



REVISED

REGULAR MEETING AGENDA

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

**August 26, 2015
3:00 p.m.**

RINGING OF THE BELL:

1. CALL TO ORDER:
2. ROLL CALL & PLEDGE OF ALLEGIANCE:
3. ADENDA CHANGES:
4. CONFLICTS OF INTEREST: (Council disclosures are on file w/City Clerk & Sec. of State)
5. PUBLIC COMMENT: *Please limit comments to 5 minutes*
6. APPROVAL OF MINUTES: Regular Meeting of August 12, 2015
Special Meeting of August 18, 2015
7. PUBLIC HEARINGS:
8. ACTION ITEMS:
 - A. Resolution 58, A Resolution Awarding the Bid and Approving the Contract for the Gregory Street Grading, Rock Excavation and Slope Stabilization Project to A&A Drilling and Blasting, Inc. in an Amount Not To Exceed \$1,192,424.00
 - B. Resolution 59, A Resolution Reappointing Two (2) Regular Members to the City of Black Hawk Historic Preservation Commission
 - C. Resolution 60, A Resolution Approving the License Agreement Between the City of Black Hawk and Casinos, USA, Inc., and Conditionally Approving a Certificate of Appropriateness for the Bull Durham Casino Awning Upgrade
 - D. Resolution 61, A Resolution Amending the 2015 City of Black Hawk Fee Schedule to add Fees for CPR First Aid and Fire Extinguisher Training by the Black Hawk Fire Department
 - E. Resolution 62, A Resolution Approving the Agreement with PEH Architects for the Total Base Architectural Design and Construction Administration for the Limited Rehabilitation of the Historic Home and Property at 400 Chase Street in an Amount Not To Exceed \$123,405.00
 - F. Resolution 63, A Resolution Approving the Property Exchange Agreement Between the City of Black Hawk and Smithrock, LLC
 - G. Local Liquor Authority Consideration of the Certification of a Promotional Association and Common Consumption Area for the Isle Promotional Association with Consent to use the Air Space
9. CITY MANAGER REPORTS:
10. CITY ATTORNEY:
11. EXECUTIVE SESSION:
12. ADJOURNMENT:

MISSION STATEMENT

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



**City of Black Hawk
City Council**

August 12, 2015

MEETING MINUTES

Mardi Gras General Manager, Scott Nelson, rang the bell.

1. **CALL TO ORDER:** The regular meeting of the City Council was called to order on Wednesday, August 12, 2015, at 3:00 p.m. by Mayor Spellman.

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

Absent: Aldermen Armbright's absence was excused.

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

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

3. **AGENDA CHANGES:** City Clerk Greiner confirmed there were no changes to the agenda.

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

City Attorney Hoffmann asked the audience if there were any objections to any member of Council voting on any issue on the agenda this afternoon. The audience had no objections.

5. **PUBLIC COMMENTS:** City Clerk Greiner stated that no one had signed up to speak.

6. **APPROVAL OF MINUTES** July 22, 2015.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve the Minutes as presented.

MOTION PASSED

There was no discussion and the motion passed unanimously.

7. PUBLIC HEARINGS:

A. CB 17, A Bill for an Ordinance Rezoning Certain City Owned Property to the Public Facilities (PF) District and the Commercial/Business Services (CBS) District

Mayor Spellman read the title and opened the public hearing.

Baseline Corporation Consultant, Vice Harris, explained a need exists for rezoning the five City owned properties pursuant to Section 16-121 of the City of Black Hawk Zoning Ordinance.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB17, A bill for an Ordinance Rezoning Certain City Owned Property to the Public Facilities (PF) District and the Commercial/Business Services (CBS) 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 Johnson **MOVED** and was **SECONDED** by Alderman Torres to Approve CB17, A bill for an Ordinance Rezoning Certain City Owned Property to the Public Facilities (PF) District and the Commercial/Business Services (CBS) District.

MOTION PASSED

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

B. CB 18, An Ordinance Approving an Intergovernmental Agreement Between the City of Black Hawk, Timberline Fire Protection District, City of Central, Gilpin County, and Clear Creek County Regarding a Maintenance Agreement for a Command Vehicle

Mayor Spellman read the title and opened the public hearing.

Police Chief Cole explained that in 2013 the North Central All Hazards Region (NCR) funded a Command Vehicle for the City of Black Hawk to be used as a resource for local first responders during emergencies. Law enforcement and fire agencies from the City of Black Hawk, Gilpin County, Clear Creek County, Central City, and the Timberline Fire Protection District collaborated to design a vehicle to specifically meet the needs of first responders working in mountainous terrain. The

vehicle will be owned by the City of Black Hawk and stored in a Timberline Fire District building or other suitable facility. The vehicle will support major events such as fires, major incidents, and emergency situations involving multiple agencies. The IGA creates a maintenance agreement for the Command Vehicle thereby reducing maintenance cost to each participating entity. The Mayor asked about the possibility of parking at the County's facility on Apex Road. Discussion ensued.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB 18, An Ordinance Approving an Intergovernmental Agreement Between the City of Black Hawk, Timberline Fire Protection District, City of Central, Gilpin County, and Clear Creek County Regarding a Maintenance Agreement for a Command Vehicle.

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

MOTION TO APPROVE

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to Approve CB 18, An Ordinance Approving an Intergovernmental Agreement Between the City of Black Hawk, Timberline Fire Protection District, City of Central, Gilpin County, and Clear Creek County Regarding a Maintenance Agreement for a Command Vehicle.

MOTION PASSED

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

C. CB 19, An Ordinance Approving a Mutual Aid Agreement Between the City of Black Hawk and the City of Golden

Mayor Spellman read the title and opened the public hearing.

Fire Chief Taylor explained that currently the City does not have a formal agreement specifically with the City of Golden for providing mutual aid resources. The City of Golden Fire Department responds to emergencies between the Hwy 6 and Hwy 119 intersection and the Hwy 6 and Hwy 93 intersection in Golden. Currently the City of Black Hawk Fire Department is responding on mutual aid west of Tunnel 3 which is a major traffic thoroughfare for visitors to our community. Golden has also provided aerial apparatus support to our community when requested. The Mayor commented that Golden should be the primary responder. Discussion ensued.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB 19, An Ordinance Approving a Mutual Aid Agreement Between the City of Black Hawk and the City of Golden open and invited anyone wanting to address the Board either "for" or "against" the proposed ordinance to come forward.

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

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to Approve CB 19, An Ordinance Approving a Mutual Aid Agreement Between the City of Black Hawk and the City of Golden.

MOTION PASSED

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

D. CB 20, An Ordinance Appointing a Director to the Board of the Black Hawk Business Improvement District

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann explained that the Black Hawk Business Improvement District (BID) was organized by Councilman's Bill Number 26, Ordinance Number 95-8 of the City of Black Hawk on July 26, 1995. Under that Ordinance and subsequent enactments, the Board of Directors of the District has been appointed by the City Council. All Board members must, by law, be electors of the District. The BID currently has a vacancy on the Board of Directors that is required to be filled by the City Council.

Based upon the recommendations provided by owners of taxable property in the BID and other information available to the City, and finding that there is presently a vacancy to be filled on the BID Board, pursuant to Section 31-25-1209(1)(b), C.R.S., the City Council hereby appoints the Shawn Harris, Saratoga Casino General Manager, to the office of Director of the BID.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB 20, An Ordinance Appointing a Director to the Board of 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 Moates **MOVED** and was **SECONDED** by Alderman Johnson to Approve CB 20, An Ordinance Appointing a Director to the Board of the Black Hawk Business Improvement District.

MOTION PASSED

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

E. Local Liquor Licensing Authority Consideration of a New Tavern Liquor License for JE Tavern, Inc. dba JE Tavern, 240 Main Street

Mayor Spellman read the title.

City Attorney Hoffmann reminded Council that they were now acting as the Local Liquor Licensing Authority and the staff report identifies the findings they are required to make which will be based on the investigation and evidence presented today on whether or not the reasonable requirements of the neighborhood for the type of license sought will allow for an additional license in Black Hawk and whether or not the applicant himself is qualified to be a liquor licensee.

Robert Dill, Attorney for JE Tavern, Inc., business address, 455 Sherman, Suite 300, Denver, CO and John East, Owner and President of JE Tavern, 1801 Wynkoop, #602, Denver, CO. came forward.

City Attorney Hoffman asked if there were other witness in addition to Mr. East. Dodd Hanneman, General Manager of Z Casino, 101 Gregory St., Black Hawk, was presented as an additional witness. City Attorney Hoffmann swore in the witnesses, and Mr. Dill questioned Mr. East and Mr. Dodd regarding the facts of the proposed license.

PUBLIC HEARING:

Mayor Spellman declared the Public Hearing for the Liquor License Application for JE Tavern, Inc. open and invited anyone wanting to address the Board either “for” or “against” the license to come forward.

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

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Moates to approve the New Tavern Liquor License for JE Tavern at 240 Main Street.

8. ACTION ITEMS:

F. Local Liquor Authority Consideration of the Certification of a Promotional Association and Common Consumption Area for The Lodge Association, Inc.

Mayor Spellman read the title.

City Attorney Hoffmann explained that Council acting as the Local Liquor Licensing Authority has just approved the request for a liquor license for JE Tavern, which qualifies them to apply for a Promotional Association and Common Consumption Area. City Attorney Hoffman said the applicant is meeting the requirements of the ordinance by

listing the dates and times of operation, but suggests authorization for the Common Consumption Area to operate 24 hours, as recommend by staff, to better regulate policing.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve the Certificate for a Promotional Association and Common Consumption Area for The Lodge Association, Inc. to authorize operations for 24 hours.

MOTION PASSED

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

G. Local Liquor Authority Consideration of the Certification of a Promotional Association and Common Consumption Area for AG Black Hawk Promotional Association I.

Mayor Spellman read the title.

City Attorney Hoffmann explained this is a similar application and similar staff recommendations as the previous agenda item. The Mayor asked if the applicant would like to speak. Scott Nelson, General Manager of the Mardi Gras Casino, came forward.

MOTION TO APPROVE

Alderman Moates **MOVED** and was **SECONDED** by Alderman Bennett to approve the Certificate for a Promotional Association and Common Consumption Area for AG Black Hawk Promotional Association, Inc. to authorize operations for 24 hours.

MOTION PASSED

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

H. Local Liquor Authority Consideration of a Request for a New Tavern Liquor License for Chicago Dogs Eatery, Inc. and Monarch Black Hawk, Inc. at 444 Main Street and to set the Boundaries of the Neighborhood and to Set a Date for Public Hearing

Mayor Spellman read the title.

City Attorney Hoffmann reminded Council that they were sitting for the last time today as the Local Liquor Authority and then proceeded to provide background on this request. He said the applicant is ultimately looking for a second liquor license to then apply for a Promotional Association and Common Consumption Area. Hoffmann said the boundaries have normally been the entire City of Black Hawk and the hearing date would be scheduled for September 23, 2015.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Midcap to approve the Request for a New Tavern Liquor License for

Chicago Dogs Eatery, Inc. at 444 Main Street and to set the Boundaries of the Neighborhood as the whole City of Black Hawk, and to set the public hearing date for September 23, 2015.

MOTION PASSED

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

I. Resolution 57, A Resolution Approving the Agreement for 2015-2016 Holiday Decoration Maintenance and Installation Services with Alpine Artisan Studios in the Amount Not to Exceed \$115,439.

Mayor Spellman read the title.

Public Works Director, Isbester gave an overview of the annual contract, and stated the contract is less than the 2014-2015 contract.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 57, A Resolution Approving the Agreement for 2015-2016 Holiday Decoration Maintenance and Installation Services with Alpine Artisan Studios in the Amount Not to Exceed \$115,439.

MOTION PASSED

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

10. CITY MANAGER REPORTS:

City Manager Lewis invited Community Planning and Development Administrator Linker to report on Bull Durham's Fee Waiver Request. Staff recommended no reduction in the billing and there was consensus with Council.

11. CITY ATTORNEY:

City Attorney Hoffmann noted the distribution of two memos.

12. EXECUTIVE SESSION:

City Attorney Hoffmann recommended items number 2 and 5 for Executive Session, in regards to potential legislation.

MOTION TO ADJOURN INTO EXECUTIVE SESSION

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:45 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(e).

MOTION PASSED

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

**MOTION TO
ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to adjourn the Executive Session at 4:50 p.m.

MOTION PASSED

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

13. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 4:50 p.m.

Melissa A. Greiner
City Clerk

David D. Spellman
Mayor

DRAFT



**City of Black Hawk
City Council**

August 18, 2015

SPECIAL MEETING MINUTES

Central City Mayor, Ron Engles, rang the bell.

1. **CALL TO ORDER:** The special meeting of the City Council was called to order on Tuesday, August 18, 2015, at 6:00 p.m. by Mayor Spellman.

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

Absent: Aldermen Armbright's absence was excused.

Staff present: City Attorney Hoffmann, City Manager Lewis, Police Chief Cole, City Clerk/Administrative Services Director Greiner.

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

3. **ACTION ITEMS:**

A. The Black Hawk City Council led a discussion with the City of Central's City Council regarding Central City's request for Black Hawk to present a proposal to run a shuttle into Central City. Black Hawk City Manager, Jack Lewis, and Central City's City Manager, Daniel Miera, relayed the proposed terms. Discussion ensued. Black Hawk City Council directed City Attorney Hoffmann to draft the IGA for Central City's review based on the terms discussed.

13. **ADJOURNMENT:** Mayor Spellman declared the Regular Meeting of the City Council closed at 6:20 p.m.

Melissa A. Greiner
City Clerk

David D. Spellman
Mayor

RESOLUTION 58-2015
A RESOLUTION
AWARDING THE BID AND
APPROVING THE
CONTRACT FOR THE
GREGORY STREET
GRADING, ROCK
EXCAVATION AND SLOPE
STABILIZATION PROJECT
TO A&A DRILLING AND
BLASTING, INC. IN AN
AMOUNT NOT TO
EXCEED \$1,192,424.00

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 58-2015

TITLE: A RESOLUTION AWARDING THE BID AND APPROVING THE CONTRACT FOR THE GREGORY STREET GRADING, ROCK EXCAVATION AND SLOPE STABILIZATION PROJECT TO A&A DRILLING AND BLASTING, INC. IN AN AMOUNT NOT TO EXCEED \$1,192,424.00

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

Section 1. The City Council hereby awards the bid and approves the contract for the Gregory Street Grading, Rock Excavation and Slope Stabilization Project to A&A Drilling and Blasting, Inc. in an amount not to exceed \$1,192,424.00, and authorizes the Mayor to execute the contract on behalf of the City.

RESOLVED AND PASSED this 26th day of August, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk



CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: Approve Resolution 58-2015, a Resolution awarding the bid and contract for construction of the Gregory Street Grading, Rock Excavation, and Slope Stabilization project to A & A Drilling and Blasting, Inc.

RECOMMENDATION:

If City Council chooses to approve Resolution 58-2015, a Resolution awarding the bid and contract between the City of Black Hawk and A & A Drilling and Blasting, Inc., the recommended motion is as follows: “Approve Resolution 58-2015, a Resolution awarding the bid and approving the contract for construction of the Gregory Street Grading, Rock Excavation, and Slope Stabilization project to A & A Drilling and Blasting, Inc. in the amount not to exceed \$1,192,424.00.”

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Gregory Street Grading, Rock Excavation, and Slope Stabilization project is the first phase of the Gregory Street realignment construction project. This phase will consist of removing and stabilizing the hillside immediately north of Bobtail Road, just east of its intersection with Gregory Street, to accommodate a future development including a parking structure. Additionally, grading will take place alongside portions of Gregory Street to create the future Gregory Street roadbed. Martin/Martin Consulting Engineers prepared the construction plans for this work. This project was publicly advertised in the Denver Daily Journal, as well as the Rocky Mountain Bid Systems website. Representatives from 12 companies attended the mandatory pre-bid meeting and four contractors submitted bids, as shown on the attached Bid Recording Sheet.

FUNDING SOURCE: Gregory St. Redevelopment: 305-3101-431-75-14

WORKSHOP DATE: August 26, 2015

ORIGINATED BY: Tom Isbester/Matt Reed

STAFF PERSON RESPONSIBLE: Tom Isbester/Matt Reed

PROJECT COMPLETION DATE: December 31, 2015

DOCUMENTS ATTACHED: Bid Recording Sheet

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

SUBMITTED BY:

REVIEWED BY:

Thomas Isbester, Public Works Director

Jack D. Lewis, City Manager

TABLE OF CONTENTS

ARTICLE 1 - GENERAL PROVISIONS AND SERVICES2

ARTICLE 2 - DEFINITIONS.....2

ARTICLE 3 – DESCRIPTION OF WORK AND SERVICES.....5

ARTICLE 4 – TRADE CONTRACTOR'S CONSTRUCTION SCHEDULE18

ARTICLE 5 - TIME FOR COMPLETION AND LIQUIDATED DAMAGES.....19

ARTICLE 6 - CONTRACT SUM20

ARTICLE 7 - CORRECTION OF WORK.....22

ARTICLE 8 - TEMPORARY FACILITIES AND SERVICES.....22

ARTICLE 9 - INDEMNIFICATION AND INSURANCE.....23

ARTICLE 10 - PERFORMANCE, LABOR AND MATERIAL PAYMENT BONDS25

ARTICLE 11 – CLAIMS AND DISPUTES26

ARTICLE 12 - RESOLUTION OF CLAIMS AND DISPUTES.....28

ARTICLE 13 - TERMINATION29

ARTICLE 14 - SIMULTANEOUS WORK BY OTHERS.....31

ARTICLE 15 - SUBCONTRACTING.....32

ARTICLE 16 - GUARANTY.....32

ARTICLE 17 - SALES TAX.....33

ARTICLE 18 - MISCELLANEOUS PROVISIONS33

ARTICLE 19 – ATTACHMENTS, SCHEDULES AND SIGNATURES.....36

TRADE CONTRACTOR AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2015, by and between the **City of Black Hawk**, State of Colorado, a body politic and corporate, hereinafter referred to as the "City" or "Owner" and **A & A Drilling and Blasting, Inc.**, hereinafter referred to as the "Trade Contractor".

ARTICLE 1 - GENERAL PROVISIONS AND SERVICES

- A. The Trade Contractor will commence and fully complete the construction of the **City of Black Hawk Gregory Street Grading, Rock Excavation, and Slope Stabilization** project, which is described in **Exhibit A**, which is attached hereto and made a part hereof ("Project").
- B. The Trade Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein.
- C. The Trade Contractor will commence the work required by the Contract Documents within ten (10) calendar days after the date of the notification to proceed and will complete the same on or before February 9, 2016, unless the period for completion is extended otherwise by the Contract Documents. The Trade Contractor agrees to pay as liquidated damages, and not as a penalty, the sum of **One Thousand Dollars (\$1,000.00)** for each consecutive calendar day's delay in completing this Contract after the completion dated specified herein, excluding any approved extensions of time.
- D. The Trade Contractor agrees to perform all of the work described in the Contract Documents and to comply with the terms therein for an amount not to exceed **One Million One Hundred Ninety-Two Thousand Four Hundred Twenty-Four and 00/100 Dollars (\$1,192,424.00)** as described in Article 6 of this Agreement. An additional **Three Thousand and 00/100 Dollars (\$3,000.00)** will be paid to the Trade Contractor for remobilization and re-surveying if the City is unable to acquire the parcel of land at the southwest corner of Gregory Street and Bobtail Road in a timely manner.

ARTICLE 2 - DEFINITIONS

- A. Wherever used in the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:
 - 1. Addenda - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, drawings and specifications, by additions, deletions, clarifications or corrections.
 - 2. Architect – The Architect is not applicable.
 - 3. Bid – The offer or proposal of the bidder submitted in the prescribed form setting forth the prices for the work to be performed.

4. Bidder – Any person, firm or corporation submitting a bid for the work.
5. Bonds – Bid, Performance and Payment Bonds and other instruments of security, furnished by the Trade Contractor and his surety in accordance with the Contract Documents.
6. Change Order – A written order to the Trade Contractor authorizing an addition, deletion or revision in the work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price and/or Contract Time.
7. Construction Change Directive – A written order directed to the Trade Contractor and signed by the Owner and the Architect/Engineer directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both.
8. Contract Documents – The contract, including advertisement for bids, information for bidders, bid, bid bond agreement, bid schedule, labor and material, payment bond, performance bond, notice of award, notice to proceed, change order, general conditions, special conditions, general specifications, special specifications, scopes of work, addenda, drawings, schedules and any and all other documents or papers included or referred to in the foregoing documents are part of the Contract Documents.
9. Contract Price – The total monies payable to the Trade Contractor under the terms and conditions of the Contract Documents.
10. Contract Time – The number of calendar days stated in the Contract Documents for the completion of the work.
11. Date of Award – Date of award of contract shall mean the date formal notice of such award, approved by the Owner, has been delivered to the intended awardee, or mailed to him at the main business address shown in his proposal by the Owner or its authorized representative.
12. Day or Days – Unless herein otherwise expressly defined, "day" shall mean calendar day or days.
13. Drawings, Plans or Contract Documents – The part of the Contract Documents which shows the characteristics and scope of the work to be performed and which has been prepared or approved by the Architect and/or Engineer.
14. Engineer – The Engineer shall be Martin/Martin Consulting Engineers.

15. Field Order – A written order effecting a change in the work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Owner or the Architect/Engineer to the Trade Contractor during construction.
16. Major Equipment or Major Equipment Items – Installation of major equipment to be furnished and placed under the contract awarded to the Trade Contractor and/or installations of major equipment to be furnished by the Owner and received, unloaded, stored, and placed by the Trade Contractor under the contract awarded to the Trade Contractor.
17. Notice of Award – The written notice of the acceptance of the bid by the Owner to the successful bidder.
18. Notice to Proceed – Written communication issued by the Owner to the Trade Contractor authorizing him to proceed with the work and establishing the date of commencement of the work.
19. Owner or City – The City of Black Hawk, Colorado, a home rule municipality. The Public Works Director, Project Manager, or their designee of the Owner is the Owner's representative.
20. Project – Construction of the project described in **Exhibit A**.
21. Shop Drawings – All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the Trade Contractor, a subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.
22. Site – The lands and other places on, under, in, or through which the work is to be executed or carried out and any other lands or places provided by the Owner for the purposes of the contract together with such other places as may be specifically designed in the Contract Documents as forming part of the site.
23. Special Conditions – Supplemental conditions that apply to specific aspects of the project or modifications to the general conditions that are to be adhered to in the project.
24. Subcontractor – An individual, firm or corporation having a direct contract with the Trade Contractor or with any other subcontractor for the performance of a part of the work at the site.
25. Substantial Completion – That date as certified by the Owner when the construction of the project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the project or specified part can be utilized for the purposes for which it is intended.

26. Supplier – Any person, supplier, or organization who supplies materials or equipment for the work, including that fabricated to a special design, but who does not perform labor at the site. A supplier is not a subcontractor who purchases an item of equipment from a manufacturer.
27. Trade Contractor – The person, firm or corporation with whom the City of Black Hawk has executed this Agreement.
28. Work – All labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the project. The work and the project are used interchangeably to mean the same thing.
29. Written Notice – Any notice to any party of the Agreement relative to any part of the Agreement in writing and considered delivered and the service thereof completed when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the work.

ARTICLE 3 - DESCRIPTION OF WORK AND SERVICES

Section 1. Drawings and Specifications.

- A. The intent of the drawings and specifications is that the Trade Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- B. One (1) copy of the drawings and specifications will be furnished to the Trade Contractor without charge upon request, and any additional copies which the Trade Contractor may request will be furnished at the cost of reproduction. The drawings and specifications are to be used only in connection with the work specified herein and are to be returned at the completion of the contract.
- C. In case of conflict between the drawings and specifications, the specifications will govern, unless directed otherwise by the Owner and the Architect/Engineer. In case of conflict between the special specifications and the general specifications, the special specifications shall govern. Figure dimension on drawings will govern over scale dimensions, and detailed drawings will govern over general drawings. Notwithstanding the above, a document which is more restrictive or requires greater responsibility or increased compliance by the Trade Contractor shall govern.
- D. Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported to the Owner and the Architect/Engineer, in writing, who will promptly resolve such inconsistencies or ambiguities in writing. Work done on unreported discrepancies,

inconsistencies or ambiguities by the Trade Contractor shall be done at the Trade Contractor's risk.

- E. The Trade Contractor may be furnished additional instructions and detail drawings by the Owner and the Architect/Engineer as necessary to carry out the work required by the Contract Documents. All additional instructions and detail drawings shall be issued to the Trade Contractor by the Owner and the Architect/Engineer.
- F. The additional drawings and instructions thus supplied will become a part of the Contract Documents. The Trade Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

Section 2. Materials, Services and Facilities.

- A. It is understood that, except as otherwise specifically stated in the Contract Documents, the Trade Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- B. In addition to the requirements for major equipment items previously given, within fourteen (14) days after execution of the Contract, the Trade Contractor shall submit to the Owner and Architect/Engineer a complete listing of the manufacturers of each item of equipment or assembly fabricated off the site that are proposed to be furnished for the project, together with sufficient information, including shop assembly and detail drawings, manufacturers' specifications and performance data, to demonstrate clearly that the materials and equipment to be furnished comply with the provisions and intent of the Contract Documents. If the information shows any deviation from the Contract requirements, the Trade Contractor shall notify the Owner and Architect/Engineer of the deviation and state the reason for it in writing. Acceptance of substitute material or equipment that deviates from the specifications shall be determined by the Owner and the Architect/Engineer.
- C. Only first class materials and materials which conform to the requirements of the specifications shall be incorporated in the work. All materials shall be new unless specified to be otherwise.
- D. When requested by the Owner, the Trade Contractor shall furnish a written statement of the origin, composition, and manufacturer of any or all materials (manufactured, produced or grown) that are to be used in the work. The sources of supply of each material used will be approved by the Owner and Architect/Engineer before delivery is started. If, at any time, sources previously approved fail to produce materials acceptable to the Owner and Architect/Engineer, the Trade Contractor shall furnish materials from other approved sources.
- E. Materials and equipment shall be so stored as to ensure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work

shall be located so as to facilitate prompt inspection. Material or equipment stored off-site shall be insured by the Trade Contractor. Proof of insurance shall be submitted to Owner prior to request for payment for such material or equipment.

- F. Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- G. Materials, supplies, and equipment shall be in accordance with samples submitted by the Trade Contractor and approved by the Owner and the Architect/Engineer.
- H. Materials, supplies or equipment to be incorporated into the work shall not be purchased by the Trade Contractor or the subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.
- I. The Trade Contractor shall retain, for the benefit of the Owner, all materials and supplies that are purchased for the project but are not used as a part of the project. The Owner may take any of the materials and supplies that are used in the project for any City purpose. Any materials and supplies not taken by the Owner shall be removed from the project site by the Trade Contractor.

Section 3. Shop Drawings.

- A. The Trade Contractor shall submit shop drawings, samples and O&M manuals as may be necessary for the prosecution of the work as required by the Contract Documents on a timely basis so that the project schedule is not affected. The Architect or Engineer will promptly review all shop drawings. All such drawings will be approved and signed by the Architect or Engineer, and will be null and void unless authorized by such signature. Review and approval of any shop drawing by the Architect or Engineer will not release the Trade Contractor from responsibility for any deviations from the Contract Documents. The approval of any shop drawings which substantially deviates from the requirements of the Contract Documents shall be evidenced by a Change Order.
- B. All drawings and details on items of major equipment will be reviewed by the Architect or Engineer only after the complete set of drawings and details covering the entire equipment package to be furnished under a particular major equipment item are submitted. Drawings submitted on a piecemeal basis covering only parts of the equipment package will be held for checking until the entire set of drawings are received.
- C. The Trade Contractor shall also submit to the Architect or Engineer shop drawings showing detail of structural wood trusses, structural steel and concrete reinforcing steel, bending details, piping details, and of other items necessary for the proper installation of materials into the completed work, as provided by this Agreement.
- D. The Trade Contractor shall make any indicated corrections on the drawings returned and shall resubmit corrected drawings until final approval is obtained.

- E. The Trade Contractor shall have no claims for damages or extension of time on account of any delay in the work resulting from the rejection of material or from review, revision and resubmittal of drawings when the review, revision and resubmittal is due to changes to the original design documents, and other data for approval by the Architect or Engineer.
- F. Each shop drawing shall be dated and shall be identified with the name of the project, the division, if any, the Contract item number, and the name of the Trade Contractor.
- G. When submitted for review by the Architect or Engineer, shop drawings shall bear the Trade Contractor's certification that he has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the Contract Documents.
- H. The Trade Contractor shall submit the shop drawings in accordance with the general requirements.
- I. Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawing or submission has been approved by the Architect or Engineer. A copy of each approved sample shall be kept in good order by the Trade Contractor at the site and shall be available to the Owner and Architect/Engineer.
- J. By approving and submitting shop drawings and samples, the Trade Contractor thereby represents that he has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, and that he has checked and coordinated each shop drawing and sample with the requirements of the work and of the Contract Documents.

Section 4. Records, Accounts and Audits.

- A. The Trade Contractor agrees to keep one complete set of records and books of account on a recognized cost accounting basis (satisfactory to the Owner), showing all expenditures, of whatever nature, made pursuant to the provisions of this Contract.
- B. The Trade Contractor shall furnish the Owner with such records, information and data as may be reasonable. The Owner shall at all reasonable times be afforded the opportunity to inspect and/or audit the above-specified books and records of the Trade Contractor.

Section 5. Inspection and Testing.

- A. All materials and equipment used in the construction of the project will be subject to adequate inspection and testing in accordance with generally accepted standards.
- B. The Trade Contractor shall give sufficient advance notice of placing orders to permit tests to be completed before materials are incorporated in the work.

- C. The Owner will provide all inspection and testing services required by the Contract Documents, unless specifically noted in the contract specifications for special inspection and testing services, such as, by way of example, welding inspections on off-site assembly.
- D. Neither observations by the Owner or Architect/Engineer, tests, nor approvals by persons other than the Owner or Architect/Engineer will relieve the Trade Contractor from his obligations to perform the work in accordance with the requirements of the Contract Documents.
- E. The Owner, the Architect/Engineer, and their representatives shall, at all times, have access to the work and to locations where materials or equipment are being manufactured, stored, or prepared for use under these Contract Documents, and they shall have full facilities for unrestricted inspection of such materials, equipment, and work including full access to purchasing and engineering information to the extent of uncovering, testing, or removing portions of the finished work. The Owner and the Architect/Engineer shall be furnished with such information as may be required regarding materials used and the process of manufacture for the various items of equipment. Observations by the Owner and the Architect/Engineer of equipment or materials during its manufacture will be performed by or for the Owner solely in an effort to detect discrepancies and defects as early as possible, when they can be most readily corrected, and the work thereby expedited. No acceptance of equipment or materials will be construed to result from such observations by the Owner and the Architect/Engineer. Any inspections or tests or waivers thereof will not relieve the Trade Contractor of responsibility for meeting all requirements of these Contract Documents.
- F. In addition, authorized representatives and agents of any participating federal or state agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The Trade Contractor shall provide proper facilities for such access and observation of the work and also for any inspection or testing thereof.
- G. In case of disputes between the Trade Contractor and the Architect/Engineer as to materials furnished or manner of performing the work, the Owner will have authority to reject materials or suspend the work until the question at issue can be decided by the Owner. The Owner is authorized to revoke, alter, enlarge, relax or release any requirements of Project drawings and specifications, and to approve or accept any portion of the work, and to issue instructions contrary to the drawings and specifications.

Section 6. Construction Review

- A. The Architect/Engineer will periodically observe the construction of all work covered by this Contract. The Architect/Engineer, on behalf of the Owner, shall be authorized to determine the amount or quantities of the several items of work which are to be paid for under this Contract; to order field changes within the scope of the Contract and to render decisions on any questions which may arise relative to the execution of the work covered by this Contract. The Architect/Engineer does not have authority to suspend work on the

project. The Trade Contractor shall not suspend any portion of the work nor resume suspended work without the written authority of the Owner.

- B. Neither the authority of the Architect/Engineer to act under the Contract nor any decision made by the Architect/Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Trade Contractor, any subcontractor, any supplier, or any other person or organization performing any of the Work, or to any surety for any of them.
- C. Whenever in the drawings, plans or Contract Documents the terms "as ordered", "as directed", or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of the Architect/Engineer as to the work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the work for compliance with the Contract Documents. The use of any such term or adjective shall not be effective to assign to the Architect/Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility for the project. Neither the Owner nor the Architect/Engineer will be responsible for the acts or omissions of the Trade Contractor or any subcontractor, any supplier, or of any other person or organization performing or furnishing any of the Work.
- D. Periodic observation of the work in progress by the Architect/Engineer will be done whenever the Trade Contractor is performing work that requires review as determined by the Architect/Engineer. The normal working time shall be during a regular 5-day, 40-hour work week, Monday through Friday. If the Trade Contractor elects to work more than 40 hours per week and observation is required during this overtime work as determined by the Architect/Engineer, the Architect/Engineer shall be paid by the Trade Contractor at the rate as specified in the billing schedule of the Architect/Engineer for all review time required over the normal 5-day, 40-hour week. If the Architect/Engineer or his authorized representative is called to the job site to address problems created by the Trade Contractor, he will be paid by the Trade Contractor at the same rate as for overtime review as stated above. This payment shall be made by a credit to the Owner, and then the Architect/Engineer shall bill the Owner for the same.
- E. If any work has been covered which the Architect/Engineer has not been specifically requested to observe prior to its being covered, or if the Architect/Engineer considers it necessary or advisable that covered work be inspected or tested, the Trade Contractor at the request of the Architect/Engineer shall uncover, expose or otherwise make available for observation, inspection or testing as the Architect/Engineer may require, that portion of the work in question, furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective, the Trade Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such work is not found to be defective, the Trade Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate Change Order will be issued.

Section 7. Surveys, Permits and Regulations.

- A. The Owner will furnish all land surveys together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents. The Trade Contractor shall provide detailed construction staking.
- B. At the beginning of the construction or as the work progresses, the Engineer at the Owner's expense shall install property corners and set bench marks.
- C. Any additional surveying or re-surveying shall be done by the Trade Contractor or by the Engineer at the Trade Contractor's expense. Bench marks and survey stakes shall be preserved by the Trade Contractor and in case of their destruction, or removal by him, his employees, or others, they shall be replaced by the Engineer at the Trade Contractor's expense and his Sureties shall be liable therefor.
- D. The Trade Contractor shall be responsible for elevations used in computing his bid.
- E. The Trade Contractor shall secure and pay for all necessary permits, fees and licenses in connection with the performance of its work and shall pay all municipal and other governmental fees in connection therewith except those expressly provided by the specifications as being the responsibility of the Owner, and shall furnish at its expense any and all bonds and cash or other deposits required by law or required by any lawful body having the right to make demand therefor.
- F. Trade Contractor shall specifically be responsible for registering with the City Clerk pursuant to Article VII of Chapter 6 of the Black Hawk Municipal Code, and shall further be responsible for requiring that all subcontractors register with the City Clerk pursuant to Article VII of Chapter 6 of the Black Hawk Municipal Code, and pay the necessary registration fee. The Trade Contractor shall similarly require that each subcontractor provide any required certificate of insurance to the City Clerk pursuant to Section 6-222 of the Black Hawk Municipal Code.
- G. The Owner will provide rights-of-way and permanent and temporary easements as shown on the plans for construction purposes. Any additional land actually needed by the Trade Contractor for the performance of the work, proper location of his plant and equipment, or the storage of materials and supplies for the work, shall be furnished by the Trade Contractor.

Section 8. Protection of Work, Property and Persons.

- A. The Trade Contractor shall be responsible for initiating and maintaining all safety precautions and programs in connection with the work. Neither the Owner nor the Architect/Engineer will be responsible for Trade Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto. The Trade Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the work who may be affected thereby, all the work and all materials

or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

- B. The Trade Contractor shall at all times consult with and obtain the approval of the Owner for the storage of material, operation of equipment, placing of temporary structures or dispositions of any surplus or waste materials upon property of the Owner anywhere outside the limits of construction. The Trade Contractor shall comply with all state, federal and local laws related to the storage or placement of any supplies, equipment, structures, or any other materials.
- C. The Trade Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. He shall erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. He shall notify owners of adjacent utilities when prosecution of the work may affect them. The Trade Contractor shall remedy at his expense all damage, injury, or loss to any property or person caused, directly or indirectly, in whole or in part, by the Trade Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the Owner or the Architect/Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Trade Contractor. Notwithstanding the provisions of C.R.S. § 13-20-802.5(2), for purposes of this Contract, the measure of damages shall never be deemed to be the fair market value of the real property without an alleged construction defect.
- D. The Trade Contractor shall observe all rules and regulations of the health department having jurisdiction and shall take precautions to avoid creating unsanitary conditions.
- E. In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Trade Contractor, without special instruction or authorization from the Owner or the Architect/Engineer, shall act to prevent threatened damage, injury or loss.
- F. The Trade Contractor shall at all times conduct and work in such a manner as to cause the least inconvenience and greatest protection to the general public. The Trade Contractor shall furnish and maintain barricades, warning signs, red flags, lights, and temporary passageways as may be necessary to protect the work and to safeguard the public. The cost of furnishing and maintaining the above facilities shall be incidental to the contract and no extra compensation for it will be allowed.
- G. Throughout the performance of the work or in connection with this Contract, the Trade Contractor shall construct and adequately maintain suitable and safe crossings over trenches and such detours as are necessary to care for public and private traffic. The material excavated from trenches shall be compactly deposited along the sides of the

trench or elsewhere in such a manner as shall give as little inconvenience as possible to the traveling public, to adjoining property owners, to other Trade Contractors, or to the City.

- H. In performing the work, the Trade Contractor shall take the necessary action, including making arrangements with the owners or operators of existing power, cable and telephone lines, fiber-optic and telemetry lines, gas, water, sewer and other utilities or installations that may be encountered, whether privately or publicly owned, to prevent interference with the conditions, operations and maintenance of the respective utilities in a manner satisfactory to the owners or operators of the respective utilities. Relocation or repair of utilities encountered even though not shown on the plans, shall be the responsibility of the Trade Contractor. The cost of the above measures, including maintaining of guards, watchmen, signals, barricades and temporary structures, making any necessary repairs and other cooperative or corrective work shall be borne by the Trade Contractor and shall be included in the prices bid for the related items of work. Neither the Owner nor the Architect/Engineer shall be responsible to the Trade Contractor for the existence of utilities not shown on the plans or drawings and the Trade Contractor remains obligated under this paragraph for all hidden utilities.
- I. The Trade Contractor shall be responsible for the preservation of all private or public property along and adjacent to the work and shall take all necessary precautions to prevent damage or injury thereto. Such preservation and protection shall include but not be limited to, trees, stone walls, fences, mail boxes, monuments, irrigation ditches, driveways, road access culverts, underground pipelines and structures. Such preservation and protection shall apply to all underground pipelines and utilities whether public, private or individually owned that are in or adjacent to the right-of-way. When direct or indirect damage is done to public or private property on account of the act, omission, neglect or misconduct in the prosecution or non-prosecution of the work on the part of the Trade Contractor, such property shall be restored by the Trade Contractor at the Trade Contractor's expense to a condition similar or equivalent to that which existed before such damage or injury was done, and brought up to current codes if applicable. The Trade Contractor shall be responsible for making all arrangements at his own expense for moving and operating equipment at temporary crossings of telephone and transmission lines, railroad tracks, irrigation ditches and pipelines.

Section 9. Communication with the Owner and the Architect/Engineer.

The Trade Contractor shall designate a responsible member of its organization at the site, whose duty shall be designated as the contact person for all communication between the Owner or the Architect/Engineer and the Trade Contractor. Said designated representative shall also be responsible to attend such meetings as may be required to ensure coordination and adequate performance of the work.

Section 10. Scope of Work.

The scope of work is described in the Contract Documents which are appended hereto and incorporated herein by this reference as **Exhibit A**.

Section 11. Trade Contractor's Responsibility.

