



REGULAR MEETING AGENDA

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

January 14, 2015
3:00 p.m.

RINGING OF THE BELL:

1. CALL TO ORDER:

2. ROLL CALL & PLEDGE OF ALLEGIANCE:

3. AGENDA CHANGES:

4. CONFLICTS OF INTEREST: (Council disclosures are on file w/City Clerk & Sec. of State)

5. INTRODUCTION OF NEW EMPLOYEES:

Officer Kyle Bacon, Dispatcher Lisa Hebertson, and Public Works Facilities Worker Shane McCuller

6. PUBLIC COMMENT: *Please limit comments to 5 minutes*

(Notify the City Clerk if you wish to address Council on items not on the agenda)

7. APPROVAL OF MINUTES: December 10, 2014

8. PUBLIC HEARINGS:

A. CB1, An Ordinance Amending the Black Hawk Municipal Code by the Addition Thereto of a New Section 10-144.7, Prohibiting the Use of Flammable Gas to Extract THC

B. CB2, An Ordinance Approving the Intergovernmental Agreement Between the City of Black Hawk and the Gilpin Ambulance Authority Regarding Maintenance of the Authority's Ambulances

C. CB3, An Ordinance Amending the City of Black Hawk Employee Handbook

9. ACTION ITEMS:

D. Introduction of an Ordinance amending the International Building Code, 2012 Edition, and the International Existing Building Code, 2012 Edition, as Adopted by the City of Black Hawk, by the addition Thereto of a new Sub-Section 18-5 (24) of the Black Hawk Municipal Code regarding Elevators

E. Resolution 1-2015, A Resolution Establishing a Designated Public Place for the Posting of Meeting Notices as Required by the Colorado Open Meetings Law

F. Resolution 2-2015, A Resolution Ratifying Findings of Fact in Support of the Decision to Grant a Retail Marijuana Store License to 5B1S, LLC dba 1859

G. Resolution 3-2015, A Resolution Ratifying the Phone Poll Approving the Renewal the City of Black Hawk's Worker's Compensation Coverage with Pinnacol Assurance

H. Resolution 4-2015, A Resolution Ratifying the Phone Poll Approving the Adoption and Entrance into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and Taking Other Actions in connection Therewith

I. Resolution 5-2015, A Resolution Approving the Boundary Line Agreement Between the City of Black Hawk and Smithloch, Inc., Block 29, Lot 1

J. Resolution 6-2015, A Resolution Approving Property Exchange Agreement with Quartz Valley, LLC.

K. Resolution 7-2015, A Resolution Appointing Two New Regular Members to the City of Black Hawk Historic Preservation Commission

10. CITY MANAGER REPORTS:

11. CITY ATTORNEY:

12. EXECUTIVE SESSION:

13. ADJOURNMENT:

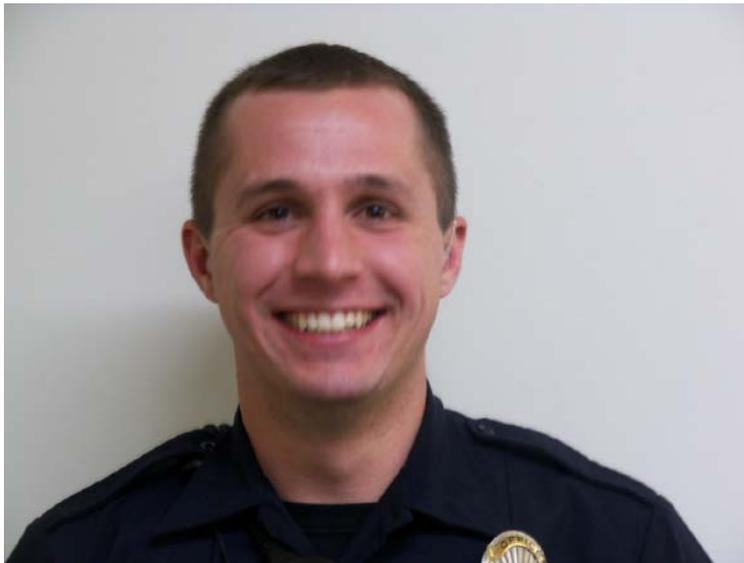
MISSION STATEMENT

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 POLICE DEPARTMENT



OFFICER KYLE BACON



Officer Bacon was born and raised in Colorado. He has always been interested in becoming a police officer and interned with other agencies. He served as a police explorer in high school and graduated from Red Rocks Community College Police Academy in May 2014. Officer Bacon enjoys all sports and played on a recreational soft ball team for the last five years. He is excited about his career with the City of Black Hawk and is eager to expand his knowledge in law enforcement.

