by and between the State of Colorado for the use and benefit of THE COLORADO DEPARTMENT OF TRANSPORTATION, DIVISION OF TRANSIT AND RAIL, (“State”) and CITY OF BLACK HAWK, (“Grantee”).

A. Purpose. This Security Agreement is made for the purpose of securing the State interest in transit vehicles or other project equipment (“Project Equipment”) purchased with State grant funds awarded to the Grantee pursuant to the Grant Agreement between the State and Grantee dated this ____ day of _____, 20__ and identified as contract # zero (“Grant”).

The security interest granted to the State herein is to ensure that the State may access, protect and, if necessary, dispose of the federal interest in each item of Project Equipment and to ensure the proper use of the Project Equipment. The Grantee shall have no right in the State interest in such Project Equipment.

B. Project Equipment. Not later than three days after the purchase and acceptance of Project Equipment, the Grantee shall complete and return to the State a “Certificate of Procurement and Acceptance” form, which then becomes Addendum I to this Security Agreement. In the case of vehicle procurement, this certificate must indicate the year, make, model, VIN, and any other information needed to register the vehicle.

C. Security Interest. In consideration of the value provided to the Grantee under the Grant, the Grantee hereby gives and grants to the State a security interest in the Project Equipment described in Addendum I and /or described below as follows:

MAKE/MODEL/VIN or description of equipment: _____.

This security interest shall apply to the Project Equipment acquired pursuant to the Grant whether purchased before or after the date this Security Agreement is executed. The Grantee hereby authorizes the State to describe in the space above the Project Equipment subject to this Security Agreement.

D. Lien. The State may place a lien on the title of each Project Equipment vehicle based upon this Security Agreement. The State shall retain physical possession of the titles of such Project Equipment vehicles and the Grantee agrees that the State shall be considered “in possession” of such vehicles for the purpose of any document required by State law to repossess such vehicles if necessary.

E. Disposition of Equipment. In addition to the security interest granted herein, the Grantee agrees to and acknowledges the right of the State to remove all Project Equipment from the Grantee’s premises and to take possession of any of the Project Equipment, if the Grantee fails to satisfactorily perform the Project services as detailed in the Grant, or if the State determines for any other reason, including but not limited to termination of the Grant, that the disposition of the State interest in such Project Equipment is in the best interest of the State. The Grantee agrees that it will in no way oppose the State’s exercise of such right and that it will assist the State to obtain possession and to remove such vehicles.

F. Assignment. The Grantee agrees not to assert against any assignee of the State any defenses or claims the Grantee may have against the State.

Grantee hereby executes this Security Agreement as of the date below:

ATTEST: _____ FOR THE GRANTEE By: _____

Print Name: _____

Date: _____ Title: _____

30. EXHIBIT H – PROCURMENT AUTHORIZATION

_____ (“the Grantee”) has been awarded Federal funds by CDOT with which to purchase capital equipment.

The State has conducted a competitive procurement process and executed a Price Agreement with _____ (Vendor name), identified as Price Agreement # _____, for the purchase of certain vehicles. The Grantee is being awarded funding for a vehicle(s) that fits under the scope of that Price Agreement.

Where available, the Grantee is hereby ordering a vehicle(s) and options under the terms of that Price Agreement. If the Price Agreement is not available, the Grantee is hereby ordering a vehicle(s) based on the terms of the Price Agreement. The eligible vehicle, quantity, floor plan and options being ordered is described as follows:

It is agreed that the total price of the vehicle(s) to be procured based on the Price Agreement is \$_____.

The Federal Share provided for this purchase is \$_____. The Grantee shall pay the Grantee Share of \$_____ and shall separately pay for additional items outlined below, if applicable.

If the Grantee wishes to order any additional items not contained in the Price Agreement, they will be listed below and shall be purchased by the Grantee at its own expense upon delivery of the vehicle.

The Vendor will deliver the vehicle(s) to the Grantee at the following address at a time and date acceptable to both parties: _____

The Grantee shall obtain the approval of the CDOT Transit Unit before submitting this form to the Vendor.