- A. The Trade Contractor shall be responsible for all the work under this Contract until completion and final acceptance by the Owner.
- B. The Trade Contractor shall supervise and direct the work. He shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.
- C. The Trade Contractor shall employ on the work only such persons who are competent and skilled in their assignments. Any employee who obstructs the progress of the work through incompetence or other means or conducts himself improperly shall be discharged or removed from the work when so requested by the Owner. This section shall not create a duty for the Owner to evaluate or assess the competence or skills of the Trade Contractor's employees.
- D. The Trade Contractor warrants that all materials and equipment furnished and incorporated by him in the project shall be new, unless otherwise specified, and that all work under this Trade Contract shall be of good quality, free from fault and defects and in conformity with the Contract Documents. All work not conforming to these standards shall be considered defective. The warranty provided herein shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
- E. The Trade Contractor agrees that if he should fail or neglect to prosecute the work diligently and properly, or fail to perform any provisions of this Trade Contract, that the Owner, after three (3) days written notice to said Trade Contractor may, without prejudice to any other remedy, make good such deficiencies and may deduct the cost thereof from the payments then or thereafter due to the Trade Contractor pursuant to this Contract.
- F. Tools furnished with any equipment may be used for erection purposes when approved by the Owner and shall be turned over to the Owner after completion of the erection in a condition acceptable to the Owner. In case of rejection by the Owner, the Trade Contractor shall replace the tool or tools at no extra cost to the Owner.
- G. Upon completion and before final acceptance of the work, the Trade Contractor shall remove from the site of the work and property of the Owner, all machinery, equipment, surplus materials, rubbish, barricades, signs and temporary structures and shall leave the premises in a condition which is satisfactory to the Owner.
- H. The Trade Contractor shall keep one record set of the Contract Documents annotated to show all changes made during construction.
- I. The Trade Contractor shall be responsible for the acts and omissions of all his employees and all subcontractors, their agents and employees and all other persons performing any of the work under a contract with the Trade Contractor.

- J. Upon completion of the work, the Trade Contractor shall, at his or its expense, remove from the vicinity of the work, all plant, buildings, rubbish, unused materials, concrete forms and other like material, belonging to him or used under his direction during construction, and in the event of his failure to do so, the same may be removed by the Owner and the Trade Contractor, his Surety or Sureties, shall be liable for the cost thereof. Also during the construction of the work, the site, partially finished structures, and material stockpiles shall be kept in a reasonable state of order and cleanliness.

Section 12. Changes in the Work.

- A. CHANGES. Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, only by Change Order, Construction Change Directive, or Order for a Minor Change in the Work, subject to the limitations stated in this Article and elsewhere in the Contract Documents.
1. A Change Order shall be based upon agreement among the Owner, Trade Contractor, and the Architect/Engineer; a Construction Change Directive requires agreement by the Owner and the Architect/Engineer and may or may not be agreed to by the Trade Contractor; a Field Order may be issued by the Owner or the Architect/Engineer alone.
 2. Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Trade Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or Field Order.
 3. If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Trade Contractor, the applicable unit prices shall be equitably adjusted; provided however, that Owner may increase the number of units without change in the unit price if reasonable.
- B. CHANGE ORDERS. The Contract Sum and the Contract Time may be changed only by Change Order. Methods used in determining adjustments to the Contract Sum may include those listed in Subsection C below. A Change Order is a written order to the Trade Contractor, signed by the Trade Contractor, the Owner and the Architect/Engineer, stating their agreement upon all of the following:
1. A change in the Work;
 2. The amount of the adjustment in the Contract Sum, if any; and
 3. The extent of the adjustment in the Contract Time, if any.

- C. CONSTRUCTION CHANGE DIRECTIVES. A Construction Change Directive is a written order directed to the Trade Contractor and signed by the Owner and the Architect/Engineer, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
1. A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.
 2. If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
 - a. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
 - b. By unit prices stated in the Contract Documents or subsequently agreed upon;
 - c. By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - d. By the method provided in Subparagraph (C)(5).
 3. Upon receipt of a Construction Change Directive, the Trade Contractor shall promptly proceed with the change in the work involved and advise the Owner and the Architect/Engineer of the Trade Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
 4. A Construction Change Directive signed by the Trade Contractor indicates the agreement of the Trade Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.
 5. If the Trade Contractor does not respond promptly to the Construction Change Directive or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Owner or the Architect/Engineer on the basis of reasonable expenditures and savings of those performing the work attributable to the change, including, in case of an increase in the Contract Sum, a percentage fee for overhead and profit not to exceed five percent (5%) of such work's actual cost for Trade Contractor and ten percent (10%) of such work's actual cost to be apportioned between any and all subcontractors and sub-subcontractors. For work performed by Trade Contractor's own forces, Trade Contractor's mark-up shall be limited to actual cost plus a percentage fee for overhead and profit not to exceed ten percent (10%). In such

case, the Trade Contractor shall keep and present, in such form as the Owner and the Architect/Engineer may prescribe, an itemized accounting of actual costs together with appropriate supporting data. For the purposes of this Subparagraph, actual costs shall be defined as and limited to the following:

- a. Costs of labor, including Social Security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
 - b. Costs of materials, supplies, and equipment, including costs of transportation, whether incorporated or consumed;
 - c. Reasonable rental costs of machinery and equipment, exclusive of hand tools, obtained and used specifically for such work, whether rented from the Trade Contractor or others; and
 - d. Costs of premiums for all bonds (if any), permit fees, and sales, use or similar taxes directly attributable to such work. Actual cost does not include any item which could be deemed to be a general conditions cost or overhead, such as but not limited to, the cost of Trade Contractor and subcontractor supervisory personnel assigned to the Work, and field office and related expenses.
6. Pending final determination of actual cost to the Owner, amounts not in dispute may be included in applications for payment. The amount of credit to be allowed by the Trade Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect/Engineer. When both additions and credits covering related work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.
 7. If the Owner and Trade Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be determined in accordance with Article 5 hereof.
 8. When the adjustments in the Contract Sum and Contract Time are determined as provided herein, such determination shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

D. MINOR CHANGES IN THE WORK

1. The Architect/Engineer, with consent from the Owner, will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order, and shall be binding on the Owner and the Trade Contractor. The Trade Contractor shall carry out such written orders promptly.

2. The Owner may at any time as the need arises, order changes within the scope of work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents or in the time required for performance of the work, an equitable adjustment will be authorized by Change Order.
3. The Owner also may, at any time, by issuing a field order, make changes in the details of the work. The Trade Contractor shall proceed with the performance of any changes in the work so ordered by the Owner unless the Trade Contractor believes that such field order entitles him to a change in Contract Price or Contract Time, or both, in which event he shall give the Owner written notice thereof within ten (10) days after the receipt of the ordered change, and the Trade Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the Owner.

Section 13. Contract Documents.

In case of conflict between this Contract, the general conditions of the contract for construction, and the supplementary conditions, this Contract will govern.

ARTICLE 4 – TRADE CONTRACTOR'S CONSTRUCTION SCHEDULE

Section 1. Preconstruction Conference.

A preconstruction conference shall be scheduled at the time the Notice of Award is issued. The Trade Contractor, at the preconstruction conference, shall prepare and submit, for review and concurrence by the Owner and the Architect/Engineer, a Trade Contractor's construction schedule for the Work, in such form and detail as the Owner may require. The schedule shall not exceed time limits under the Contract Documents, shall be revised as required herein and at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire project to the extent required by the Contract Documents, and shall provide for the expeditious and practicable execution of the Work. The schedule shall indicate the proposed starting and completion dates for the various subdivisions of the Work as well as the totality of the Work. The schedule shall be updated every thirty (30) days for submission to the Owner and the Architect/Engineer with Trade Contractor's applications for payment. Each schedule shall contain a comparison of actual progress with the estimated progress for such time stated in the original schedule. If any schedule submitted sets forth a date for Substantial Completion for the Work or any phase of the Work beyond the date(s) of Substantial Completion established in the Contract (as the same may be extended as provided in the Contract Documents), the Trade Contractor shall submit to the Owner and the Architect/Engineer, for their review and approval, a narrative description of the means and methods which Trade Contractor intends to employ to expedite the progress of the Work to ensure timely completion of the various phases of the Work as well as the totality of the Work. To ensure such timely completion, Trade Contractor shall take all necessary action including, without limitation, increasing the number of personnel and labor on the Project and implementing overtime and double shifts. In that event, Trade Contractor shall not be entitled to an adjustment in the Contract Sum or the Schedule.

Section 2. Schedule of Submittals.

The Trade Contractor shall prepare and keep current, for approval by the Owner and the Architect/Engineer, a schedule of submittals which is coordinated with the Trade Contractor's construction schedule and allows the Owner and the Architect/Engineer reasonable time to review submittals.

Section 3. Conformance to Schedule.

The Trade Contractor shall conform to the most recent schedules.

ARTICLE 5 - TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- A. The date of beginning and the time for completion of the work are essential conditions of the Contract Documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.
- B. The Trade Contractor shall proceed with the work at such rate of progress to ensure full completion within the Contract Time. It is expressly understood and agreed, by and between the Trade Contractor and the Owner, that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work during the period such work is to be performed.
- C. If the Trade Contractor shall fail to complete the work within the Contract Time, or extension of time granted by the Owner through a Change Order or Construction Change Directive, then the Trade Contractor shall pay to the Owner the amount of liquidated damages and not as penalty the sum of **One Thousand Dollars (\$1,000.00)** for each calendar day that the Trade Contractor shall be in default after the time stipulated in the Contract Documents.
- D. The Owner will charge the Trade Contractor, and may deduct from the partial and final payment for the work, all architectural, engineering, construction management, and other consultant expenses incurred by the Owner in connection with any work accomplished after the specified completion date.
- E. The Trade Contractor will not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following, and the Trade Contractor has promptly given written notice of such delay to the Owner.
 - 1. To any preference, priority or allocation order duly issued by the Owner.
 - 2. To unforeseeable causes beyond the control and without the fault or negligence of the Trade Contractor, including, but not restricted to, unforeseen conditions, acts of God, or of the public enemy, acts of the Owner, fires, floods, epidemics,

quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; and

3. To any delays of subcontractors occasioned by any of the causes specified in subparagraphs 1 and 2 of this paragraph E.

F. The Trade Contractor waives any right of recovery or reimbursement or by whatever name, as against the Owner or the Architect/Engineer, as a result of any delay or increase on overhead cost incurred by the Trade Contractor's association with any action or inaction on the part of any other trade contractor or supplier.

ARTICLE 6 - CONTRACT SUM

Section 1. Monthly or Progress Payments.

- A. The City Council of the City of Black Hawk has appropriated the money necessary to fund this project. The Owner shall pay the Trade Contractor in current funds for the performance of the work, subject to any additions and deletions, by written Change Order, the total sum not to exceed **One Million One Hundred Ninety-Two Thousand Four Hundred Twenty-Four and 00/100 Dollars (\$1,192,424.00)** (the "Original Contract Amount"). Notwithstanding anything to the contrary contained in this Agreement, no Change Order or other form of directive by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement, to exceed the amount appropriated for the Original Contract Amount, unless the Trade Contractor is given written assurance by the City of Black Hawk that lawful appropriations have been made by the City Council of the City of Black Hawk to cover the cost of the additional work.
- B. The Architect/Engineer has, by separate agreement with the Owner, agreed to include in its monthly work estimate to the Owner, a review of the Trade Contractor's estimates of the value of all work, labor, and materials of the Trade Contractor incorporated into the Project. The Trade Contractor hereby agrees that estimates provided to the Architect/Engineer for review for the Owner shall be for work actually performed upon the Project and that all such work, including labor and materials, have been paid. The determination of the amount of work completed on each application for payment by the Trade Contractor shall be reviewed and certified by the Architect/Engineer and shall thereafter be subject to approval by the Owner. Such determination, however, by the Architect/Engineer or approval by the Owner shall not be construed as acceptance of the work.
- I. Before the first application for payment, the Trade Contractor shall submit to the Owner and the Architect/Engineer a schedule of values to be allocated to the various portions of the Work, which in the aggregate equals the total Contract Sum, divided so as to facilitate payments to subcontractors, supported by such evidence of correctness as the Owner or Architect/Engineer may direct. This schedule shall be used to monitor the progress of the Work and as a basis for making progress payments hereunder. Application for monthly progress

payments shall be made in writing in accordance with this Contract and shall be submitted on AIA Document G702 and AIA Document G703 and shall be submitted to the Owner on or before the twentieth (20th) day of each month. Applications received on time will be paid on or before the twentieth (20th) day of the following month, providing that the Owner approves such recommendations of the Architect/Engineer. Applications received after the twentieth (20th) day of each month shall be paid after the Owner's next pay period.

2. Pursuant to Colo. Rev. Stat. § 24-91-103, as may be amended, where the Original Contract Amount exceeds one hundred fifty thousand dollars (\$150,000.00), the Owner may retain up to five percent (5%) of the calculated value of completed work from each progress payment up until the contract is completed satisfactorily and finally accepted by the Owner. If the Owner finds satisfactory progress is being made in any phase of the contract, the Trade Contractor may make written request of the Owner for payment of the withheld percentage. The Owner may agree to payment of the withheld percentage if the Owner finds satisfactory and substantial reasons exist for the payment. The Trade Contractor must provide written approval to the Owner from any surety furnishing bonds for the contract work in order to receive said payment of the withheld percentage.
3. Upon receipt of written notice from the Trade Contractor that his work is ready for final inspection and acceptance by the Owner and upon receipt of final application for payment, the Owner and the Architect/Engineer will promptly make such final field review subject to the final payment requirements contained in Colo. Rev. Stat. § 38-26-107, as amended. If the Architect/Engineer finds that the work is acceptable under the Contract Documents, he will recommend to the Owner that a final certificate of payment be issued. Neither final payment nor the remaining retention shall become due until the Trade Contractor submits to the Owner and the Architect/Engineer an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work, have been paid or otherwise satisfied. Likewise, final payment shall not be made until the consent of the surety to final payment has been obtained, and if required by the Owner, such other data establishing payment or satisfaction of all obligations, including releases, final lien waivers, and receipts and warranties, if any, have been provided to the Owner and the Architect/Engineer for the use and benefit of the Owner. Should any subcontractor of the Trade Contractor or supplier of said Trade Contractor refuse to furnish any warranty and/or release or waiver, the Owner in its sole discretion, may refuse to certify final payment. The Trade Contractor may then furnish sufficient bonds satisfactory to the Owner to indemnify the Owner against any such liens.
4. Notwithstanding anything else to the contrary contained herein, such final payment by the Owner shall not be construed as a waiver of any claims affecting or arising from:
 - a. Unsettled liens;

- b. Faulty or defective work appearing after substantial completion;
 - c. Failure of the work to comply with the requirements of the Contract Documents;
 - d. Terms of any special warranties required by the Contract Documents.
5. The acceptance by the Trade Contractor of final payment shall be and shall operate as a release to the Owner from all claims and all liability to the Trade Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of the work other than claims in stated amounts as may be specifically expected by the Trade Contractor with the consent of the Owner. Any payment, however, final or otherwise, will not release the Trade Contractor or his sureties from any obligations under the Contract Documents or the performance bond and labor and material payment bond.

ARTICLE 7 - CORRECTION OF WORK

- A. During the life of the Contract and for a period of two (2) years after final acceptance, the Trade Contractor shall promptly remove from the premises all work rejected by the Owner for failure to comply with the Contract Documents, whether incorporated in the construction or not, and the Trade Contractor shall promptly replace and re-execute the work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of making good all work of other trade contractors destroyed or damaged by such removal or replacement. The Owner, however, may at its discretion elect to accept an equitable reduction in price or a refund instead of correction of the condemned work.
- B. All removal and replacement work shall be done at the Trade Contractor's expense. If the Trade Contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice, the Owner may remove such work and store the materials all at the expense of the Trade Contractor.

ARTICLE 8 - TEMPORARY FACILITIES AND SERVICES

Unless otherwise provided in this Contract, the Trade Contractor shall furnish and make available, at no cost, all temporary facilities, including all power needed for heating and protection of facilities and work. It is the expressed intent of the parties that the Trade Contractor shall be responsible for and at its sole cost all heating and protection of facilities and work.

ARTICLE 9 - INDEMNIFICATION AND INSURANCE

Section 1. Indemnification.

The Trade Contractor, to the fullest extent permitted by law, shall defend, indemnify and hold harmless the City, its officers, employees, agents and their insurers, from and against all liability, claims and demands on account of injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, which arises out of or is in any manner connected with this Contract, to the extent that such injury, loss or damage is attributable to the act, omission, error, professional error, mistake, negligence or other fault of the Trade Contractor, the Trade Contractor's employees, subcontractors or anyone else employed directly or indirectly by the Trade Contractor, Trade Contractor's employees or subcontractor.

The Trade Contractor, to the fullest extent permitted by law, shall defend, investigate, handle, respond and provide defense for and defend against any such liability, claims or demands at the sole expense of the Trade Contractor, or at the option of the City, Trade Contractor agrees to pay the City or reimburse the City for defense costs incurred by the City in connection with any such liability, claims, or demands. The Trade Contractor, to the fullest extent permitted by law, shall defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not such liability, claims or demands alleged are groundless, false or fraudulent.

This indemnification provision is intended to comply with C.R.S. § 13-21-111.5(6), as amended, and shall be read as broadly as permitted to satisfy that intent.

Section 2. Insurance.

- A. The Trade Contractor agrees to obtain and maintain during the life of this Contract, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Trade Contractor pursuant to Section 1 above. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Trade Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section 1 above, by reason of its failure to obtain and maintain during the life of this Contract insurance in sufficient amounts, durations, or types.
- B. The Trade Contractor shall obtain and maintain during the life of this Contract, and shall cause any subcontractor to obtain and maintain during the life of this Contract, the minimum insurance coverages listed below. Such coverages shall be obtained and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by the Trade Contractor pursuant to Section 1 above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
 1. Worker's Compensation Insurance to cover obligations imposed by applicable law for any employee engaged in the performance of the work under this Contract, and Employers Liability Insurance with minimum limits of Five Hundred Thousand

Dollars (\$500,000) each incident, Five Hundred Thousand Dollars (\$500,000) disease—policy limit, and Five Hundred Thousand Dollars (\$500,000) disease—each employee.

2. General Public Liability Insurance to be written with a limit of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, personal injury (including coverage for employee and contractual acts), including death, at any time resulting therefrom, sustained by any one person and not less than Two Million Dollars (\$2,000,000) for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by two or more persons in any one accident. This policy shall also include coverage for blanket contractual and independent contractor risks. The limits of General Public Liability Insurance for broad form property damage (including products and completed operations) shall be not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one (1) accident and not less than Two Million Dollars (\$2,000,000) for all damages arising out of injury to, or destruction of property, including the City's property, during the policy period. The General Public Liability Insurance policy shall include coverage for explosion, collapse and underground hazards. The policy shall contain a severability of interests provision.
 3. Protective Liability and Property Damage Insurance covering the liability of the Owner, including any employee, officer or agent of the Owner with respect to all operations under the Contract by the Trade Contractor or his sub-contractors shall be obtained and maintained during the life of the Contract. The limits of the Owner's Protective Liability Policy, to be provided by the Trade Contractor, as described in this Section 2, shall be increased to the same limits as described above for the Trade Contractor's General Public Liability Insurance.
 4. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) each occurrence and One Million Dollars (\$1,000,000) aggregate with respect to each of the Trade Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Trade Contractor has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Trade Contractor providing services to the Owner under this Contract.
- C. To the extent that liability results from the acts or omissions of the Trade Contractor, all Insurance Policies and Certificates of Insurance issued for this project shall name as additional insured(s), the Owner, whether private or governmental, the Owner's officers and employees, and the Architect/Engineer and its agents and employees, and any other person(s), company(ies), or entity(ies) deemed necessary by the Owner. The Trade Contractor shall be solely responsible for any deductible losses under any policy required herein.
- D. The insurance provided by the Trade Contractor shall be primary to insurance carried by the Owner, the Architect/Engineer, and all other additional insureds, and the principal

defense of any claims resulting from the Trade Contractor's obligations under the Contract shall rest with the Trade Contractor's Insurer.

Section 3. Certificates of Insurance.

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

Matt Reed
Project Manager
City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422

- B. Failure on the part of the Trade Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the Owner may immediately terminate this contract, or at its discretion the Owner may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Owner shall be repaid by the Trade Contractor to the Owner upon demand, or the Owner may offset the cost of the premiums against any monies due to the Trade Contractor from the Owner.
- C. The Owner reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- D. The parties hereto understand and agree that the Owner is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently Three Hundred Fifty Thousand Dollars (\$350,000) per person and Nine Hundred Ninety Thousand Dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the Owner, its officers or employees.

ARTICLE 10 - PERFORMANCE, LABOR AND MATERIAL PAYMENT BONDS

The Trade Contractor shall within ten (10) days after the receipt of a notice of award, furnish the Owner with a performance bond and a payment bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Trade Contractor of all undertakings, covenants, terms, conditions and agreements of the Contract Documents, and upon the prompt payment by the Trade Contractor to all persons supplying labor and materials in the prosecution

of the work provided by the Contract Documents. Such bonds shall be executed by the Trade Contractor and a corporate bonding company licensed to transact such business in the state in which the work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these bonds shall be borne by the Trade Contractor. If at any time a surety on any such bond is declared bankrupt, or loses its right to do business in the state in which the work is to be performed, or is removed from the list of Surety Companies accepted on Federal Bonds, the Trade Contractor shall within ten (10) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Trade Contractor. No further payments will be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

Contractor shall furnish bonds to the Owner in the following amounts:

Payment and Performance Bond #1 shall be issued for **\$448,350.00** and shall cover the Project elements as itemized in **Exhibit B-1**. Bond #1 shall be issued prior to the start of construction.

Payment and Performance Bond #2 shall be issued for **\$400,000.00** and shall cover the Project elements as itemized in **Exhibit B-2**. Bond #2 shall be issued prior to the start of construction.

Payment and Performance Bond #3 shall be issued for **\$344,074.00** and shall cover the Project elements as itemized in **Exhibit B-3**. Bond #3 shall be issued immediately after all Project elements itemized in **Exhibit B-2** are completed and Bond #2 is retired.

The total amount covered by these three bonds is equal to the Contract Price.

ARTICLE 11 – CLAIMS AND DISPUTES

- A. Definition. A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment of contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "claim" also includes other disputes between the Owner and Trade Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate claims shall rest with the party making the claim.
- B. Decision of Architect or Engineer. Claims may, upon request of both the Trade Contractor and the Owner, be referred initially to the Architect or Engineer for action as provided in Article 3, Section 12.
- C. Time limits on Claims. Claims by either party must be made within 21 days after occurrence of the event giving rise to such claim or within 21 days after the claimant first recognizes, or reasonably should have recognized, the condition giving rise to the claim, whichever is later. An additional claim made after the initial claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

- D. Continuing Contract Performance. Pending final resolution of a claim, including litigation, unless otherwise directed by Owner in writing, the Trade Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.
- E. Waiver of Claims: Final Payment. The making of Final Payment shall constitute a waiver of claims by the Owner except those arising from:
1. Liens, claims, security interests, or encumbrances arising out of the Contract and unsettled;
 2. Failure of the Work to comply with the requirements of the Contract Documents;
 3. Terms of special warranties required by the Contract Documents; or
 4. Faulty or defective work appearing after Substantial Completion.
- F. Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. Site conditions which an experienced and prudent contractor could have anticipated by visiting the site, familiarizing himself with the local conditions under which the Work is to be performed and correlating his observations with the requirements of the Contract Documents shall not be considered as claims for concealed or unknown conditions, nor shall the locations of utilities which differ from locations provided by the utility companies. The Architect or Engineer will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Trade Contractor's cost of, or the required time for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect or Engineer determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect or Engineer shall so notify the Owner and Trade Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within twenty-one (21) days after the Architect or Engineer has given notice of the decision. If the Owner and Trade Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect or Engineer for initial determination, subject to further proceeding pursuant to these Contract Documents.
- G. Claims for Additional Cost. If the Trade Contractor wishes to make claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the work. Said notice shall itemize all claims and shall contain sufficient detail

and substantiating data to permit evaluation of same by Owner and the Architect or Engineer. No such claim shall be valid unless so made. Prior notice is not required for claims relating to an emergency endangering life or property. If the Trade Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect or Engineer, (2) an order by the Owner to stop the Work where the Trade Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect or Engineer, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension, or (7) other reasonable grounds, claim shall be filed in accordance with the procedure established herein. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order or Construction Change Directive.

- H. Claims for additional time. If the Trade Contractor wishes to make claim for an increase in the Contract Time, written notice as provided herein shall be given. The Trade Contractor's claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one claim is necessary.
- I. Injury or damage to person or property. Subject to the parties' obligations and responsibilities under the Contract Documents in general and Article 11 hereof in particular, if either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding ten (10) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a claim for additional cost or time related to this claim is to be asserted, it shall be filed as provided in Article 3, Section 12.

ARTICLE 12 - RESOLUTION OF CLAIMS AND DISPUTES

- A. The Architect or Engineer (if the matter is referred to the Architect or Engineer for initial decision) will review claims and take one or more of the following preliminary actions within ten (10) days of receipt of a claim: (1) request additional supporting data from the claimant; (2) submit a schedule to the parties indicating when the Architect or Engineer expects to take action; (3) reject the claim in whole or in part, stating the reasons for rejection; (4) recommend approval of the claim by the other party; or (5) suggest a compromise. The Architect or Engineer may also, but is not obligated to, notify the surety, if any, of the nature and amount of the claim.
- B. If a claim has been resolved, the Architect or Engineer (or at the Owner's option, Owner), will prepare or obtain appropriate documentation.
- C. If a claim has not been resolved, the party making the claim shall within ten (10) days after the preliminary response from the Architect or Engineer, take one or more of the following actions: (1) submit additional supporting data requested by the Architect or Engineer; (2) modify the initial claim; or (3) notify the Architect or Engineer that the initial claim stands.

- D. If a claim has not been resolved after consideration of the foregoing and of further evidence presented by the parties or requested by the Architect or Engineer, the Architect or Engineer will notify the parties in writing that the decision of the Architect or Engineer will be made within seven (7) days, which decision will be considered advisory only and not binding on the parties in the event of litigation in respect of the claim. Upon expiration of such time period, the Architect or Engineer will render to the parties the written decision of the Architect or Engineer relative to the claim, including any change in the Contract Sum or Contract Time or both. If there is a surety and there appears to be a possibility of a Trade Contractor's default, the Architect or Engineer may, but is not obligated to, notify the surety and request the surety's assistance in resolving the claim.
- E. The dispute clause does not preclude the considerations of questions of fact or law in connection with decisions provided for in Paragraph A above. Nothing in this Agreement, however, shall be construed as making final a decision of an administrative official, representative or City Council on a question of fact or law.
- F. As between the parties of this Agreement, as to all acts or failure to act by either party of this Agreement, any applicable statute of limitation shall commence to run from the date of the agreed party's discovery of such act or failure to act.
- G. The Trade Contractor shall give written notice to the Owner within ten (10) days of any dispute/claim arising under this Contract upon which the Trade Contractor seeks compensation or change from the Contract Documents; otherwise, the Trade Contractor's dispute/claim shall be deemed waived. Said ten (10) days written notice shall not be deemed to run from the date of discovery in this instance but from the date the dispute/claim has arisen.

ARTICLE 13 - TERMINATION

- A. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party; provided that no such termination may be effected unless the other party is given (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (2) an opportunity for consultation with the terminating party prior to termination.
- B. This Agreement may be suspended or terminated in whole or in part, in writing, by the Owner for its convenience; provided that no such termination may be effected unless the Trade Contractor is given (1) not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to suspend or terminate; and (2) an opportunity for consultation with the Owner prior to suspension or termination.
- C. Suspension for Convenience: The Owner, for its own convenience, may suspend the contract in whole or in part at any time by written notice to the Trade Contractor. Such notice shall state the extent and the effective date of such suspension, and on the effective date thereof the Trade Contractor shall promptly suspend such work to the extent

specified, and during the period of such suspension shall properly care for and protect all work and materials, housing and equipment on hand for construction under the contract. The Trade Contractor also shall promptly supply the Owner with copies of all outstanding orders for materials, equipment and services, and shall take such action relative to such orders as may be directed by the Owner. If the performance of the work is thus suspended, the Trade Contractor shall be entitled to be reimbursed for all additional expense incurred by reason of such suspension as agreed upon by the Trade Contractor and the Owner.

D. Termination for Convenience:

1. The Owner may for its own convenience terminate work under the contract in whole or in part at any time by written notice to the Trade Contractor. Such notice shall state the extent and effective date of such termination and on the effective date thereof, the Trade Contractor will, and as to the extent directed, stop work under the contract and the placement of further orders of subcontracts under the contract, terminate work under order and subcontracts under the contract, and take any necessary action to protect property in the Trade Contractor's possession in which the Owner has or may acquire an interest.
2. In the event of such termination, the Owner shall pay to the Trade Contractor: (1) its direct costs (excluding overhead) for all work done in conformity with the Contract to the effective date of such termination and (2) other costs pertaining to the work which the Trade Contractor may incur as a result of such termination, all as approved by the Owner plus ten percent (10%) of such costs (excluding costs under (2) above) for overhead and profit, provided, however, that in no event shall the total amount to be paid under this Article 13, Section D.(2) plus payments previously made, exceed the lesser of (a) the total aggregate Contract Price specified in the contract; or (b) that proportion of the aggregate total Contract Price specified in the date of termination bears to the entire work to be performed hereunder. Any payment under this Article 13, Section D.(2) shall be made upon the expiration of the period within which liens may be filed under the laws of the state of Colorado, subject, however, to withholding by the Owner for the reasons and in the manner provided in those provisions pertaining to withholding of payments for liens.

E. Termination for Default:

1. The Owner shall have the right to terminate the employment of the Trade Contractor after giving ten (10) days written notice of the termination to the Trade Contractor in the event of any default by the Trade Contractor. In the event of such termination, the Owner may take possession of the work and of all materials, tools and equipment thereon and may finish the work by whatever method and means he may select. It shall be considered a default by the Trade Contractor whenever he shall:

- a. Disregard or violate important provisions of the Contract Documents or the Owner's instructions, or fail to prosecute the work according to the agreement schedule of completion, including extensions thereof;
 - b. Fail to provide a qualified representative, competent workmen or subcontractors, or proper materials, or fail to make prompt payment therefor; and
 - c. Fail to submit a completion schedule within fourteen (14) days after award of contract.
2. Upon termination of the contract by the Owner for default by the Trade Contractor, no further payments shall be due to the Trade Contractor until the work is completed. If the unpaid balance of the contract amount shall exceed the cost of completing the work including all overhead costs, the excess shall be paid to the Trade Contractor. If the cost of completing the work shall exceed the unpaid balance, the Trade Contractor shall pay the difference to the Owner. The amount of the cost incurred by the Owner in implementing the work, and the damage incurred through the Trade Contractor's default, shall be approved by the Owner.
 3. The provisions of this Article 13, Section D.(2) shall not apply in the event of default of the Trade Contractor; provided, however, that the provisions of Article 13, Section D.(2) shall apply in the event of substantial failure by the Owner to fulfill its obligations under this Agreement.

ARTICLE 14 - SIMULTANEOUS WORK BY OTHERS

- A. The Owner reserves the right to let other contracts in connection with this project. The Trade Contractor shall afford other trade contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs.
- B. If the proper execution or results of any part of the Trade Contractor's work depends upon the work of any other trade contractor, the Trade Contractor shall inspect and promptly report to the Owner and the Architect/Engineer any defects in such work that render it unsuitable for such proper execution and results. Failure of the Trade Contractor to so inspect and report defects shall constitute an acceptance of the other trade contractors' work as fit and proper for the addition of his work thereto, except as to defects which may develop in the other trade contractors' work after the execution of his work.
- C. The Trade Contractor shall coordinate his operations with those of other trade contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work.
- D. The Trade Contractor, including his subcontractors, shall keep informed of the progress and the detail work of other trade contractors and shall notify the Owner and the

Architect/Engineer immediately of lack of progress, defective workmanship, or lack of coordination on the part of other trade contractors. Failure of the Trade Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress, defective workmanship, or lack of coordination by others shall be construed as acceptance by him of the work and the status of work as being satisfactory for proper execution of his own work.

- E. All materials and labor shall be furnished at such times as shall be for the best interest of all trade contractors concerned, to the end that the combined work of all may be properly and fully completed on time per this Trade Contractor Agreement.
- F. Nothing herein shall be construed in any way as giving the Trade Contractor a claim as against the Owner and the Architect/Engineer resulting in any revised schedule based upon delay caused by any other trade contractor or supplier.

ARTICLE 15 - SUBCONTRACTING

- A. The Trade Contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
- B. Before execution of the contract, the Trade Contractor shall submit the names of all subcontractors, including contact persons, phone numbers, and addresses to the Owner and the Architect/Engineer. The Trade Contractor shall also promptly notify all parties of any changes in subcontractors or subcontractor contact information.
- C. The Trade Contractor shall be fully responsible to the Owner for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- D. The Trade Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Trade Contractor by the terms of the Contract Documents insofar as applicable to the work of subcontractors and to give the Trade Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Trade Contractor under any provision of the Contract Documents.
- E. Nothing contained in this Contract will create any contractual relation between any subcontractor and the Owner.

ARTICLE 16 - GUARANTY

- A. The Trade Contractor shall guarantee all materials and equipment furnished and work performed for a period of two (2) years from the date of final acceptance of the Contract by the Owner that the work is free from all defects due to faulty materials or workmanship and that the Trade Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed

defects with reasonable promptness. In the event that the Trade Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Trade Contractor the cost thereby incurred. The performance bond shall remain in full force and effect through the guarantee period.

- B. Whenever in the specifications a guarantee or maintenance bond is required to be furnished for any item of equipment, material or portion of the work, such guarantee shall be submitted to the Owner and a written approval will be issued to the Trade Contractor before any such equipment, material or construction is ordered and incorporated in work by the Trade Contractor.

ARTICLE 17 - SALES TAX

The Trade Contractor and all of his subcontractors must make application to the Colorado State Department of Revenue for a certificate of exemption to permit the purchase of building materials for the construction of this project without payment of the sales tax. Prior to the start of construction, the Trade Contractor shall furnish copies of such certificates to the Owner. Applications and certificates must be on forms provided by the Department of Revenue.

ARTICLE 18 - MISCELLANEOUS PROVISIONS

- A. This Agreement is made and entered into subject and conformable to the laws of the State of Colorado and the Charter of the City of Black Hawk. To the extent any provision hereof is inconsistent with said laws and Charter, said laws and Charter shall control.
- B. The Trade Contractor shall comply with all federal and state laws and local ordinances and regulations which affect those engaged or employed in the work or which affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same, and shall at all times observe and comply with all such existing laws, ordinances, regulations and decrees, and shall protect and indemnify the Owner and the Architect/Engineer against any claim or liabilities arising solely from or based solely on the violations of such law, ordinance, regulation, order or decree, whether by itself, its subconsultants, agents, or employees.
- C. The Trade Contractor shall take affirmative action to not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex or handicap, if otherwise qualified.
- D. In the event any provision of this Agreement is held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties.
- E. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver or a subsequent breach of the same by the other party.
- F. The Owner and the Trade Contractor each binds itself and its partners, successors, executors, administrators, and assigns to this Agreement. Neither the Owner nor the

Trade Contractor will assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

G. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the Owner and the Trade Contractor.

H. Illegal Aliens.

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

2. Prohibited Acts. Trade Contractor shall not:

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

3. Verification.

- a. Trade Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.
- b. Trade Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
- c. If Trade Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under the Agreement, Trade Contractor shall:
 - i. Notify the subcontractor and the City within three (3) days that Trade Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under the Agreement; and

- ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under the Agreement; except that Trade Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under the Agreement.
4. Duty to Comply with Investigations. Trade Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Trade Contractor is complying with the terms of this Agreement.
5. If Trade Contractor does not currently employ any employees, Trade Contractor shall sign the No Employee Affidavit attached hereto.
6. If Trade Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Trade Contractor shall sign the Department Program Affidavit attached hereto.
- I. Keep Jobs in Colorado Act. Pursuant to the Keep Jobs in Colorado Act, C.R.S. 8-17-101 *et seq.* (the “Act”) and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the “Rules”), the Trade Contractor shall employ Colorado labor to perform at least eighty percent (80%) of the work and shall obtain and maintain the records required by the Act and the Rules. For purposes of this Section, “Colorado labor” means any person who is a resident of the state of Colorado at the time of this Project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide qualification. A resident of the state is a person who can provide a valid Colorado driver’s license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty (30) days. Trade Contractor represents that it is familiar with the requirements of the Act and the Rules and will fully comply with same. This Section shall not apply to any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed Five Hundred Thousand Dollars (\$500,000) in the aggregate for any fiscal year.

PROSPECTIVE CONTRACTOR'S CERTIFICATE REGARDING EMPLOYING OR CONTRACTING WITH AN ILLEGAL ALIEN

FROM: A & A Drilling and Blasting, Inc.
(Prospective Contractor)

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

Project Name Gregory Street Grading, Rock Excavation, and Slope Stabilization

Bid Number N/A

Project No. 15012

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

Executed this 24th day of August, 2015.

Prospective Contractor A & A DRILLING AND BLASTING

By: Bryan Adams BRYAN ADAMS

Title: PRESIDENT

STATE OF COLORADO } ss.
COUNTY OF JEFFERSON }
This instrument was acknowledged before me this 24 day of
August 2015 by Bryan Adams
In witness whereof, I herewith set my hand and official seal.
Kristin Biewenga NOTARY PUBLIC

KRISTIN BIEWENGA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20104016810
MY COMMISSION EXPIRES 06/30/2018

NO EMPLOYEE AFFIDAVIT

1. Check and complete one:

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

OR

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

2. Check one.

I, BRYAN ADAMS, am a United States citizen or legal permanent resident.

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

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

OR

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

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


Signature

8/27/15
Date

DEPARTMENT PROGRAM AFFIDAVIT

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

I, A2A DRILLING and BLASTING as a public contractor under contract with the City of Black Hawk (the "City"), hereby affirm that:

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

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

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

[Signature]
Contractor Signature

8-24-2015
Date

STATE OF COLORADO)
) ss.
COUNTY OF Jefferson)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 24 day of August, 2015, by Bryan Adams as President of A2A Drilling & Blasting Inc.

My commission expires: 6/30/18

(S E A L)

[Signature]
Notary Public

KRISTIN BIEWENGA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20104016810
MY COMMISSION EXPIRES 06/30/2018

**ACCEPTABLE DOCUMENTS FOR
LAWFUL PRESENCE VERIFICATION**

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

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

OR

Documents that Only Serve to Prove Citizenship/Lawful Presence:

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

AND

Documents that Serve to Prove Identification:

- A Driver's License or Identification Card Regardless of the State of Issuance
- School Identification Card with Photograph
- Identification Card Issued by Federal, State or Local Government
- A Driver's License Issued by a Canadian Government Authority

EXHIBIT A

SCOPE OF SERVICES

Addendum #1 Issued 07/24/15

Addendum #2 Issued 07/28/15

Work includes, but is not necessarily limited to the following:

1. All labor, materials, equipment, tools, transportation and supplies to perform and complete the work.
2. All materials, methods, workmanship and testing shall conform to all applicable federal, state and local regulations.
3. All relevant site work shall conform to the latest editions of CDOT's Standard Specifications for Road and Bridge Construction and CDOT's Standard Plans.
4. Contractor shall provide traffic control plans and provide all traffic control necessary to safely complete this project. Traffic control plans and phasing plans (if necessary) shall be provided to and approved by the City prior to implementation. All traffic control devices shall comply with the latest issue of the MUTCD.
5. Contractor shall complete the work in accordance with the completed Bid Schedule.
6. Contractor shall perform all demolition and construct all improvements per the approved construction plans prepared by Martin/Martin Consulting Engineers.
7. Contractor shall review all recommendations presented in the Subsurface Exploration and Pavement Design, Gregory Street Relocation and the Technical Memorandum No. 1, Design Recommendations for Bobtail Road Rock Cut prepared by Geocal Geosciences & Engineering dated May 11, 2015.
8. Contractor shall procure all necessary CDPHE and/or EPA stormwater management permits. Contractor shall design and implement appropriate erosion control measures for this project in accordance with Section 208 of CDOT's Standard Specifications for Road and Bridge Construction. Erosion control plans shall be approved by the City prior to being implemented. A Force Account containing \$7,500 is provided in the Bid Schedule for installing erosion control facilities. *The Rock Reinforcement Engineer (RRE) may develop their own assumptions for interface friction angle, cohesion, failure block height, and other technical properties based on data presented in the Contract Documents. This may result in different rock reinforcement dimensions than recommended. Final design of the geocomposite drainage system will also fall under the purview of the RRE; again, dimensions that differ from presented recommendations will be acceptable. If rock dowels are selected, the proof test requirements may be modified by the RRE to better represent industry-standard rock dowel testing requirements.*
9. Controlled blasting shall be performed by a licensed blaster and shall follow all federal, state, local, and City of Black Hawk standards and specifications. Proper

permits shall be acquired from the City of Black Hawk Fire Department prior to any blasting work. Seismic monitoring shall be required. Disturbance to surrounding property shall be kept to an absolute minimum. Contractor shall provide blasting mats and all other necessary safety precautions. All monitoring shall comply with the standards recommended by the Vibration section of the International Society of Explosives Engineers. Allowable blasting hours may be negotiable, but will generally be from 8am through 7pm, Monday through Thursday, holidays excluded.