CITY OF BLACK HAWK POLICE DEPARTMENT



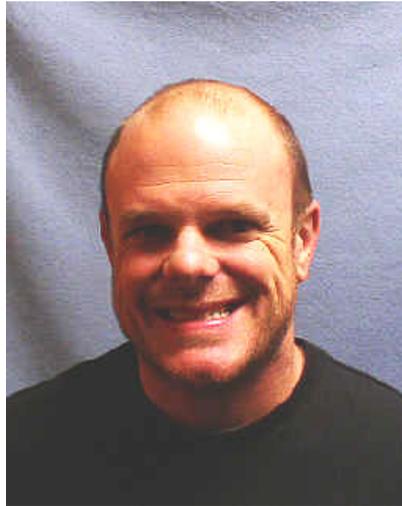
COMMUNICATION OFFICER LISA HEBERTSON



Lisa Hebertson grew up in west Denver and worked and lived in Golden for many years. In 2001 Lisa's family moved to Paonia on the western slope. She joined the Delta County Sheriff's Office as an emergency dispatcher in May of 2009 and worked there until deciding to return to the metro area to be near her parents. She has an adult daughter and two grandsons she adores. In her off time Lisa is an avid reader and knitter who enjoys spending time with her family hiking and exploring small towns. She is in the process of moving to the Black Hawk area.



CITY OF BLACK HAWK NEW EMPLOYEE INTRODUCTION



SHANE McCULLER FACILITIES MAINTENANCE WORKER

Shane McCuller started with the City at the end of December. He is working in the Public Works Facilities Department. Prior to coming to the City, Shane worked as a project manager/superintendent overseeing inspections at MidFirst Bank's corporate office in Oklahoma. Shane and his wife, Tracy, have been married going on 12 years and they love spending as much time as possible outdoors with their dogs, a Rottweiler named Diesel, and a recently rescued Blue Heeler named Blue. So far, Shane is really enjoying working here and is looking forward to getting to know everyone.



**City of Black Hawk
City Council**

December 10, 2014

MEETING MINUTES

IT Director Jeffrey Young rang the bell.

1. **CALL TO ORDER:** The regular meeting of the City Council was called to order on Wednesday, December 10, 2014 at 3:00 p.m. by Mayor Spellman.

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

Absent: Alderman Moates

Staff present: City Attorney Hoffmann, City Manager Lewis, Police Chief Cole, City Clerk/Administrative Services Director Greiner, Finance Director Hillis, Public Works Director Isbester, Community Planning and Development Administrator Linker, Fire Chief Taylor, IT Manager Muhammad, HR Generalist Romero, and Executive Administrative Assistant Blondo

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

PRESENTATION AND RECEPTION: Mayor Spellman, on behalf of the City, acknowledged the retirement of the City's IT Director, Jeffrey Young and presented Young with a plaque expressing the City's appreciation of his dedication and commitment through the years. Cake and refreshments were offered. Young thanked the current Council and the previous Council for all their support over his tenure.

3. **AGENDA CHANGES:** City Clerk Greiner stated there was one revision made: Item 8J was removed from the agenda to be rescheduled in January.

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 no one had signed up for public comments.

6. APPROVAL OF MINUTES: November 12, 2014.

MOTION TO APPROVE

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

MOTION PASSED

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

7. PUBLIC HEARINGS:

A. Recreational Marijuana Center Business License Application – 5B1S, LLC, dba 1859 at 231 Gregory Street

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann confirmed that it was up to the applicant to justify the need for this type of business under the City’s Licensing Ordinance, and that the City Clerk had conducted an investigation, which was outlined in the Preliminary Findings Report.

The applicants, Managing Partner Pat Pericak of Boulder and Director of Compliance Alex Valvassori of Denver, were present to answer any questions.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on the Recreational Marijuana Center Business License Application – 5B1S, LLC dba 1859 at 231 Gregory Street 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 Armbright to approve the Recreational Marijuana Center Business License Application – 5B1S, LLC dba 1859 at 231 Gregory Street.