This purchase is authorized for the Grantee by:

Print name

Title

Signature

Date

This Authorization has been reviewed and approved for content by CDOT:

Print name

Title

Signature

Date

RESOLUTION 81-2014
A RESOLUTION
APPROVING THE
LICENSE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
LOCHSMITH, INC. AS
OWNER OF THE
PROPERTY LOCATED AT
120 MAIN STREET

(continued from October 8, 2014)

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No., 81-2014

**TITLE: A RESOLUTION APPROVING THE LICENSE AGREEMENT
BETWEEN THE CITY OF BLACK HAWK AND LOCHSMITH, INC. AS
OWNER OF THE PROPERTY LOCATED AT 120 MAIN STREET**

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

Section 1. The License Agreement between the City of Black Hawk and
LOCHSMITH, INC., attached hereto as **Exhibit A**, is hereby approved, and the Mayor is
authorized to execute the same on behalf of the City.

RESOLVED AND PASSED this 22nd day of October, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

CITY COUNCIL MEETING:

October 8, 2014

SUBJECT: License Agreement for a Blade Sign at the Wild Card Casino in City Right-of-Way

This action item is for approval of a License Agreement to allow the recently approved Wild Card Casino Comprehensive Sign Plan blade sign to extend approximately three feet into the Main Street right-of-way.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

On May 28, 2014, Black Hawk City Council approved a Comprehensive Sign Plan (CSP) and Certificate of Appropriateness for the Wild Card Casino at 120 Main Street. The approved resolution contained a condition requiring the applicant complete a survey to verify whether a license agreement for a projecting sign needed to be processed. A survey of the site shows there will be an encroachment of a projecting blade sign into the right-of-way for Main Street.

Staff from Baseline Corporation has worked with the owner of the property as well as the City Attorney and has completed the attached license agreement. CCS Consultants has also reviewed and approved the legal description for the encroachment areas into the City right-of-way. The City of Black Hawk Municipal Code allows for license agreements and similar approvals for encroachments of private improvements in the airspace over a right-of-way. The agreement is ready for review and approval by the City Council.

RECOMMENDATION:

Staff from Baseline Corporation recommends the City Council consider a **MOTION TO APPROVE** the License Agreement as submitted.

RESOLUTION DATE:

October 8, 2014

ORIGINATED BY:

City Staff and Lochsmith, Inc.

STAFF PERSON RESPONSIBLE:

Vincent Harris, Baseline Corporation

DOCUMENTS ATTACHED:

License Agreement with Exhibit A

CITY ATTORNEY REVIEW:

Yes No N/A

INITIALS V.H.

SUBMITTED BY:

V.H. 9/25/2014
Vincent Harris, Baseline Corporation

REVIEWED BY:

J.D.L. 10/17/14
Jack D. Lewis, City Manager

LICENSE

THIS LICENSE is made and entered into this ____ day of _____, 2014, by and between the CITY OF BLACK HAWK, Colorado whose address is 211 Church Street, Black Hawk, CO 80422 (the "City") and LOCHSMITH, INC., owner of the real property whose address is 120 Main Street, Black Hawk, CO 80422 ("Licensee").

1. **PROPERTY LICENSED.** The property that is licensed for the use and the term provided for in this license is depicted in Exhibit A, which is attached hereto and incorporated by this reference ("Property Licensed"). The Property Licensed for installation of a projecting sign into the public right-of-way of Main Street is subject to all easements, lands, and rights-of-way of record.

2. **RELOCATION.** In the event the construction or reconstruction of any roadways, or the construction, reconstruction or repair of any of the City's property necessitates the relocation or removal of the structure(s) or fixtures(s) described in paragraph 5 herein, then Licensee shall, at its sole cost and expense, timely perform or cause the performance of such relocation or removal of the structures(s) or fixture(s).