10. Contractor shall procure the Building/Excavation Permit from the City of Black Hawk Community Planning and Development Department and shall be responsible for and coordinate all necessary inspections through the Community Planning and Development Department. The Building/Excavation Permit for this project is no cost.
11. Contractor and all subcontractors shall be registered with the City of Black Hawk. The registration cost for each contractor/subcontractor is \$100. If a sub-contractor is found to be working on-site without being registered through the City, a stop work order may be issued immediately. The purpose of registration is to confirm that each firm working in the City is properly insured.
12. Contractor shall procure a zero-cost Temporary Use Permit from the City of Black Hawk Community Planning and Development Department for any dumpster, staging area, temporary sanitary facilities, or other temporary facilities that will be necessary for this work. All dumpsters shall be kept covered while not actively being used due to regular high winds in the area.
13. Contractor shall be responsible to obtain all other local, state and federal permits necessary to complete the Project.
14. Contractor shall coordinate with utility agencies to supply all desired temporary utilities during construction and shall pay all associated utility charges.
15. Non-potable construction water is available at no cost from the City of Black Hawk truck fill station located on Highway 119, north of the Fire Station. Contractor shall coordinate with the Public Works Department to obtain construction water as needed.
16. It is unlikely that the Contractor will need to perform dewatering operations. Therefore, Contractor shall not include dewatering costs in the Bid; if, during construction, dewatering is found to be necessary, Contractor will be entitled to a Change Order. Contractor would then be required to apply for and obtain all necessary dewatering permits.
17. Contractor shall prepare a final design for rock slope stabilization measures, including rock anchors, Shotcrete, and mesh conforming to the parameters as described in the construction plans, geotechnical information, and the Section 211 Rock Reinforcement specifications. The design shall be approved by the City and the Engineer prior to implementation.

18. Scaling shall be performed per the Section 211 Rock Reinforcement specifications. Costs for scaling shall be included within the Rock Excavation line item in the Bid Schedule.
19. ~~Contractor shall coordinate and schedule testing for rock anchors, Shotcrete, grout, and any other materials as specified in the Contract Documents. Testing shall be performed by Cesare, Inc. or another geotechnical firm as determined prior to the specific construction activity. Geotechnical testing costs will be paid by the City directly to the testing firm.~~ *Contractor shall coordinate and schedule testing for Shotcrete, grout, and any other materials as specified in the Contract Documents. Materials testing shall be performed by Cesare, Inc. or another geotechnical firm as determined prior to the specific construction activity. Materials testing costs will be paid by the City directly to the testing firm. Rock anchor and/or dowel verification and proof testing shall be performed by the Contractor and observed by the chosen geotechnical firm. Costs for rock anchor and/or dowel testing shall be included in the Bid price, while observation costs will be paid by the City directly to the observation firm.*
20. Contractor shall schedule and facilitate on-site project meetings to occur at least once every two weeks.
21. Contractor shall prepare a work schedule prior to beginning construction and shall update the schedule weekly throughout the duration of the project. Schedule shall be provided to the City and/or the Engineer upon request.
22. Contractor shall install and maintain fences and barriers as required for protection of the public, property, and the work.
23. Information covering all material that is to be used on this project shall be submitted prior to installation in accordance with Article 3 of the Trade Contractor Agreement.
24. Contractor shall be responsible for hauling and properly disposing of excavated material off-site. *The City of Black Hawk will provide a dump site for excavated material, located approximately one-half mile north of the Fire Station on the east side of Highway 119. Hauling distance will be about one mile from the construction site. This dump site will not require clearing or grubbing, but the Contractor should expect to perform stockpiling as necessary as the dump site is filled. Native material and chunks of grouted rock retaining wall are allowed to be dumped at this site. Asphalt chunks and slabs resulting from asphalt pavement removal shall not be dumped at this site.*
25. Contractor shall maintain the construction area in an orderly fashion, providing trash receptacles, sanitary facilities, safety equipment, etc., during the construction phase.
26. Seeding and mulching will not be required after completion of this work. Contractor shall leave the site as bare native material.

27. Upon completion of work, Contractor shall clean up all areas disturbed during construction, including removing and disposing of all rubbish, unused materials, construction debris, tools, and construction equipment from the site. All disturbed areas shall be returned to equal or better condition than original.
28. Contractor shall keep as-built drawings current and shall provide them to the Owner upon completion of the work. As-built drawings shall be provided to and approved by the Owner prior to final acceptance of the work. As-built drawings shall:
 - Record field changes of dimensions and details where actual installation varies substantially from the Contract Documents as originally shown.
 - Give particular attention to concealed elements that would be difficult to measure and record at a later date.
 - Display measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
29. Payment and performance bonds are required for this project. All work requires a two-year warranty.
30. The Time of Performance for this Project is One Hundred Eighty (180) calendar days.
31. *Final elevations shall have tolerances of +0.00' to -0.20' at roadway subgrade and +0.00' to -1.00' within the site of the future parking structure.*
32. *The existing light standard to be removed is not energized.*

EXHIBIT B-1

City of Black Hawk Gregory Street Grading, Rock Excavation, and Slope Stabilization ITEMS COVERED BY PAYMENT AND PERFORMANCE BOND #1

No.	Item Description	Units	Quantity	Unit Price	Item Price
-----	------------------	-------	----------	------------	------------

General

1	General Conditions	LS	1		
2	Mobilization and Demobilization	LS	1		\$4,000.00
3	Construction Surveying	LS	1		\$6,000.00
4	Traffic Control	LS	1		\$3,500.00
5	Erosion Control	FA	1		\$7,500.00

Removals

6	Removal of Trees	LS	1		\$2,000.00
7	Removal of Boulders	LS	1		\$1,000.00
8	Removal of Asphalt Mat, 6" Average Thickness	SY	1400		\$5,600.00
9	Removal of Gas and Water Service Lines	LF	120		\$6,000.00
10	Removal of Grouted Rock Retaining Wall	SF	850		\$8,500.00
11	Removal of Light Pole	EA	1		\$300.00
12	Removal of Concrete Barrier	EA	39		\$1,950.00

Excavation

13	Unclassified Excavation (Complete in Place) *	CY	5300		\$79,500.00
14	Rock Excavation *	CY	21500		\$322,500.00

* Quantities as measured in situ. Expansion factors have not been applied.

Rock Reinforcement and Slope Stabilization

15	Potholing	HR	80		
16	Rock Reinforcement	SF	14500		
17	Shotcrete Facing	SF	4300		
18	Rock Retainage Wire	SF	14500		
19	Geocomposite Drain without Pipe	SY	250		

PAYMENT AND PERFORMANCE BOND #1 WILL BE ISSUED FOR THE FOLLOWING AMOUNT:

Four Hundred Forty-Eight Thousand Three Hundred Fifty and 00/100 Dollars

(words)

\$448,350.00

(figures)

EXHIBIT B-2

City of Black Hawk Gregory Street Grading, Rock Excavation, and Slope Stabilization ITEMS COVERED BY PAYMENT AND PERFORMANCE BOND #2

No.	Item Description	Units	Quantity	Unit Price	Item Price
-----	------------------	-------	----------	------------	------------

General

1	General Conditions	LS	1		
2	Mobilization and Demobilization	LS	1		\$4,000.00
3	Construction Surveying	LS	1		
4	Traffic Control	LS	1		
5	Erosion Control	FA	1		

Removals

6	Removal of Trees	LS	1		
7	Removal of Boulders	LS	1		
8	Removal of Asphalt Mat, 6" Average Thickness	SY	1400		
9	Removal of Gas and Water Service Lines	LF	120		
10	Removal of Grouted Rock Retaining Wall	SF	850		
11	Removal of Light Pole	EA	1		
12	Removal of Concrete Barrier	EA	39		

Excavation

13	Unclassified Excavation (Complete in Place) *	CY	5300		
14	Rock Excavation *	CY	21500		\$268,750.00

* Quantities as measured in situ. Expansion factors have not been applied.

Rock Reinforcement and Slope Stabilization

15	Potholing	HR	80		
16	Rock Reinforcement	SF	14500		\$127,250.00
17	Shotcrete Facing	SF	4300		
18	Rock Retainage Wire	SF	14500		
19	Geocomposite Drain without Pipe	SY	250		

PAYMENT AND PERFORMANCE BOND #2 WILL BE ISSUED FOR THE FOLLOWING AMOUNT:

Four Hundred Thousand and 00/100 Dollars

(words)

\$400,000.00

(figures)

EXHIBIT B-3

City of Black Hawk Gregory Street Grading, Rock Excavation, and Slope Stabilization ITEMS COVERED BY PAYMENT AND PERFORMANCE BOND #3

No.	Item Description	Units	Quantity	Unit Price	Item Price
-----	------------------	-------	----------	------------	------------

General

1	General Conditions	LS	1		
2	Mobilization and Demobilization	LS	1		
3	Construction Surveying	LS	1		
4	Traffic Control	LS	1		
5	Erosion Control	FA	1		

Removals

6	Removal of Trees	LS	1		
7	Removal of Boulders	LS	1		
8	Removal of Asphalt Mat, 6" Average Thickness	SY	1400		
9	Removal of Gas and Water Service Lines	LF	120		
10	Removal of Grouted Rock Retaining Wall	SF	850		
11	Removal of Light Pole	EA	1		
12	Removal of Concrete Barrier	EA	39		

Excavation

13	Unclassified Excavation (Complete in Place) *	CY	5300		
14	Rock Excavation *	CY	21500		

* Quantities as measured in situ. Expansion factors have not been applied.

Rock Reinforcement and Slope Stabilization

15	Potholing	HR	80		
16	Rock Reinforcement	SF	14500		\$172,610.00
17	Shotcrete Facing	SF	4300		\$64,414.00
18	Rock Retainage Wire	SF	14500		\$100,050.00
19	Geocomposite Drain without Pipe	SY	250		\$7,000.00

PAYMENT AND PERFORMANCE BOND #3 WILL BE ISSUED FOR THE FOLLOWING AMOUNT:

Three Hundred Forty-Four Thousand Seventy-Four and 00/100 Dollars
(words)

\$344,074.00
(figures)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/24/2015

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

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

PRODUCER Boulder Insurance Solutions 4941 10th Street Boulder CO 80304	CONTACT NAME: Employee DEFREP	
	PHONE (A/C, No, Ext): (720) 457-3800 x302	FAX (A/C, No): (303) 223-9274
E-MAIL ADDRESS:		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Lancer Insurance Company		26077
INSURER B: Pinnacol Assurance		41190
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** CL1563001127 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL/INSR	SUBR/INSR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		GL803615#8	7/1/2015	7/1/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Property damage-single limit \$ 100,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BA803599#8	7/1/2015	7/1/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Hired/borrowed \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			XS803644#8	7/1/2015	7/1/2016	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 Auto only \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A	4105426	6/1/2015	6/1/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder, their officers, and employees and any other person(s), company(ies), entity(ies) deemed necessary are Additional Insureds as their interest may appear in regards to Gregory Street grading, rock excavation and slope stabilization.

CERTIFICATE HOLDER (303) 582-0429 mreed@cityofblackhawk.org City Of Black Hawk Matt Reed P.O. Box 68 Blackhawk, CO 80422	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Trisha Sands/TKS 
---	--

© 1988-2014 ACORD CORPORATION. All rights reserved.

RESOLUTION 59-2015
A RESOLUTION
REAPPOINTING TWO (2)
REGULAR MEMBERS TO
THE CITY OF BLACK
HAWK HISTORIC
PRESERVATION
COMMISSION

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 59-2015

TITLE: A RESOLUTION REAPPOINTING TWO (2) REGULAR MEMBERS TO THE CITY OF BLACK HAWK HISTORIC PRESERVATION COMMISSION

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

Section 1. The City Council hereby reappoints the following two (2) members to the Historic Preservation Commission, for four (4) year terms, retroactive to August 1, 2015:

- A. Curtis Linder; and
- B. Larry Linker.

RESOLVED AND PASSED this 26th day of August, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Reappointing two (2) regular commission members to the City of Black Hawk Historic Preservation Commission.

RECOMMENDATION: Staff recommends City Council reappoint the following two (2) members to the Historic Preservation Commission, for four (4) year terms:

- A. Curtis Linder; and
- B. Larry Linker

MOTION TO APPROVE *Resolution No. 59-2015 to reappoint two (2) members to the Historic Preservation Commission, Curtis Linder and Larry Linker, for four (4) year terms, retroactive to August 1, 2015.*

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The appointments of two regular members of the Historic Preservation Commission, Curtis Linder and Larry Linker, expired August 1, 2015. Both Commission Members have expressed an interest to remain on the Commission for additional four (4) year terms.

AGENDA DATE: August 26, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: 203-0000-5025867

DEPARTMENT DIRECTOR APPROVAL: Yes No

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

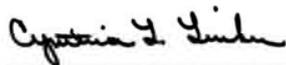
DOCUMENTS ATTACHED: Resolution No. 59-2015

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Cynthia L. Linker, CP&D Administrator



Jack D. Lewis, City Manager

RESOLUTION 60-2015
A RESOLUTION
APPROVING THE
LICENSE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
CASINOS, USA, INC., AND
CONDITIONALLY
APPROVING A
CERTIFICATE OF
APPROPRIATENESS FOR
THE BULL DURHAM
CASINO AWNING
UPGRADE

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

Resolution No. 60-2015

TITLE: A RESOLUTION APPROVING THE LICENSE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND CASINOS, USA, INC., AND CONDITIONALLY APPROVING A CERTIFICATE OF APPROPRIATENESS FOR THE BULL DURHAM CASINO AWNING UPGRADE

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

Section 1. The Board of Aldermen hereby approves the License Agreement between the City and Casinos USA, Inc., and authorizes the Mayor to execute the same on behalf of the City.

Section 2. The City Council hereby determines to conditionally approve the Certificate of Appropriateness for the Bull Durham Casino awning upgrade as follows:

1. Prior to issuance of any building permit for the awning along Main Street that projects into the public right-of-way; a license agreement shall be approved by the City Council.
2. The new awning cannot extend more than four (4) feet into the public right-of-way or it may require sprinkler coverage in accordance with the Uniform Fire Code as adopted by the City.
3. The new awning and the existing projecting sign shall comply with regulations pertaining to height limitations and placement as set forth in the Black Hawk Municipal Code.
4. The new awning shall not contain any type of advertisement insignia.
5. Building permits shall be applied for and approved prior to the installation of any new awning;

RESOLVED AND PASSED this 26th day of August, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City of Black Hawk Board of Aldermen shall hold a public hearing concerning a Certificate of Appropriateness for awnings at the Bull Durham Casino, located on property described in Exhibit A and generally located at 110 Main Street, pursuant to the City of Black Hawk zoning ordinance.

The public hearing is to be held before the City of Black Hawk Board of Aldermen on Wednesday, August 26, 2015 at 3:00 p.m. or as soon as possible thereafter. The public hearing shall be held in the City of Black Hawk Council Chambers located at 211 Church Street, Black Hawk, Colorado, 80422, or at such other time or place in the event these hearings are adjourned.

ALL INTERESTED PARTIES
MAY ATTEND

Melissa A. Greiner
City Clerk

Exhibit A

110 Main Street –

S: 7 T: 3S R: 72W Subd: BLACK HAWK Block: 040 Lot: 004 AND:- Lot: 005 (30 FT OF LT 4) & IMPS

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Bull Durham Casino Certificate of Appropriateness Approval for Awning Upgrade and License Agreement (P-15-14)

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

MOTION TO APPROVE Resolution No. 60-2015, a resolution approving the License Agreement between the City of Black Hawk and Casinos USA, Inc. and a Certificate of Appropriateness for the Bull Durham Casino Awning Upgrade, with the following conditions:

1. Prior to issuance of any Building Permit for the awning along Main Street that projects into the public right-of-way; a License Agreement shall be approved by the City Council.
2. Per Black Hawk Fire Department, the new awning cannot extend more than four (4) feet into the public right-of-way or it may require sprinkler coverage.
3. The new awning and the existing projecting sign shall comply with regulations pertaining to height limitations and placement as set forth in the Black Hawk Municipal Code.
4. The new awning shall not contain any type of advertisement insignia.
5. Proper Building Permits shall be applied for and approved prior to the installation of any new awning;

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

On July 6, 2015 the City of Black Hawk received an application for a Certificate of Appropriateness for awning replacement from the Bull Durham Casino representative. The intent of this submittal is to replace the existing weathered and damaged awnings. Attached to this staff report is a copy of the document that shows the proposed awnings and installation method. In addition, Bull Durham Casino has agreed to a License Agreement (also on this Agenda for the August 26 meeting) from the City of Black Hawk for encroachment into Main Street right-of-way of the awning and an existing projecting sign

AGENDA DATE: August 26, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [X]Yes []No

STAFF PERSON RESPONSIBLE: Cynthia Linker, CPD and Vincent Harris, Baseline Corporation

DOCUMENTS ATTACHED: Resolution No. 60-2015, Public Hearing Notice, Council Action Form Staff Report, Land Use Development Application; Awning upgrade submittal, License Agreement

RECORD: []Yes [X]No

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

SUBMITTED BY:

REVIEWED BY:



8/14/2015

Vince Harris, Baseline Corporation



Jack D. Lewis, City Manager

Staff Report



STAFF REPORT: Bull Durham Casino Certificate of Appropriateness for Awning Upgrade and License Agreement (P-15-14)

For: City Council
Project: Bull Durham Casino Awning Upgrade & Sign and Awning License Agreement
Property Address: 110 Main Street
Applicants: Corby Harrell, Manager on behalf of Bull Durham Casino
Zoning: GOLD District
Prepared by: Zeljko Spiric, Baseline Corporation
Approved by: Vincent Harris, Baseline Corporation
Reviewed by: Cynthia Linker, CP&D



BACKGROUND:

On July 6, 2015, the City of Black Hawk received an application for a Certificate of Appropriateness for installation of a new awning from Corby Harrell on behalf of the Bull Durham Casino. Attached to this staff report is a copy of the plan that demonstrates the proposed installation. The existing three awnings have weathered and have been damaged by harsh weather in recent months. The proposed single awning will be installed in the same location as the previous awnings with a slight change to the overall area covered. In general, the design and appearance of the awnings will be the same as existing.

A License Agreement needs to be approved and processed by the City Council along with the approval of this Certificate of Appropriateness for the proposed awning. The License Agreement is needed since the proposed awning extends into the public right-of-way of Main Street. This License Agreement will allow the sign above the awning to extend into the public right of way as well. The License Agreement for the sign is also a condition of approval for the Bull Durham Comprehensive Sign Plan, approved by City Council on August 13, 2014. Condition of approval “A” of Resolution 60-2014 stated: “Prior to issuance of any building, electrical, and sign permits for any sign along Street that may project into the public right-of-way, a survey shall be completed to verify whether a license agreement pertaining to any projecting sign of awning must be processed and approved by City Council.”

Image 1: Existing Awnings



Image 2: Proposed Awning Size and Location

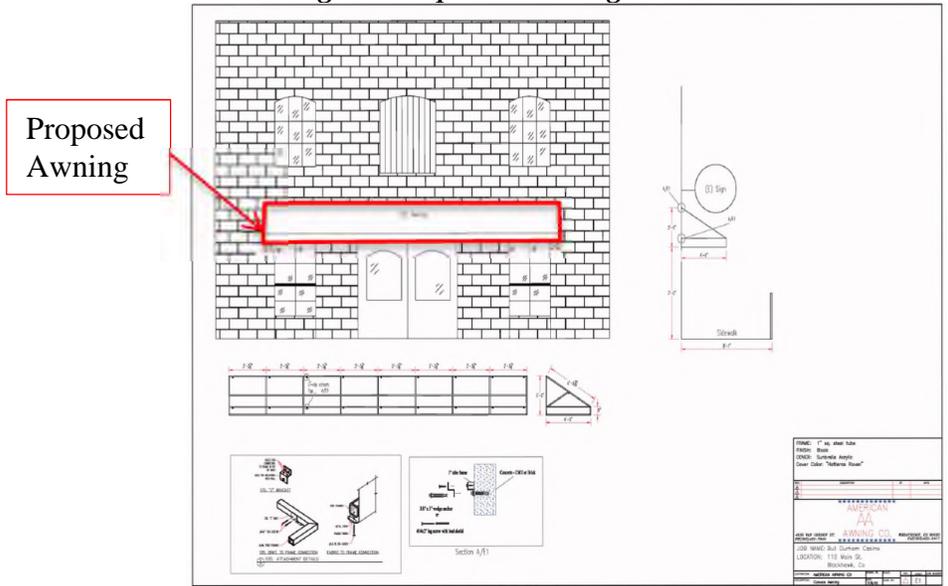


Image 3: Proposed Awning Design



The proposed awning replacement plan has been reviewed by staff for compliance with Chapter 16 (Zoning Code) of the Black Hawk Municipal Code.

APPLICABLE CITY OF BLACK HAWK REGULATIONS:

Section 16-368 (Zoning Code) of the Municipal Code regulates the need for a Certificate of Appropriateness. Any person seeking to renovate the exterior of a building is required to submit proper renovation plans accompanied by a Certificate of Appropriateness application. This staff report relates the need for City Council to review and take action on the proposed Certificate of Appropriateness. In addition, this staff report relates to the need for City Council to review and take action on the proposed License Agreement that will allow the proposed awning and existing sign to extend into the public right-of-way.

*City of Black Hawk
Municipal Code
Chapter 16 - Zoning*

Sec. 16-368: Any person seeking to renovate the exterior of, add to or construct a new building shall be subject to the following procedures. Any such renovation, construction or demolition shall be subject to the City's design standards.

16-368 (3). Procedure to authorize the erection, construction, reconstruction, alterations to or demolition of improvements.

a. No building permit or site development plan shall be issued unless accompanied by a Certificate of Appropriateness (CofA) issued by the City Council for any of the following acts:

- 1. Construction of a new building, structure or improvement;*
- 2. Alteration or reconstruction of, or addition to, the exterior of any improvement;*
- 3. Demolition of any improvement;*
- 4. Construction or erection of or addition to any improvement upon any land located within the City;*

16-368 (3) f. Criteria for determining appropriateness of proposed erection, construction, reconstruction or alteration. In determining appropriateness of a proposed site plan or building permit for the erection, construction or alteration of a building, the HPC and the City Council shall consider the following:

- 1. All plans, drawings and photographs as may be submitted by the applicant;*

Staff comment: The applicant has submitted plans that are attached to this Staff Report.

- 2. Information presented at a public hearing held concerning the proposed work;*

Staff comment: Baseline staff as well as a Bull Durham representative will provide additional information at the City Council meeting if needed.

- 3. The purpose of this Chapter;*

Staff comment: The purpose of this Chapter is to ensure that all development, and in this case the proposed awning upgrade, at the Bull Durham Casino meets the municipal code

requirements of the City of Black Hawk. Staff finds that adding the proposed awning to the existing building will continue to uphold the Municipal standards.

4. *Compliance with this Code and the payment of all fees required by this Code;*

Staff comment: The applicants have and will continue to pay all necessary fees.

5. *The historical and architectural style, the general design, arrangement, texture, materials and color of the development, building or structure in question or its appurtenance fixtures; the relationship of such features to similar features of the other buildings within the City and the position of the building, structure, park or open space in relation to public right-of-way and to other buildings and structures in the City;*

Staff comment: The proposed awning upgrade is an appropriate design for the building. Currently, similar awnings are installed on the building. Due to extreme weather, the existing awnings are damaged and are due for a replacement. The color and design pattern of the proposed awning cover matches the existing awnings and it does not affect the overall character of the building. The proposed awning appearance, design and arrangement support the historical appearance of the building. The proposed awning establishes a good visual relationship between the first floor of the building and the building features located on the second floor of the building. Several surrounding buildings utilize similar style awnings and the Bull Durham proposed awning will add to this street character by enhancing the appearance of the existing awning. In relation to public right-of-way, the awning will project into city-owned Main Street. A license agreement is proposed to manage this encroachment.

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

Staff comment: The proposed awning will contribute to the overall appearance of the building and the neighboring buildings. Colors of the awning match the historical design and character of the area.

7. *The design standards for the City:*

Staff comment: The proposed awning replacement addresses the following concerns within the Black Hawk Commercial Design Guidelines:

- **Awnings are located on the first floor façade and have a demonstrated function.**
- **The design of the awnings reinforces the design of the building behind it.**
- **Awnings fit the dimension of the storefront and openings and are proportional to the architectural design of the façade.**
- **The mounting height and dimension of a canopy is appropriate to their function.**
- **Awnings are not backlit and do not propose the use of cut-out, transparent lettering.**

STAFF COMMENTS:

Staff from Baseline Corporation has reviewed and evaluated the proposed Bull Durham awning upgrade plan and finds the plan to be in compliance with the regulations established in Sec. 16-368 of the Zoning Code, which state that any person seeking to renovate the exterior of a building is required to submit proper plans accompanied by a Certificate of Appropriateness application. This staff report relates the need for City Council to review and take action on the proposed Certificate of Appropriateness. In addition, this staff report relates to the need for City Council to review and take action on the proposed License Agreement that will allow the proposed awnings to extend into the public right-of-way.

Staff has also identified one blade sign that projects into the City owned right-of-way along Main Street. The existing sign is located just above the proposed awning. This sign has been previously approved through the Bull Durham Comprehensive Sign Plan (Resolution 60-2014). Conditions of approval for the Bull Durham Comprehensive Sign Plan required a survey to be completed to determine if the said sign projects into the right-of-way. The survey has shown that the sign does encroach into the right-of-way and a license agreement is required for this sign. Due to the location of the existing projecting sign (just above the awning), the required License Agreement shall cover the awning and the existing sign and will allow both to extend into the right-of-way. Casinos USA, Inc., the owner of the Bull Durham Casino property has agreed to the terms of the License Agreement. It is attached and ready for review and approval.

In summary, Staff recommends that a **Certificate of Appropriateness for the proposed awning upgrade** for the Bull Durham Casino be granted, subject to the following conditions:

1. Prior to issuance of any Building Permit for the awning along Main Street that projects into the public right-of-way; a License Agreement shall be approved by the City Council.
2. Per Black Hawk Fire Department, the new awning cannot extend more than four (4) feet into the public right-of-way or it may require sprinkler coverage.
3. The new awning and the existing projecting sign shall comply with regulations pertaining to height limitations and placement as set forth in the Black Hawk Municipal Code.
4. The new awning shall not contain any type of advertisement insignia.
5. Proper Building Permits shall be applied for and approved prior to the installation of the new awning.

In addition, Staff recommends that a **License Agreement** between the City of Black Hawk and Casinos USA, Inc. for the encroachment of an awning and a projecting sign be approved as submitted.

FINDINGS:

City Council may *approve, conditionally approve, or deny* a Certificate of Appropriateness. To support this proposal, the following findings can be used:

The proposed Bull Durham Casino exterior upgrades and improvements increase the visual and physical quality of the casino's façade as well as Main Street. The proposal meets the intent of the criteria outlined in Section 16-368 of the Municipal Code and those found in Black Hawk's Commercial Design Guidelines as noted and evaluated in this staff report presented to City Council.

RECOMMENDATION:

Baseline Staff recommends City Council consider a **MOTION TO APPROVE WITH CONDITIONS** a Certificate of Appropriateness for Bull Durham Casino awning upgrade as submitted and included with this staff report. The conditions are as follows:

1. Prior to issuance of any Building Permit for the awning along Main Street that projects into the public right-of-way; a License Agreement shall be approved by the City Council.
2. Per Black Hawk Fire Department, the new awning cannot extend more than four (4) feet into the public right-of-way or it may require sprinkler coverage.
3. The new awning and the existing projecting sign shall comply with regulations pertaining to height limitations and placement as set forth in the Black Hawk Municipal Code.
4. The new awning shall not contain any type of advertisement insignia.
5. Proper Building Permits shall be applied for and approved prior to the installation of the new awning.

Baseline Staff further recommends the City Council consider a **MOTION TO APPROVE** a License Agreement between the City of Black and Casinos USA, Inc. as submitted.

Attachments:

- Land Development Application Form
- Awning upgrade submittal
- License Agreement – signed by Casinos USA, Inc.

Applicant's Submittal



BLACK HAWK

City of Black Hawk

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



TO BE COMPLETED BY APPLICANT

DATE: 6/2/2015 APPLICANT NAME: BULL DURHAM SALOON AND CASINO

APPLICANT ADDRESS: 110 MAIN STREET, BLACK HAWK, COLORADO 80422

APPLICANT MAILING ADDRESS: P O BOX 389, BLACK HAWK, COLORADO 80422

APPLICANT CONTACT NUMBER: 303-582-0810 EMAIL ADDRESS: corbyh@gmail.com

PROPERTY OWNER NAME: GEMINI GAMING, LLC.

PROPERTY OWNER ADDRESS: 6800 N 79TH ST #200, NIWOT, COLORADO 80503

PROPERTY OWNER MAILING ADDRESS: 6800 N 79TH ST #200, NIWOT, COLORADO 80503

PROPERTY OWNER CONTACT NUMBER: 303-527-2903 EMAIL ADDRESS: bull_durham777@gmail.com

PROJECT NAME: EXTERIOR AWNINGS

PROJECT ADDRESS: 110 MAIN STREET, BLACK HAWK, COLORADO 80422

PROJECT DESCRIPTION: REPLACEMENT OF EXTERIOR AWNINGS

IS PROPERTY WITHIN CITY LIMITS: YES NO

PRESENT ZONING: _____ CURRENT USE: _____

NAME OF EXISTING PLANNED UNIT DEVELOPMENT (IF APPLICABLE): _____

NAME OF EXISTING SUBDIVISION PLAT (IF APPLICABLE): _____

GILPIN COUNTY ASSESSOR'S I.D. NO.(S): _____ EXISTING PROPERTY SIZE: _____ ACRES/SQ.FEET

(PLEASE ATTACH A COPY OF SURVEY/PLAT.)

EXISTING BUILDING SIZE: _____ SQ. FT. AND/OR NUMBER OF EXISTING RESIDENTIAL UNITS: _____

PLEASE READ THE FOLLOWING

FOR INFORMATIONAL PURPOSES, SECTION 16-370 OF THE BLACK HAWK MUNICIPAL CODE ESTABLISHES THE REQUIREMENT FOR APPLICANTS TO PAY FEES TO COVER THE COSTS THE CITY MAY INCUR BY HAVING THE CITY APPROVED CONSULTANTS EVALUATE AND PROCESS APPLICATIONS. IF YOU HAVE ANY QUESTIONS RELATED TO THIS, PLEASE CONTACT US FOR CLARIFICATION.

THIS IS A REQUIRED TO BE SUBMITTED – AND YOU AGREE TO THE FOLLOWING STATEMENT

CERTIFICATION:

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

SIGNATURE OF APPLICANT: _____ DATE: 7/6/2015



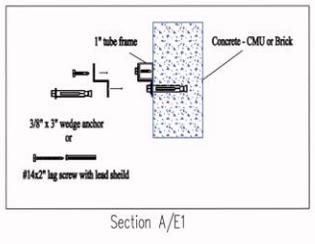
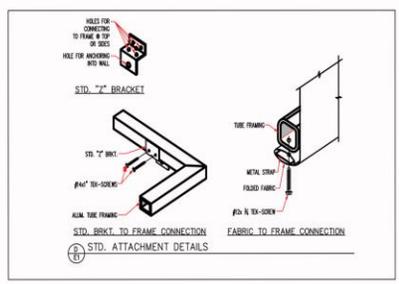
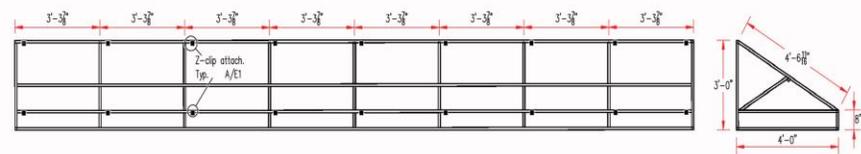
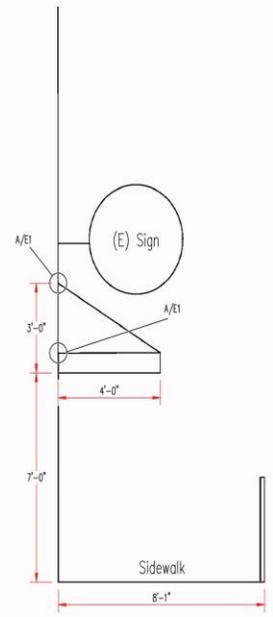
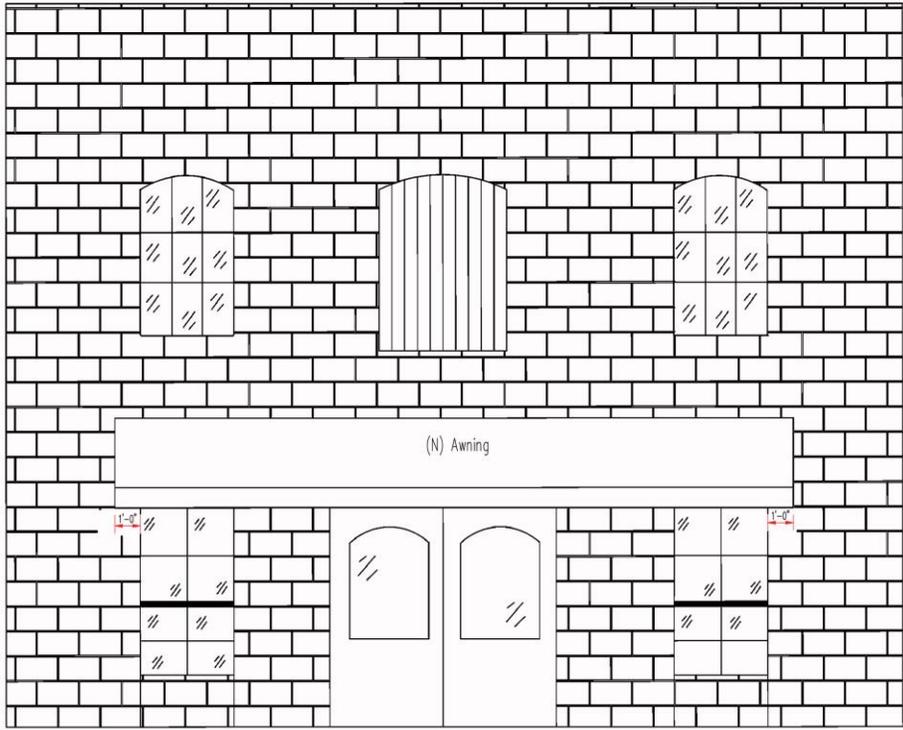
BULL DURHAM CASINO

REPLACEMENT OF EXTERIOR AWNINGS

Bull Durham Saloon and Casino, located at 110 Main Street, Black Hawk, Colorado.

We request permission to replace the current weathered awnings with a new style and design to compliment the building and surrounding business.

- A new fabric, very similar in style to the current pattern, has been selected in an attempt to keep the awning material from looking dirty.
- This pattern is of the same color scheme as the current awnings.
- A new frame has been selected to cover all 3 of the front windows of the casino to give a uniform look and provide shelter for guests from inclement weather.
- This frame will be a solid unit casted from aluminum and secured to the building.
- Please see the attached for:
 - Sight plan and engineered drawing.
 - Rendering of color and style
 - Survey of Easement requested by City of Black Hawk
 - Signed Land Use Application



FRAME: 1" sq. steel tube			
FINISH: Black			
COVER: Sunbrella Acrylic			
Cover Color: "Hatteras Raven"			
NO.	DESCRIPTION	BY	DATE
1			
2			
3			
4			

AMERICAN			
AA			
AWNING CO.			
4836 VAN GORDON ST. FRI(303)422-7349		WHEATBRIDGE, CO 80039 FAX(303)422-9417	
JOB NAME: Bull Durham Casino			
LOCATION: 110 Main St.			
Blackhawk, Co			
CONTRACTOR:	AMERICAN AWNING CO	DRAWN BY:	DATE:
DESCRIPTION:	Canvas Awning	CHKD BY:	7/8/15
		REV.	SHEET
		△	E1



GENUINE
"BULL" DURHAM

44



THE OLD
RELIABLE

Smoking Tobacco



BULL DURHAM

The Cannon Co. B



LICENSE

THIS LICENSE is made and entered into this ___ day of _____, 2015, by and between the CITY OF BLACK HAWK, Colorado whose address is 110 Main Street, Black Hawk, CO 80422 (the "City") and Casinos USA, Inc., owner of the real property whose address is 110 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 described in Exhibit A, which is attached hereto and incorporated by this reference ("Property Licensed"). The Property Licensed for the installation of an awning and a projecting sign into the public right-of-way of the 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 an awning and 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 an awning and a projecting sign.

6. USE. Licensee covenants and agrees that it shall utilize the Property Licensed to Licensee and 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: Casinos USA, Inc.
 PO BOX 389
 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.

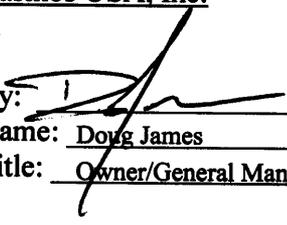
a. This License Agreement may be terminated by the City at any time upon thirty (30) days written notice to Licensee. If the City terminates this License due to a default by Licensee, Licensee shall be responsible for removing the awning and the projecting sign on the Property Licensed if directed by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

Casinos USA, Inc.

By: 

Name: Doug James

Title: Owner/General Manager

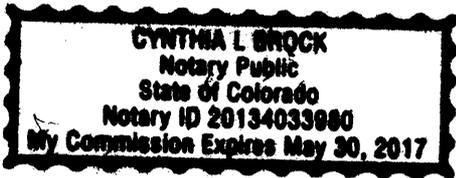
STATE OF Colorado)
COUNTY OF Gilpin) ss.

The forgoing instrument was subscribed, sworn to, and acknowledged before me this 30th day of July, 2015, 2014, by Doug James as the Owner/GM of Bull Durham Casino.