MOTION PASSED

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

B. Resolution 92, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the City of Black Hawk, Colorado for the Calendar Year Beginning on the First Day of January 2015 and Ending on the Last Day of December 2015, and Appropriating Sums of Money to Various Funds and Spending Agencies in the Amount, and for the Purposes Set Forth within the Attached 2015 Budget

Mayor Spellman read the title and opened the public hearing.

Finance Director Hillis stated this was an updated budget, which incorporated all changes from Council’s previous work session.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 92, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the City of Black Hawk, Colorado for the Calendar Year Beginning on the First Day of January 2015 and Ending on the Last Day of December 2015, and Appropriating Sums of Money to Various Funds and Spending Agencies in the Amount, and for the Purposes Set Forth within the Attached 2015 Budget 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 Resolution 92, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the City of Black Hawk, Colorado for the Calendar Year Beginning on the First Day of January 2015 and Ending on the Last Day of December 2015, and Appropriating Sums of Money to Various Funds and Spending Agencies in the Amount, and for the Purposes Set Forth within the Attached 2015 Budget

MOTION PASSED

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

C. CB26, An Ordinance Levying General Property Taxes for the Year 2014 to Help Defray the Costs of Government for the City of Black Hawk, Colorado for the 2015 Budget Year

Mayor Spellman read the title and opened the public hearing.

Finance Director Hillis explained that the assessed value changed by 1% due to County request for the City to drop off the last digit of the mill levy to work within their system. Hillis said there are no significant changes to the property tax or revenues.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB26, An Ordinance Levying General Property Taxes for the Year 2014 to Help Defray the Costs of Government for the City of Black Hawk, Colorado for the 2015 Budget Year 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 Armbright to approve CB26, An Ordinance Levying General Property Taxes for the Year 2014 to Help Defray the Costs of Government for the City of Black Hawk, Colorado for the 2015 Budget Year.

MOTION PASSED

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

D. Resolution 93, A Resolution Approving a Certificate of Appropriateness for Full Exterior Rehabilitation and Site Work for the Property Located at 301 High Street

Mayor Spellman read the title and opened the public hearing.

Community Planning and Development Administrator Linker explained the application submitted by Lloyd and Christina Larsen, who were present for any questions. Linker asked for further direction on the replacement of a historic window on the west elevation. Due to configuration on the interior of the house, the applicants have asked for it not to be replaced, but retain it as is on the exterior and encapsulate it on the interior. Linker said the Historic Preservation Commission (HPC) was in agreement with this decision and recommends to Council for approval. Council was in favor of HPC’s recommendation.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on Resolution 93, A Resolution Approving a Certificate of Appropriateness for Full Exterior Rehabilitation and Site Work for the Property Located at 301 High Street open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 93, A Resolution Approving a Certificate of Appropriateness for Full Exterior Rehabilitation and Site Work for the Property Located at 301 High Street, along with HPC’s decision to leave that particular window on the west elevation as is on the exterior, and to encapsulate it on the interior.

MOTION PASSED

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

E. Resolution 94, A Resolution Approving a Certificate of Appropriateness for Full Exterior Rehabilitation and Site Work for the Property Located at 401 Chase Street

Mayor Spellman read the title and opened the public hearing.

Community Planning and Development Administrator Linker explained the application submitted by Josh Smith and Mary Keefhus. Discussion ensued on the tailing pile/mine waste on the site. Linker said that only the minimum required for the rehabilitation would be removed. City Manager Lewis commented that at one time there was an opportunity for the State to clean up the site, but the property owner had opted out, so the City should not feel obligated to do so. Linker added that HPC recommended approval of this application. Council was in favor of HPC’s recommendation.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 94, A Resolution Approving a Certificate of Appropriateness for Full Exterior Rehabilitation and Site Work for the Property Located at 401 Chase Street open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

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

MOTION TO APPROVE

Alderman Torres **MOVED** and was **SECONDED** by Alderman Midcap to approve Resolution 94, A Resolution Approving a Certificate of Appropriateness for Full Exterior Rehabilitation and Site Work for the Property Located at 401 Chase Street.

MOTION PASSED

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

8. ACTION ITEMS:

- F. **Resolution 95, A Resolution Authorizing the Change of Use of the Sanitary Sewer Tap on City-Owned Property Located on 211 Gregory Street and Described as Lots 3-5, Block 28, City of Black Hawk**
- G. **Resolution 96, A Resolution Authorizing the Change of Use of the Sanitary Sewer Tap on City-Owned Property Located on 260 Gregory Street and Described as Lots 2-7, Block 33, City of Black Hawk**

Mayor Spellman combined agenda items 8F and 8G and read the titles.