3. **INSURANCE.** Licensee shall obtain for itself, its agents, successors, assigns, lessees, licensees and agents, necessary and adequate workman's compensation insurance, personal injury insurance, and property damage insurance, with limits commensurate with the hazards and risks associated with the use of the Property Licensed, but in no event less than the liability limits established by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as now in effect or as hereinafter amended. Neither Licensee nor its agents, successors and assigns shall commence any construction, placement, operation or maintenance of the fixture or structure on the Property Licensed until it has obtained all insurance required under this section and shall have filed a certificate of insurance or a certified copy of the insurance policy with the City. Each insurance policy shall list the City as an additional named insured and shall contain a clause providing that coverage shall not be cancelled by the insurance company without thirty (30) days written notice to the City of intention to cancel.

4. **UTILITIES.** Licensee covenants and agrees to pay all charges for electric power and other utilities assessed, levied or incurred on the Property Licensed by reason of the installation of a projecting sign during the term of this license or any renewal thereof.

5. **INSTALLATION, MAINTENANCE, REPAIR AND ALTERATIONS.** Licensee shall initially install the improvements on the Property Licensed in the manner submitted and as designed. After initial installation, Licensee covenants and agrees not to make or permit to be made any alterations in, or additions to, the Property Licensed without the prior written consent of the City and its associated review agencies and to keep the improvements thereon including wiring, if appropriate, in good repair and in a condition that will not interfere with the proper functioning of the Property Licensed, at

the expense of Licensee; ordinary wear and tear and loss by fire, flood, or act of God excepted. Licensee also agrees to repair any and all damage to any improvement that may be damaged as a result of the installation of a projecting sign.

6. USE. Licensee covenants and agrees that it shall utilize the Property Licensed to Licensee for no other purpose and not to use the Property Licensed or permit it to be used for purposes prohibited by the laws of the applicable United States, State of Colorado, or any political subdivision thereof.

7. RE-ENTRY. Licensee covenants and agrees to permit the City or its duly authorized representatives to inspect the Property Licensed and to do such other acts and things, as it deems necessary for the protection of its interests therein.

8. NOTICE. Any notice required under this License shall be in writing and mailed by certified mail to the respective parties at the address hereinabove given. The Public Works Director shall be the representative of the City to accept or respond to any notice or the like provided hereunder. In the event Licensee should change the address hereinabove given during the term of this License, Licensee shall notify the City in writing of such change of address:

The City: Tom Isbester
 Director of Public Works
 City of Black Hawk
 P.O. Box 68
 Black Hawk, CO 80422

Licensee: Lochsmith, Inc.
 P.O. Box 513
 Black Hawk, CO 80422

9. NO COVENANT OF TITLE OR QUIET POSSESSION. The rights granted herein are without covenant of title or warranty of quiet possession of the Property Licensed and no water or water rights are granted by this License.

10. SUCCESSORS AND ASSIGNS. This License shall insure to the benefit of, and be binding upon, the successors and assigns of the parties.

11. ASSIGNMENT OR SUB-LEASE. Licensee covenants and agrees not to assign this License or to sublet any part of the Property Licensed without first obtaining the written consent of the City, which will not be unreasonably withheld.

12. PROPERTY LICENSED TAKEN "AS IS." Licensee understands and agrees that the Property Licensed is licensed "as is." The City makes no warranty, written or implied, that the Property Licensed is fit for any purpose or that it meets any federal, state, county or local law, ordinance or regulation applying to the Property Licensed.

13. **LIABILITY AND INDEMNIFICATION.** The City shall not be liable for any loss, injury, death or damage to any person or personal property which may arise from the Licensee's use or condition, caused by Licensee's use, of the Property Licensed including, but not limited to, loss, injury, death, or damage resulting from ice, water, rain, snow, gas, electrical wires, fire, equipment malfunctions, faulty installation, or theft. Licensee hereby expressly agrees, to the extent permitted by law, to defend, indemnify and hold harmless the City, its officers, agents, employees and insurers against any liability, loss, damage, demand, action, cause of action or expense of whatever nature (including court costs and attorney fees) which may result from any loss, injury, death or damage allegedly sustained by any person, firm, corporation or other entity which arises out of or is caused by reason of Licensee's negligent use of the Property Licensed or Licensee's failure to fulfill the terms and conditions of the License.