My commission expires: 5/30/2017

(SEAL)


Notary Public



CITY OF BLACK HAWK, COLORADO

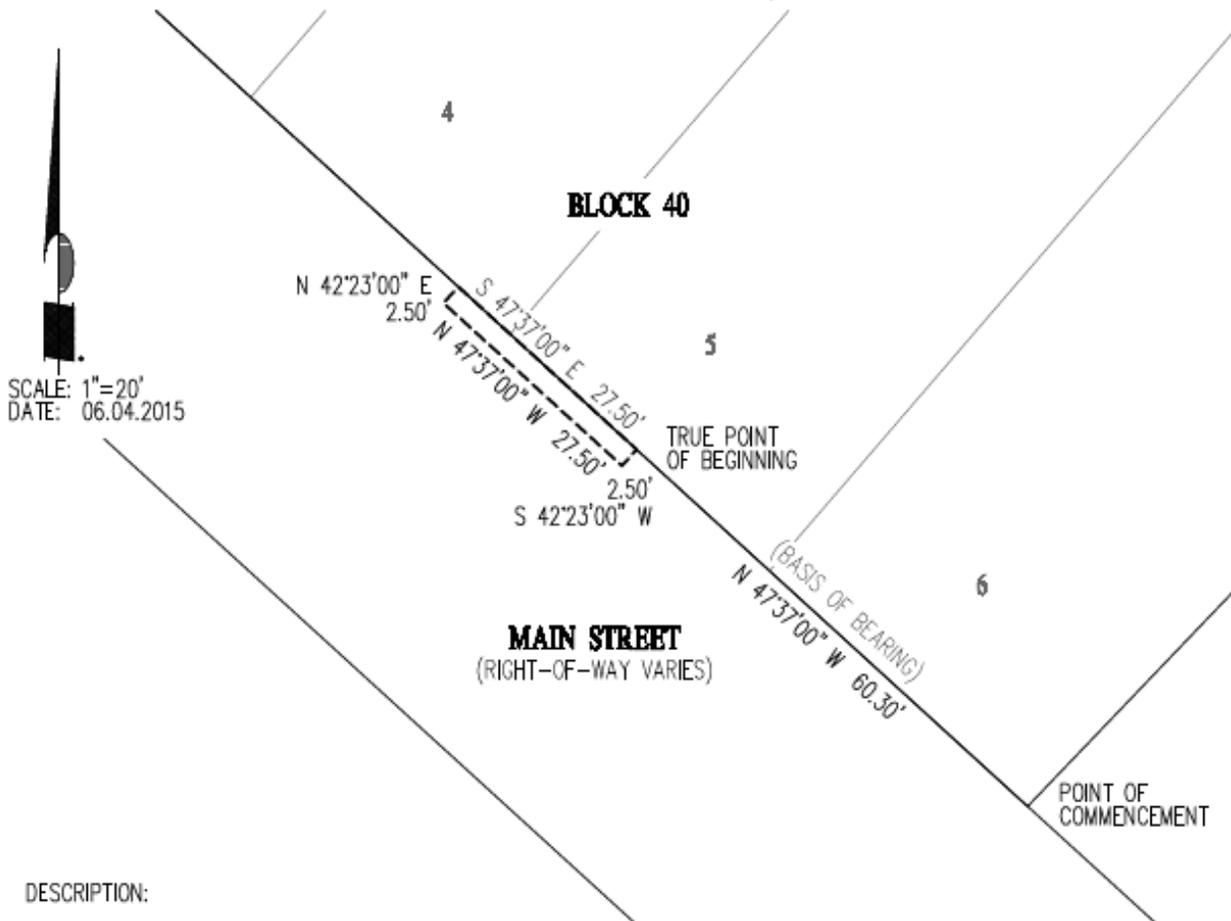
By: _____
David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

EXHIBIT A

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



SCALE: 1"=20'
DATE: 06.04.2015

DESCRIPTION:

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

COMMENCING AT THE SOUTHERLY MOST CORNER OF BLOCK 40, CITY OF BLACK HAWK, THENCE ALONG THE COMMON LINE WITH MAIN STREET RIGHT-OF-WAY N 47°37'00" W, 60.30 FEET TO THE TRUE POINT OF BEGINNING, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE S 42°23'00" W, 2.50 FEET; THENCE N 47°37'00" W, 27.50 FEET; THENCE N 42°23'00" E, 2.50 FEET TO A POINT ALONG SAID COMMON LINE; THENCE ALONG SAID COMMON LINE S 47°37'00" E, 27.50 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 69 SQUARE FEET MORE OR LESS.



C.C.S. CONSULTANTS, INC.

4860 Robb Street, Suite 206
Wheat Ridge, CO 80033
Phone: 303.403.4706

2893 N. Monroe Avenue
Loveland, CO 80538
Phone: 970.635.3031

NOTE:

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

RESOLUTION 61-2015
A RESOLUTION
AMENDING THE 2015
CITY OF BLACK HAWK
FEE SCHEDULE TO ADD
FEEES FOR CPR FIRST AID
AND FIRE EXTINGUISHER
TRAINING BY THE BLACK
HAWK FIRE
DEPARTMENT

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

Resolution No. 61-2015

TITLE: A RESOLUTION AMENDING THE 2015 CITY OF BLACK HAWK FEE SCHEDULE TO ADD FEES FOR CPR FIRST AID AND FIRE EXTINGUISHER TRAINING BY THE BLACK HAWK FIRE DEPARTMENT

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

Section 1. The 2015 City of Black Hawk Fee Schedule is amended to add the following fees for training by the Black Hawk Fire Department:

- A. CPR and First Aid: \$25/person to include certification card for businesses;
- B. CPR and First Aid: No charge for City residents and City staff;
- C. Fire Extinguisher Training: \$10/person for businesses; and
- D. Fire Extinguisher Training: No charge for City residents and City staff.

RESOLVED AND PASSED this 26th day of August, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: 2015 City of Black Hawk Fee Schedule as Amendment to add Fire Department supported course fees to include CPR First Aid and Fire Extinguisher Training Pursuant to Article XIII of Chapter 6 of the Black Hawk Municipal Code.

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

MOTION TO APPROVE Resolution 61-2015, A Resolution Amending the 2015 City of Black Hawk Fee Schedule to add Fees for CPR First Aid and Fire Extinguisher Training by the Black Hawk Fire Department.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

City staff recommends the following fees be added to the approved City of Black Hawk Fee Schedule pursuant to Article XIII of Chapter 6 of the Black Hawk Municipal Code:

- CPR and First Aid: \$25/person to include certification card for businesses;
- CPR and First Aid: No charge for local residents and city staff;
- Fire Extinguisher Training: \$10/person for businesses; and
- Fire Extinguisher Training: No charge for local residents and city staff.

These fees are designed to offset repair, maintenance of equipment and any potential overtime costs to support courses.

AGENDA DATE: August 26, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Don Taylor, Fire Chief

DOCUMENTS ATTACHED: No

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:



Don Taylor, Fire Chief

REVIEWED BY:



Jack D. Lewis, City Manager



RESOLUTION 62-2015
A RESOLUTION
APPROVING THE
AGREEMENT WITH PEH
ARCHITECTS FOR THE
TOTAL BASE
ARCHITECTURAL DESIGN
AND CONSTRUCTION
ADMINISTRATION FOR
THE LIMITED
REHABILITATION OF THE
HISTORIC HOME AND
PROPERTY AT 400 CHASE
STREET IN AN AMOUNT
NOT TO EXCEED
\$123,405.00

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 62-2015

TITLE: A RESOLUTION APPROVING THE AGREEMENT WITH PEH ARCHITECTS FOR THE TOTAL BASE ARCHITECTURAL DESIGN AND CONSTRUCTION ADMINISTRATION FOR THE LIMITED REHABILITATION OF THE HISTORIC HOME AND PROPERTY AT 400 CHASE STREET IN AN AMOUNT NOT TO EXCEED \$123,405.00

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

Section 1. The City Council hereby approves the agreement with PEH Architects for the total base architectural design and construction administration for the limited rehabilitation of the historic home and property at 400 Chase Street in an amount not to exceed \$123,405.00, and authorizes the Mayor to execute the same on behalf of the City.

RESOLVED AND PASSED this 26th day of August, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT:

Request approval of the total base architectural design and construction administration contract with PEH Architects for the limited rehabilitation of the historic home and property at 400 Chase Street.

RECOMMENDATION:

Staff recommends the following motion to the Mayor and Board of Aldermen: Based on the proposal received, PEH Architects is the most qualified company to provide these professional services due to their extensive experience working in Black Hawk the past 15 years.

MOTION TO APPROVE *Resolution No. 62-2015 the agreement with PEH Architects for the total base architectural design and construction administration for the limited rehabilitation of the historic home and property at 400 Chase Street in an amount not to exceed \$123,405.00.*

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

On June 23, 2015, the Community Planning & Development office issued a Request for Proposal to PEH Architects and Anderson Hallas Architects for architectural design and construction administration professional services. Anderson Hallas Architects informed the Community Planning & Development office that they would not be submitting a proposal for the project. It was then determined that PEH Architects would still be allowed to response to the Request for Proposal and a meeting would be held with PEH Architects to review their proposal.

On July 31, 2015, a meeting was held with Jack Lewis, Cindy Linker, PEH Architects, and NV5 to review the proposal submitted. PEH Architects was asked to revise their interior design fees, which was higher than expected, based on past project experience. PEH Architects was also asked to provide an increased number of site visits to help insure that the quality of the project during construction meets the standards of the City. PEH Architects submitted a revised proposal containing the changes requested.

AGENDA DATE: August 26, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: 203-0000-5025800 - \$123,405

DEPARTMENT DIRECTOR APPROVAL: Yes No

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

DOCUMENTS ATTACHED: Resolution No. 62-2015, Request for Council Action, Professional Services Agreement - Exhibit A – Scope of Services, Exhibit A-1 – Schedule of Charges, Exhibit B – Certificates of Insurance

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

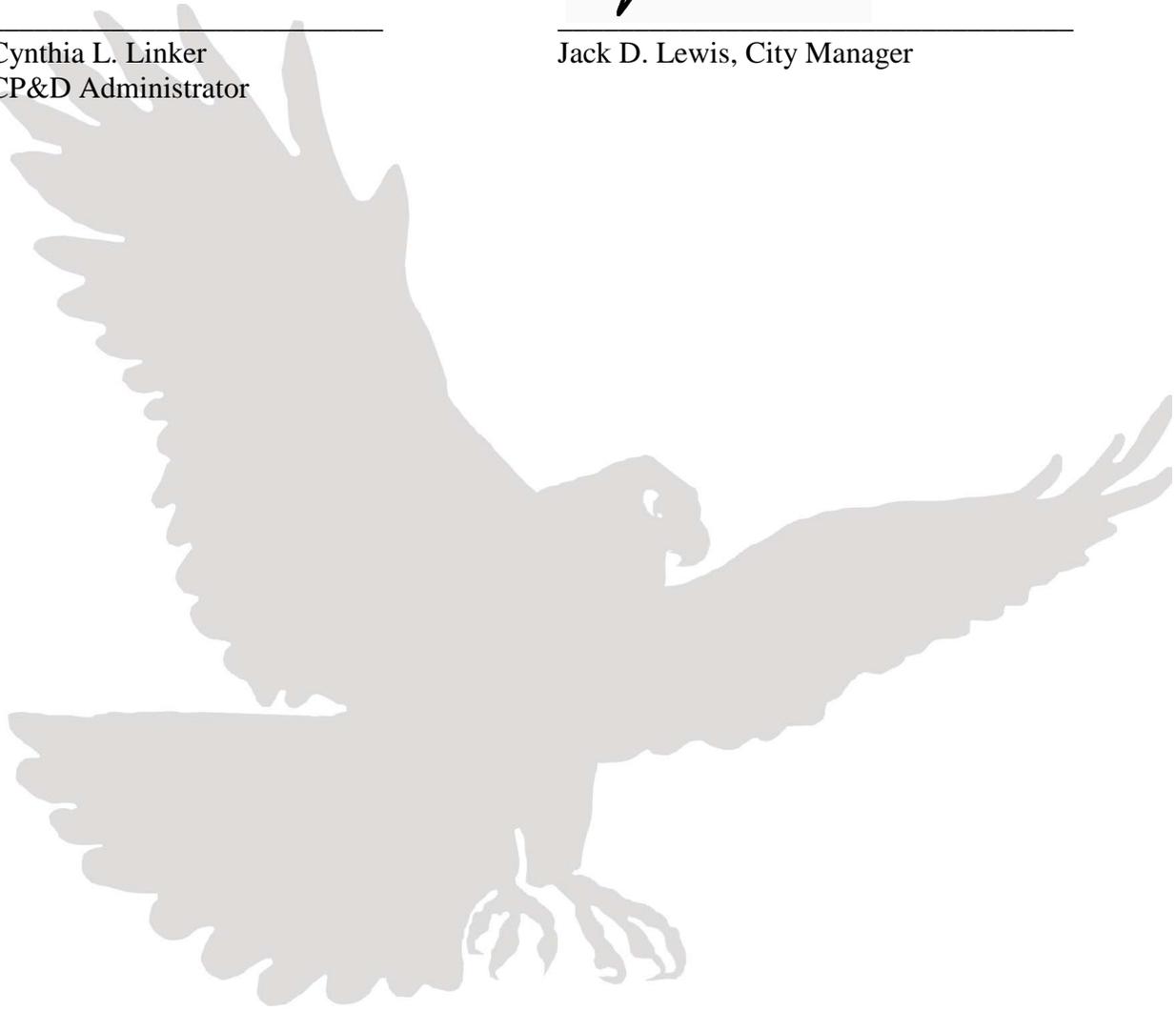
Cynthia L. Linker

Cynthia L. Linker
CP&D Administrator

REVIEWED BY:

Jack D. Lewis

Jack D. Lewis, City Manager



AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of **August**, 2015, by and between the **CITY OF BLACK HAWK**, State of Colorado, a Colorado municipal corporation (hereinafter referred to as the "City") and **PEH ARCHITECTS** hereinafter referred to as "Contractor").

RECITALS:

A. The City requires **professional services for architectural design and construction administration services for 400 Chase Street** (the Project").

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

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City, **architectural design and construction administration services** for the Project.

I. SCOPE OF SERVICES

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

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

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

III. OWNERSHIP OF WORK PRODUCT

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

Project documents it has retained, during which time the City may take physical possession of same at the storage site.

IV. COMPENSATION

A. Compensation shall not exceed **\$123,405.00** for the work described in **Exhibit A**. Payment shall be made in accordance with the schedule of charges in **Exhibit A-1**. Invoices will be itemized and include hourly breakdown for all personnel and other charges.

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

1. All invoices, including Contractor's verified payment request, shall be submitted by Contractor to the City no later than the twenty-fourth (24th) day of each month for payment pursuant to the terms of this Agreement. In the event Contractor fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Contractor defers its right to payment pursuant to said late invoice until the twenty-fourth (24th) day of the following month.
2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice as provided by this Agreement.

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

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

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

V. COMMENCEMENT AND COMPLETION OF WORK

Contractor shall commence work upon the execution of this Agreement. This Agreement shall be completed by **substantial completion of the project.**

VI. PROFESSIONAL RESPONSIBILITY

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

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

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

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

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

VII. COMPLIANCE WITH LAW

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

B. Illegal Aliens.

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

2. Prohibited Acts. Contractor shall not:

a. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

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

3. Verification.

a. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

b. Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

c. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under the Agreement, Contractor shall:

i. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under the Agreement; and

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under the Agreement; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under the Agreement.

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

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

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

Contractor shall sign the Department Program Affidavit attached hereto.

VIII. INDEMNIFICATION

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

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

C. **INDEMNIFICATION – COSTS:** Contractor shall, to the fullest extent permitted by law, defend, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands at the sole expense of Contractor or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Contractor shall, to the fullest extent permitted by law, defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees, the City shall reimburse Contractor for the portion of the judgment attributable to such act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees.

IX. INSURANCE

A. The Contractor agrees to obtain and maintain during the life of the Agreement, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Contractor pursuant to Section VIII above. Such insurance shall be in addition

to any other insurance requirements imposed by the Agreement or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section VIII above, by reason of its failure to obtain and maintain during the life of the Agreement insurance in sufficient amounts, durations, or types.

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

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

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

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

4. **The policy required by paragraph 2., above, shall be endorsed to include the City and the City's officers, employees, and Contractors as additional insureds.** The policy required in Paragraphs 1 and 2 above shall be primary insurance, and any insurance carried by the City, its officers, its employees, or its Contractors shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to the policy required by paragraph 1., above, shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall be solely responsible for any deductible losses under any policy required above.

5. The certificate of insurance provided for the City shall be completed by Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of

certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated, or materially changed until at least thirty (30) days prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

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

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

7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

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

X. NON-ASSIGNABILITY

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

XI. TERMINATION

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

for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Contractor.

XII. VENUE

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

XIII. INDEPENDENT CONTRACTOR

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

XIV. NO WAIVER

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

XV. NOTICE

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

The City:

City of Black Hawk
P.O. Box 68
Black Hawk, Colorado 80422-0068
Attn: **Cynthia Linker, Director of Community Planning & Development**

The Contractor:

Peter E. Heinz, AIA
PEH Architects
1319 Spruce Street, Suite 207
Boulder, CO 80302

XVI. ENTIRE AGREEMENT

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

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

PEH Architects

By: *Peter Heinz*
Its: *PRESIDENT*

STATE OF COLORADO)
) ss.
COUNTY OF *Boulder*)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this _____ day *13* of *August*, 2015, by *PETER E. HEINZ* as the *PRESIDENT* of *PEH ARCHITECTS INC.*

My commission expires: *1/12/19*

(SEAL)

VICTORIA AUSTIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20084022003
MY COMMISSION EXPIRES 01/12/2019

V. Austin
Notary Public

**PROSPECTIVE CONTRACTOR'S CERTIFICATE REGARDING EMPLOYING OR
CONTRACTING WITH AN ILLEGAL ALIEN**

FROM: PEH ARCHITECTS INC.
PEH Architects

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

Project Name _____

Bid Number _____ Project No. _____

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

Executed this 13 day of AUGUST, 2015

Prospective Contractor PEH ARCHITECTS INC.

By: [Signature]

Title: PRESIDENT

NO EMPLOYEE AFFIDAVIT

1. Check and complete one:

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

OR

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

2. Check one.

I, N/A, am a United States citizen or legal permanent resident.

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

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

OR

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

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

N/A

Signature

Date

DEPARTMENT PROGRAM AFFIDAVIT

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

I, PETER F. HEINZ as a public contractor under contract with the City of Black Hawk (the "City"), hereby affirm that:

- 1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Contract") with the Town within twenty (20) days after such hiring date;
2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under the Agreement; and
3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under the Agreement.

Contractor Signature Peter Heinz

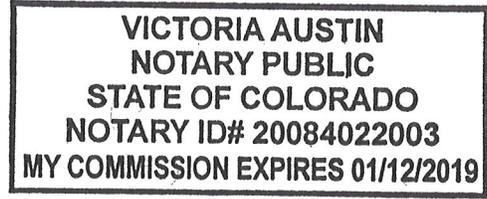
Date 8/13/15

STATE OF COLORADO)
COUNTY OF FRANKLIN) ss.

The foregoing instrument was subscribed, sworn to and acknowledged before me this 8 day of AUGUST, 2015, by PETER F. HEINZ as PRESIDENT of PEH ARCHITECTS INC.

My commission expires:
(SEAL)

N. Austin
Notary Public



**ACCEPTABLE DOCUMENTS FOR
LAWFUL PRESENCE VERIFICATION**

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

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

OR

Documents that Only Serve to Prove Citizenship/Lawful Presence:

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

AND

Documents that Serve to Prove Identification:

- A Driver's License or Identification Card Regardless of the State of Issuance
- School Identification Card with Photograph
- Identification Card Issued by Federal, State or Local Government
- A Driver's License Issued by a Canadian Government Authority

EXHIBIT A
SCOPE OF SERVICES

Exhibit A Scope of Services

COST PROPOSAL

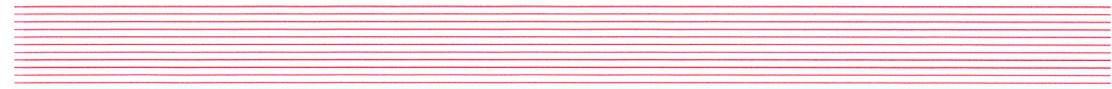
The following is a fixed fee for each task/phase outlined in the required services of section 2.2 of the Request for Proposal document:

Base Fee Cost Proposal

400 Chase Street	Fee Per Phase & Team Member									Project Description
	Architect Fee	Civil Engineer	Other Consultants				Subtotal	Estimated Reimbursables	TOTAL	
			Structural	Mechanical/Plumbing	Electrical	Interior Design				
TASK A - Existing Conditions Phase	3,890	-	-	-	-	-	3,890	100	3,990	
TASK B - Conceptual Design Phase	3,900	-	-	-	-	-	3,900	150	4,050	
TASK C - Schematic Design Phase	9,585	-	-	-	-	2,252	11,837	140	11,977	
TASK D - Design Development Phase	11,845	4,736	2,750	2,400	1,870	3,137	26,738	140	26,878	
TASK E - Contract Documents Phase	10,955	4,200	2,210	2,460	1,540	1,619	22,984	240	23,224	
TASK F - GC Bidding & Pre-Construction	7,135	253	320	750	340	830	9,628	400	10,028	
TASK G - Construction Phase	18,670	2,317	3,850	1,220	430	-	26,487	844	27,331	
TASK H - Punch List Phase	3,895	380	220	980	550	-	6,025	400	6,425	
TOTAL	69,875	11,886	9,350	7,810	4,730	7,838	111,489	2,414	113,903	
Value Engineering Alternate	1,125	760	980	-	-	-	-	-	-	
Weekly Construction Meetings	8,995	-	-	-	-	-	-	507	123,405	total - 113,903 + 8,995 +507 = \$123,405
Additional Construction Phase Site Visits	950	510	500	750	800	-	-	-	-	

Base Fee & Scope notes:

- 1) No VE (value engineering) anticipated for MP or E.
- 2) Estimated fee for VE is based on limited past VE experiences with the CoBH. Should extensive design and engineering revisions be requested, fee proposals will be provided for review and approval.
- 3) Weekly construction meetings is an alternate fee add that includes 12 site visits by the project architect.
- 4) Construction phase - architectural fee includes 20 site visits.
- 5) LORIS will provide bridge/culvert hydraulic calculations and design for 2 or 3 of the creek crossings on to the property. The structures will be designed such that there is a "zero-rise" in the delineated FEMA Floodplain, and obtain a Floodplain Development permit as required. The bridges/culvert should be considered "minor structures," and will be designed accordingly for inlet/outlet protection from scour from the FEMA delineated flow rates. Calculations will be provided and a signed letter will be provided.



Base Fee Cost Proposal Detail

PROJECT FEE ESTIMATE - HOURLY BASIS

7/23/2014
 REVISED 8/5/2015
 400 Chase Street
 Black Hawk, CO

TASK DESCRIPTION	PEH	Proj. Arch.	Senior CAD	Junior CAD	Ttl. Hrs.	Hourly Total	Remarks
Rate:	\$145.00	\$125.00	\$90.00	\$75.00			
Task A - Existing Conditions Phase:							
Initial Site Visit walk through	0	0	0	0	0		No Charge
Site visit for As-Built Measurements	0	0	6	6	12		As-Built measurements
As-Built Drafting	0	4	10	20	34		Draft plans, elevations and sections
	0	4	16	26	46		
	\$0	\$500	\$1,440	\$1,950			
SBTTL. Task A - EXISTING CONDITIONS PHASE						\$3,890	
Task B - Conceptual Design Phase:							
Initial meeting and scope development review meeting	0	4	0	0	4		1 review meeting, includes drive time
Scope development	0	4	0	0	4		
Concept sketches	0	12	0	12	24		1/8" scale sketches
City/client review meeting	0	4	0	0	4		1 review meeting, includes drive time
	0	24	0	12	36		
	\$0	\$3,000	\$0	\$900			
SBTTL. Task B - CONCEPTUAL DESIGN PHASE						\$3,900	
Task C - Schematic Design Phase:							
Schematic Design Drawings (30% submission)	6	33	20	20	79		drafted plans
Historic Preservations Committee mtg's	0	0	0	0	0		not included
City/client review meeting	0	6	6	0	12		1 review meeting, includes drive time
City/client review meeting (interior review)	0	0	0	0	0		combo mtg with design review
	6	39	26	20	91		
	\$870	\$4,875	\$2,340	\$1,500			
SBTTL. Task C - SCHEMATIC DESIGN PHASE						\$9,585	
Task D - Design Development Phase:							
Design Development Drawings (60% submission)	1	20	21	26	68		
Review and coordination with consultants	0	8	0	0	8		
Specifications development	1	8	6	6	21		Outline form specifications
exterior rendering	0	1	4	6	11		with roofing and paint samples
City/client review meeting	0	6	6	0	12		1 review meeting, includes drive time
City/client review meeting (interior review)	0	0	0	0	0		combo mtg with design review
	2	43	37	38	120		
	\$290	\$5,375	\$3,330	\$2,850			
SBTTL. Task D - DESIGN DEVELOPMENT						\$11,845	
Task E - Construction DOCUMENTS							
Construction Document Drawings (90% submission)	1	12	20	20	53		
Construction Document Drawings (100% submission)	0	6	6	6	18		
Review and coordination with consultants	0	8	0	0	8		
Specifications development	1	7	4	8	20		
City/client review meeting	0	6	6	0	12		1 review meeting, includes drive time
City/client review meeting (interior review)	0	0	0	0	0		combo mtg with design review
	2	39	36	34	111		
	\$290	\$4,875	\$3,240	\$2,550			
SBTTL. Task E - CONSTRUCTION DOCUMENTS						\$10,955	
Task F - Contractor Bidding Phase and Pre-Construction							
Bid and Permit Drawings (100% submission)	1	6	4	4	15		Stamped for permit
Review and coordination with consultants	1	6	0	0	7		
Specifications finalized	0	4	4	6	14		
Pre-Bid Meeting with Contractors	0	4	0	0	4		1 meeting, includes travel time
Clarifications/addendum to GCs during bidding	2	4	7	0	13		
CONDOC update to include clarification/addendum items	1	4	4	6	15		Yellow dwg sheets - "Issue for Const."
	5	28	19	16	68		
	\$725	\$3,500	\$1,710	\$1,200			
SBTTL. Task F - BIDDING AND PERMIT						\$7,135	
TOTAL ARCHITECTURAL CONDOC SERVICES						\$47,310	
Consultant CONDOC Services (Tasks A, B, C, D, E, F)							
Civil						\$9,188	Includes 1 initial site visit
Structural						\$5,280	Includes 1 initial site visit
Mechanical & Plumbing						\$5,610	No site visits included
Electrical						\$3,740	No site visits included
Interior Design						\$7,838	Includes 3 design mtgs, reduce rate
TOTAL CONSULTANT CONDOC SERVICES (TASKS A, B, C, D, E, F)						\$31,656	



Base Fee Cost Proposal Detail (continued)

BREAK GROUND						
Task G - Construction Administration:						
Pre-construction OAC mtg.	0	0	0	0	0	Not included - not requested
Shop drawing & product reviews	2	16	8	20	46	
Site observations - every other week	8	72	0	0	80	4 hr visit includes travel. 20 visits
Field Reports	0	20	0	20	40	
Clarifications/SK dwgs to GC if req'd	0	0	0	0	0	To be hourly if requested
	10	108	8	40	166	
	\$1,450	\$13,500	\$720	\$3,000		
TOTAL Task G - CONSTRUCTION ADMINISTRATION					\$18,670	
Task H - Punch List Phase:						
Final Punch List	0	8	0	4	12	4 hr visit includes travel. 2 visits
Close Out Punch walk	0	8	0	4	12	4 hr visit includes travel. 2 visits
Record Drawings	1	2	0	12	15	based on GC redlines
	1	18	0	20	39	
	\$145	\$2,250	\$0	\$1,500		
TOTAL Task H - PUNCH LIST PHASE					\$3,895	
Consultant Construction Administration Services (Tasks G, H)						
Civil					\$2,696	Includes 3 Site visits
Structural					\$4,070	Includes 6 site visits
Mechanical & Plumbing					\$2,200	Includes 2 Site visits
Electrical					\$990	Includes 2 Site visits
Interior Design					\$0	
TOTAL CONSULTANT CONST. ADMIN. SERVICES					\$9,956	
Reimbursable allowance					\$1,155	Plots, prints, USPS
Mileage allowance					\$1,259	31 Trips of 70 miles at \$0.58 per mile
TOTAL REIMBERSABLE ALLOWANCE					\$2,414	



EXHIBIT A-1
Schedule of Charges

**Exhibit A-1
Schedule of Charges**

HOURLY RATES

Hourly billing within the contract and any additional services will be as follows:

	Hourly Rate:
Architect	
Principal:	\$ 145.00
Project Architect:	125.00
Senior CAD drafterperson:	90.00
Junior CAD drafterperson:	75.00
Civil Engineer	
Principal:	175.00
Project Engineer:	115.00
CAD Drafterperson:	90.00
Structural Engineer	
Principal:	125.00
CAD drafterperson:	75.00
Mechanical and Plumbing Engineer	
Principal:	135.00
Designer:	90.00
CAD drafterperson:	70.00
Electrical Engineer	
Principal:	150.00
Project Engineer:	125.00
CAD drafterperson:	65.00
Interior designer	
Principal:	150.00

Reimbursable expenses, billed at market rate plus 10%, shall include CAD plotting, blueprinting, photocopying, delivery, postage, photography and client authorized travel. In house costs for these expenses are as follows:

Mileage (Current IRS rates)	\$0.58 per mile
Faxes / e-mails	no charge
Large format Copies (B&W / Color)	\$8.00 Sheet
Standard and 11x17 Copies (B&W / Color)	\$0.10 Sheet

ADDITIONAL SERVICES

In alignment with standard practices for residential projects, the following services are not provided within the proposal. Any of these services can be provided as an additional service.

- CSI 3 part "commercial" specifications, outlining execution and installation requirements.
- Separate interior finishes review meetings. The three interior design review meetings will occur on the same day as the SD, DD and CD design review meetings.
- FEMA submittals are not expected to be needed and are not included in this scope of work.
- Profile drawings of utility services.
- Existing conditions memo written narrative describing the property's existing conditions.
- Significant design changes following any milestone of approval.



EXHIBIT B
CERTIFICATES OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/13/2015

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

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

PRODUCER Taggart and Associates, Inc 1600 Canyon Boulevard P. O. Box 147 Boulder CO 80306	CONTACT NAME: Regina Casey PHONE (A/C No. Ext): (303)442-1484 FAX (A/C, No): (303)442-8822 E-MAIL ADDRESS: rcasey@taggartinsurance.com																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: Travelers Indemnity of America</td> <td></td> <td>25666</td> </tr> <tr> <td>INSURER B: Phoenix</td> <td></td> <td>25623</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A: Travelers Indemnity of America		25666	INSURER B: Phoenix		25623	INSURER C:			INSURER D:			INSURER E:			INSURER F:	
INSURER(S) AFFORDING COVERAGE		NAIC #																			
INSURER A: Travelers Indemnity of America		25666																			
INSURER B: Phoenix		25623																			
INSURER C:																					
INSURER D:																					
INSURER E:																					
INSURER F:																					
INSURED PEH Architects, Inc. 1319 Spruce Street, Suite 207 Boulder CO 80302																					

COVERAGES CERTIFICATE NUMBER: 14-15 Master REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			6805C604920TIA14	12/31/2014	12/31/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			BA5C60540614GRP	12/31/2014	12/31/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 5,000
	UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			N/A			<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER City of Blackhawk PO Box 68 Black Hawk, CO 80422	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Regina Casey/BEH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/08/2015

PRODUCER
Pinnacol Assurance
7501 E Lowry Blvd
Denver, CO 80230-7006

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC#

INSURED
Peh Architects Inc
1319 Spruce Street #207
Boulder, CO 80302

INSURER A: **Pinnacol Assurance**

41190

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGES

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YYYY)	POLICY EXPIRATION DATE(MM/DD/YYYY)	LIMITS
		<input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIERS PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE DAMAGE TO RENTED PREMISES MED EXP(Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
		<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea Accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
		<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG
		<input type="checkbox"/> EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE AGGREGATE
A		WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, please describe under SPECIAL PROVISIONS below	2097982	12/01/2014	12/01/2015	<input checked="" type="checkbox"/> WC STATU- <input type="checkbox"/> OTHER TORY LIMITS E.L EACH ACCIDENT \$1,000,000 E.L DISEASE - EA EMPLOYEE \$1,000,000 E.L DISEASE - POLICY LIMIT \$1,000,000
		OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER

1581083
City of Black Hawk
PO Box 68
Black Hawk, CO 80422

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 0 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Michelle Madrid-Kneebone
Underwriter

ACORD CORPORATION 1988

CERTIFICATE HOLDER COPY

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

IMPORTANT

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



CERTIFICATE OF LIABILITY INSURANCE

PEHAR-1

OP ID: CK

DATE (MM/DD/YYYY)

08/13/2015

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

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

PRODUCER PUI Agency of Colorado, Inc PO Box 3412 Littleton, CO 80161-3412 Cindy L. King	CONTACT NAME: PUI Agency of Colorado, Inc.	
	PHONE (A/C, No, Ext): 720-465-9116	FAX (A/C, No): 720-428-8583
E-MAIL ADDRESS:		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Navigators Insurance Company		42307
INSURED PEH Architects Peter Heinz, AIA d/b/a 1319 Spruce Street, Suite 207 Boulder, CO 80302	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY						EACH OCCURRENCE \$
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/>	<input type="checkbox"/>				PROPERTY DAMAGE (PER ACCIDENT) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						\$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
A	Professional Liab			CM14DPL031767IV	01/26/2015	01/26/2016	Ea Claim 1,000,000 Aggregate 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

CITYBLK City of Black Hawk PO Box 68 Black Hawk, CO 80422	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
---	---

© 1988-2010 ACORD CORPORATION. All rights reserved.

RESOLUTION 63-2015
A RESOLUTION
APPROVING THE
PROPERTY EXCHANGE
AGREEMENT BETWEEN
THE CITY OF BLACK
HAWK AND SMITHROCK,
LLC

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 63-2015

TITLE: A RESOLUTION APPROVING THE PROPERTY EXCHANGE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND SMITHROCK, LLC

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

Section 1. The City Council hereby approves the Property Exchange Agreement between the City and Smithrock, LLC, and authorizes the Mayor and the City Manager as may be appropriate to execute the necessary documents to accomplish the transactions approved by the Property Exchange Agreement.

RESOLVED AND PASSED this 26th day of August, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Smithrock, LLC Agreement

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

MOTION TO APPROVE Resolution 63, A Resolution Approving the Property Exchange Agreement Between the City of Black Hawk and Smithrock, LLC.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The City desires to acquire the property in question as part of the Gregory Street Improvement Project.

AGENDA DATE: August 26, 2015

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Thomas Isbester, Public Works Director

DOCUMENTS ATTACHED: Smithrock, LLC Property Exchange Agreement

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Thomas Isbester, Public Works Director

Jack D. Lewis, City Manager

PROPERTY EXCHANGE AGREEMENT

THIS PROPERTY EXCHANGE AGREEMENT (the "**Agreement**") is made and entered into this ____ day of August, 2015, by and between the **City of Black Hawk, Colorado**, a Colorado home rule municipality (the "**City**") and **Smithrock, LLC**, a Colorado limited liability company ("**Smithrock**").

RECITALS

WHEREAS, the City desires to acquire the property more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, from Smithrock as part of the Gregory Street Improvement Project (the "**Project**"),

WHEREAS, the City further desires to reserve an easement for a bus lane as more particularly described in **Exhibit B**, attached hereto and incorporated herein by this reference;

WHEREAS, in exchange for the acquisition of the property described in Exhibit A and the reservation of easement interests described in Exhibit B, the City desires to grant Smithrock a permanent and exclusive parking easement as more particularly described in **Exhibit C** on certain City-owned property;

WHEREAS, the City further desires to convey a parking permit for one parking space for the personal use of Shirley Smith within the parking lot of the City of Black Hawk City Hall, so long as Ms. Smith requires the personal, non-assignable and non-transferable use of said parking space; and

WHEREAS, the City and Smithrock therefore desire to enter into this Agreement, which memorializes the exchange of certain properties and property interests between the City and Smithrock.

NOW THEREFORE, in consideration of the foregoing Recitals and the mutual covenants set forth below, the receipt and sufficiency of which are mutually acknowledged, the City and the Smithrock agree:

ARTICLE I DEFINITIONS

For purposes of this Agreement, the following terms shall have the following meanings:

A. *Bus Lane Easement Property* shall mean that property upon which the City shall reserve a bus lane easement as more particularly described in **Exhibit B**, attached hereto and incorporated herein by this reference;

B. *City Acquired Property* shall be that property more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, which property is being conveyed by the Smithrock to the City; and

C. *Parking Easement Property* shall mean that property upon which the City shall convey a permanent and exclusive parking easement to Smithrock as more particularly described in **Exhibit C**, attached hereto and incorporated herein by this reference.

ARTICLE II
PROPERTY ACQUISITION BY THE CITY

A. Upon final approval of this Agreement, the parties shall complete and execute the Contract to Buy and Sell Real Estate, substantially in the form attached hereto as **Exhibit D**, to cause the City to acquire from Smithrock the City Acquired Property; and

B. The parties shall cause the Bus Lane Easement Property to be reserved by the City within the Parking Easement Property subject to the terms and conditions set forth herein.

ARTICLE III
CONVEYANCE OF PARKING EASEMENT TO SMITHROCK

In partial consideration for the conveyance of the property by Smithrock to the City as described in Article II, the parties shall cause the Parking Easement Property to be conveyed by the City to Smithrock at the Closing. The City shall apply to Central City for approval of a Special Review Use pursuant to Article IV of Chapter 16 of the Central City Municipal Code in order to obtain approval that the Parking Easement Property may lawfully be used by Smithrock for off-site parking and related purposes. The exchange contemplated by this Agreement shall be expressly contingent upon approval by Central City of such application for a Special Review Use for the Parking Easement Property on or before six (6) months from the date of this Agreement. Any terms and conditions that may be imposed by Central City on approval of the Special Review Use are subject to Smithrock's approval, which approval will be at Smithrock's sole and absolute discretion.

ARTICLE IV
OTHER OBLIGATIONS OF THE CITY

The City shall, in addition to the other consideration set forth herein, convey a parking permit for one parking space for the personal use of Shirley Smith within the parking lot of the City of Black Hawk City Hall, so long as Ms. Smith requires the personal, non-assignable and non-transferable use of said parking space.

ARTICLE V
SIMULTANEOUS CLOSING

The date of closing (“Closing”) of the exchange contemplated by this Agreement shall be within seven (7) calendar days after the City receives the approval for the Special Review Use as described in Article III of this Agreement, or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by mutual agreement of the parties. At the Closing, the Parties shall execute all of the conveyance documents and related transaction documents as more particularly described in this Agreement and otherwise perform its obligations thereunder. It is a condition to each party’s performance of its obligations hereunder that the other party performs its obligations hereunder at the Closing in all respects.

ARTICLE VI **MISCELLANEOUS**

A. **Effective Date.** This Agreement shall be in full force and effect and be legally binding upon final approval of the parties.

B. **Nonassignability.** No party to this Agreement may assign any interest herein to any person without the consent of the other party, and the terms of this Agreement shall inure to the benefit of and be binding upon the respective representatives and successors of each party.

C. **Amendments.** This Agreement may be amended from time to time by written amendment, duly authorized and signed by representatives of the parties.

D. **Severability.** If any section, subsection, paragraph, clause, phrase, or other provision of this Agreement shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, phase, or other provision shall not affect any of the remaining provisions of this Agreement.

E. **Execution of Documents.** This Agreement shall be executed in two (2) counterparts, either of which shall be regarded for all purposes as one original. Each party agrees that it will execute any and all deeds, instruments, documents, and resolutions or ordinances necessary to give effect to the terms of this Agreement.

F. **Waiver.** No waiver by either party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

G. **Entirety.** This Agreement, along with the attached exhibits, merges and supersedes all prior negotiations, representations, and agreements and constitutes the entire Agreement between the parties concerning the subject matter.

H. **No Waiver of Police Power.** Nothing herein shall be construed to be a waiver by the City of its police power or its legislative authority to make decisions regarding the exercise of the powers set forth herein.

I. Notices. All notices, requests, demands, and other communications required under this Agreement shall be in writing, and shall be deemed to have been duly given if delivered (i) personally, (ii) by overnight delivery with a reputable national overnight delivery service, or (iii) by mail or by certified mail, return receipt requested, and postage prepaid. If any notice is mailed, it shall be deemed given five business days after the date such notice is deposited in the United States mail. If notice is given to a party, it shall be given at the address for such party set forth below.

To City: City of Black Hawk
Attention City Manager
P.O. Box 68
217 Selak Street
Black Hawk, Colorado 80422

With a copy to: Corey Y. Hoffmann, City Attorney
Hoffmann, Parker, Wilson & Carberry, P.C.
1530 16th Street, Suite 200
Denver, Colorado 80202

To Smithrock: Smithrock, LLC
c/o Edward E. Smith, Member
#65 Hideaway Circle Road
Evergreen, Colorado 80439

With a copy to: John T. Howe
Hoskin, Farina & Kampf, Professional Corporation
200 Grand Avenue, Suite 400
Post Office Box 40
Grand Junction, Colorado 81502

IN WITNESS WHEREOF, this Agreement is executed by the City and the Smithrock as of the date first above written.