City Attorney Hoffmann stated that these were just a formality as the uses of sanitary sewer taps were no longer needed and approval would allow them to be downgraded to the type of taps they would be used for. Mayor Spellman noted there were considerable savings to the City by the downgrade.

MOTION TO APPROVE

Alderman Armbricht **MOVED** and was **SECONDED** by Alderman Torres to approve Resolutions 95, A Resolution Authorizing the Change of Use of the Sanitary Sewer Tap on City-Owned Property Located on 211 Gregory Street and Described as Lots 3-5, Block 28, City of Black Hawk 89, and Resolution 96, A Resolution Authorizing the Change of Use of the Sanitary Sewer Tap on City-Owned Property Located on 260 Gregory Street and Described as Lots 2-7, Block 33, City of Black Hawk.

MOTION PASSED

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

H. Resolution 97, A Resolution Adopting the 2015 Holiday Schedule

Mayor Spellman read the title.

City Clerk Greiner explained the request, which included pulling Veterans' Day from the holiday list as a cost savings measure and replacing the eight hour holiday with an additional eight hour Floating Holiday for employees. City Manager Lewis added that this was not intended to take away the importance of Veterans' Day, but reiterated that it would be a cost savings to the City, and history has shown that the majority of employees come into work that day and provides more flexibility.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolutions 97, A Resolution Adopting the 2015 Holiday Schedule.

MOTION PASSED

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

I. Resolution 98, A Resolution Adopting the 2015 City Council Regular Meeting Schedule

Mayor Spellman read the title.

City Clerk Greiner explained the request indicating that a footnote was added to the schedule clarifying the meetings in November and December.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 98, A Resolution Adopting the 2015 City Council Regular Meeting Schedule.

MOTION PASSED

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

J. Resolution 99, A Resolution Establishing a Designated Public Place for the Posting of 2015 Meeting Notices as Required by the Colorado Open Meetings Law

Mayor Spellman noted this item was deferred until January.

K. Resolution 100, A Resolution Authorizing the Placement of a Veterans' Memorial Plaque at Dory Hill Cemetery

Mayor Spellman read the title.

City Clerk Greiner explained the request from the Mountain Rendezvous Chapter of the Daughters of the American Revolution to place a memorial plaque at the cemetery to honor all fallen Gilpin County veterans. For consistency, Mayor Spellman suggested the plaque be bronze as are other plaques at the cemetery. He offered for the City to pick up any additional costs for the upgrade to bronze, and also suggested that the City would build a monument to place it on. All were in agreement with the suggestions.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 100, A Resolution Authorizing the Placement of a Veterans' Memorial Plaque at Dory Hill Cemetery, with the conditions for it to be bronze, any additional costs to upgrade to bronze would be paid by the City of Black Hawk, and the City would build a monument to place the plaque.

MOTION PASSED

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

L. Resolution 101, A Resolution Approving the Agreement for the Management and Operation of the Transportation Services for the Black Hawk Tramway between MV Public Transportation and the City of Black Hawk

Mayor Spellman read the title.

Public Works Director Isbester was available for any questions. He confirmed there was no increase in price.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 101, A Resolution Approving the Agreement for the Management and Operation of the Transportation Services for the Black Hawk Tramway between MV Public Transportation and the City of Black Hawk.

MOTION PASSED

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

M. Resolution 90, A Resolution Adopting and Entering into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and Taking Other Actions in Connection Therewith (Continued from November 12, 2014, recommend tabling indefinitely)

Mayor Spellman read the title.

City Clerk Greiner explained the reasoning to table this item indefinitely as the State of Colorado Division of Insurance has approved a line of insurance that will satisfy the requirement in the Senate Bill, and the City has just recently made an application to move in this direction away from the Trust.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Johnson to approve tabling Resolution 90, A Resolution Adopting and Entering into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and Taking Other Actions in Connection Therewith indefinitely.

MOTION PASSED

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

9. RECESS TO BLACK HAWK URBAN RENEWAL AUTHORITY:

N. Resolution 102, A Resolution Approving the Commercial Lease for the Property Located at 211 and 221 Gregory Street Between 5B1S, LLC and the Black Hawk Urban Renewal Authority

Mayor Spellman recessed the Council, which was then reseeded as the Urban Renewal Authority.

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

Absent: Alderman Moates

City Attorney Hoffmann explained to the Commissioners of the Authority that this was the old Eureka site, and this resolution would approve a commercial lease for the property. The lease term is 5 years in exchange for certain renovations.