14. **RESERVATION FOR COUNCIL USE.** This License is made under and conformable to the provisions of all City of Black Hawk regulations insofar as applicable. Said provisions are incorporated herein and made part hereof by this reference and shall supersede any apparently conflicting provisions otherwise contained in the License. The City reserves the right to make full use of the Property Licensed as may be necessary or convenient in the operation of the public streets and the City retains all rights to operate, maintain, install, repair, remove or relocate any of its facilities located within the Property Licensed at any time and in such a manner as it deems necessary.

15. **TERMINATION.**

- a. This License Agreement may be terminated by the City at any time upon thirty (30) days written notice to Licensee. If the City terminates this License due to a default by Licensee, Licensee shall be responsible for removing the projecting sign on the Property Licensed if directed by the City.

16. **VENUE.** For the resolution of any dispute arising hereunder, venue shall be in the courts of Gilpin County, State of Colorado.

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

LICENSEE:

LOCHSMITH, INC.

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The forgoing instrument was subscribed, sworn to, and acknowledged before me this _____ day of _____, 2014, by _____ as the _____ of Lochsmith, Inc.

My commission expires: _____

(SEAL)

Notary Public

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

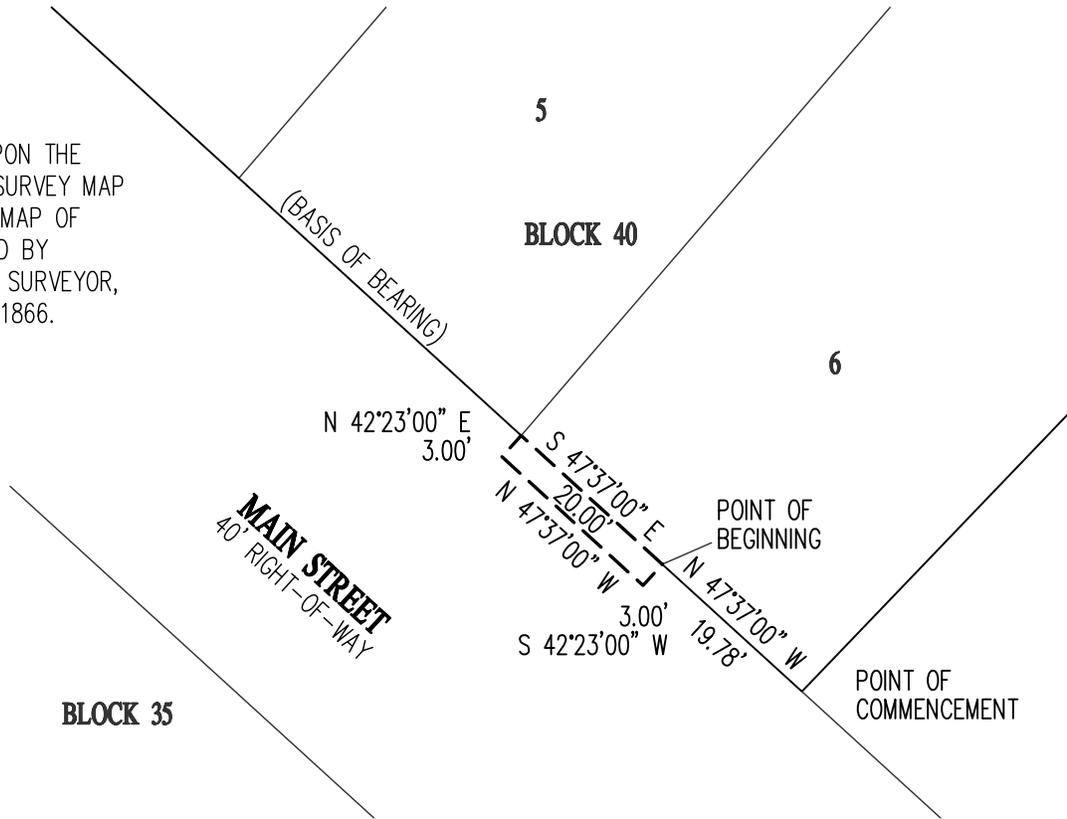
ATTEST:

Melissa Greiner, City Clerk

EXHIBIT A

A SIGN EASEMENT, LOCATED WITHIN MAIN STREET RIGHT-OF-WAY CITY OF BLACK HAWK, COUNTY OF GILPIN, STATE OF COLORADO

NOTE:
BLOCK 40 IS BASED UPON THE
CITY OF BLACK HAWK SURVEY MAP
OF BLOCK 40, OF THE MAP OF
BLACK HAWK, SURVEYED BY
ALBERT JOHNSON, CITY SURVEYOR,
DATED MAY AND JUNE 1866.