CITY OF BLACK HAWK, COLORADO

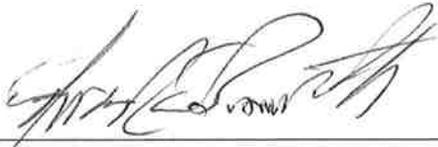
By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

SMITHROCK LLC

By:

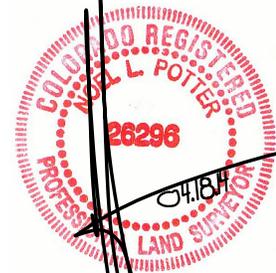
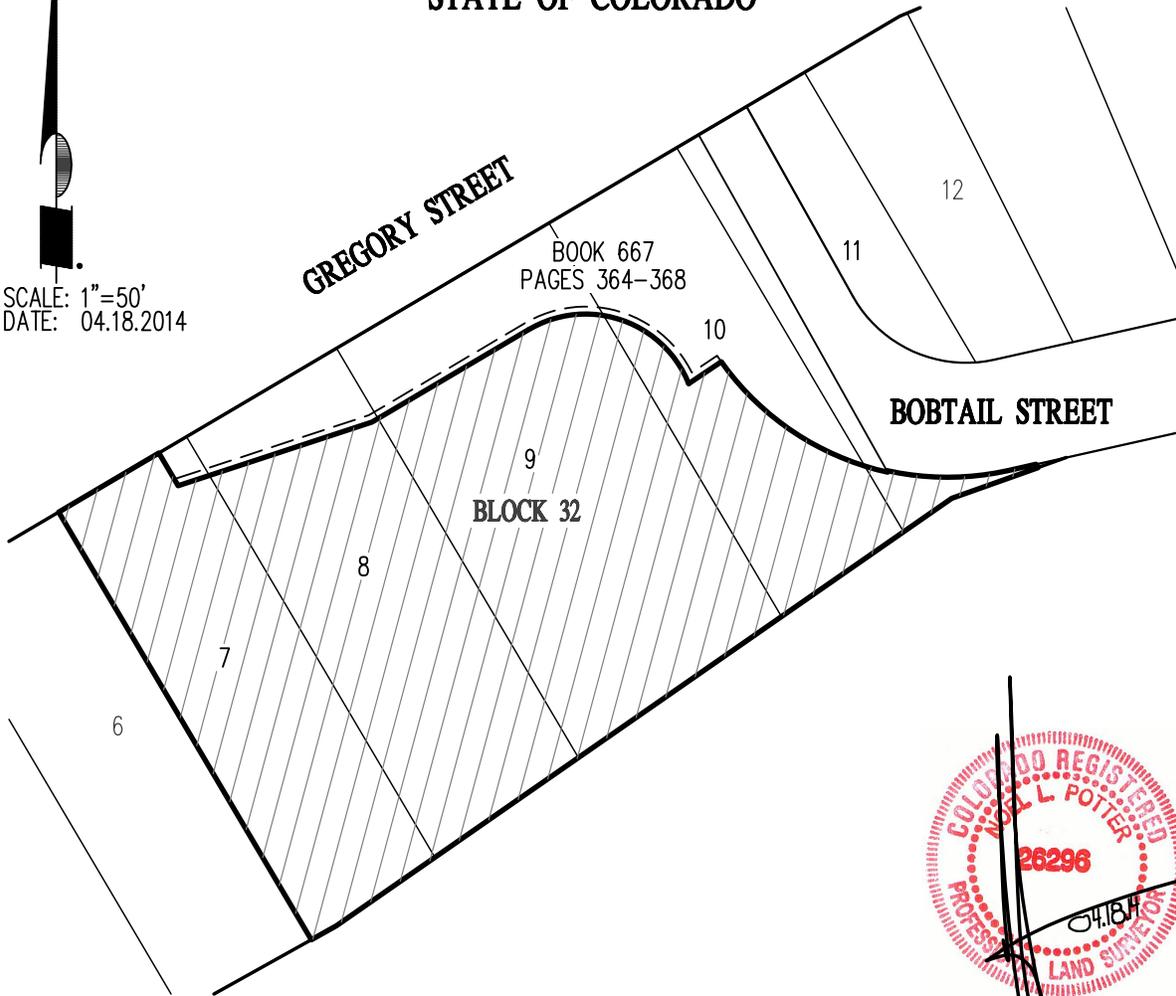


Edward E. Smith, Member

EXHIBIT A

A PORTION OF LOTS 7 THROUGH 11, BLOCK 32
CITY OF BLACK HAWK, COUNTY OF GILPIN
STATE OF COLORADO


SCALE: 1"=50'
DATE: 04.18.2014



DESCRIPTION:

LOTS 7 THROUGH 11, BLOCK 32, CITY OF BLACK HAWK, BASED UPON THE CITY OF BLACK HAWK SURVEY MAP OF BLOCK 32, OF THE MAP OF BLACK HAWK, SURVEYED BY ALBERT JOHNSON, CITY SURVEYOR, DATED MAY AND JUNE 1866, LOCATED WITHIN SECTION 7, TOWNSHIP 3 SOUTH, RANGE 72 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BLACK HAWK, COUNTY OF GILPIN, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 7 THROUGH 11, BLOCK 32, EXCEPTING THEREFROM THAT PORTION DESCRIBED IN DEED RECORDED IN BOOK 515, PAGE 22 AND THAT PORTION DESCRIBED IN RULE AND ORDER RECORDED IN BOOK 667, PAGE 364-368, CONTAINING 0.46 ACRES 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

TRANSPORTATION SYSTEM EASEMENT/RESERVATION AGREEMENT

THIS TRANSPORTATION SYSTEM EASEMENT/RESERVATION AGREEMENT ("Agreement") is dated this _____ day of _____, 2015, by Smithrock, LLC, a Colorado limited liability company ("Grantor") and the City of Black Hawk ("Grantee" or the "City").

WHEREAS, Grantee desires to acquire/reserve an easement for the purpose of the construction, maintenance, and operation of a restricted use access for the City's transportation system upon the property described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Easement Property"), which the parties find and determine is consistent with the Parking Easement Agreement granted by Grantee or Grantor simultaneously herewith; and

WHEREAS, Grantor is willing to convey and allow the City to reserve an easement for the aforesaid purposes on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the sum of ten dollars (\$10.00) paid by Grantee to Grantor, the covenants of Grantee herein contained, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

Section 1. Conveyance of Easement. Grantor does hereby grant and convey and allow the City, its successors, assigns, lessees, licensees, and agents to reserve an easement upon the Southerly 12.5 feet of the Easement Property adjacent to Gregory Gulch and Gregory Street, as depicted on Exhibit B, attached hereto and incorporated herein by this reference ("Easement Area") for the construction, maintenance and operation of a restricted use access for the City's transportation system. Grantee shall have the right of ingress and egress, consistent with this Agreement, upon the Easement Property for the construction, reconstruction, operation, maintenance and/or removal of the restricted use access for the City's transportation system.

Section 2. Construction and Maintenance. Grantee shall be solely responsible for constructing and maintaining the restricted use access for the City's transportation system.

Section 3. Retained Rights. Grantor shall have all rights to the Easement Property not granted hereby. Notwithstanding any other provision of this Agreement to the contrary, Grantee's use of the easement granted herein shall not unreasonably interfere with the Grantor's use and ownership of the remainder of the Easement Property, including, but not limited to, public access by Grantor and Grantor's invitees and licensees from Gregory Street.

Section 4. Insurance. Grantee shall maintain in force, at Grantee's cost and expense, the following insurance: (1) workers' compensation coverage with statutory limits and employers' liability limit of \$1,000,000; (2) commercial general liability coverage including products/completed

operations coverage with the following coverages and the following minimum limits: \$1,000,000 per occurrence and \$3,000,000 aggregate for personal injury and property damage and productions /completed operations in the amount of \$1,000,000 aggregate; (3) commercial automobile liability coverage in the amount of \$1,000,000.

Grantor, its officers, directors, officials, agents, and employees are to be named as additional insureds with respect to liability arising out of: the use and/or occupancy of the property subject to the easement granted herein and activities performed by or on behalf of Grantee; and products and completed operations of Grantee. Grantee's insurance coverage shall be primary insurance with respect to Grantor, its officers, directors, officials, agents and employees. Any insurance or self-insurance maintained by Grantor, its officers, directors, officials, employees or volunteers shall be in excess of Grantee's insurance and shall not contribute to it.

The policies shall contain a waiver of subrogation against Grantor, its officers, directors, officials, agents, and employees for losses arising from Grantee's operations, occupancy and use of the easement granted herein and/or other actions covered by Grantee's insurance.

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to Grantor. Such notice shall be by certified mail, return receipt requested.

Grantee shall furnish Grantor certificates of insurance (ACORD form or equivalent approved by Grantor) and with original endorsements effecting coverage as required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverages shall be clearly noted on the Certificate of Insurance. Grantor reserves the right to require complete, certified copies of all insurance policies required by this Lease, at any time.

Section 5. Miscellaneous.

a. Except as otherwise expressly provided herein, all provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

b. Grantee and Grantor shall, at their discretion, insure themselves separately, to the extent permitted by law, against liability, loss, or damages arising out of the existence, use or operation of the drainage facilities.

c. This Agreement constitutes all of the agreements, understandings, and promises between the parties hereto with respect to the subject matter hereof.

d. This Agreement shall be of no force and effect until it is duly and validly executed by all parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective duly authorized officers as of the date and year first above written.

SMITHROCK, LLC, a Colorado limited liability company:

By: *Edward E. Smith*
Edward E. Smith, Member

STATE OF COLORADO)
) ss.
COUNTY OF Gilpin)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 25 day of August, 2015, by Edward E. Smith as Member of Smithrock, LLC, a Colorado limited liability company.

My commission expires: 3/25/2019

(S E A L)

MICHELE MARTIN
NOTARY PUBLIC - STATE OF COLORADO
Notary Identification #20154012152
My Commission Expires 3/25/2019

Michele Martin
Notary Public

CITY OF BLACK HAWK

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this
_____ day of _____, 2015, by _____.

My commission expires: _____

(S E A L)

Notary Public

PARKING EASEMENT

THIS PARKING EASEMENT (the "Easement Agreement") is dated as of the _____ day of _____, 2015, by the City of Black Hawk, Colorado, having an address of P.O. Box 68, Black Hawk, Colorado 80422 ("Grantor"), and Smithrock, LLC having an address of #65 Hideaway Circle Road, Evergreen, Colorado 80439 ("Grantee").

WHEREAS, the City as Grantor desires to convey a permanent parking easement over City-owned property to provide parking for Grantee's benefit upon that certain real property more particularly described and depicted in **Exhibit A** attached hereto ("Easement Property"); and

WHEREAS, Grantee is willing to accept such a permanent easement from the City for the aforesaid purpose on the terms and conditions set forth herein below.

NOW, THEREFORE, for and in consideration of the sum of ten dollars (\$10.00) paid by Grantee to City, the covenants of herein contained and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Grantor does hereby convey the easement rights described as follows:

1. Conveyance of Easement. Grantor does hereby grant and convey unto Grantee, its successors, assigns, lessees, licensees, invitees, permittees, and agents, a permanent and exclusive easement for off-site parking and related purposes upon the surface of the Easement Property. Grantor further agrees to resurface the Easement Property with asphalt paving upon execution of this Easement Agreement so that it is suitable for use as a parking area. Grantee and Grantee's successors, assigns, lessees, licensees, invitees, permittees and agents shall have the rights of ingress and egress to and from High Street, consistent with this Easement Agreement, upon the Easement Property and the adjacent property owned by Grantor, more particularly described on **Exhibit B**, for the construction, re-construction, operation and maintenance of a parking lot on the Easement Property and on the adjacent property located at 532 Gregory Street, Central City, Colorado, more particularly described on **Exhibit C** attached hereto. Subject to the other terms and conditions of this Easement Agreement, Grantee shall also have the right to remove impediments to operation and maintenance of the Easement Property. In addition, nothing in this Easement Agreement shall be deemed to preclude the City as Grantor from constructing a parking structure on the Property encumbered by this Easement Agreement so long as such structure provides Grantee with fifty (50) parking spaces in such structure, provided that Grantor uses best efforts to provide comparable replacement parking during construction of such structure. For the purposes of this Easement Agreement, "Comparable Replacement Parking" means parking spaces of similar size, quantity and proximity to 125 Gregory Street, Black Hawk, Colorado as the parking located on the Easement Property pursuant to this Easement Agreement.

2. Unencumbered Title. Grantor represents and warrants that it has good title to the Easement Property, that is has the authority to enter into this Easement Agreement and grant the

easement set forth herein, and that the Easement Property granted herein is granted free and clear of all liens and encumbrances.

3. Covenants of Grantee. Grantee hereby represents, covenants and warrants in favor of the City and its successors and assigns, as follows:

3.1 Grantee shall protect the Easement Property from damage caused in whole or in part by acts or omissions of Grantee, its employees, agents, contractors, subcontractors, assigns, lessees, licensee and agents.

3.2 In all activities undertaken on the Easement Property by Grantee or its employees, agents, contractors, subcontractors, successors, assigns, lessees, or licensees, all work shall be completed in good and workmanlike manner.

3.3 Grantee shall not cause or permit to be caused by any of its employees, agents, contractors, subcontractors, successors, assigns, lessees, or licensees, any hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), pollutants, or contaminants, as defined by CERCLA or hazardous waste as defined by the Resource, Conservation and Recovery Act (RCRA), including, but not limited to asbestos, and/or urea, formaldehyde, or any pollutants or toxic pollutants as defined by the Clean Water Act, and any amendments thereto, to be dumped, spilled, released, permanently stored, or deposited on, over or beneath the Easement Property or any other lands owned by Grantor. Any hazardous, toxic or flammable substances used by City, its employees, agents, contractors, subcontractors, successors, assigns or lessees, shall be utilized in a lawful manner and in compliance with all federal, state and local requirements relating to protection of health or the environment.

3.4 Grantee shall cooperate with the City in allowing the City to construct or otherwise create a bus lane through the Property encumbered by this Easement Agreement and the property described herein as **Exhibit C** so long as Grantee retains the right to use the Easement Property for the parking area contemplated by this Easement Agreement following construction of such a bus lane and provided that a bus stop serving the Easement Property is constructed adjacent to High Street and proximate to the Easement Property. However, the City shall not be required to construct a bus stop unless the City constructs or otherwise creates the bus lane through the Property described herein.

4. Retained Rights. The City as Grantor shall have all rights to the Easement Property not conveyed hereby.

5. Abandonment. The easement herein conveyed shall revert to the owners of the Easement Property five (5) after abandonment and non-use of the Easement Property for parking purposes by Grantee or its successors or assigns.

6. Miscellaneous.

6.1 Except as otherwise expressly provided herein, all provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

6.2 This Easement Agreement constitutes all of the agreements, understandings, and promises between the parties hereto with respect to the subject matter hereof.

6.3 This Easement Agreement shall be of no force and effect until this Easement Agreement is duly and validly executed by all parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Easement by their respective duly authorized officers as of the date and year first above written.

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney

GRANTEE:

SMITHROCK, LCC

By: _____
Edward E. Smith, Manager

STATE OF COLORADO)
) ss.
COUNTY OF Gilpin)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 25 day of August, 2015, by Edward E. Smith as the Manager of Smithrock, LLC.

My commission expires: 3/25/2019

(SEAL)

MICHELE MARTIN
NOTARY PUBLIC - STATE OF COLORADO
Notary Identification #20154012152
My Commission Expires 3/25/2019

Michele Martin
Notary Public

CONTRACT TO BUY AND SELL REAL ESTATE

August 26, 2015

1. **PARTIES AND PROPERTY.** The City of Black Hawk, Colorado (Buyer), agrees to buy, and Smithrock, LLC, a Colorado limited liability company (Seller), agrees to sell, on the terms and conditions set forth in this contract, the following described real estate in the County of Gilpin, Colorado, to wit:

See **Exhibit A**, attached hereto and incorporated herein by this reference,

together with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other appurtenances thereto (collectively the "Property").

2. **INCLUSIONS/EXCLUSIONS.** Concrete traffic barrier located on the Property are excluded from the Property and shall be retained by Seller. Seller shall remove the concrete traffic barriers before Closing.

3. **PURCHASE PRICE AND TERMS.** The purchase price shall be the consideration as more particularly described in that Property Exchange Agreement between Buyer and Seller dated as of August 26, 2015, plus closing costs, said closing costs to be paid in full by Buyer at closing in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check, and cashier's check (Good Funds).

4. **NOT ASSIGNABLE.** This contract shall not be assignable by Buyer without Seller's prior written consent, which consent may be withheld or conditioned in Seller's sole and absolute discretion. Except as so restricted, this contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

5. **EVIDENCE OF TITLE.** Seller shall furnish to Buyer, at Buyer's expense a current commitment for owner's title insurance policy ("Title Commitment") in an amount equal to Three Hundred and Fifty Thousand Dollars (\$350,000.00), on or before September 11, 2015 (Title Deadline).

Buyer may require of Seller that copies of instruments (or abstracts of instruments) listed in the schedule of exceptions (Exceptions) in the Title Commitment also be furnished to Buyer at Buyer's expense. This requirement shall pertain only to instruments shown of record in the office of the clerk and recorder of the designated county or counties. The Title Commitment, together with any copies or abstracts of instruments furnished pursuant to this Section 5, constitute the title documents (Title Documents). Buyer, or Buyer's designee, must request Seller, in writing, to furnish copies or abstracts of instruments listed in the schedule of exceptions no later than 5 calendar days after Title Deadline. Buyer will pay the premium for title insurance at closing and

have the title insurance policy delivered by the title company to Buyer as soon as practicable after closing.

6. TITLE.

(a) Title Review. Buyer shall have the right to inspect the Title Documents. Written notice by Buyer of unmerchantability of title or of any other unsatisfactory title condition shown by the Title Documents shall be signed by or on behalf of Buyer and given to Seller on or before 10 calendar days after Title Deadline, or within five (5) calendar days after receipt by Buyer of any Title Document(s) or endorsement(s) adding new Exception(s) to the title commitment together with a copy of the Title Document adding new Exception(s) to title. If Seller does not receive Buyer's notice by the date(s) specified above, Buyer accepts the condition of title as disclosed by the Title Documents as satisfactory.

(b) Matters Not Shown by the Public Records. Seller shall deliver to Buyer, on or before the Title Deadline set forth in Section 5, true copies of all lease(s) and survey(s) in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens or other title matters not shown by the public records of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to determine if any third party(s) has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy). Written notice of any unsatisfactory condition(s) disclosed by Seller or revealed by such inspection shall be signed by or on behalf of Buyer and given to Seller on or before September 18, 2015. If Seller does not receive Buyer's notice by said date, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.

(c) Right to Cure. If Seller receives notice of unmerchantability of title or any other unsatisfactory title condition(s) as provided in subsection (a) or (b) above, Seller shall use reasonable effort to correct said unsatisfactory title condition(s) prior to the date of closing. If Seller fails to correct said unsatisfactory title condition(s) on or before the date of closing, this contract shall then terminate; provided, however, Buyer may, by written notice received by Seller, on or before closing, waive objection to said unsatisfactory title condition(s).

7. INSPECTION. Seller agrees to provide Buyer on or before September 11, 2015, with a Seller's Property Disclosure form completed by Seller to the best of Seller's current actual knowledge. Buyer or any designee, shall have the right to have inspection(s) of the physical condition of the Property and Inclusions, at Buyer's expense. If written notice of any unsatisfactory condition, signed by or on behalf of Buyer, is not received by Seller on or before September 18, 2015 (Objection Deadline), the physical condition of the Property and Inclusions shall be deemed to be satisfactory to Buyer. If such notice is received by Seller as set forth above, and if Buyer and Seller have not agreed, in writing, to a settlement thereof on or before October 2, 2015 (Resolution Deadline), this contract shall terminate three calendar days following the Resolution Deadline; unless, within the three calendar days, Seller receives written notice from Buyer waiving objection to any unsatisfactory condition. Buyer is responsible for and shall pay for any damage which occurs to the Property and Inclusions as a result of such inspection.

8. **DATE OF CLOSING.** The date of closing shall be within seven (7) calendar after the City as Buyer receives approval from Central City for a Special Review Use for that property described as the "Parking Easement Property" as more particularly described in the Property Exchange Agreement dated as of August 26, 2015, or by mutual agreement at an earlier date. The hour and place of closing shall be as designated by mutual agreement of the parties. In the event the City as Buyer is unable to obtain such a Special Review Use approval from Central City on or before six (6) months from the date of this Agreement on terms and conditions acceptable to Seller in its sole and absolute discretion, this Agreement shall be deemed terminated pursuant to Section 15 of this Agreement.

9. **TRANSFER OF TITLE.** Subject to tender or payment at closing as required herein and compliance by Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient special warranty deed to Buyer, on closing, conveying the Property free and clear of all taxes except the general taxes for the year of closing, and except matters shown by public records satisfactory to Buyer. Title shall be conveyed free and clear of all liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not; and except (i) distribution utility easements (including cable TV), (ii) those matters reflected by the Title Documents accepted by Buyer in accordance with subsection 6(a), (iii) those rights, if any, of third parties in the Property not shown by the public records in accordance with subsection 6(b), (iv) inclusion of the Property within any special taxing district, and (v) subject to building and zoning regulations.

10. **PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before closing from the proceeds of this transaction or from any other source.

11. **CLOSING COSTS, DOCUMENTS AND SERVICES.** Buyer shall pay, in Good Funds, all closing costs and all other items required to be paid at closing, except as otherwise provided herein. Buyer and Seller shall sign and complete all customary or required documents at or before closing.

12. **PRORATIONS.** General taxes for the year of closing, based on the taxes for the calendar year immediately preceding closing, rents, water and sewer charges, homeowner's association dues, and interest on continuing loan(s), if any, shall be prorated to date of closing.

13. **TIME OF ESSENCE/REMEDIES.** Time is of the essence hereof. If any note or check received as earnest money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

(a) **IF BUYER IS IN DEFAULT.**

Seller may elect to treat this contract as cancelled, in which case all payments and things of value received hereunder shall be forfeited and retained on behalf of Seller, and Seller may recover such damages as may be proper.

(b) **IF SELLER IS IN DEFAULT:**

Buyer may elect to treat this contract as cancelled, in which case all payments and things of value received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this contract as being in full force and effect and Buyer shall have the right to specific performance or damages, or both.

(c) COSTS AND EXPENSES. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation arising out of this contract, the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney fees.

14. ADDITIONAL PROVISIONS. Additional Provisions are attached as Exhibit B and incorporated by this reference.

15. TERMINATION. In the event this contract is terminated, all payments and things of value received hereunder shall be returned and the parties shall be relieved of all obligations.

**BUYER:
CITY OF BLACK HAWK**

By: _____ Date: _____
David D. Spellman, Mayor

Attest: _____
Melissa Greiner, City Clerk

Buyer's Address: 217 Selak St., P.O. Box 68, Black Hawk, CO 80422

**SELLER:
SMITHROCK LLC**

By:  _____ Date 8/25/2015

Seller's Address: #65 Hideaway Circle Road, Evergreen, Colorado 80439

Exhibit B

To that certain Contract to Buy and Sell Real Estate dated August 26, 2015, by and between Smithrock LLC, a Colorado limited liability company, as Seller, and the City of Black Hawk, Colorado, as Buyer, regarding the acquisition of any and all interest in the land described herein. To the extent these Additional Provisions conflict with, modify, or supplement other portions of the Contract, the provisions contained in these Additional Provisions shall govern and control the rights and obligations of the parties.

ADDITIONAL PROVISIONS (continued):

- 14.A. Broker Commission: None.
- 14.B. Closing Costs: All closing costs, including the closing services fee and recordation and documentary fees, shall be paid by Buyer.
- 14.C. Facsimile Signatures: Facsimile signatures are acceptable.
- 14.D. Counterparts: This Contract may be executed in any number of counterparts, each of which shall be considered an original for all purposes, and all of which when taken together shall constitute one and the same Contract.
- 14.E. Notices: Any notice which a party desires or is required to give hereunder shall be in writing and shall be deemed given when delivered personally to each party, delivered by facsimile, or deposited in the United States mails, postage prepaid, either registered or certified, return receipt requested, to the parties at the following addresses:

Seller: Smithrock LLC
 Attn: Edward E. Smith
 #65 Hideaway Circle Road
 Evergreen, Colorado 80439

Buyer: The City of Black Hawk
 Attn: Jack D. Lewis, City Manager
 P.O. Box 68
 Black Hawk, Colorado 80422

- 14.F. Next Business Day: In the event any date described herein for payment or performance of the provisions hereof falls on a Saturday, Sunday or legal holiday, the time for such payment or performance shall be extended to the next business day.

- 14.G. Entire Document: Seller and Buyer acknowledge that there are no statements, warranties, or representations between them that are not included in this agreement, and this agreement shall not be modified or changed in any manner, unless in writing, and executed by all the parties hereto.
- 14.H. Survival of Contract Provisions: To the extent that the provisions herein set forth require performance to be completed subsequent to the closing, such provisions shall survive the closing and be binding upon the parties hereto, and shall not merge into the deed or deeds to be delivered in accordance with this Contract.
- 14.I. Hazardous Materials: Seller has not to the best of Seller's knowledge used hazardous materials (as defined hereinafter) on, from, or affecting the property in any manner which violates federal, state, or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of hazardous materials, and that, to the best of Seller's knowledge, no person or entity has used hazardous materials on, from, or affecting the property in any manner which violates federal, state, or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of hazardous materials. Seller has never received any notice of any violations of federal, state, or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of hazardous materials, and, to the best of Seller's knowledge, there have been no actions commenced or threatened by any person or entity for noncompliance therewith. For purposes of this Contract, "hazardous materials" shall mean and include any flammable explosives, petroleum (including crude oil) or any fraction thereof, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, asbestos, formaldehyde compounds, PCBs, radon, and any other substances defined as or included in the definition of toxic or hazardous substances, wastes, or materials under any federal or applicable state or local laws, ordinances, or regulations dealing with or otherwise pertaining to toxic or hazardous substances, wastes, or materials.
- 14.J. Inspection: Seller shall allow Buyer and all authorized representatives of Buyer to enter upon the Property during normal business hours from time to time prior to closing in order to inspect the property, to conduct soil tests, well drilling, and other developmental drilling, studies or tests. If any mechanic's lien is indirectly claimed under, by or through Buyer, Buyer shall cause same to be discharged of record (whether by payment and release or by bonding over it pursuant to statute) within twenty (20) days after it was recorded. Buyer and Buyer's representatives, contractors and subcontractors entering on the Property as contemplated by this Section 14.J shall carry the following insurance coverages, evidence of which will be provided to Buyer not less than 5 days before any such person enters the Property: (1) commercial general liability coverage in the amount of \$1,000,000 per occurrence and \$3,000,000 aggregate for personal injury and property damage; commercial automobile liability coverage in the amount of \$1,000,000; and workers' compensation coverage as required by law and employers' liability coverage in the amount of \$1,000,000.

All such insurance shall be primary and non-contributory, and, except for workers' compensation coverage, shall contain waivers of subrogation against Seller.

14.K Property Conveyed "As-Is": Buyer acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether expressed or implied, verbal or written, past, present or future, of, as to, concerning or with respect to: (i) the value, nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (ii) the square footage of the Property; (iii) the suitability of the Property for any and all activities and uses which Buyer may conduct thereon; (iv) the compliance of or by the Property or its their operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (v) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; or (vi) any other matter with respect to the Property. Except as specifically set forth herein, Buyer specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, orders or requirements, including solid waste, or the disposal or existence, in or on the Property of asbestos, radon or any hazardous substance. Buyer further acknowledges and agrees that having been given the opportunity to inspect the Property and Inclusions, Buyer is relying solely on Buyer's own investigation of the Property and not on any information provided or to be provided by Seller other than as stated in this Contract. Buyer further acknowledges and agrees that the sale of the Property as provided for herein is made on an "AS IS" condition and basis with all faults.

**Local Liquor Authority
Consideration of the
Certification of a Promotional
Association and Common
Consumption Area for the Isle
Promotional Association, Inc.
with Consent to use the Air
Space**

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Local Liquor Authority Consideration of the Certification of a Promotional Association and Common Consumption Area for the Isle Promotional Association, Inc.

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

MOTION TO APPROVE Certification of a Promotional Association and Common Consumption Area for the Isle Promotional Association with consent to use the Air Space.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The fourth Promotional Association/Common Consumption Area Certification application was received by the Clerk's office on August 11, 2015. The application has been found complete and is included in the packet.

The City has an ownership interest in the Air Space Easement Agreement dated January 14, 2004 between Andiranakos Limited Liability Company and the City of Black Hawk. An approval of the Isle Promotional Association should include consent to use the air space.

At its May 27, 2015 meeting, Council approved changes to Article XVII of Chapter 6 regarding Entertainment Districts to allow extended hours for a Promotional Association to serve alcohol between 2:00 a.m. and 7:00 a.m., if requested through application. The Lodge Association, Inc. has met all the requirements for a Promotional Association and is requesting extended hours. Staff has reviewed this application and Chief Cole offers the attached recommendations. Per C.R.S. § 12-47-301(11)(c) a Local Licensing Authority must properly certify a Promotional Association to operate a Common Consumption Area.

If approved, staff is required to submit DR 8482 to the State Licensing Authority within fifteen (15) days of any changes to the existing Entertainment District, including a list of the licensed premises attached to the Common Consumption Area, map of the area, and the hours of operation and consumption for the licensed premises and Common Consumption Area.

AGENDA DATE: August 26, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [X]Yes []No

STAFF PERSON RESPONSIBLE: Melissa Greiner, City Clerk

DOCUMENTS ATTACHED: Application Packet and staff recommendations

RECORD: [] Yes [X] No

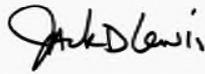
CITY ATTORNEY REVIEW: [X] Yes [] N/A

SUBMITTED BY:

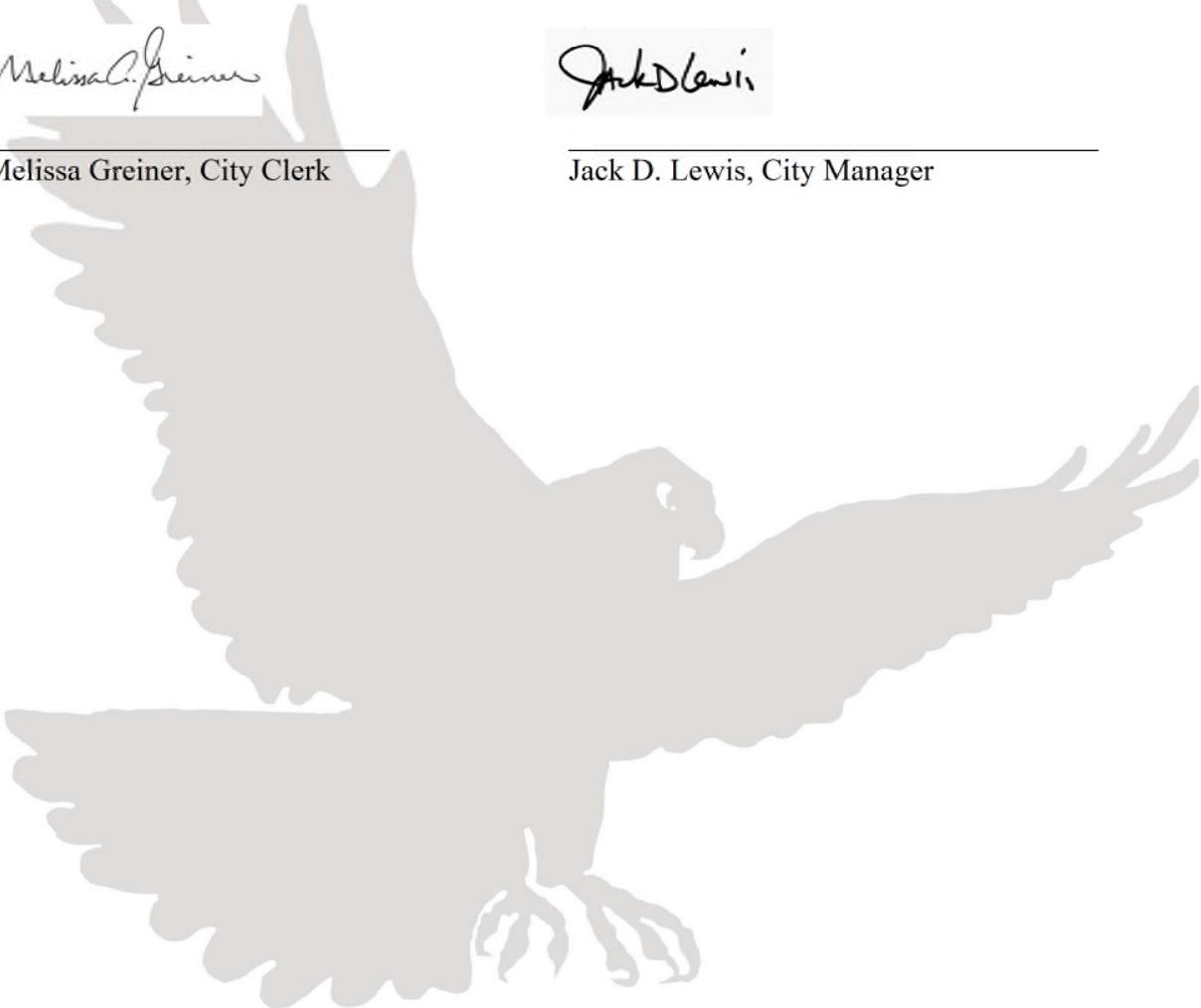


Melissa Greiner, City Clerk

REVIEWED BY:



Jack D. Lewis, City Manager





DILL DILL CARR STONBRAKER & HUTCHINGS, P.C

455 Sherman Street, Suite 300
Denver, Colorado 80203
Phone: 303-777-3737
Fax: 303-777-3823
www.dillanddill.com

VIA FEDEX AND EMAIL
August 11, 2015

MELISSA GREINER
MICHELE MARTIN
CITY OF BLACK HAWK
CITY HALL
201 SELAK ST.
BLACK HAWK, CO 80422

Re: 1) Promotional Association Application
Isle Promotional Association, Inc.
401 Main St., Black Hawk, CO 80422

2) Modification of Premise Application
Isle of Capri Black Hawk, LLC
333 Main St., Black Hawk, CO 80422

Attorney: Kevin Coates
Paralegal: Jennifer Marinaro

Melissa:

Kevin Coates, of the law firm of DILL DILL CARR STONBRAKER & HUTCHINGS, P.C., hereby enters his appearance on behalf of the above-named Applicants and requests all communications and correspondence regarding this matter to be directed to Kevin Coates and/or his paralegal, Jennifer Marinaro.

Therefore, on behalf of our clients, Isle Promotional Association, Inc., and Isle of Capri Black Hawk, LLC, we respectfully submit these applications for Promotional Association for Lady Luck Casino Black Hawk, Lady Luck Hotel & Parking Garage, and Isle Casino Hotel Black Hawk as well as the Modification of Premise Application for Isle of Capri Black Hawk, LLC.

Thank you for your assistance with this matter. If you have any questions or need additional information, please contact Jennifer at (303)282-4142 or by e-mail at jmarinaro@dillanddill.com.

Sincerely,

Jennifer Marinaro
Legal Assistant to Kevin Coates

Christopher W. Carr¹
Daniel W. Carr
John J. Coates
Kevin M. Coates
H. Alan Dill
Robert A. Dill
Thomas M. Dunn
John A. Hutchings
Stephen M. Lee
Fay M. Matsukage²
Adam P. Stapen
Jon Stonbraker
Craig A. Stoner
Frank W. Suyat
Patrick D. Tooley
Ghislaine G Torres Bruner³
Arthur H. Bosworth, II, of Counsel

¹ Also licensed in Washington
² Also licensed in Nevada
³ Also licensed in Florida



BLACK HAWK™

CITY OF BLACK HAWK
Po Box 68
201 Selak Street
Black Hawk, CO 80422
(303)582-2221

Date Submitted 8/11/2015

PROMOTIONAL ASSOCIATION/COMMON CONSUMPTION AREA CERTIFICATION REQUEST

Promotional Association Name (exactly as it appears on incorporation documentation): Isle Promotional Association, Inc.	
Description of Common Consumption Area Boundaries: (attach map) Attached as Exhibit A	
Mailing Address of Promotional Association: 401 Main St., PO Box 77, Black Hawk, CO 80422	
President of the Promotional Association: <small>Director (No Officers)</small> Brian Watts	
Phone Number: 303-998-7710	E-mail Address: brian.watts@islecorp.com

The following must accompany this Promotional Association/Common Consumption Area Certification Request:

X \$100 for Initial Application Fee

x3 \$100 for attachment of a Licensed Premises by a Certified Promotional Association

Exhibit B Copy of the Articles of Incorporation and Bylaws

Exhibit C List of all Directors and Officers of the Promotional Association (No officers appointed)

Exhibit D Written Security Plan

- A security plan, including evidence of training (including, but not limited to, TIPS certification) and approval of personnel, a detailed description of security arrangements and the approximate location of security personnel within the Common Consumption Area during operating hours.

Exhibit A Map drawn to scale

- A detailed map of the proposed Common Consumption Area, including location of physical barriers, entrances and exits, location of attached licensed premises and identification of licensed premises that are adjacent but not to be attached to the Common Consumption Area.

See page 3 List of dates and hours of operation of the Common Consumption Area

Exhibit E Documentation showing possession of the Common Consumption Area by the Promotional Association

- Exhibit F **List of the attached licensees, of which there will be a minimum of two (2), and list the following information:**
- Liquor License number
 - List of any past liquor violations
 - Copy of any operational agreements
- Exhibit G **Insurance Certificate of General Liability and Liquor Liability naming the City as an additional insured in a minimum amount of one million dollars (\$1,000,000)**
- Exhibit H **Documentation of how the application addresses the reasonable requirements of the neighborhood and the desires of the adult inhabitants as evidenced by petitions, written testimony or otherwise**

Promotional Association/ Common Consumption Area General Guidelines:

- The size of the Common Consumption Area shall not exceed the area approved as the Entertainment District within which the Common Consumption Area is located, but may be a smaller area within the Entertainment District at any time, provided that the new area is clearly delineated using physical barriers to close the area to motor vehicle traffic and to limit pedestrian access;
- Alcohol beverages sold or served within the Common Consumption Area shall be served in a container that is no larger than 16 ounces, is disposable and contains the name of the licensed vendor in at least 24 point font type;
- The Promotional Association or attached licensed premises shall employ only persons to serve alcohol beverages or provide security within the Common Consumption Area who have completed the server and seller training program established by the Director of the Liquor Enforcement Division of the Department of Revenue;
- Revisions and amendments to the original application for Common Consumption Area Designation shall be submitted to the City of Black Hawk Liquor Licensing Authority and approved using the same procedures under which this original request for certification was made;
- Application for attachment of a licensed establishment to an already certified Common Consumption Area shall include an authorization from the Certified Promotional Association; the name of the representative from the licensed establishment who would serve on the Board of Directors of the Promotional Association; an amended map depicting the licensed establishment being added, physical barriers, entrances, exits, currently attached licensed establishments, location of security personnel, and licensed establishments that are adjacent to but not attached to the Common Consumption Area; and an application fee;
- The City of Black Hawk Liquor Licensing Authority (the "Authority") shall consider the merits of the application for a Promotional Association or a Common Consumption Area. If approved, the terms and conditions of the approval remain in effect until the Authority approves a revised or amended application by the Promotional Association.
- The Authority may refuse to certify or may decertify a Promotional Association, if the Association: 1) Fails to submit the annual report as required by January 31st of each year; 2) Fails to establish that the licensed premises and Common Consumption Area can be operated without violating the State or Local Liquor Codes or creating a safety risk to the neighborhood; 3) Fails to have at least two licensed establishments attached to the Common Consumption Area; 4) Fails to obtain or maintain a properly endorsed general liability and liquor liability insurance policy that names the City as an additional insured; 5) Fails to demonstrate that the use is compatible with the reasonable requirements of the

neighborhood or the desires of the adult inhabitants; or 6) Is in violation of 12-47-909, Colorado Revised Statutes, as may be amended from time to time, related to Common Consumption Area operations; and

- Application for Recertification of a Promotional Association must be made by January 31st of each year

Please mark below which days and hours the Common Consumption Area will be open and operational:

The Promotional Association is seeking approval for the following days and hours, but may not operate at all times listed.