MOTION TO APPROVE

Commissioner Johnson **MOVED** and was **SECONDED** by Commissioner Torres to approve Resolution 102, A Resolution Approving the Commercial Lease for the Property Located at 211 and 221 Gregory Street Between 5B1S, LLC and the Black Hawk Urban Renewal Authority.

MOTION PASSED

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

Mayor Spellman then reconvened back into the Board of Aldermen, City Council.

10. CITY MANAGER REPORTS:

City Manager Lewis said there were extra seats available for the Colorado Preservation, Inc. Saving Places 2015 Conference on February 4-6 in Denver, and to let Community Planning and Development Administrator Linker know if interested in attending. The City is a gold sponsor of the conference.

Also, Lewis asked if Council wanted to continue with Channel 22 on the US Cable station. It is antiquated, especially with the City's new website, and it is requiring an upgrade to the system at this time. There was consensus to stop the Cable station and direct the public to the website for information.

Lastly, Lewis asked Council to take a moment for Public Works Director Isbester to present the proposed bus stop sign, which was setup in Council Chambers.

10. CITY ATTORNEY: City Attorney Hoffmann had nothing to report.

11. EXECUTIVE SESSION: City Attorney Hoffmann recommended item number 2 for Executive Session.

**MOTION TO
ADJOURN INTO
EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 4:00 p.m. to conference with the City Attorney to receive legal advice on specific legal questions pursuant to C.R.S., § 24-6-402(b).

MOTION PASSED

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

**MOTION TO
ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the Executive Session at 4:10 p.m.

MOTION PASSED

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

12. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 4:10 p.m.

Melissa Greiner
City Clerk

David D. Spellman
Mayor

COUNCIL BILL 1
ORDINANCE 2015-1
AN ORDINANCE AMENDING
THE BLACK HAWK
MUNICIPAL CODE BY THE
ADDITION THERETO OF A
NEW SECTION 10-144.7

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

COUNCIL BILL NUMBER: CB1

ORDINANCE NUMBER: 2015-1

TITLE: AN ORDINANCE AMENDING THE BLACK HAWK MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW SECTION 10-144.7

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

Section 1. The Black Hawk Municipal Code is amended by the addition thereto of a new Section 10-144.7 to shall read as follows:

Sec. 10-144.7. Use of Flammable Gas to Extract THC.

The use of flammable gas as a solvent in the extraction of tetrahydrocannabinol ("THC") or any other cannabinoid is prohibited within any residential structure in the City.

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

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

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Council Bill recommending an Ordinance prohibiting the use of flammable gas to extract THC within any residential structure in the City.

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

MOTION TO APPROVE Council Bill 1, An Ordinance Amending the Black Hawk Municipal Code by the Addition of a New Section 10-144.7

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Staff recommends this Council Bill for the health, safety, and welfare of the public.

AGENDA DATE: January 14, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [] Yes [X] No

STAFF PERSON RESPONSIBLE: Jack D. Lewis, City Manager

DOCUMENTS ATTACHED: N/A

RECORD: [] Yes [X] No

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

SUBMITTED BY:

REVIEWED BY:



Melissa Greiner, City Clerk



Jack D. Lewis, City Manager

COUNCIL BILL 2

ORDINANCE 2015-2

**AN ORDINANCE APPROVING
THE INTERGOVERNMENTAL
AGREEMENT BETWEEN THE
CITY OF BLACK HAWK AND
THE GILPIN AMBULANCE
AUTHORITY REGARDING
MAINTENANCE OF THE
AUTHORITY'S AMBULANCES**

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB2

ORDINANCE NUMBER: 2015-2

TITLE: AN ORDINANCE APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND THE GILPIN AMBULANCE AUTHORITY REGARDING MAINTENANCE OF THE AUTHORITY'S AMBULANCES

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

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

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

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

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk



CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Execute the agreement with Gilpin Ambulance Authority to provide fleet maintenance services for the Gilpin Ambulance Authority.

RECOMMENDATION:

If City Council chooses to approve Council Bill 2 an Ordinance approving the IGA between the City of Black Hawk and the Gilpin Ambulance Authority, the recommended motion is as follows: “Approve Council Bill 2 an Ordinance Approving the IGA for the Fleet Maintenance Services for the Gilpin Ambulance Authority between the Authority and the City of Black Hawk”

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The City provides fleet maintenance for the Gilpin Ambulance Authority. The Authority utilizes the City Fleet Maintenance Department for all of their service as it is convenient and more cost effective. An informal survey of in town shops was conducted to verify our hourly rate was competitive. The Fleet rate is set this year at \$94/hour billed in full one hour increments. All parts are invoiced to the Authority at cost.