SCALE: 1"=20'
DATE: 09.23.2014

DESCRIPTION:

A SIGN EASEMENT, LOCATED WITHIN THE MAIN STREET RIGHT-OF-WAY, CITY OF BLACK HAWK, COUNTY OF GILPIN, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 6, BLOCK 40 AND THE NORTHERLY MAIN STREET RIGHT-OF-WAY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, N 47°37'00" W, 19.78 FEET TO THE POINT OF BEGINNING, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE S 42°23'00" W, 3.00 FEET; THENCE N 47°37'00" W, 20.00 FEET; THENCE N 42°23'00" E, 3.00 FEET TO A POINT ALONG SAID NORTHERLY MAIN STREET RIGHT-OF-WAY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY S 47°37'00" E, 20.00 FEET TO THE POINT OF BEGINNING, CONTAINING 60 SQUARE FEET MORE OR LESS.



NOTE:
THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY.
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

C.C.S. CONSULTANTS, INC.

4860 Robb Street, Suite 206
Wheat Ridge, Colorado 80033
Phone: 303-403-4706, Fax: 303-403-0800

RESOLUTION 82-2014
A RESOLUTION
APPROVING THE
LICENSE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
EDWARD E. SMITH,
SHIRLEY J. SMITH,
SHERELL J. SMITH,
GREGORY STREET LLC,
AND SMITHLOCH LLC, AS
OWNERS OF THE
PROPERTIES LOCATED
AT 125, 131, 135, AND 141
GREGORY STREET

(recommend continuation to
November 12, 2014)

RESOLUTION 87-2014
A RESOLUTION
IMPOSING AN
APPLICATION FEE FOR
BICYCLE EVENT PERMIT
APPLICATIONS
PURSUANT TO SECTION 8-
126 OF THE BLACK HAWK
MUNICIPAL CODE

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 87-2014

**TITLE: A RESOLUTION IMPOSING AN APPLICATION FEE FOR BICYCLE
EVENT PERMIT APPLICATIONS PURSUANT TO SECTION 8-126 OF
THE BLACK HAWK MUNICIPAL CODE**

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

Section 1. Pursuant to Section 8-126 of the Black Hawk Municipal Code, the Board of
Aldermen hereby imposes a bicycle event permit application fee in the amount of One Hundred
Dollars (\$100.00).

RESOLVED AND PASSED this 22nd day of October, 2014.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Section 8-126 of the Black Hawk Municipal Code requires an application fee for Bicycle Event Permit Applications to be established by resolution.

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

MOTION TO APPROVE Resolution 87-2014, A Resolution Imposing an Application Fee for Bicycle Event Permit Applications Pursuant to Section 8-126 of the Black Hawk Municipal Code.

SUMMARY AND BACKGROUND OF SUBJECT MATTER: In reviewing the Municipal Code, staff discovered an application fee for Bicycle Event Permits is required to be established by resolution.

AGENDA DATE: October 22, 2014

FUNDING SOURCE: N/A

WORKSHOP DATE: N/A

ESTIMATED DATE OF PROJECT COMPLETION: N/A

ORIGINATED BY: Melissa Greiner

STAFF PERSON RESPONSIBLE: Melissa Greiner

DOCUMENTS ATTACHED: N/A

RECORD: []Yes [X]No

CITY ATTORNEY REVIEW: [X]Yes []No []N/A INITIALS _____

SUBMITTED BY:

REVIEWED BY:

 10/17/14

 10/17/14

Melissa Greiner, City Clerk

Jack D. Lewis, City Manager