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
January	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
February	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
March	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
April	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
May	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
June	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
July	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
August	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
September	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
October	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
November	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a
December	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a	2a - 7a

Any deviation from this schedule shall be reported to the City Clerk's Office at least fifteen (15) days prior to the proposed new date and time.

Certification of Applicant

I hereby certify that the information contained in this certification request and all attachments is true, correct, and complete to the best of my knowledge and that it is my responsibility and the responsibility of my agents/employees and Board of Directors to comply with all applicable Local and State laws, rules, and regulations as they relate to the serving, selling and distribution of alcohol beverages. I also declare that I have read and understand C.R.S. § 12-47-301(11) and Chapter 6, Article XVII of the Black Hawk Municipal Code pertaining to Entertainment Districts.

B. Watts
Authorized Signature

RVPD AND GENERAL MANAGER
Title Director

8-7-2015
Date

Report and Approval of the Local Liquor Licensing Authority

Chairman of Liquor Licensing Authority

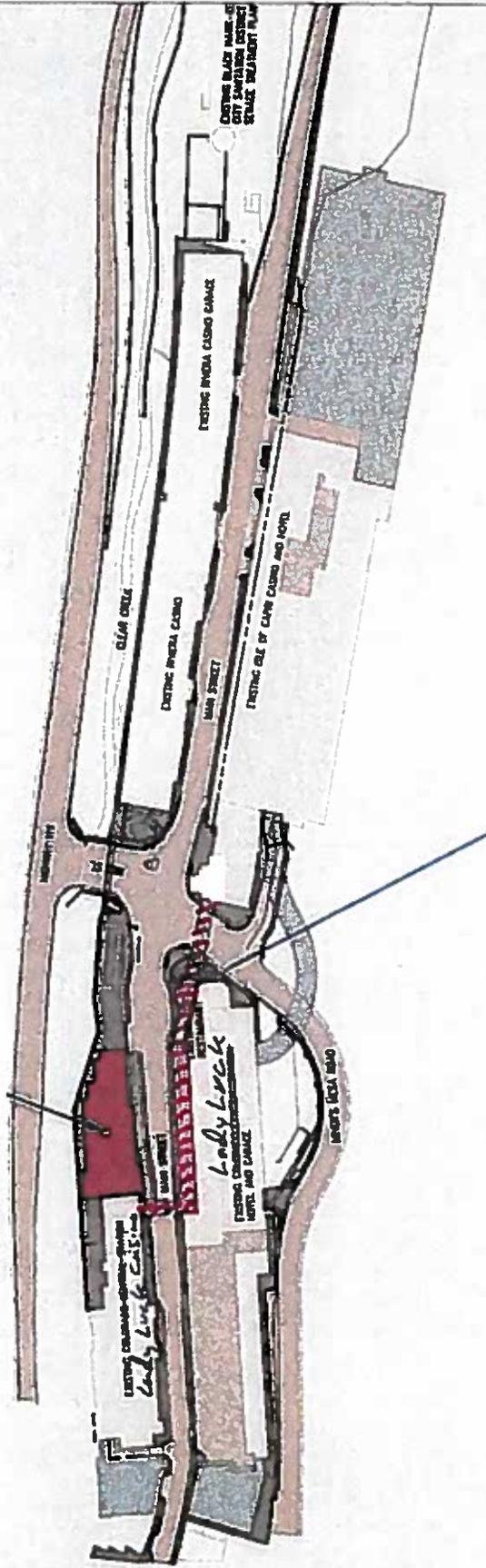
City Clerk

Date

Date

Exhibit

A



Proposed Common Consumption Area (pink)

BLUE SKY PROJECTS

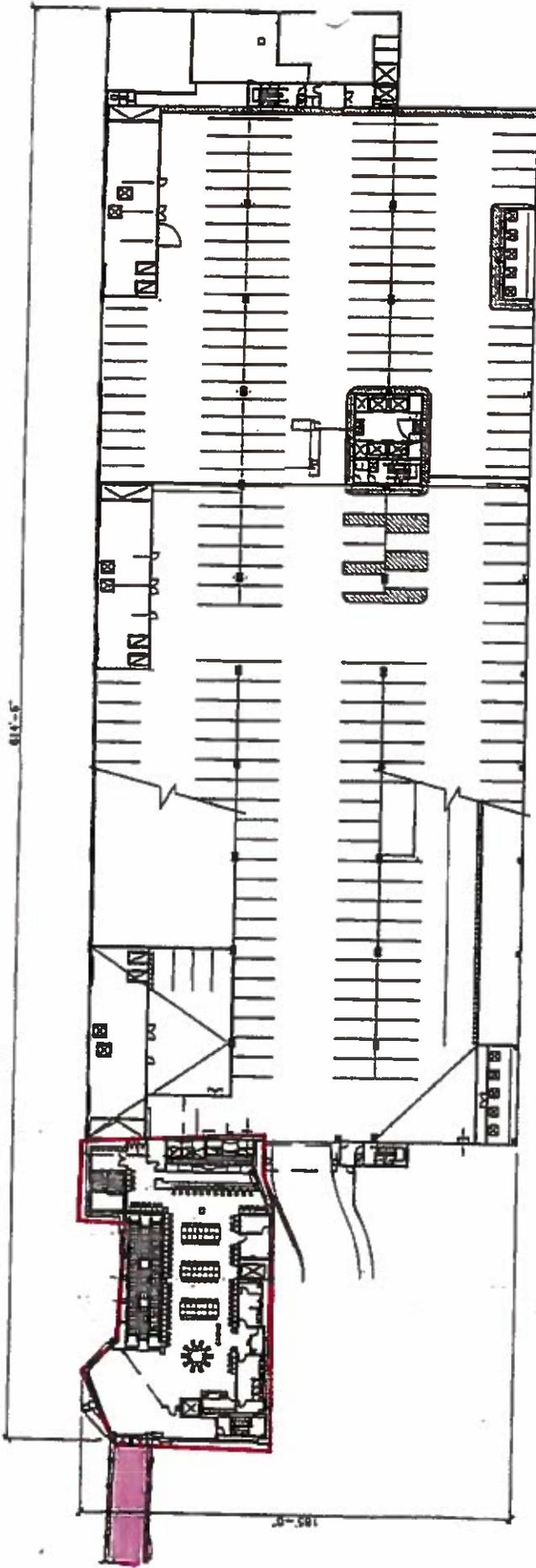
COLORADO CENTRAL STATION EAST EXPANSION (GAMING AND EVENT CENTER, VALET & PORTE-COCHERE

TOTAL S.F.	# OF FLOORS
24,800 S.F.	2
14,000 S.F.	2

REFER TO SHEET 2

DECEED TO SHEET 3

ALL AREAS ARE SUBJECT TO APPROVAL BY THE CITY OF DENVER



1 SECOND FLOOR PLAN
1" = 50'



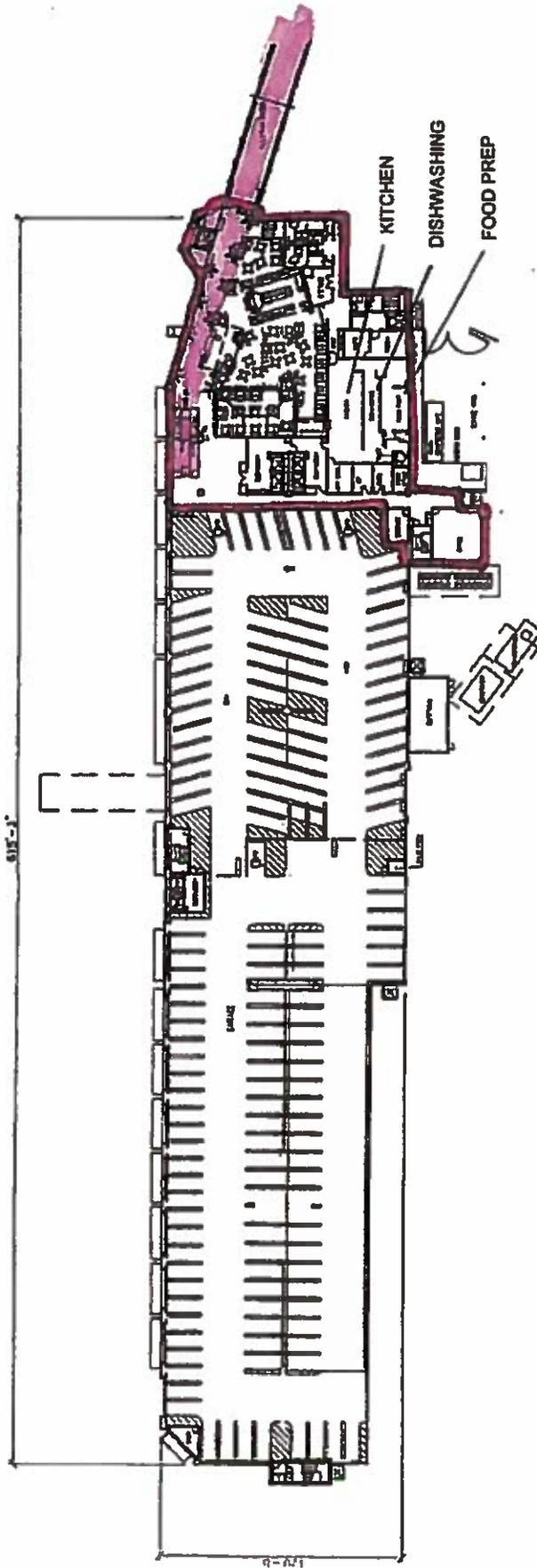
<p>ISLE OF CAPRI 1400 Broadway Blvd Denver, Colorado 80202 Tel: 303.444.3000 Fax: 303.444.3000</p>		<p>PROPERTY OF ISLE OF CAPRI SCALE: 1:500</p>
---	--	--

RE: ISLE OF CAPRI BLACK HAWK LLC dba ISLE CASINO HOTEL BLACK HAWK
 401 MAIN STREET; BLACK HAWK CO 80422
 RETAIL GAMING TAVERN LICENSE #1432448-0001

RE: ISLE OF CAPRI BLACK HAWK, L.L.C. dba LADY LUCK HOTEL & PARKING GARAGE

333 MAIN STREET; BLACK HAWK CO 80422

HOTEL-RESTAURANT LIQUOR LICENSE #4700732



SEE KITCHEN / RESTAURANT
AREA ENLARGEMENT

1 SECOND FLOOR PLAN - GARAGE
1" = 60'



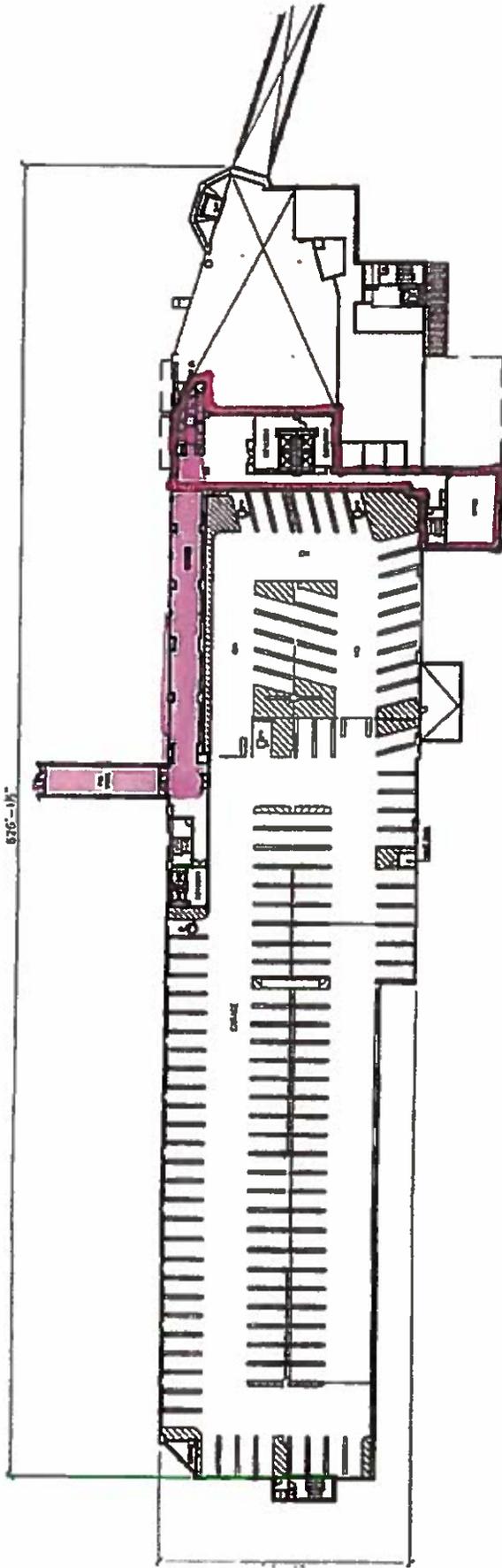
SHEET TITLE	
HOTEL / GARAGE	
PROJECT No.	SHEET No.
07215.0	2
SCALE	
1:600	

APPROVED FOR SUBMITTAL TO THE CITY OF BLACK HAWK COUNTY, IOWA	
DATE	ISSUED FOR



BLACK HAWK COUNTY
1400 Broadway Blvd.
Black Hawk, Iowa 50008
PH 319.462.2020
Fax 319.462.2000

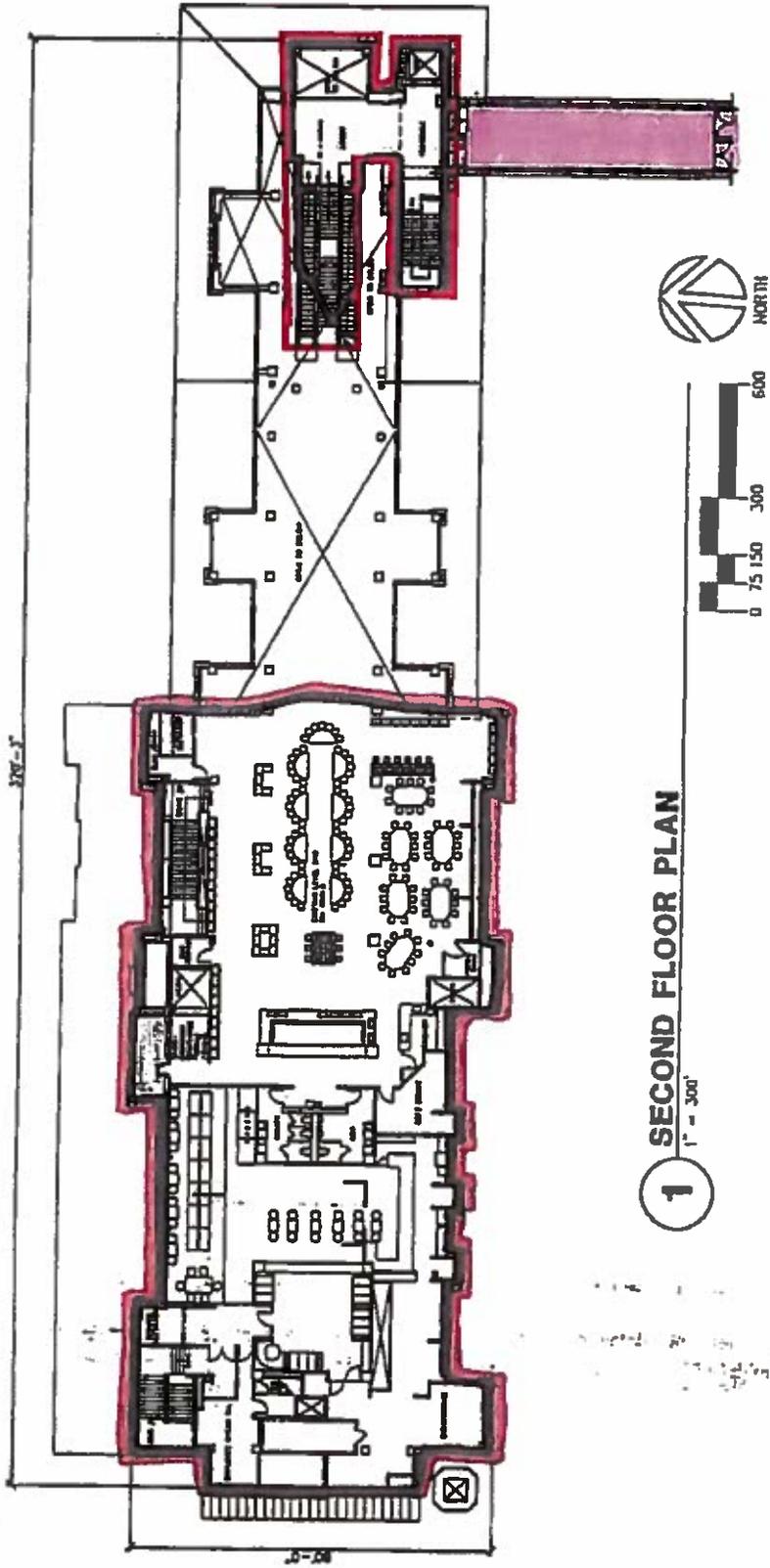
RE: ISLE OF CAPRI BLACK HAWK, L.L.C. dba LADY LUCK HOTEL & PARKING GARAGE
 333 MAIN STREET; BLACK HAWK CO 80422
 HOTEL-RESTAURANT LIQUOR LICENSE #4700732



1 THIRD FLOOR PLAN - GARAGE
 1" = 60'



1400 Main Street Denver, Colorado 80202 Tel: 303.440.1200 Fax: 303.440.2000			SHIPPY BROS. HOTEL/GARAGE PROJECT No. 02356.0 SHEET No. 3 SCALE: 1:600
<small> CONTRACTOR'S USE ONLY ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS AND PERMITS ISSUED BY THE CITY OF DENVER, COLORADO. </small>			
No. DATE 1 1/15/00	ASSESSOR'S USE ONLY No. DATE 1 1/15/00		



1 SECOND FLOOR PLAN
1" = 300'

	PROJECT NO. 0735.0 SHEET NO. 3
	DATE 11-13-00

RE: CCSC/BLACK HAWK INC. dba LADY LUCK CASINO BLACK HAWK
 340 MAIN STREET; BLACK HAWK CO 80422
 RETAIL GAMING TAVERN LICENSE #4088168-0000

Exhibit B

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Isle Promotional Association, Inc.

is a **Corporation** formed or registered on 07/30/2015 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20151496346.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 07/29/2015 that have been posted, and by documents delivered to this office electronically through 07/30/2015 @ 15:30:28.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 07/30/2015 @ 15:30:28 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 9262540.



A handwritten signature in cursive script, reading "Wayne W. Williams".

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/certificate.asp> by clicking on the confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us> click Business Center and select "Frequently Asked Questions."



Document must be filed electronically.
 Paper documents are not accepted.
 Fees & forms are subject to change.
 For more information or to print copies
 of filed documents, visit www.sos.state.co.us.

Colorado Secretary of State
 Date and Time: 07/30/2015 03:14 PM
 ID Number: 20151496346
 Document number: 20151496346
 Amount Paid: \$50.00

ABOVE SPACE FOR OFFICE USE ONLY

Articles of Incorporation for a Profit Corporation
 filed pursuant to § 7-102-101 and § 7-102-102 of the Colorado Revised Statutes (C.R.S.)

1. The domestic entity name for the corporation is

Isle Promotional Association, Inc.

(Caution: The use of certain terms or abbreviations are restricted by law. Read instructions for more information.)

2. The principal office address of the corporation's initial principal office is

Street address 401 Main Street
(Street number and name)
P.O. Box 77
Black Hawk CO 80422
(City) (State) (ZIP Postal Code)
United States
(Province - if applicable) (Country)

Mailing address
 (leave blank if same as street address) _____
(Street number and name or Post Office Box information)

(City) (State) (ZIP Postal Code)

(Province - if applicable) (Country)

3. The registered agent name and registered agent address of the corporation's initial registered agent are

Name
 (if an individual) _____
(Last) (First) (Middle) (Suffix)

or

(if an entity) The Corporation Company
(Caution: Do not provide both an individual and an entity name.)

Street address 1675 Broadway
(Street number and name)
Suite #1200
Denver CO 80202
(City) (State) (ZIP Postal Code)

Mailing address
 (leave blank if same as street address) _____
(Street number and name or Post Office Box information)

(City) (State) (ZIP Postal Code)

(The following statement is adopted by marking the box.)

The person appointed as registered agent above has consented to being so appointed.

4. The true name and mailing address of the incorporator are

Name
(if an individual) Perlowski Michael
(Last) (First) (Middle) (Suffix)

or

(if an entity)
(Caution: Do not provide both an individual and an entity name.)

Mailing address 71 South Wacker Drive
(Street number and name or Post Office Box information)

Chicago IL 60606
(City) (State) (ZIP-Postal Code)

United States.
(Province - if applicable) (Country)

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

The corporation has one or more additional incorporators and the name and mailing address of each additional incorporator are stated in an attachment.

5. The classes of shares and number of shares of each class that the corporation is authorized to issue are as follows.

The corporation is authorized to issue 100 common shares that shall have unlimited voting rights and are entitled to receive the net assets of the corporation upon dissolution.

Information regarding shares as required by section 7-106-101, C.R.S., is included in an attachment.

6. (If the following statement applies, adopt the statement by marking the box and include an attachment.)

This document contains additional information as provided by law.

7. (Caution: Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)

The delayed effective date and, if applicable, time of this document is/are _____
(mm/dd/yyyy hour:minute am/pm)

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is named in the document as one who has caused it to be delivered.

8. The true name and mailing address of the individual causing the document to be delivered for filing are

Marcotte Margo D.
(Last) *(First)* *(Middle)* *(Suffix)*
600 Emerson Road, Suite 300
(Street number and name or Post Office Box information)

St. Louis MO 63141
(City) *(State)* *(ZIP/Postal Code)*

United States .
(Province - if applicable) *(Country)*

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

Disclaimer:

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).

BYLAWS
OF
ISLE PROMOTIONAL ASSOCIATION, INC.
a Colorado corporation

The following bylaws (the "Bylaws") constitute the bylaws of **Isle Promotional Association, Inc.**, a Colorado corporation (the "Corporation") as of July 30, 2015.

ARTICLE I

OFFICES

Section 1. Registered Office. The registered office of the Corporation required by the Colorado Business Corporation Act to be maintained in the State of Colorado shall be as set forth in the Corporation's Articles of Incorporation (the "Articles"), unless changed as provided by law.

Section 2. Other Offices. The Corporation may have such other offices, either within or outside Colorado, as the board of directors may from time to time determine or as the business of the Corporation may require.

ARTICLE II

SHAREHOLDERS

Section 1. Annual Meetings. An annual meeting of the shareholders shall be held each year for the purpose of electing directors and conducting such other proper business as may come before the meeting. The date, time and place of the annual meeting may be determined by resolution of the board of directors. Failure to hold an annual meeting as required by these Bylaws shall not invalidate any action taken by the board of directors or officers of the Corporation.

Section 2. Special Meetings. Special meetings of shareholders may be called for any purpose (including, without limitation, the filling of board vacancies and newly created directorships), and may be held at such time and place, within or without the State of Colorado, as shall be stated in a notice of meeting or in a duly executed waiver of notice thereof. Such meetings may be called at any time by the any member of board of directors or the president and shall be called by the president upon the written request of holders of shares entitled to cast not less than one-tenth of the outstanding shares of any series or class of the Corporation's capital stock entitled to vote at the meeting.

Section 3. Place of Meetings. The board of directors may designate any place, either within or without the State of Colorado, as the place of meeting for any annual meeting or for any special meeting called by the board of directors. If no designation is made, or if a special

meeting be otherwise called, the place of meeting shall be the principal executive office of the Corporation.

Section 4. Notice. Whenever shareholders are required or permitted to take action at a meeting, written or printed notice stating the place, date, time, and, in the case of special meetings, the purpose or purposes, of such meeting, shall be given to each shareholder entitled to vote at such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting; except that, if the number of authorized shares is to be increased, at least thirty (30) days' notice shall be given. Notice of an annual meeting need not include a description of the purpose or purposes of the meeting except the purpose or purposes shall be stated with respect to (a) an amendment to the Articles of the Corporation, (b) merger or share exchange in which the Corporation is a party and with respect to a share exchange, in which the Corporation's shares will be acquired, (c) a sale, lease, exchange or other disposition, other than in the usual and regular course of business, of all or substantially all of the property of the Corporation or of another entity which the Corporation controls, in each case with or without good will, (d) a dissolution of the Corporation, or (e) any other purpose for which a statement of purpose is required under the Colorado Business Corporation Act. All such notices shall be delivered, either personally or by mail, by or at the direction of the board of directors, the president or the secretary, and if mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the shareholder at his, her or its address as the same appears on the records of the Corporation.

Section 5. Waiver of Notice. Whenever notice is required by law, the Articles or these Bylaws to be given to any shareholder, a waiver thereof in writing signed by the shareholder entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. By attending a meeting, a shareholder (a) waives objection to lack of notice or defective notice of such meeting unless the shareholder, at the beginning of the meeting, objects to the holding of the meeting or the transacting of business at the meeting, and (a) waives objection to consideration at such meeting of a particular matter not within the purpose or purposes described in the notice of such meeting unless the shareholder objects to considering the matter when it is presented.

Section 6. Shareholders List.

(a) The officer having charge of the stock ledger of the Corporation shall make a complete list of the shareholders entitled to vote at such meeting arranged in alphabetical order, showing the address of each shareholder and the number of shares registered in the name of each shareholder. Such list shall be open to the inspection of any shareholder, for any purpose germane to the meeting, during ordinary business hours, for a period beginning the earlier of at least ten (10) days prior to the meeting or two (2) business days after the notice of meeting is given and continuing through the meeting and any adjournment thereof, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any shareholder who is present. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such record or transfer books or a duplicate thereof or to vote at any meeting of the shareholders.

(b) Any shareholder, his agent or attorney is entitled on written demand to inspect or copy the record during regular business hours and during the period it is available for inspection, provided (i) the shareholder has been a shareholder for at least three (3) months immediately preceding the demand or holds at least five percent (5%) of all outstanding shares of any class of shares as of the date of the demand, (ii) the demand is made in good faith and for a purpose reasonably related to the demanding shareholder's interest as a shareholder, (iii) the shareholder describes with reasonable particularity such purpose, (iv) the record is directly connected with the described purpose, and (v) the shareholder pays a reasonable charge covering the costs of labor and material for such copies, not to exceed the estimated cost of production and reproduction.

Section 7. Quorum. Except as otherwise provided by applicable law or by the Corporation's Articles, a majority of the outstanding shares of the Corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If less than a majority of the outstanding shares are represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time in accordance with Section 8 of this Article, until a quorum shall be present or represented.

Section 8. Adjourned Meetings. When a meeting is adjourned to another time and place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

Section 9. Vote Required. When a quorum is present, the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the question is one upon which by express provisions of an applicable law or of the Articles, a different vote is required, in which case such express provision shall govern and control the decision of such question. Where a separate vote by class is required, the affirmative vote of the majority of shares of such class present in person or represented by proxy at the meeting shall be the act of such class.

Section 10. Voting Rights. Except as otherwise provided by the Colorado Business Corporation Act or by the Articles, and subject to Section 3 of Article VI hereof, every shareholder shall at every meeting of the shareholders be entitled to one vote in person or by proxy for each share of common stock held by such shareholder. In the election of directors, each record holder of stock entitled to vote at such election shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, and for whose election he has the right to vote. Cumulative voting shall not be allowed.

Section 11. Proxies. Each shareholder entitled to vote at a meeting of shareholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him, her or it by proxy. Every proxy must be signed by the shareholder granting the proxy or by his, her or its attorney-in-fact. No proxy shall be voted or acted upon after eleven (11) months from its date, unless the proxy provides for a longer period.

A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally.

Section 12. Meetings by Telephone. Any shareholder may participate in and act at any meeting of the shareholders through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation in the meeting pursuant to this section shall constitute presence in person at the meeting.

Section 13. Action by Written Consent.

(a) Any action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof and received by the Corporation. Such consent (which may be signed in counterparts) shall have the same force and effect as a unanimous vote of the shareholders and may be stated as such in any document. Unless the consent specifies a different effective date, action taken without a meeting pursuant to a consent in writing as provided herein shall be effective when all shareholders entitled to vote have signed the consent. The record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent.

(b) Any shareholder who has signed a writing describing and consenting to the action taken pursuant to this Section 13 may revoke such consent by a writing signed by the shareholder describing the action and stating that the shareholder's prior consent thereto is revoked, if such writing is received by the Corporation before the effectiveness of the action.

ARTICLE III

DIRECTORS

Section 1. General Powers. The business and affairs of the Corporation shall be managed by or under the direction of the board of directors, except as otherwise provided in the Colorado Business Corporation Act, the Articles or these Bylaws.

Section 2. Tenure and Qualifications. The number of directors of the Corporation shall initially be three (3), as may be fixed from time to time by resolution adopted by a majority of the board of directors. Thereafter, each director shall hold office until his successor shall have been elected and qualified, or until his earlier death, resignation or removal. Directors must be at least eighteen (18) years old but need not be residents of Colorado or shareholders of the Corporation.

Section 3. Resignation. Any director may resign at any time by giving written notice to the president or to the board of directors. A director's resignation shall take effect at the time specified in the notice and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. At a meeting called expressly for that purpose, the entire board of directors or any lesser number may be removed, with or without cause, by a vote of the holders of at least a majority of shares then entitled to vote at an election of directors; except that if the holders of shares of any class of stock are entitled to elect one or more directors by the provisions of the Articles, the provisions of this Section 4 shall apply, with respect to the removal of a director or directors so elected by such class, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole. Any reduction in the authorized number of directors shall not have the effect of shortening the term of any incumbent director unless such director is also removed from office in accordance with the terms of this Section 4.

Section 5. Vacancies. Any vacancy occurring in the board of directors, including vacancies due to an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum, or by the affirmative vote of two (2) directors if there are only two (2) directors remaining, or by a sole remaining director, or by the shareholders if there are no directors remaining. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 6. Regular Meetings. A regular meeting of the board of directors shall be held immediately after and at the same place as the annual meeting of the shareholders, or as soon thereafter as conveniently may be, at the time and place, within Colorado, determined by the board, for the purpose of electing officers and for the transaction of such other business as may come before the meeting. Failure to hold such meeting, however, shall not invalidate any action taken by any officer then or thereafter in office. The board of directors may provide, by resolution, the time and place, either within or outside Colorado, for the holding of additional regular meetings without other notice than such resolution.

Section 7. Special Meetings. Special meetings of the board of directors may be called by or at the request of the president or any member of the board of directors. The person or persons authorized to call special meetings of the board of directors may fix any convenient place as the place for holding any special meeting of the board called by them.

Section 8. Meetings by Telephone. Unless otherwise provided by the Articles, one or more members of the board of directors may participate in a meeting of the board by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 9. Notice of Meetings. Notice of each meeting of the board of directors (except those regular meetings for which notice is not required) stating the place, day and hour of the meeting shall be given to each director at least two (2) days prior thereto by the mailing of written notice by first class, certified or registered mail, or at least two days prior thereto by personal delivery (including delivery by private courier) of written notice or by telephone, telegram, telex, cablegram or other similar method, except that in the case of a meeting to be held pursuant to Section 8 above, notice by telephone may be given one (1) day prior thereto. The method of notice need not be the same to each director. Notice shall be deemed to be given when deposited in the United States mail, with postage thereon prepaid, addressed to the director

at his business or residence address, when delivered or communicated to the director or when the telegram, telex, cablegram or other form of notice is personally delivered to the director or delivered to the last address of the director furnished by him to the Corporation for such purpose. Neither the business to be transacted at nor the purpose of any meeting of the board of directors need be specified in the notice or waiver of notice of such meeting unless otherwise required by statute.

Section 10. Waiver of Notice. Whenever notice is required by law, the Articles or these Bylaws to be given to the directors, a waiver thereof in writing signed by the director entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. By attending or participating in a meeting, a director waives any required notice of such meeting unless, at the beginning of the meeting, he objects to the holding of the meeting or the transacting of business at the meeting.

Section 11. Presumption of Assent. A director of the Corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he objects at the beginning of the meeting to the holding of the meeting or the transacting of business at the meeting, contemporaneously requests that his dissent to the action taken be entered in the minutes of such meeting or gives written notice of his dissent to the presiding officer of such meeting before its adjournment or to the secretary of the Corporation immediately after adjournment of such meeting. The right of dissent as to a specific action taken at a meeting of the board is not available to a director who votes in favor of such action.

Section 12. Quorum and Manner of Acting. Except as otherwise may be required by law, the Articles or these Bylaws, a majority of the number of directors fixed in accordance with these Bylaws, present in person, shall constitute a quorum for the transaction of business at any meeting of the board of directors, and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. If less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No director may vote or act by proxy or power of attorney at any meeting of directors.

Section 13. Action Without a Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors. Such consent (which may be signed in counterparts) shall have the same force and effect as a unanimous vote of the directors and may be stated as such in any document. Unless the consent specifies a different effective date, action taken without a meeting pursuant to a consent in writing as provided herein is effective when all directors have signed the consent, unless before such time, any director has revoked his consent by a writing signed by the director and received by the president or secretary of the Corporation. All consents signed pursuant to this Section 13 shall be delivered to the secretary of the Corporation for inclusion in the minutes or for filing with the corporate records.

Section 14. Executive and Other Committees. The board of directors, by resolution adopted by a majority of the full board, may designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in the

resolution establishing such committee, shall have and may exercise all of the authority of the board of directors in the management of the business and affairs of the Corporation, except that no such committee shall have the power or authority to: (a) declare dividends or distributions, (b) approve, recommend or submit to the shareholders actions or proposals required by law to be approved by the shareholders, (c) fill vacancies on the board of directors or any committee thereof, including any committee authorized by this Section 14, (d) amend the Bylaws, (e) approve a plan of merger not requiring shareholder approval, (f) authorize or approve the reacquisition of shares of the Corporation, unless pursuant to a general formula or method specified by the board of directors, or (g) authorize or approve the issuance or sale of, or any contract to issue or sell, shares of the Corporation's stock or designate the terms of a series of a class of shares. The delegation of authority to any committee shall not operate to relieve the board of directors or any member of the board from any responsibility imposed by law. Subject to the foregoing, the board of directors may provide such powers, limitations and procedures for such committees, as the board deems advisable. To the extent the board of directors does not establish other procedures, each committee shall be governed by the procedures set forth in Sections 6 (except as they relate to an annual meeting) and 7 through 13 as if the committee were the board of directors. Each committee shall keep regular minutes of its meetings, which shall be reported to the board of directors when required and submitted to the secretary of the Corporation for inclusion in the corporate records.

Section 15. Compensation. By resolution of the board of directors, notwithstanding any personal interest of a director in such action, a director may be paid his expenses, if any, of attendance at each meeting of the board of directors and each meeting of any committee of the board of which he is a member and may be paid a fixed sum for attendance at each such meeting or a stated salary, or both a fixed sum and a stated salary. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE IV

OFFICERS

Section 1. Number and Qualifications. The officers of the Corporation shall consist of a president, a secretary, a treasurer and such other officers, including a chairman of the board, one or more vice-presidents and a controller, as may from time to time be elected or appointed by the board. In addition, the board of directors or the president may elect or appoint such assistant and other subordinate officers, including assistant vice presidents, assistant secretaries and assistant treasurers, as it or he shall deem necessary or appropriate. Any number of offices may be held by the same person. All officers must be a natural person at least eighteen (18) years old.

Section 2. Election and Term of Office. Except as provided in Sections 1 and 6 of this Article IV, the officers of the Corporation shall be elected by the board of directors annually at the first meeting of the board held after each annual meeting of the shareholders as provided in Section 6 below. If the election of officers shall not be held as provided herein, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor shall have been duly elected and shall have qualified, or until the expiration of his term in office if elected or appointed for a specified period of time, or until his earlier death, resignation or removal.

Section 3. Compensation. Officers shall receive such compensation for their services as may be authorized or ratified by the board of directors and no officer shall be prevented from receiving compensation by reason of the fact that he is also a director of the Corporation. Election or appointment as an officer shall not of itself create a contract or other right to compensation for services performed as such officer.

Section 4. Resignation. Any officer may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the Corporation, by giving written notice to the president or to the board of directors. An officer's resignation shall take effect at the time specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Removal. Any officer may be removed at any time by the board of directors, or, in the case of assistant and other subordinate officers, by the board of directors or the president (whether or not such officer was appointed by the president) whenever in its or his judgment, as the case may be, the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not in itself create contract rights.

Section 6. Vacancies. A vacancy in any office, however occurring, may be filled by the board of directors, or, if such office may be filled by the president as provided in Section 1 above, by the president, for the unexpired portion of the term.

Section 7. Authority and Duties. The officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the president, the board of directors or these Bylaws (and in all cases where the duties of any officer are not prescribed by the Bylaws or by the board of directors, such officer shall follow the orders and instructions of the president), except that in any event each officer shall exercise such powers and perform such duties as may be required by law:

(a) President. The president shall, subject to the direction and supervision of the board of directors: (i) be the chief executive officer of the Corporation and have general and active control of its affairs and business and general supervision of its officers, agents and employees; (ii) unless there is a chairman of the board, preside at all meetings of the shareholders and the board of directors; (iii) see that all orders and resolutions of the board of directors are carried into effect; and (iv) perform all other duties incident to the office of president and as from time to time may be assigned to him by the board of directors.

(b) Vice-Presidents. The vice-president, if any (or if there is more than one then each vice-president), shall assist the president and shall perform such duties as may be assigned to him by the president or by the board of directors. The vice-president, if there is one (or if there is more than one then the vice-president designated by the board of directors, or if there be no such designation then the vice-presidents in order of their election), shall, at the request of the president, or in his absence or inability or refusal to act, perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president. Assistant vice-presidents, if any, shall have such powers and perform such duties as may be assigned to them by the president or by the board of directors.

(c) Secretary. The secretary shall: (i) keep the minutes of the proceedings of the shareholders, the board of directors and any committees of the board; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be custodian of the corporate records and of the seal of the Corporation; (iv) keep at the Corporation's registered office or principal place of business within or outside Colorado a record containing the names and addresses of all shareholders and the number and class of shares held by each, unless such a record shall be kept at the office of the Corporation's transfer agent or registrar; (v) have general charge of the stock books of the Corporation, unless the Corporation has a transfer agent; and (vi) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the board of directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

(d) Treasurer. The treasurer shall: (i) be the principal financial officer of the Corporation and have the care and custody of all its funds, securities, evidences of indebtedness and other personal property and deposit the same in accordance with the instructions of the board of directors; (ii) receive and give receipts and acquittances for moneys paid in on account of the Corporation, and pay out of the funds on hand all bills, payrolls and other just debts of the Corporation of whatever nature upon maturity; (iii) unless there is a controller, be the principal accounting officer of the Corporation and as such prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account, prepare and file all local, state and federal tax returns, prescribe and maintain an adequate system of internal audit and prepare and furnish to the president and the board of directors statements of account showing the financial position of the Corporation and the results of its operations; (iv) upon request of the board, make such reports to it as may be required at any time; and (v) perform all other duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the board of directors or the president. Assistant treasurers, if any, shall have the same powers and duties, subject to the supervision by the treasurer.

Section 8. Surety Bonds. The board of directors may require any officer or agent of the Corporation to execute to the Corporation a bond in such sums and with such sureties as shall be satisfactory to the board, conditioned upon the faithful performance of his duties and for the restoration to the Corporation of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 9. Other Officers, Assistant Officers and Agents. Officers, assistant officers and agents, if any, other than those whose duties are provided for in these Bylaws, shall have such authority and perform such duties as may from time to time be prescribed by resolution of the board of directors.

Section 10. Absence or Disability of Officers. In the case of the absence or disability of any officer of the Corporation and of any person hereby authorized to act in such officer's place during such officer's absence or disability, the board of directors may by resolution delegate the powers and duties of such officer to any other officer or to any director, or to any other person whom it may select.