AGENDA DATE: January 14, 2015

FUNDING SOURCE: 010-3103-431-47-12 Gilpin Ambulance Repairs

WORKSHOP DATE: January 14, 2015

ORIGINATED BY: Tom Isbester

STAFF PERSON RESPONSIBLE: Tom Isbester/Steve Jackson

PROJECT COMPLETION DATE: December 31, 2015

DOCUMENTS ATTACHED: Ordinance & Agreement

CITY ATTORNEY REVIEW: Yes No N/A

SUBMITTED BY:

Thomas Isbester, Public Works Director

REVIEWED BY:

Jack D. Lewis, City Manager

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2015, by and between the CITY OF BLACK HAWK, a home rule municipality of the State of Colorado ("Black Hawk"), and Gilpin Ambulance Authority, a body corporate and politic of the State of Colorado (the " Authority").

W I T N E S S E T H

WHEREAS, the Authority desires to have maintenance service available from Black Hawk to assist in providing ambulance services;

WHEREAS, Black Hawk has a maintenance facility (the "Shop"), and has a staff of mechanics to provide maintenance services for Black Hawk vehicles; and

WHEREAS, Black Hawk is willing to make the Shop and staff of mechanics available to the Authority to provide maintenance services for vehicles used by the Authority, all subject to the terms and conditions hereinbelow.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the parties hereto agree as follows:

1. Scope of Work and Consideration.

a. Black Hawk shall furnish all labor, materials, equipment and maintenance necessary to service the Authority's vehicles, as the same are identified by the Authority from time to time (the "Authority's Vehicles"). In consideration for servicing the Authority's Vehicles, the Authority shall pay Black Hawk at a rate of Ninety Four Dollars (\$94.00) per hour billed in full one hour increments for labor and associated administrative costs, plus reimbursement for the actual cost of parts.

b. Black Hawk shall perform the service functions identified in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Maintenance Services"). The hours of operation of the staff of mechanics shall be Monday through Friday from 7:00 a.m. until 3:30 p.m., excluding City of Black Hawk holidays.

2. Use of Personnel. Black Hawk shall employ a full time staff of mechanics to provide vehicle maintenance services at the Shop. The staff of mechanics shall make themselves available, as needed, following maintenance of Black Hawk vehicles, for maintenance and repair of the Authority's vehicles as more particularly set forth in Section 4.c. of this Agreement.

3. Personnel are Black Hawk Employees. The staff of mechanics shall at all times be Black Hawk employees. Black Hawk shall pay all insurance, worker's compensation, and other Black Hawk benefits to such employees. The staff of mechanic's shall be under the supervision and control of Black Hawk. The Authority shall report performance problems to the Public Works Director.

4. City Liaisons; Priority of Work.

a. The Authority and Black Hawk shall each establish one (1) person to be the liaison between the Authority and Black Hawk regarding the services required pursuant to Section 1 of this Agreement. The liaisons shall communicate directly with each other regarding necessary work pursuant to this Agreement. The Authority hereby identifies its liaison as its Executive Director. Black Hawk hereby identifies its liaison to be its Fleet Maintenance Supervisor.

b. The Authority shall be responsible for bringing the vehicle to Black Hawk's maintenance facility and picking the vehicle up from Black Hawk's facility when the Maintenance Services have been completed. The Authority's liaison shall further be responsible for making an appointment for service, which appointment shall include the work needed and the Authority's desired time frame for completion of the work. There is no guarantee that indoor storage of vehicles will be available or provided when the vehicles are delivered to Black Hawk's facility for maintenance. In the event the Black Hawk is unable to provide the indoor storage of vehicles, Black Hawk's liaison shall make reasonable efforts to notify the Authority's representative that indoor storage is not available. The Authority shall ensure that all items subject to freezing have been removed from the vehicle when it is delivered.

c. Black Hawk shall use its best efforts to complete work under this agreement in a timely manner. However, Black Hawk vehicles shall have priority over the Authority's Vehicles for which Maintenance Services are performed pursuant to this Agreement. Moreover, Black Hawk's liaison shall determine the priority of servicing all vehicles at his sole discretion. The Authority may identify if it deems work to be in the nature of an emergency, and Black Hawk shall use its best efforts to complete any such work as quickly as practicable under the circumstances.