ARTICLE V

INDEMNIFICATION OF OFFICERS, DIRECTORS AND OTHERS

Section 1. Nature of Indemnity. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “proceeding”), by reason of the fact that he or a person of whom he is the legal representative, is or was a director or officer, of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee, fiduciary, or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee, fiduciary or agent or in any other capacity while serving as a director, officer, employee, fiduciary or agent, shall be indemnified and held harmless by the Corporation to the fullest extent which it is empowered to do so by the Colorado Business Corporation Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against all expense, liability and loss (including attorneys’ fees) actually and reasonably incurred by such person in connection with such proceeding and such indemnification shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in Section 2 hereof, the Corporation shall indemnify any such person seeking indemnification in connection with a proceeding initiated by such person only if such proceeding was authorized by the board of directors of the Corporation. The right to indemnification conferred in this Article V shall be a contract right and, subject to Sections 2 and 5 of this Article V, shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition. The Corporation may, by action of its board of directors, provide indemnification to employees and agents of the Corporation with the same scope and effect as the foregoing indemnification of directors and officers.

Section 2. Procedure for Indemnification of Directors and Officers. Any indemnification of a director or officer of the Corporation under Section 1 of this Article V or advance of expenses under Section 5 of this Article V shall be made promptly, and in any event within 30 days, upon the written request of the director or officer. If a determination by the Corporation that the director or officer is entitled to indemnification pursuant to this Article V is required, and the Corporation fails to respond within sixty days to a written request for indemnity, the Corporation shall be deemed to have approved the request. If the Corporation denies a written request for indemnification or advancing of expenses, in whole or in part, or if payment in full pursuant to such request is not made within 30 days, the right to indemnification or advances as granted by this Article V shall be enforceable by the director or officer in any court of competent jurisdiction. Such person’s costs and expenses incurred in connection with successfully establishing his or her right to indemnification, in whole or in part, in any such action shall also be indemnified by the Corporation. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any, has been tendered to the Corporation) that the claimant has not met the standards of conduct which make it permissible under the Colorado Business Corporation Act for the Corporation to indemnify the claimant for the amount

claimed, but the burden of such defense shall be on the Corporation. Neither the failure of the Corporation (including its board of directors, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Colorado Business Corporation Act, nor an actual determination by the Corporation (including its board of directors, independent legal counsel, or its shareholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 3. Nonexclusivity of Article V. The rights to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this Article V shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Articles, these Bylaws, agreement, vote of shareholders or disinterested directors or otherwise.

Section 4. Insurance. The Corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a director, officer, employee, fiduciary, or agent of the Corporation or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, whether or not the Corporation would have the power to indemnify such person against such liability under this Article V.

Section 5. Expenses. Expenses incurred by any person described in Section 1 of this Article V in defending a proceeding shall be paid by the Corporation in advance of such proceeding's final disposition unless otherwise determined by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation. Such expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the board of directors deems appropriate.

Section 6. Employees and Agents. Persons who are not covered by the foregoing provisions of this Article V and who are or were employees or agents of the Corporation, or who are or were serving at the request of the Corporation as employees or agents of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified to the extent authorized at any time or from time to time by the board of directors.

Section 7. Contract Rights. The provisions of this Article V shall be deemed to be a contract right between the Corporation and each director or officer who serves in any such capacity at any time while this Article V and the relevant provisions of the Colorado Business Corporation Act or other applicable law are in effect, and any repeal or modification of this Article V or any such law shall not affect any rights or obligations then existing with respect to any state of facts or proceeding then existing.

Section 8. Merger or Consolidation. For purposes of this Article V, references to "the Corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its

separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article V with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

ARTICLE VI

CERTIFICATES OF STOCK

Section 1. Regulation. The board of directors may make such rules and regulations as it may deem appropriate concerning the issuance, transfer and registration of certificates for shares of the Corporation, including the appointment of transfer agents and registrars.

Section 2. Shares Without Certificates. Unless otherwise provided by the Articles or these Bylaws, the board of directors may authorize the issuance of any of its classes or series of shares without certificates. Such authorization shall not affect shares already represented by certificates until they are surrendered to the Corporation.

Section 3. Form. Every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by the chairman of the board, the president or a vice-president and the secretary of the Corporation, certifying the number of shares owned by such holder in the Corporation. If such a certificate is countersigned (a) by a transfer agent or an assistant transfer agent other than the Corporation or its employee or (b) by a registrar, other than the Corporation or its employee, the signature of any such chairman of the board, president, vice-president, or secretary may be facsimiles. In case any officer or officers who have signed, or whose facsimile signature or signatures have been used on, any such certificate or certificates shall cease to be such officer or officers of the Corporation whether because of death, resignation or otherwise before such certificate or certificates have been delivered by the Corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such officer or officers of the Corporation. All certificates for shares shall be consecutively numbered or otherwise identified. The name of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the books of the Corporation. Shares of stock of the Corporation shall only be transferred on the books of the Corporation by the holder of record thereof or by such holder's attorney duly authorized in writing, upon surrender to the Corporation of the certificate or certificates for such shares endorsed by the appropriate person or persons, with such evidence of the authenticity of such endorsement, transfer, authorization, and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps. In that event, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate or certificates, and record the transaction on its books. The board of directors may appoint a bank or trust company organized under the laws of the United States or any state thereof to act as its

transfer agent or registrar, or both in connection with the transfer of any class or series of securities of the Corporation.

Section 4. Cancellation of Certificates. All certificates surrendered to the Corporation for transfer shall be cancelled and no new certificates shall be issued in lieu thereof until the former certificate for the same number of shares shall have been surrendered and cancelled, except as herein provided with respect to lost, stolen or destroyed certificates.

Section 5. Lost Certificates. The board of directors may direct a new certificate or certificates to be issued in place of any certificate or certificates previously issued by the Corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. When authorizing such issue of a new certificate or certificates, the board of directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen, or destroyed certificate or certificates, or his or her legal representative, to give the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 6. Fixing a Record Date for Shareholder Meetings. In order that the Corporation may determine the shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which record date shall not be more than seventy (70) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the board of directors, the record date for determining shareholders entitled to notice of or to vote at a meeting of shareholders shall be the close of business on the next day preceding the day on which notice is given, or if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting.

Section 7. Fixing a Record Date for Action by Written Consent. In order that the Corporation may determine the shareholders entitled to consent to corporate action in writing without a meeting, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the board of directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the board of directors. If no record date has been fixed by the board of directors, the record date for determining shareholders entitled to consent to corporate action in writing without a meeting, when no prior action by the board of directors is required by statute, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in the State of Colorado, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of shareholders are recorded. Delivery made to the Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the board of directors and prior action by the board of directors is required by statute, the record date for

determining shareholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the board of directors adopts the resolution taking such prior action.

Section 8. Fixing a Record Date for Other Purposes. In order that the Corporation may determine the shareholders entitled to receive payment of any dividend or other distribution or allotment or any rights or the shareholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purposes of any other lawful action, the board of directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto.

Section 9. Subscriptions for Stock. Unless otherwise provided for in the subscription agreement, subscriptions for shares shall be paid in full at such time, or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series. In case of default in the payment of any installment or call when such payment is due, the Corporation may proceed to collect the amount due in the same manner as any debt due the Corporation.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Dividends. Dividends upon the capital stock of the Corporation, subject to the provisions of the Articles, if any, may be declared by the board of directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Articles. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or any other purpose and the directors may modify or abolish any such reserve in the manner in which it was created.

Section 2. Checks, Drafts or Orders. All checks, drafts, or other orders for the payment of money by or to the Corporation and all notes and other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner, as shall be determined by resolution of the board of directors or a duly authorized committee thereof.

Section 3. Contracts. The board of directors may authorize any officer or officers, or any agent or agents, of the Corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 4. Loans. The Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiary, including any officer or employee who is a director of the Corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the board of directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation. Nothing in this section contained shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

Section 5. Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the board of directors.

Section 6. Corporate Seal. The board of directors may provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation and the words "Corporate Seal, Colorado". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 7. Voting Securities Owned By Corporation. Voting securities in any other corporation held by the Corporation shall be voted by the president, unless the board of directors specifically confers authority to vote with respect thereto, which authority may be general or confined to specific instances, upon some other person or officer. Any person authorized to vote securities shall have the power to appoint proxies, with general power of substitution.

Section 8. Transactions with the Corporation. The directors and officers of the Corporation may lend money to, act as surety for, and transact other business with the Corporation and shall have the same rights and obligations with respect thereto as a person who is not a director or officer of the Corporation, except that nothing contained in this section shall be construed to relieve a director or officer of the Corporation from any duties thereto.

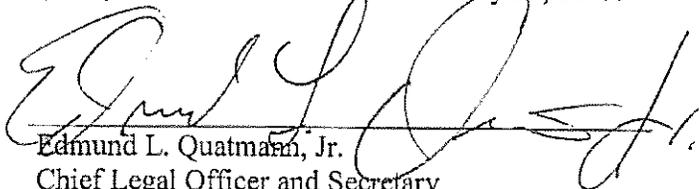
Section 9. Section Headings. Section headings in these Bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

Section 10. Inconsistent Provisions. In the event that any provision of these Bylaws is or becomes inconsistent with any provision of the Articles, the Colorado Business Corporation Act or any other applicable law, the provision of these Bylaws shall not be given any effect to the extent of such inconsistency but shall otherwise be given full force and effect.

Section 11. Amendments. These Bylaws may be altered, amended, or repealed or new Bylaws may be adopted by the affirmative vote of a majority of the board of directors at any regular or special meeting of the board of directors unless the Colorado Business Corporation Act or the Articles reserve such power exclusively to the shareholders in whole or in part or the shareholders, in amending or repealing a particular bylaw provision, provide expressly that the directors may not amend or repeal such bylaw.

CERTIFICATE

The undersigned hereby certifies that the foregoing Bylaws constitute the true and complete copy of the Bylaws of Isle Promotional Association, Inc., in full force and effect as of July 30, 2015.



Edmund L. Quatman, Jr.
Chief Legal Officer and Secretary

Exhibit C

**WRITTEN CONSENT OF SOLE INCORPORATOR IN LIEU
OF ORGANIZATIONAL MEETING
OF
ISLE PROMOTIONAL ASSOCIATION, INC.**

The Articles of Incorporation of Isle Promotional Association, Inc. (the "Corporation") having been filed in the office of the Secretary of State of Colorado, the undersigned, being the sole incorporator named in said certificate, does hereby consent to and adopt the following resolutions, pursuant to the provisions of Section 7-102-105 of the Colorado Revised Statutes, as amended, for the purpose of perfecting the organization of the Corporation and hereby directs that this Written Consent (the "Consent") be filed with the minutes and proceedings of the Corporation:

RESOLVED, that the initial Board of Directors of the Corporation shall consist of three (3) members.

RESOLVED, that the following individuals are hereby elected as members of the Board of Directors of the Corporation to serve in such capacity until the first annual meeting of shareholders and until their successors are elected and qualified or until their earlier death, resignation or removal:

Brian P. Watts

Warren Chris Cramer

Jennifer Elizabeth Trott

IN WITNESS WHEREOF, the sole incorporator of the Corporation has caused this Consent to be executed as of this 30th day of July, 2015.


.....
Michael J. Perlowski

Exhibit

D

**Promotional Association/
Common Consumption Area Certification Request
Isle Promotional Association, Inc.
Security Measures**

With the implementation of the Common Consumption Area and the Promotional Association comprised of the Isle Casino Hotel Black Hawk, the Lady Luck Hotel & Parking Garage, and the Lady Luck Casino Black Hawk, the following Security plan will be implemented:

- Common Consumption area will be monitored by Guest Safety team as well as Surveillance to ensure compliance with Entertainment District rules and regulations.
- Alcohol Service training through national TIPS program will be administered by the property Human Resources department. Human Resources will maintain records, which can be verified upon request.
- Any alcohol to be consumed in the common consumption area will be in a disposable cup with appropriate logo during common consumption hours.
- All three attached licensed premises will position Guest Safety Agents at main entrances to ensure compliance of all liquor laws.
- Patrolling of the Common Consumption area by the Guest Safety team will occur, ensuring compliance of property policies and procedures.
- Additional Guest Safety will patrol all three licensed premises to ensure that no alcohol leaves the properties inappropriately.

Exhibit

E

Promotional Association/
Common Consumption Area Certification Request
Isle Promotional Association, Inc.
Possession Documentation

Both the City of Black Hawk and Andrianakos Limited Liability Company share ownership of the two pedestrian bridges that make up a portion of the proposed common consumption area. Andrianakos has granted possession to the Isle of Capri Black Hawk, LLC dba Lady Luck Hotel & Parking Garage ("Lady Luck Hotel") via lease agreement. Lady Luck Hotel grants possession and use of the two pedestrian bridges to the promotional association. The applicant also seeks the City's approval granting possession of the pedestrian bridges for use of the common consumption area.

The remaining portions of the proposed common consumption area are legally possessed by Lady Luck Hotel which grants the promotional association use of the entire remaining area for the proposed common consumption area.

See attached Air Space easement Agreement and Fifth Addendum to Lease and Agreement – Spring 1995 (Lower Lots) and Fourth Addendum to Lease and Agreement – Spring 1995 (Upper Lots).

AIR SPACE EASEMENT AGREEMENT

THIS AIR SPACE EASEMENT AGREEMENT (this "Agreement") is made and entered into this 14th day of January, 2004, by and between ANDRIANAKOS LIMITED LIABILITY COMPANY, a Colorado limited liability company, f/k/a Andrianakos Partnership, a Colorado partnership ("Grantor"), and the City of Black Hawk, Colorado (the "City").

Recitals:

WHEREAS, Grantor is the owner of that certain real property located in Gilpin County, Colorado and more particularly described in Exhibit A (the "Property") which is attached hereto and incorporated herein.

WHEREAS, the City desires an easement (the "Easement") on and over certain portions of the Property for a pedestrian bridge and improvements related thereto (collectively, the "Bridge").

WHEREAS, Grantor and the City also are recording simultaneously herewith a plat (the "Plat") with respect to the Property.

WHEREAS, Grantor desires to grant the City the Easement on and over the Property on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Agreement:

1. **Grant of Easement.**

(a) Grantor hereby grants to the City an easement (i) within, on and through the areas described on Exhibit B attached hereto (the "Land Easement Area") for the purpose of ingress and egress to the Bridge, 24 hours per day, 7 days per week, and (ii) within the air space described on Exhibit C attached hereto (the "Airspace Easement Area" and together with the Land Easement Area, the "Easement Area") for the purpose of owning, operating and maintaining the Bridge to be constructed within the Airspace Easement Area. Isle of Capri Black Hawk, L.L.C. ("Isle") will construct the Bridge in accordance with the Subdivision Improvement Agreement entered into by and between Isle and the City, and those certain plans and specifications approved by the City in connection therewith. The Bridge will connect to the parcel described in Exhibit D attached hereto (the "Connecting Parcel"). In the event of a conflict between the description of the Easement Area attached hereto and the description of any air space easements with respect to the Bridge set forth on the Plat, the description of the Easement Area attached to this Agreement shall control.



(b) Grantor retains the right to use the Easement Area (i) pursuant to other agreements between the City and Grantor, and (ii) for any and all purposes which will not interfere with the City's use and enjoyment of the rights acquired herein.

2. City Covenants.

(a) Maintenance. The City shall repair and maintain the Easement Area in accordance with the City's customary standards for maintenance, upkeep, repair and care of similar public improvements owned by the City.

(b) Protection of Easement Area and Adjacent Lands. The City shall protect the Easement Area, the Bridge, and the adjacent lands from damage caused in whole or in part by acts or omissions of the City, its employees, agents, contractors, subcontractors, lessees, licensees, agents, invitees, and visitors (collectively and together with the City, the "City Responsible Parties"). Unless Grantor or the owner of the Connecting Parcel is required to do so pursuant to a separate agreement with the City, the City shall clean, cure, and correct any debris and damage to the Easement Area and the adjacent lands caused by the City or the City Responsible Parties. In all activities undertaken on property belonging to Grantor by the City or the City Responsible Parties, all work shall be completed in a good and workmanlike manner. The City's use of the Easement Area shall in no way interfere with Grantor's use of Grantor's Improvements.

(c) Environmental Matters. The City shall not cause or permit to be caused by any of the City Responsible Parties any Hazardous Materials (defined below) to be used at, or dumped, spilled, released, permanently stored, or deposited on, over or beneath the Easement Area or any other lands owned by Grantor. "Hazardous Materials" means substances, materials or waste the generation, handling, storage, treatment or disposal of which is regulated by any local or state government authority or laws, as a "hazardous waste," "hazardous material," or "hazardous substance," and including, without limitation, those designated as a "hazardous substance" under Section 311 or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Secs. 1321, 1317), defined as a "hazardous waste" under Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. Sec. 6903), or defined as a "hazardous substance" under Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601), and petroleum products and byproducts.

(d) Compliance with Law. The City shall comply with all applicable federal, state and local laws, rules and ordinances in connection with its use of the Easement Area.

3. Insurance.

(a) The City shall obtain necessary and adequate property damage insurance with limits commensurate with the hazards and risks associated with the use of the Easement Area.

(b) The City shall maintain commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate. The City shall name Grantor as an additional insured on the general liability insurance policy with respect to the



Easement Area. In addition, the City shall maintain and cause its contractors to maintain workers' compensation insurance in conformity with applicable state law.

(c) The foregoing policies shall all be written by insurance companies licensed to do business in the state of Colorado and having general policyholder's ratings of at least A and financial ratings of at least XI in the most current Best's Insurance reports available on the date that the party obtains or renews the insurance policy. No later than the date that the Bridge is ready for public access, the City shall furnish Grantor certificates in satisfactory form evidencing the above described insurance and providing that Grantor shall be given at least 30 days prior written notice of any cancellation, intent not to renew or other material change in coverage. The City shall cause each of its contractors and subcontractors to agree in writing to the foregoing insurance requirements as a pre-condition to commencement of any work on the Easement Area.

4. General.

(a) Binding Effect. The City may not assign its rights under this Agreement without the prior written consent of Grantor, which may be withheld in Grantor's sole discretion. Except as so restricted, all provisions herein contained, including the benefits, burdens, and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto and shall be recorded in the real property records of Gilpin County, Colorado.

(b) Counterparts. This Agreement may be executed in several counterparts, and each counterpart shall constitute one Agreement binding on all parties hereto, notwithstanding that all of the parties are not signatory to an original or same counterpart. This Agreement shall be of no force or effect until it is duly and validly executed by all of the parties hereto and recorded in the real property record of Gilpin County, Colorado.

(c) Section Headings. The Section headings herein are inserted only for convenience and reference and shall in no way define, limit, or prescribe the scope or intent of any provisions of this Agreement.

(d) Entire Agreement. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the parties hereto.

(e) Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

(f) Governing Law. The terms and provisions of this Agreement shall be construed under and governed by the laws of the State of Colorado. If any action or proceeding is brought concerning this Agreement, it shall be brought in, and the sole and exclusive venue of any such action shall be, a court of competent jurisdiction sitting in Gilpin County, Colorado, or,



120697

Page: 4 of 21
02/02/2004 03:50P
D 0.00

if in a federal court, in the State of Colorado. If any action or proceeding shall be brought in any forum in any other location, then it shall, to the fullest extent permitted by law, be stayed upon initiation of any action or proceeding concerning this Agreement in the foregoing forum.

(g) Waivers. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of any original violation.

(h) Notices. All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be (a) personally delivered with a written receipt of delivery; (b) sent by a nationally recognized overnight delivery service requiring a written acknowledgement of receipt or providing a certification of delivery or attempted delivery; (c) sent by certified or registered mail, return receipt requested; or (d) transmitted by facsimile with electronic confirmation and duplicate copy of the notice to follow within one (1) business day by certified or registered mail, return receipt requested. All notices shall be deemed effective when actually delivered as documented in a delivery receipt or electronic confirmation; provided, however, that if the notice was sent by overnight courier or mail as aforesaid and is affirmatively refused or cannot be delivered during customary business hours by reason of the absence of a signatory to acknowledge receipt, or by reason of a change of address with respect to which the addressor did not have either knowledge or written notice delivered in accordance with this section, then the first attempted delivery shall be deemed to constitute delivery. Each party shall be entitled to change its address for notices from time to time by delivering to the other party notice thereof in the manner herein provided for the delivery of notices.

To Grantor:

7472 South Odessa Circle
Centennial, Colorado 80016
Attention: Ioannis Andrianakos
Telephone: 303 680-1804
Facsimile: 303 680-7229

To the City:

City Manager
201 Selak Street
Box 17
Black Hawk, Colorado 80422

(i) Amendment. This Agreement may not be amended or terminated except by a written instrument signed by the City and the then-fee-owner of the Property; provided, however, that no indemnity or reimbursement obligation contained in this Agreement may be modified or eliminated without the prior written consent of all beneficiaries of such indemnities and reimbursement obligations, regardless of whether such beneficiaries continue to own an interest in the Property.



(j) Survival. The provisions of this Agreement which, by their reasonable terms, are intended to survive termination of this Agreement shall survive termination.

(k) Remedies. If any party hereto breaches any provision of this Agreement and fails to cure such breach within 10 days after written notice thereof, the non-breaching party shall be entitled to any and all remedies, legal or equitable, which may be available including, without limitation, specific performance

(l) Disclaimer of Joint Venture. This Agreement is not intended to create a joint venture, partnership or agency relationship between Grantor and the City, and such joint venture, partnership, or agency relationship is specifically hereby disclaimed.

(m) Easements Not Exclusive. Subject to the terms and provisions hereof, the easements and rights granted herein are not exclusive, and the right is hereby reserved to grant such other easements, rights or privileges across, on or pertaining to the Easement Area to such persons and for such purposes as the then owner(s) of the Easement Area may, in their discretion, select.

(n) Termination of Easement. This Agreement shall terminate automatically if Isle's obligations to construct the Bridge under the SIA terminates, the Bridge (or its replacement) no longer exists, or no longer is in use (other than for repairs or rebuilding) or no longer is owned by the City. Notwithstanding the foregoing, in the event this Agreement is terminated and either party desires to record an instrument evidencing such termination, the parties shall prepare, execute and record, at the shared expense of both parties, any reasonable instrument necessary to release this Agreement of record.

[signatures on next page]



120697

Page: 6 of 21

02/02/2004 03:50P

Jess Lovinger Gilpin County 174

R 106.00

D 0.00

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

GRANTOR:

ANDRIANAKOS LIMITED LIABILITY COMPANY, a Colorado limited liability company

By: Ioannis Andrianakos
Ioannis Andrianakos, Manager

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 17th day of December, 2003 by Ioannis Andrianakos, as the Manager of ANDRIANAKOS LIMITED LIABILITY COMPANY, a Colorado limited liability company.

Witness my hand and official seal

My commission expires:

MICHAEL J. TAUGER
NOTARY PUBLIC
STATE OF COLORADO
MY COMMISSION EXPIRES 11/06/2007

[Signature]
Notary Public



120697

Page: 7 of 21

02/02/2004 03:50P

Jess Lovinger Gilpin County 174 R 106.00 D 0.00

THE CITY:

CITY OF BLACK HAWK, COLORADO

By: *Kathryn E. Eccker*
Kathryn E. Eccker, Mayor

ATTEST:

Deborah S. Yancy
Deborah S. Yancy, CMC, City Clerk

APPROVED AS TO FORM:

Corey Hoffman
Corey Hoffman, City Attorney



120697

Page: 8 of 21

02/02/2004 03:50P

Jess Lovinger Gilpin County 174

R 106.00

D 0.00

EXHIBIT A

PROPERTY



7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893

Job No. 0302-31S
Prepared for: Isle of Capri



Jess Lovingsler Gilpin County 174 R 106.00 D 0.00

120697

Page: 9 of 21
02/02/2004 03:50P
D 0.00

Legal Description: ISLE OF CAPRI HOTEL & GARAGE EXPANSION

A tract of land located in Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, (said tract including Lot 14-A, MAIN STREET SUBDIVISION, a subdivision recorded in Plat Book _____, Page _____, Lots 1 through 15 and a portion of Lot 16, Block 50, a portion of Lot 1, Block 51, and various adjoining parcels), more particularly described as follows:

Commencing at an angle point on the southerly right-of-way line of Main Street, said point being a found 2" aluminum cap in a range box stamped "PLS 23516, City of Black Hawk 51", as shown on Land Survey Plat by ADG Engineering, Inc., Job No. 60618, Dated December 15, 1995, from which point the northerly corner common to Blocks 50 and 51, City of Black Hawk as surveyed by Glenn A. True, and as shown on his Survey Plat dated February 24, 1992, bears S56°55'00"E, 0.41 feet; thence along said southerly right-of-way line, S85°24'16"W 6.74 feet to the True Point of Beginning, and from which point of beginning the south 1/4 corner said Section 7 bears S39°56'48"W a distance of 1562.79 feet; thence S80°34'09"E 1.10 feet to a point of curve to the right; thence 60.49 feet along the arc of said curve having a radius of 30.00 feet, a central angle of 115°31'32" and being subtended by a chord bearing S22°48'23"E 50.75 feet to a point tangent; thence S34°57'23"W 67.27 feet to a point on the southerly line of Block 50, as surveyed by Glenn A. True; thence along said southerly line S85°15'00"W 13.00 feet; thence S34°57'23"W 82.46 feet to a point of curve to the right; thence 169.53 feet along the arc of said curve having a radius of 140.00 feet, a central angle of 69°22'55" and being subtended by a chord bearing S69°38'51"W 159.36 feet to a point nontangent; thence N56°16'40"W 118.49 feet; thence S85°24'16"W 95.11 feet; thence N4°35'44"W 16.80 feet; thence S85°15'00"W 239.94 feet; thence N80°51'10"W 6.33 feet to the line common to Blocks 49 and 50 extended southwesterly according to the survey by Cross Country Surveys, PLS 26296; thence along said line and said line extended N5°05'02"E 14.06 feet to the southerly corner of said Block 49 and 50; thence N75°02'54"W a distance of 81.38 feet to the southwesterly corner of said Lot 14-A, said MAIN STREET SUBDIVISION; thence N14°24'49"E a distance of 101.25 feet to the northwesterly corner of said Lot 14-A; thence S75°35'11"E a distance of 63.58 feet to an angle point in the southerly right of way line of Main Street; thence along said line N85°24'16"E 660.18 feet to the True Point of Beginning,

Kurt O. Linn, Jr.
P.L.S. No. 141122
Prepared: June 25, 2003.



120697

Page: 10 of 21

02/02/2004 03:50P

Jess Lovinger Gilpin County 174

R 106.00

D 0.00

EXHIBIT B

LAND EASEMENT AREA

Note: The attached legal descriptions are based on construction drawings and will be revised to reflect the actual location of improvements upon completion.



120697

Page: 11 of 21
02/02/2004 09:50P
R 106.00 D 0.00

Jess Lovinger Gilpin County 174

Job No.: 0302-31



KURT O. LINN

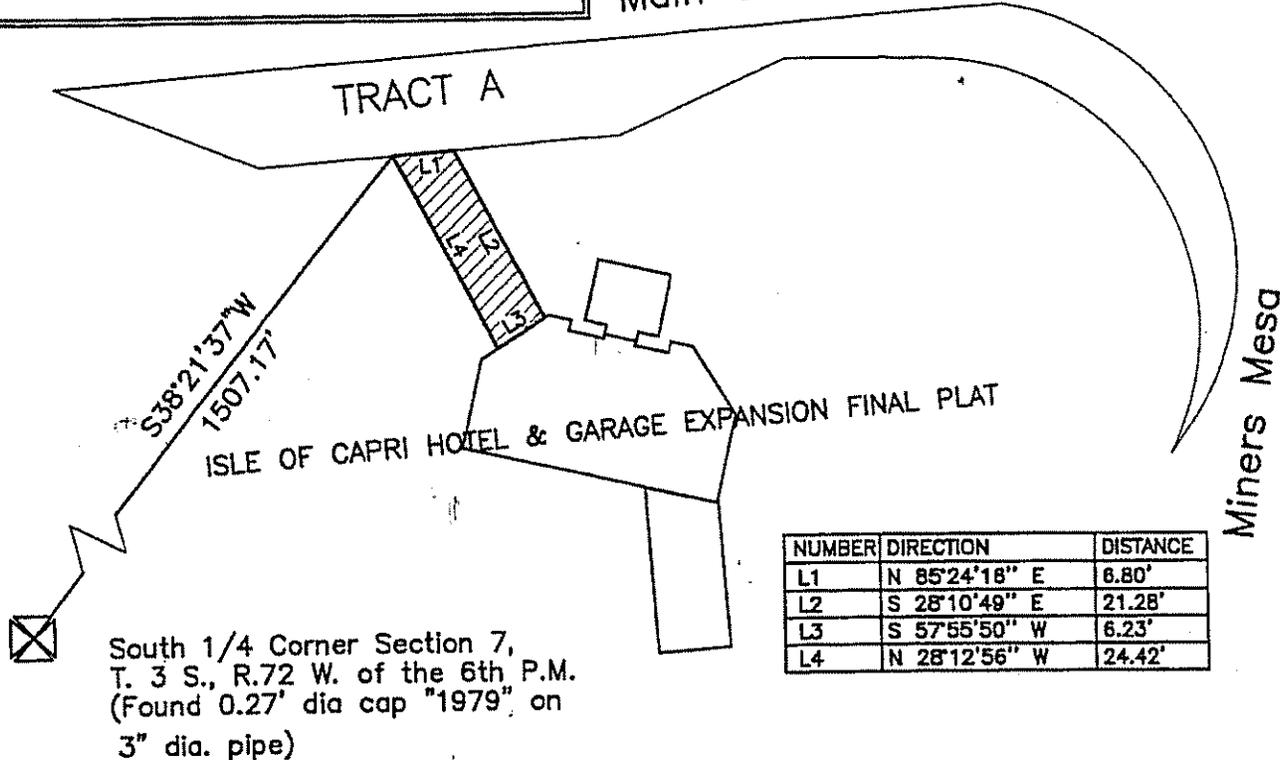
SURVEYOR INC.

7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893

Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FOUR EASEMENTS
PAGE 1 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY Main Street

Scale: 1" = 20'



South 1/4 Corner Section 7,
T. 3 S., R.72 W. of the 6th P.M.
(Found 0.27' dia cap "1979" on
3" dia. pipe)

NUMBER	DIRECTION	DISTANCE
L1	N 85°24'18" E	6.80'
L2	S 28°10'49" E	21.28'
L3	S 57°55'50" W	6.23'
L4	N 28°12'56" W	24.42'

Easement over a portion of the
South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M.,
City of Black Hawk, County of Gilpin, State of Colorado, more particularly described
as follows.

Beginning at a point from which the South 1/4 corner of said Section 7 bears
S38°21'37"W a distance of 1507.17 feet;
thence N85°24'16"E a distance of 6.80 feet;
thence S28°10'49"E a distance of 21.28 feet;
thence S57°55'50"W a distance of 6.23 feet;
thence N28°12'56"W a distance of 24.42 feet to the Point of Beginning,
containing 142.25 Sq. Ft.

Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29
both brass rods set into rock as S70°19'53"W, 3623.12 feet

NOTICE:

ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY
ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN
THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT.
IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT
IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS
FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

R10-30
R12-04

KURT O. LINN, JR.
REG. S. ENG. CO. 1000
No. 14112
Date: October 20, 2003.



120697

Page: 12 of 21
02/02/2004 03:50P
R 106.00 D 0.00

Jess Lovingslar Gilpin County 174 R 106.00

KURT O. LINN

SURVEYOR INC.

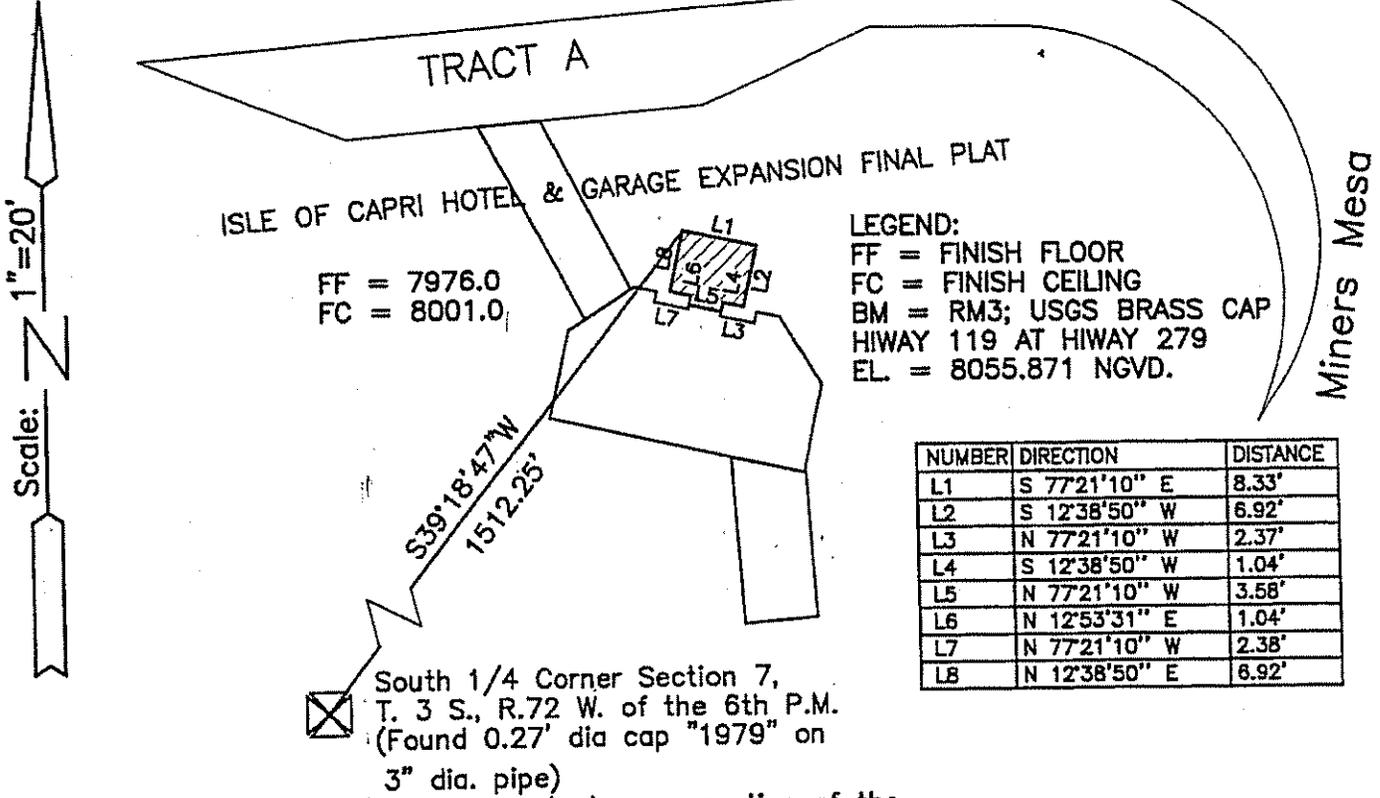
7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893

Job No.: 0302-31

B2

Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FOUR EASEMENTS
PAGE 2 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY Main Street



NUMBER	DIRECTION	DISTANCE
L1	S 77°21'10" E	8.33'
L2	S 12°38'50" W	6.92'
L3	N 77°21'10" W	2.37'
L4	S 12°38'50" W	1.04'
L5	N 77°21'10" W	3.58'
L6	N 12°53'31" E	1.04'
L7	N 77°21'10" W	2.38'
L8	N 12°38'50" E	6.92'

An Air Space Easement over and above a portion of the South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows.

Beginning at a point from which the South 1/4 corner of said Section 7 bears S39°18'47"W a distance of 1512.25 feet;
thence S77°21'10"E a distance of 8.33 feet;
thence S12°38'50"W a distance of 6.92 feet;
thence N77°21'10"W a distance of 2.37 feet;
thence S12°38'50"W a distance of 1.04 feet;
thence N77°21'10"W a distance of 3.58 feet;
thence N12°53'31"E a distance of 1.04 feet;
thence N77°21'10"W a distance of 2.38 feet;
thence N12°38'50"E a distance of 6.92 feet to the Point of Beginning,
containing 61.36 Sq. Ft.

This easement runs from an elevation of 7976.00 to an elevation of 8001.00 feet;

Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29 both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE:

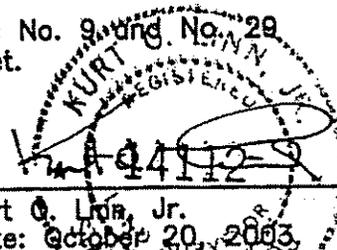
ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

R12-02

R10-30

Kurt O. Linn, Jr.

Date: October 20, 2003





120697

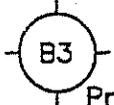
Page: 13 of 21
02/02/2004 03:50P
D 0.00

Jess Lovingsier Gilpin County 174 R 106.00

KURT O. LINN

SURVEYOR INC.

7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893



Job No.: 0302-31

Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FOUR EASEMENTS
PAGE 3 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY Main Street

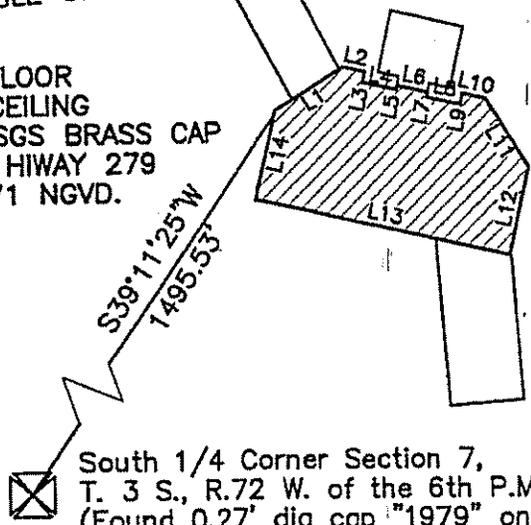
Scale: 1"=20'

LEGEND:

- FF = FINISH FLOOR
- FC = FINISH CEILING
- BM = RM3; USGS BRASS CAP
- HIWAY 119 AT HIWAY 279
- EL. = 8055.871 NGVD.

TRACT A

ISLE OF CAPRI HOTEL & GARAGE EXPANSION FINAL PLAT



FF = 7976.0
FC = 7988.0

NUMBER	DIRECTION	DISTANCE
L1	N 57°55'50" E	8.95'
L2	S 77°27'55" E	2.51'
L3	S 12°38'50" W	1.21'
L4	S 77°21'10" E	3.87'
L5	N 12°38'50" E	0.46'
L6	S 77°21'10" E	3.58'
L7	S 12°38'50" W	0.52'
L8	S 78°16'36" E	3.88'
L9	N 12°38'50" E	1.21'
L10	S 77°14'38" E	2.60'
L11	S 32°15'29" E	8.89'
L12	S 12°34'21" W	10.02'
L13	N 77°21'10" W	29.11'
L14	N 12°45'17" E	10.02'

Miners Mesa

South 1/4 Corner Section 7,
T. 3 S., R.72 W. of the 6th P.M.
(Found 0.27' dia cap "1979" on
3" dia. pipe)

An Air Space Easement over and above a portion of the
South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M.,
City of Black Hawk, County of Gilpin, State of Colorado, more particularly described
as follows.

Beginning at a point from which the South 1/4 corner of said Section 7 bears
S39°11'25"W a distance of 1495.53 feet;

thence N57°55'50"E a distance of 8.95 feet; thence S77°27'55"E a distance of 2.51 feet;
thence S12°38'50"W a distance of 1.21 feet; thence S77°21'10"E a distance of 3.87 feet;
thence N12°38'50"E a distance of 0.46 feet; thence S77°21'10"E a distance of 3.58 feet;
thence S12°38'50"W a distance of 0.52 feet; thence S78°16'36"E a distance of 3.88 feet;
thence N12°38'50"E a distance of 1.21 feet; thence S77°14'38"E a distance of 2.60 feet;
thence S32°15'29"E a distance of 8.89 feet; thence S12°34'21"W a distance of 10.02 feet;
thence N77°21'10"W a distance of 29.11 feet; thence N12°45'17"E a distance of 10.02 feet
to the Point of Beginning,
containing 422.77 Sq. Ft.

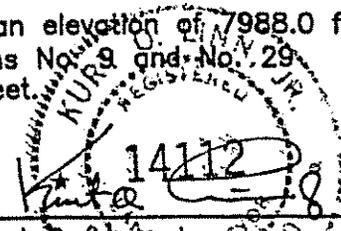
This easement runs from an elevation of 7976.0 feet to an elevation of 7988.0 feet.
Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29
both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE:

ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY
ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN
THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT.
IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT
IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS
FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

R10-30
R12-06

Kurt O. Linn
Date: October 20, 2003





120697

Page: 14 of 21
02/02/2004 03:50P
R 106.00 D 0.00

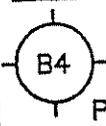
Jess Lovinger Gilpin County 174

Job No.: 0302-31

KURT O. LINN

SURVEYOR INC.

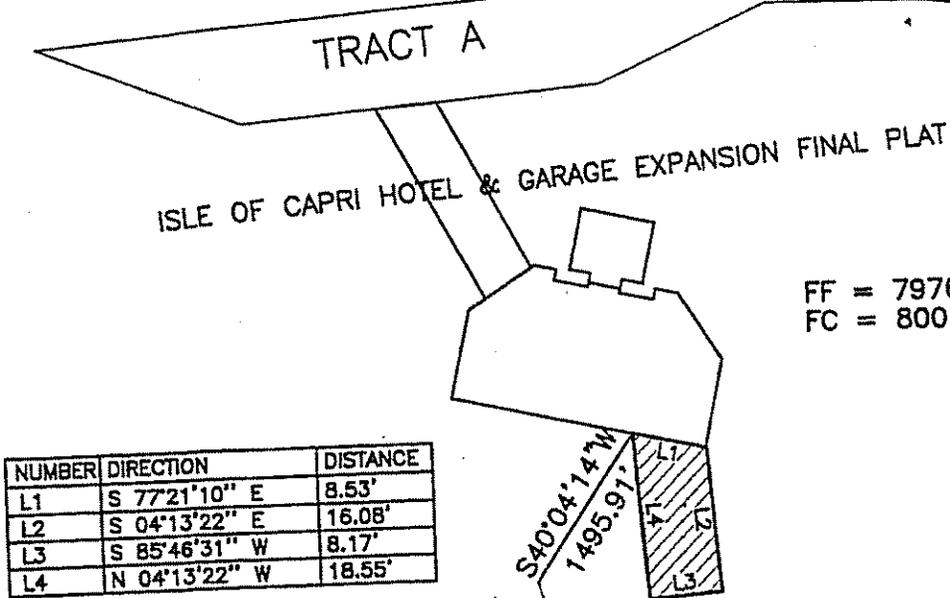
7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893



Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FOUR EASEMENTS
PAGE 4 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY Main Street

Scale: $1" = 20'$



FF = 7976.0
FC = 8001.0

Miners Mesa

NUMBER	DIRECTION	DISTANCE
L1	S 77°21'10" E	8.53'
L2	S 04°13'22" E	16.08'
L3	S 85°46'31" W	8.17'
L4	N 04°13'22" W	18.55'

LEGEND:

- FF = FINISH FLOOR
- FC = FINISH CEILING
- BM = RM3; USGS BRASS CAP
- HIWAY 119 AT HIWAY 279
- EL = 8055.871 NGVD.

South 1/4 Corner Section 7,
T. 3 S., R. 72 W. of the 6th P.M.
(Found 0.27' dia cap "1979" on
3" dia. pipe)

An Air Space Easement over and above a portion of the South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows.

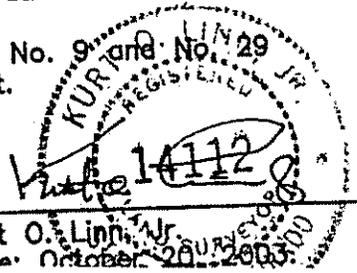
Beginning at a point from which the South 1/4 corner of said Section 7 bears S40°04'14"W a distance of 1495.91 feet;
thence S77°21'10"E a distance of 8.53 feet;
thence S4°13'22"E a distance of 16.08 feet;
thence S85°46'31"W a distance of 8.17 feet;
thence N4°13'22"W a distance of 18.55 feet to the Point of Beginning,
containing 141.40 Sq. Ft.

This easement runs from an elevation of 7976.00 to an elevation of 8001.00 feet;

Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29 both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE:

ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS



R10-30
B12-06

Kurt O. Linn, Jr.
Date: October 20, 2003

120697

Page: 15 of 21
02/02/2004 03:50P
R 106.00 D 0.00

Jess Lovingler Gilpin County 174

KURT O. LINN

SURVEYOR INC.

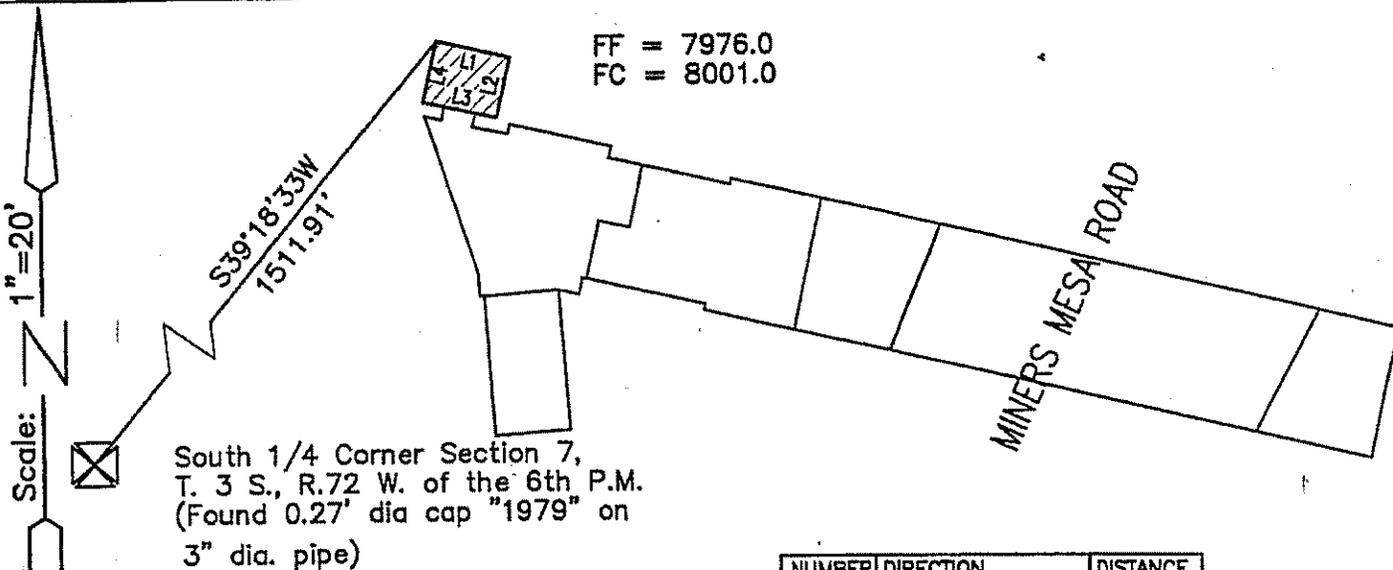
7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893

Job No.: 0302-31

D1

Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FIVE EASEMENTS
PAGE 1 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY



FF = 7976.0
FC = 8001.0

South 1/4 Corner Section 7,
T. 3 S., R. 72 W. of the 6th P.M.
(Found 0.27' dia cap "1979" on
3" dia. pipe)

LEGEND:

FF = FINISH FLOOR
FC = FINISH CEILING
BM = RM3; USGS BRASS CAP
HIWAY 119 AT HIWAY 279
EL. = 8055.871 NGVD.

NUMBER	DIRECTION	DISTANCE
L1	S 76°48'06" E	8.33'
L2	S 12°34'58" W	6.84'
L3	N 77°21'10" W	8.33'
L4	N 12°38'50" E	6.92'

An Air Space Easement over and above a portion of the South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows.

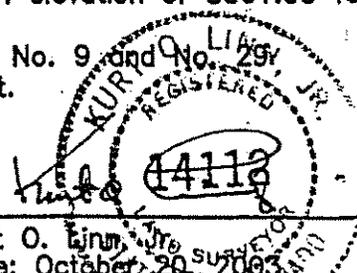
Beginning at a point from which the South 1/4 corner of said Section 7 bears S39°18'33"W a distance of 1511.91 feet;
thence S76°48'06"E a distance of 8.33 feet;
thence S12°34'58"W a distance of 6.84 feet;
thence N77°21'10"W a distance of 8.33 feet;
thence N12°38'50"E a distance of 6.92 feet to the Point of Beginning, containing 57.28 Sq. Ft.

This easement runs from an elevation of 7976.00 feet to an elevation of 8001.00 feet;

Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29, both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE:

ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.



R10-30 Kurt O. Linn, Jr.
R12-06 Date: October 20, 2003



120697

Page: 16 of 21
02/02/2004 03:50P
D 0.00

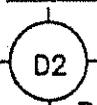
Jess Lovingsier Gilpin County 174 R 106.00

Job No.: 0302-31

KURT O. LINN

SURVEYOR INC.

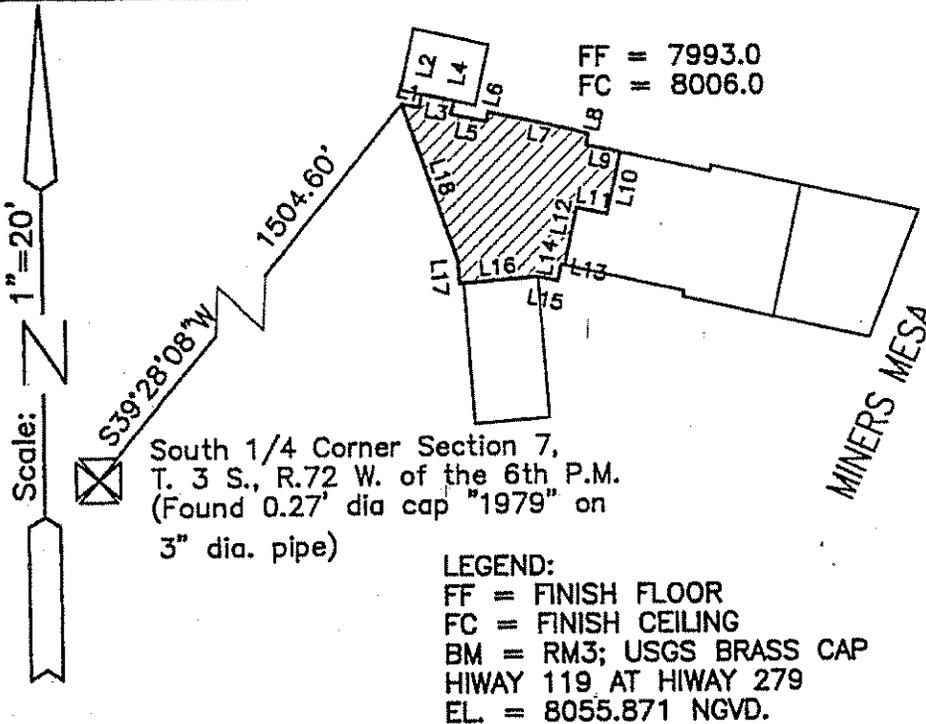
7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893



Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FIVE EASEMENTS
PAGE 2 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY

ROAD



NUMBER	DIRECTION	DISTANCE
L1	S 77°21'10" E	1.91'
L2	N 12°49'02" E	1.50'
L3	S 77°21'10" E	3.58'
L4	S 12°38'50" W	1.56'
L5	S 78°16'36" E	3.88'
L6	N 17°03'50" E	1.08'
L7	S 77°21'10" E	11.32'
L8	S 12°33'10" W	1.32'
L9	S 77°26'06" E	3.88'
L10	S 12°33'57" W	7.00'
L11	N 77°26'14" W	3.47'
L12	S 12°33'57" W	6.51'
L13	N 77°26'03" W	0.40'
L14	S 12°16'36" W	1.87'
L15	N 77°27'09" W	2.28'
L16	S 85°46'31" W	8.60'
L17	N 04°13'29" W	2.59'
L18	N 18°44'55" W	18.31'

An Air Space Easement over and above a portion of the South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows.

Beginning at a point from which the South 1/4 corner of said Section 7 bears S39°28'08"W a distance of 1504.60 feet;

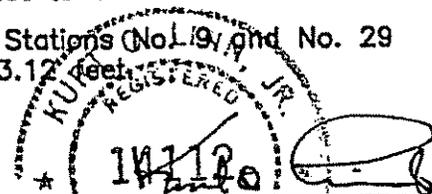
thence S77°21'10"E a distance of 1.91 feet; thence N12°49'02"E a distance of 1.50 feet; thence S77°21'10"E a distance of 3.58 feet; thence S12°38'50"W a distance of 1.56 feet; thence S78°16'36"E a distance of 3.88 feet; thence N17°03'50"E a distance of 1.08 feet; thence S77°21'10"E a distance of 11.32 feet; thence S12°33'10"W a distance of 1.32 feet; thence S77°26'06"E a distance of 3.88 feet; thence S12°33'57"W a distance of 7.00 feet; thence N77°26'14"W a distance of 3.47 feet; thence S12°33'57"W a distance of 6.51 feet; thence N77°26'03"W a distance of 0.40 feet; thence S12°16'36"W a distance of 1.87 feet; thence N77°27'09"W a distance of 2.28 feet; thence S85°46'31"W a distance of 8.60 feet; thence N4°13'29"W a distance of 2.59 feet; thence N18°44'55"W a distance of 18.31 feet to the Point of Beginning, containing 308.64 Sq. Ft.

This easement runs from an elevation of 7993.0 feet to an elevation of 8006.0 feet.

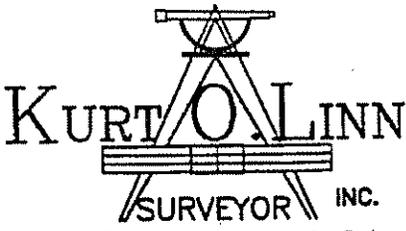
Basis of Bearings: an inverse between Triangulation Stations No. 19 and No. 29 both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE:

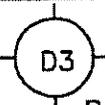
ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.



R12-06 Kurt O. Linn, Jr.
R10-30 Date: October 20, 2003.



7575 West 23rd Avenue, Lakewood, Colorado 80214
 PH: 303-233-1171, FAX 303-237-1893

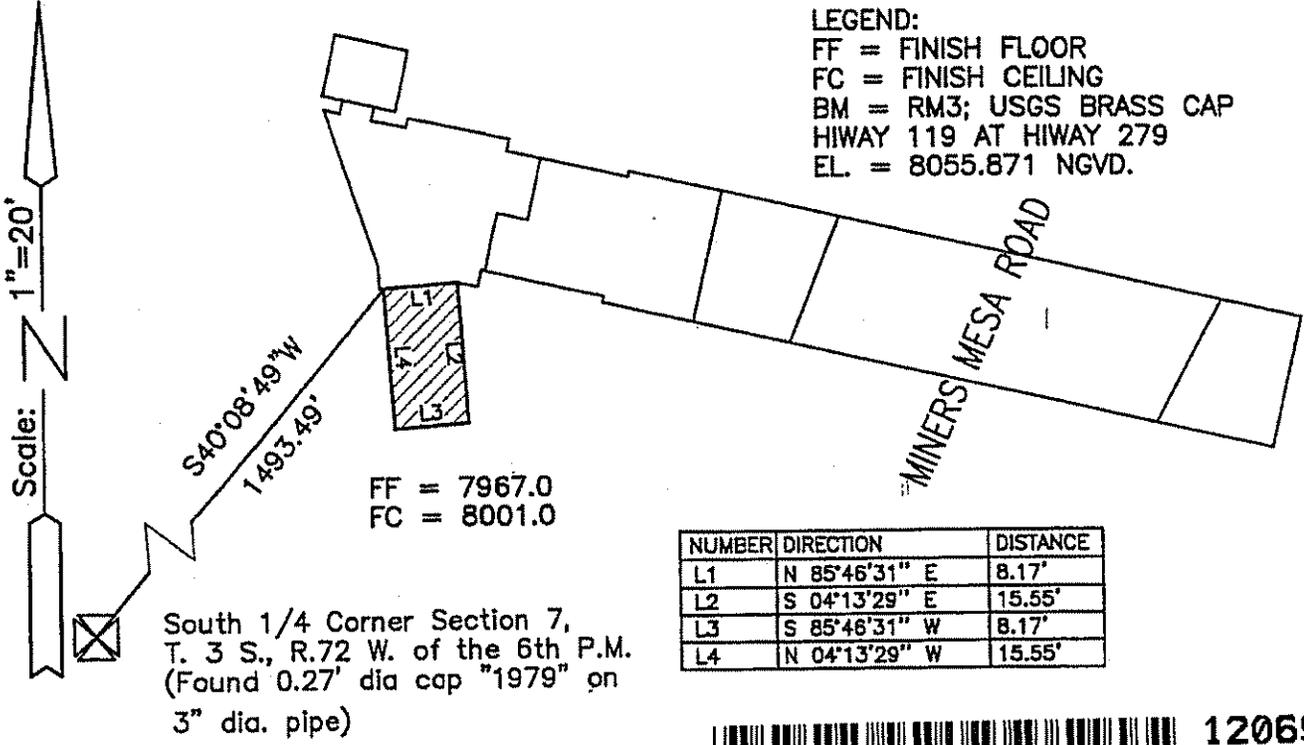


Job No.: 0302-31

Prepared for: THE ISLE OF CAPRI
 BLACK HAWK, COLORADO.
 SHEET FIVE EASEMENTS
 PAGE 3 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY

LEGEND:
 FF = FINISH FLOOR
 FC = FINISH CEILING
 BM = RM3; USGS BRASS CAP
 HIWAY 119 AT HIWAY 279
 EL. = 8055.871 NGVD.



FF = 7967.0
 FC = 8001.0

NUMBER	DIRECTION	DISTANCE
L1	N 85°46'31" E	8.17'
L2	S 04°13'29" E	15.55'
L3	S 85°46'31" W	8.17'
L4	N 04°13'29" W	15.55'

South 1/4 Corner Section 7,
 T. 3 S., R.72 W. of the 6th P.M.
 (Found 0.27' dia cap "1979" on
 3" dia. pipe)



120697
 Page: 17 of 21
 02/02/2004 03:50P

An Air Space Easement over and above a portion of the South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows.

Beginning at a point from which the South 1/4 corner of said Section 7 bears S40°08'49"W a distance of 1493.49 feet;
 thence N85°46'31"E a distance of 8.17 feet;
 thence S4°13'29"E a distance of 15.55 feet;
 thence S85°46'31"W a distance of 8.17 feet;
 thence N4°13'29"W a distance of 15.55 feet to the Point of Beginning,
 containing 127.02 Sq. Ft.

This easement runs from an elevation of 7976.00 feet to an elevation of 8001.00 feet;

Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29 both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

R12-06 Kurt Q. Linn, Jr.
 R10-30 Date: October 20, 2003



120697

Page: 18 of 21

02/02/2004 03:50P

0 0.00

Jess Lovinger Gilpin County 174

R 106.00

EXHIBIT C

AIRSPACE EASEMENT AREA

Note: The attached legal descriptions are based on construction drawings and will be revised to reflect the actual location of improvements upon completion.



120697

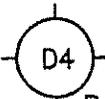
Page: 19 of 21
02/02/2004 03:50P
D 0.00

Jess Lovingsler Gilpin County 174 R 105.00

KURT O. LINN

SURVEYOR INC.

7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893



Job No.: 0302-31

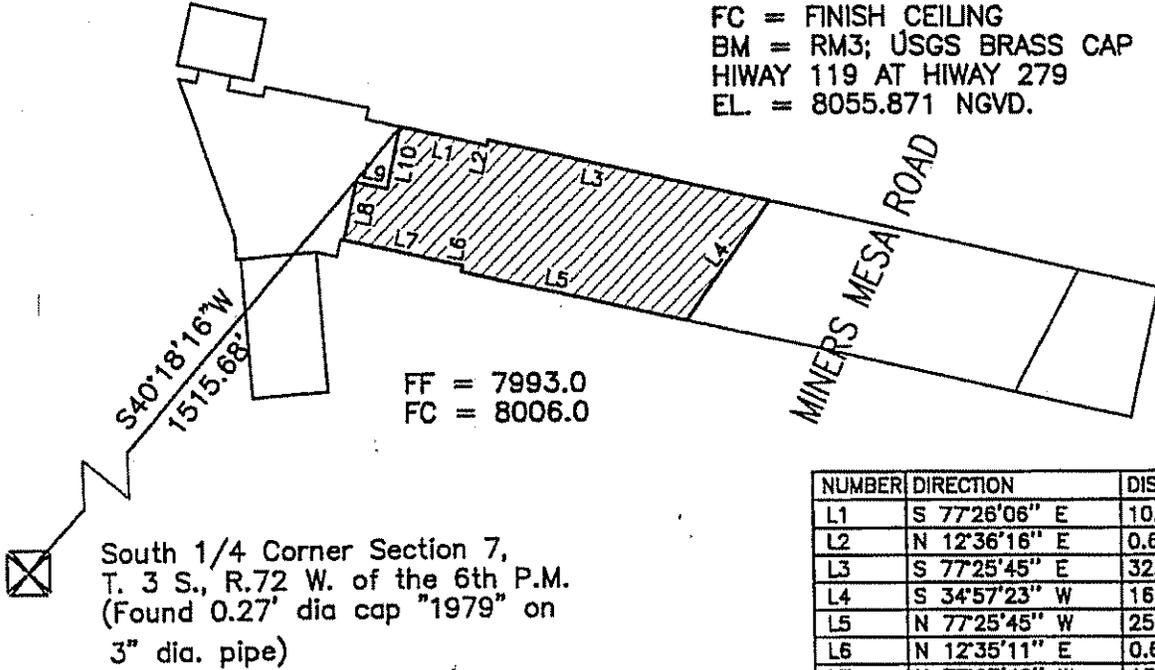
Prepared for: THE ISLE OF CAPRI
BLACK HAWK, COLORADO.
SHEET FIVE EASEMENTS
PAGE 4 OF 9 PAGES

INGRESS/EGRESS EASEMENT TO CITY

LEGEND:

- FF = FINISH FLOOR
- FC = FINISH CEILING
- BM = RM3; USGS BRASS CAP
- HIWAY 119 AT HIWAY 279
- EL. = 8055.871 NGVD.

Scale: 1"=20'



NUMBER	DIRECTION	DISTANCE
L1	S 77°26'06" E	10.01'
L2	N 12°36'16" E	0.67'
L3	S 77°25'45" E	32.01'
L4	S 34°57'23" W	16.04'
L5	N 77°25'45" W	25.90'
L6	N 12°35'11" E	0.67'
L7	N 77°27'40" W	13.48'
L8	N 12°33'57" E	6.51'
L9	S 77°26'14" E	3.47'
L10	N 12°33'57" E	7.00'

An Air Space Easement over and above a portion of the South 1/2 of Section 7, Township 3 South, Range 72 West of the 6th P.M., City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows.

Beginning at a point from which the South 1/4 corner of said Section 7 bears S40°18'16"W a distance of 1515.68 feet;
 thence S77°26'06"E a distance of 10.01 feet;
 thence N12°36'16"E a distance of 0.67 feet;
 thence S77°25'45"E a distance of 32.01 feet;
 thence S34°57'23"W a distance of 16.04 feet;
 thence N77°25'45"W a distance of 25.90 feet;
 thence N12°35'11"E a distance of 0.67 feet; thence N77°27'40"W a distance of 13.48 feet;
 thence N12°33'57"E a distance of 6.51 feet; thence S77°26'14"E a distance of 3.47 feet;
 thence N12°33'57"E a distance of 7.00 feet to the Point of Beginning,
 containing 587.20 Sq. Ft.

This easement runs from an elevation of 7993.0 feet to an elevation of 8006.0 feet

Basis of Bearings: an inverse between Triangulation Stations No. 9 and No. 29 both brass rods set into rock as S70°19'53"W, 3623.12 feet.

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

R12-06
R10-30

Kurt O. Linn, Jr.
 Registered Professional Surveyor
 No. 14112
 State of Colorado
 Date: October 20, 2003



120697

Page: 20 of 21

02/02/2004 03:50P

Jess Lovinger Gilpin County 174

R 106.00

D 0.00

EXHIBIT D

CONNECTING PARCEL (ISLE OF CAPRI PARCEL)



7575 West 23rd Avenue, Lakewood, Colorado 80214
PH: 303-233-1171, FAX 303-237-1893



120697

Page: 21 of 21
02/02/2004 03:50P
D 0.00

Legal Description: ISLE OF CAPRI EXPANSION FINAL PLAT

A parcel of land in the South one-half of Section 7, Township 3 South, Range 72 West of the 6th Principal Meridian, City of Black Hawk, County of Gilpin, State of Colorado, more particularly described as follows:

Beginning at the Northwest corner of Lot 5, Block 51, City of Black Hawk, as said Block was set out by Cross Country Surveys, Inc., dated January 28, 1998, and approved by the City of Black Hawk on January 28, 1998, and from which point of beginning the South 1/4 corner of said Section 7 bears S46°14'56"W a distance of 1622.09 feet;

Thence N56°05'15"E along Parcel E1, Book 688, Page 137 a distance of 21.21 feet to a corner thereof;

thence S78°54'45"E along Parcel E1 and E2, said Book 688, page 137 a distance of 713.38 feet to a point on the Northerly line of Block 52, City of Black Hawk, as said Block was set out by Cross Country Surveys, Inc., dated January 28, 1998, and approved by the City of Black Hawk on January 28, 1998;

thence N83°38'00"E along said Northerly line of Block 52 a distance of 135.00 feet to an angle point in said Northerly line;

thence S83°00'21"E along said Northerly line of Block 52 a distance of 285.00 feet to an angle point in said Northerly line;

thence S72°09'22"E along said Northerly line of Block 52 a distance of 267.00 feet to the Northeast corner said Block 52;

thence S17°50'38"W along the Easterly line said Block 52 a distance of 100.00 feet to the Southeast corner said Block 52;

thence N72°09'22"W along the Southerly line said Block 52 a distance of 257.50 feet to an angle point in said Southerly line;

thence N83°00'21"W along the Southerly line said Block 52 a distance of 263.79 feet to an angle point in said Southerly line;

thence S83°38'00"W along the Southerly line said Block 52 a distance of 34.36 feet to the point of intersection of said line with line 4-1 of the Stevens Lode, City Title, Book A, Page 262;

thence S73°45'00"W along said line 4-1 of the Stevens Lode, a distance of 147.64 feet to corner No. 3, RUNNING LODE, U. S. Mineral Survey No. 592;

thence S14°25'00"E a distance of 150.10 feet to corner No. 4, said RUNNING LODE;

thence S73°45'00"W along line 4-1 said RUNNING LODE, a distance of 228.64 feet to a point;

thence N78°52'00"W a distance of 326.18 feet to a point on said line 4-1 of the Stevens Lode;

thence S73°45'00"W along said line 4-1 of the Stevens Lode, 400.00 feet to corner No. 1 said Stevens Lode, which point is on line 4-1 of the WABASH LODE, U. S. Mineral Survey No. 42;

thence N18°06'46"E along said line 4-1 of the WABASH LODE, a distance of 328.65 feet;

thence N68°28'58"W a distance of 85.12 feet;

thence N30°32'16"E a distance of 131.40 feet to a point on the Southerly line of said Block 51, City of Black Hawk;

thence N61°58'59"W along said Southerly line a distance of 13.01 feet;

thence N34°57'23"E a distance of 100.74 feet to a point on the Northerly line of said Block 51, City of Black Hawk;

thence S61°58'59"E along said Northerly line a distance of 54.85 feet to an angle point in said line;

thence S78°54'45"E along said Northerly line a distance of 26.90 feet to the Point of Beginning,

EXCEPTING THEREFROM, that tract conveyed to the City of Black Hawk in Book 650 of Range 855, Containing 9.3028 acres, more or less.

County of Gilpin, State of Colorado.

14112
Kurt O. Linn
PLS No. 14112
Prepared June 25, 2003
Surveyor
State of Colorado

**FIFTH ADDENDUM TO LEASE AND AGREEMENT – SPRING 1995 (LOWER LOTS) AND
FOURTH ADDENDUM TO LEASE AND AGREEMENT – SPRING 1995 (UPPER LOTS)**

This Fifth Addendum to Lease and Agreement – Spring 1995 (Lower Lots) and Fourth Addendum to Lease and Agreement – Spring 1995 (Upper Lots) (this “Agreement”) is entered into this 11th day of December, 2013, by and between Andrianakos Limited Liability Company, a Colorado limited liability company (“Andrianakos LLC”) and the Isle of Capri Black Hawk, L.L.C., a Colorado limited liability company (the “Isle of Capri”) (Andrianakos LLC and Isle of Capri, collectively the “Parties”).

EXPLANATORY STATEMENT

A. Andrianakos LLC and Anchor Coin d/b/a Colorado Central Station Casino entered into that certain Lease and Agreement – Spring 1995 (Lower Lots) dated August 15, 1995, as amended by Addendum to Lease and Agreement – Spring 1995 (Lower Lots) dated April 4, 1996, and by Second Addendum to Lease and Agreement – Spring 1995 (Lower Lots) effective as of March 21, 2003 (collectively the “Lower Lot Leases”).

B. Andrianakos LLC and Anchor Coin d/b/a Colorado Central Station Casino entered into that certain Spring 1995 – Amended and Restated Vacant Ground Lease for Parking Lot Purposes and Agreement (Upper Lot) dated August 15, 1995 and Lease Addendum dated May 1, 2000 (collectively “Upper Lot Leases”).

C. Anchor Coin d/b/a Colorado Central Station Casino assigned the Upper Lot Leases to CCSC/Blackhawk, Inc. effective January 1, 2002, and CCSC/Blackhawk, Inc. d/b/a Colorado Central Station Casino and Andrianakos LLC further amended the Upper Lot Leases for Parking Lot Purposes and Agreement (Upper Lot) dated effective April 22, 2003.

D. Anchor Coin/b/a Colorado Central Station Casino assigned the Lease to CCSC/Blackhawk, Inc. effective January 1, 2002.

D. CCSC/Blackhawk, Inc. assigned the Lower Lot Leases and the Upper Lot Leases and conveyed the real property described as “Isle Real Property” to Isle of Capri Black Hawk, L.L.C effective April 22, 2003.

E. Andrianakos Limited Liability Company and Isle of Capri Black Hawk, L.L.C entered into that Third Addendum to Lease Agreement – Spring 1995 (Lower Lots) effective April 22, 2003 adding addition real property and otherwise amending and supplementing the Lower Lot Leases.

F. Pursuant to Section A-3 of the Lower Lot Leases and Upper Lot Leases the term of such leases shall automatically renew unless the Isle of Capri gives its notice of non-renewal not less than six months prior to the end of any term.

G. Andrianakos Limited Liability Company and Isle of Capri Black Hawk, L.L.C. entered into that Fourth Addendum to Lease and Agreement Spring 1995 (Lower Lots) and Third Addendum to Lease and Agreement Spring 1995 (Upper Lots), dated November 26, 2013, thereby extending the notice period under Section A-3 of the Lower Lot Leases and Upper Lot Leases for an additional thirty (30) days up to and including 5:00 PM (MST) on Tuesday, December 31, 2013 in order to give the parties additional time to draft and finalize this Fifth Addendum to Lease and Agreement – Spring 1995 (Lower Lots) and this Fourth Addendum to Lease and Agreement – Spring 1995 (Upper Lots).

H. Andrianakos Limited Liability Company and Isle of Capri Black Hawk, L.L.C. have mutually agreed to amend and modify the terms of the Lower Lot Leases and Upper Lot Leases as stated herein.

NOW THEREFORE, in consideration of the foregoing Explanatory Statement that is made a substantive part of this Agreement and for other good and valuable consideration the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. Incorporation of the Upper Lot Lease into the Lower Lot Leases. The Upper Lot Leases are hereby incorporated into and made part of the Lower Lot Leases resulting in one lease for the real property that currently is subject to the Lower Lot Leases and the Upper Lot Leases and the combined Lower Lot Leases and the Upper Lot Leases shall be referred to as the "Isle of Capri Blackhawk Lease."

2. Term of the Isle of Capri Blackhawk Lease. The Term of the Isle of Capri Blackhawk Lease shall commence as of the date of this Agreement through May 31, 2019 at 12:00 PM MDT.

3. Rental Rate. The rental rate for the Isle of Capri Blackhawk Lease shall be Two Hundred Fourteen Thousand Four Hundred and Fifty One Dollars and Sixty Eight Cents (\$214,451.68) per month from the date of this Agreement through the term ending May 31, 2019 at 12:00 PM MDT. The foregoing rental rate includes the rent for all real property that was previously subject to the Lower Lot Leases and the Upper Lot Leases.

4. Renewals. Section A-3 of both the Lower Lot Leases and the Upper Lot Leases that is now the Isle of Capri Blackhawk Lease are deleted in their entirety and replaced with the following:

"A-3. Renewals. This Lease may be renewed at Lessee's sole option for up to fifteen (15) terms of five (5) years each commencing June 1, 2019. Renewal shall be automatic for each term unless Lessee gives its notice of non-renewal not less than six (6) months prior to the end of any term."

5. Rental Rate Indexing. Section A-5 Rental Rate Indexing of the Lower Lots Leases that is now the Isle of Capri Blackhawk Lease shall be deleted in its entirety and replaced with the following that shall apply to the real property that that was previously subject to both the Lower Lot Leases and the Upper Lot Leases:

"The rental rate for the current renewal (June 1, 2014 to May 31, 2019) shall remain the same and not change. The rental rate thereafter shall be adjusted annually by the Consumer Price Index (CPI) figures for the Denver/Boulder Standard Metropolitan Statistical Area released by the U.S. Department of Commerce, or its successor, most recently preceding the June first of the subject year to determine any change in the cost of living."

6. **Miscellaneous.** As modified herein, all other terms and conditions of the Lower Lot Leases and Upper Lot Leases, incorporated into one lease as set forth in Section 2 above, shall remain in full force and effect and are hereby ratified and confirmed. This Agreement may be executed in counterparts.

LESSEE

Isle of Capri Black Hawk, L.L.C.

By: 
Brian P. Watts, Vice President & GM

12-10-2013

LESSOR

Andrianakos Limited Liability Company

By: 
Ioannis E. Andrianakos, Manager

Exhibit

F

Promotional Association/
Common Consumption Area Certification Request
Isle Promotional Association, Inc.
Attached Licensees

Licensee Name	Doing Business As	License Number	Address	List of any Past Violations
CCSC/Blackhawk Inc.	Lady Luck Casino Black Hawk	40881680000	340 Main St. Black Hawk, CO 80422	None
Isle of Capri Black Hawk, LLC	Lady Luck Hotel & Parking Garage	4700732	333 Main St. Black Hawk, CO 80422	None
Isle of Capri Black Hawk, LLC	Isle Casino Hotel Black Hawk	14324480001	401 Main St. Black Hawk, CO 80422	Received verbal warning in 2014 from State of Colorado regarding service to a visibly intoxicated patron (no penalty or admission of liability)

Exhibit G



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/06/2015

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

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

PRODUCER MARSH USA INC. 540 W MADISON CHICAGO, IL 60661 Attn: Chicago.CertRequest@marsh.com	CONTACT NAME: PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ ADDRESS: _____														
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A - Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td>INSURER B - N/A</td> <td>N/A</td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A - Zurich American Insurance Company	16535	INSURER B - N/A	N/A	INSURER C :		INSURER D :		INSURER E :		INSURER F :
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A - Zurich American Insurance Company	16535														
INSURER B - N/A	N/A														
INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															
INSURED Isle Promotional Association, Inc. 600 Emerson Road, Suite 300 Saint Louis, MO 63141															

COVERAGES	CERTIFICATE NUMBER: CHI-006387368-02	REVISION NUMBER: 4
------------------	---	---------------------------

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> SIR \$1,000,000 GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER		PRA318747309	05/01/2015	05/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTIONS					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E L EACH ACCIDENT \$ E L DISEASE - EA EMPLOYEE \$ E L DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 City of Black Hawk is included as additional insured on general liability where required by written contract.
 General Liability includes Liquor Liability; Limits: \$2,000,000 Aggregate, \$1,000,000 Per Occurrence.

CERTIFICATE HOLDER City of Black Hawk PO Box 68 201 Selak Street Black Hawk, CO 80422	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>
--	--

© 1988-2014 ACORD CORPORATION. All rights reserved.

Exhibit

H

Promotional Association/
Common Consumption Area Certification Request
Isle Promotional Association, Inc.
Reasonable Requirements

The Isle Casino Hotel Black Hawk, the Lady Luck Hotel & Parking Garage, and the Lady Luck Casino Black Hawk operate hotels and casinos with 24-hour gaming and food available seven days per week. The destination resort atmosphere of the properties makes them ideal for 24 hour alcohol service. The three licensed premises are also connected by overhead walkways completely separated from traffic. The environment of these walkways makes for a safe and responsible common consumption area which is needed and desired by adult inhabitants of the City of Black Hawk.

With 402 hotel rooms, we experience a significant number of overnight guests. Currently, these guests have to stop consuming alcohol at 2am. We often see a significant drop in gaming at this time as well. Extending hours of alcohol service to match the many other amenities offered would allow guests more enjoyment and safety during their stay. Based on an analysis of business levels, slot volume (coin-in) decreases by approximately 30% every day of the week between the hours of 2am and 3am. It is expected that gaming revenues would increase with the extended service as guests are able to enjoy themselves longer rather than returning to their rooms.

Additionally, the Black Hawk and Central City markets employ a significant number of people who commonly work late night shifts. These employees often do not have a source of entertainment for after work hours. Extended alcohol hours could keep these employees in the market for gaming and other entertainment.

The Horseshoe-Gilpin Promotional Association began serving weekend 24-hour alcohol on July 4th, 2015. Observations of the Gilpin and Canyon casinos during these periods of extended alcohol service show that it has been very favorable to guests. These casinos appear much busier during these hours than before. This indicates that the adult patrons in the market need and desire such service.

We anticipate a need and desire for guests to be able to consume alcohol 24 hours a day and there is a need and desire within the entertainment district of Black Hawk for such use. The promotional association will collect some petitions for presentation at hearing.

Memo

To: Jack Lewis, City Manager
From: Stephen Cole, Chief of Police
Date: August 20, 2015
Re: Isle Promotional Association Inc. Common Consumption Area Certification Request

The purpose of this memorandum is to provide recommendations on the Isle Promotional Association Common Consumption Area Certification Request. As the Chief of the Black Hawk Police Department I am supportive of the application, but I'm making recommendations consistent with the previous applications submitted by other casinos:

Recommendation: Approve the hours of the Common Consumption Area for 24 hours a day, seven days a week instead of the proposed hours.

Reason: The proposed hours of operation by the Isle Promotional Association essentially creates 24 hour alcohol service by adding the 2:00 a.m. 7:00 a.m. time period. Granting approval for 24 hour service will be consistent with other Common Consumption areas in Black Hawk making it easier for law enforcement to monitor.

Recommendation: The Isle Promotional Association should provide signage indicating liquor cannot leave the premise and information to educate guests on "allowed" and "prohibited" conduct.

Reason: This is still a relatively new concept for casino guests and signage would be helpful in educating guests about "allowed" and "prohibited" conduct. We would suggest the applicant provide signage with sufficient information about common consumption areas.

Recommendation: Encourage casino staff to be vigilant in preventing the "over service" of alcohol.

Reason: Although all the casinos in Black Hawk do a good job preventing the "over service" of alcohol to guests, we would suggested they become especially vigilant in their effort as this new service becomes available.

Recommendation: The Police Department will evaluate the impact of extended alcohol service after 90 days of operation.

Reason: As more casinos add extended alcohol service we will review call-load data to fully understand the long term impact on police services. A cursory review of police calls related to extended alcohol service at another casino hasn't shown an increase in

call load, but that could change in the future. We will review call load data over the next several months.

Recommendation: The Police Department has extended the hours of on-duty personnel to provide adequate staffing until 3:30 a.m. The department will maintain current staffing levels until the impact of the change can be evaluated.

Reason: Although we don't anticipate a significant increase in calls due to extended hours of alcohol service by the Isle Promotional Association, we could see subsequent increases in calls as more casinos add extended alcohol service. As a result, we will maintain staffing levels until we review the impact on service delivery.