d. For purposes of inventory control, Black Hawk shall be solely responsible for obtaining any necessary parts (including tires) to perform the Fleet Maintenance Services. The Authority shall not order any parts separately for Maintenance Services. All parts removed (including tires) shall remain the property of the City of Black Hawk and shall be disposed of in a manner consistent with other similar parts.

e. The Authority's liaison shall be responsible for notifying Black Hawk's liaison of any hazardous materials not evident from the nature of the services being provided pursuant to this Agreement, including, by way of example, blood, urine, or other materials not used in the standard functioning and maintenance of an ambulance.

5. Shop; Maintenance; Utilities. Black Hawk shall maintain the Shop and shall pay for such utilities (such as heat, power, and water) as may be required under such lease at no cost to the Authority. Black Hawk shall acquire and maintain all permits or approvals required for the Shop. Black Hawk shall handle hazardous materials and dispose of hazardous wastes from the Shop in compliance with applicable law.

6. Tools and Special Tools. Black Hawk shall provide all tools and equipment

needed for Maintenance Services for the Shop at Black Hawk's expense. The staff of mechanics may use such tools and equipment for maintenance of the Authority's Vehicles.

7. Extraordinary Maintenance. In the event maintenance services are required for the Authority's Vehicles that cannot be completed in the Shop by the staff of mechanics in the desired time frame either because they are not identified in Exhibit A, or due to other shop priorities the Authority and the City shall determine by mutual consent how best to provide such services outside the scope of this Agreement. The City liaison will make reasonable efforts to contact the Authority representative prior to sending the vehicle to an outside facility. In the event that maintenance of the Authority's vehicles results in unusual quantities, forms, or compositions of hazardous materials or wastes that may result in unusual costs for disposal or treatment, the City shall if practicable consult with the Authority prior to treatment or disposal. If Black Hawk incurs such costs on the Authority's behalf, the Authority shall pay such extraordinary costs to Black Hawk in the month following the month in which the cost is billed to the Authority by Black Hawk.

8. Date of Commencement. This Agreement shall commence on January 1, 2015.

9. Payment Schedule. Black Hawk shall provide the Authority with an invoice for payment on the fifth day of each month for the previous month's services, and the Authority shall remit the monthly fee within ten (10) business days thereafter, unless the Authority's regular monthly meeting occurs more than ten (10) business days after the date of the invoice, in which case the monthly fee shall be remitted within ten (10) business days after the Authority's regular monthly meeting, and approval by the Board.

10. Control. All services provided under this Agreement shall be governed by the ordinances of the City of Black Hawk, unless otherwise specified in this Agreement. Management of Black Hawk's employees shall rest exclusively with Black Hawk. Authority shall not attempt to directly or indirectly manage, discipline or direct employees of Black Hawk. In the event of substandard performance of an employee or agent of Black Hawk, Authority may demand forthwith correction of the problem.

11. Term and Renewal.

a. The initial term of this Agreement shall be through and until December 31, 2015.

b. The parties have the mutual option to renew this Agreement on the same terms and conditions for unlimited one-year terms.

12. Termination. This Agreement may be terminated without cause by either party for any reason by giving the other party written notice at least forty-five (45) days in advance of the termination date. If this Agreement is so terminated, Black Hawk will be paid for all services rendered up to the date of termination.

13. Compliance with Laws; No Warranty.

a. Black Hawk shall comply with all applicable federal, state, county, and local laws, ordinances, regulations, and codes (including procurement of required permits or certificates) in Black Hawk's performance hereunder, irrespective of whether a specification is furnished. This includes any applicable state or local law, rule or regulation affecting safety and health. If materials, services, or containers furnished are required to be constructed, packaged, labeled, or registered in a prescribed manner, Black Hawk shall comply with federal law and, in addition, with applicable state or local law.

b. No warranties are provided by Black Hawk pursuant to this Agreement. Black Hawk shall perform its services with care, skill, and diligence. However, the Authority specifically waives any claims it may have against Black Hawk, except claims arising out of gross negligence by Black Hawk, or its employees.

14. Indemnification. To the extent permitted by law, each party hereto agrees to indemnify, hold harmless and defend all other parties hereto, their agents, assigns, employees, officers, and officials from and against all claims, demands, liabilities, suits, judgments and decrees, losses and costs and expenses of any kind or nature whatsoever on account of claims made by a third party and which are caused directly and solely by the Indemnifying Party or its personnel, regardless of where such claim arose. No party hereto shall be responsible for indemnifying the other party from and against willful and wanton misconduct arising hereunder.

15. Insurance.

a. Each party hereto agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by it pursuant to Section 14, above. More specifically, the parties hereto shall procure and maintain the minimum insurance coverage listed in subsection b. below. Such coverage shall be procured and maintained with forms and insurers acceptable to Black Hawk and the Authority. All coverage shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the parties pursuant to Section 14, 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.

b. The parties hereto shall procure and maintain at its sole and exclusive expense insurance coverage, including comprehensive liability, personal injury, property damage worker's compensation and, if applicable, emergency medical service professional liability 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 contain a severability of interests provision. The Authority's policy required by this Section 15 shall be endorsed to include the other's officers and employees as additional insured's. Every such policy required above shall be primary insurance. No additional insured endorsement to the policy required by this Section 15 shall contain any exclusion for bodily injury or property damage arising from completed operations.

c. The certificate of insurance provided by each party shall be completed by the other party as evidence that a policy or policies providing the required coverage, conditions, and minimum limits is in full force and effect, and shall be reviewed and approved by the other party. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverage 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 other party. The completed certificate of insurance shall be sent to:

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

d. Failure on the part of either party to procure or maintain a policy or policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of agreement upon which the other party may immediately terminate this Agreement, or at its discretion, the non-breaching party 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 non-breaching party shall be repaid by the other upon demand.

e. Both parties reserve the right to request and receive a certified copy of any policy and any endorsement thereto.

f. Black Hawk and the Authority further understand and agree that Black Hawk and the Authority, their officers, and their employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently one hundred fifty thousand dollars (\$150,000) per person and six hundred thousand dollars (\$600,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101 et seq., 10 Colo. Rev. Stat., as from time to time amended, or otherwise available to Black Hawk and the Authority, their officers, their employees, or agents.

16. Notices. Any notices or demand under which the terms of this agreement and under any statute must or may be given or made by the Black Hawk or Authority shall be in writing and shall be given or made by personal service, telegram, first class mail, or by certified or registered mail to the parties:

City of Black Hawk
P.O. Box 68
201 Selak
Black Hawk, CO 80422

Gilpin Ambulance Authority
P.O. Box 638
Black Hawk, CO 80422

17. Severability. In the event any provision of this Agreement is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect in any manner, the legality of the remaining provisions of this Agreement, and each provision of the Agreement will be and is deemed to be separate and severable from each other provision.

18. Jurisdiction. This Agreement is made in and subject to the laws of the State of Colorado. Any disputes shall be brought in the District Court in and for the County of Gilpin, State of Colorado.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above-written.

CITY OF BLACK HAWK, COLORADO

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

GILPIN AMBULANCE AUTHORITY



Buddy Schmalz, President

ATTEST:



Gloria Gaines, Secretary

**EXHIBIT A
FLEET MAINTENANCE SERVICE**

- 1) Lube, Oil and filter changes**
- 2) Tire repair and Tire replacement and balancing**
- 3) Brake repairs**
- 4) Tune-ups**
- 5) Replacement of belts and hoses**
- 6) Fuel injection cleaning**
- 7) Replacement of starters and alternators**
- 8) Minor exhaust repairs**
- 9) Head light, tail light, and emergency equipment repairs or replacement**
- 10) Cooling system repairs including water pumps, heater cores, radiators**
- 11) Suspension repairs, springs, struts, shocks, ball joints, tie rod ends, etc.**
- 12) Vehicle chassis electrical system**
- 13) Hydraulic repairs or replacements**
- 14) Radio repairs**
- 15) Welding and Machine work**
- 16) Bumpers Front and rear replacements**



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/06/15

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 Gysin & Co Insurance PO Box 1000 Evergreen, CO 80437 Phone (303) 674-6688 Fax (303) 670-1760	CONTACT NAME: PHONE (A/C No, Ext): (303) 674-6688 FAX (A/C, No): (303) 670-1760 E-MAIL ADDRESS: susan@gysinins.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Gilpin Ambulance Authority P.O. BOX 638 BLACK HAWK, CO 80422 (303) 582-0426	INSURER A: AMERICAN ALTERNATIVE INSURANCE	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
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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	ADDLSUBR		POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
		INSR	WVD					
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 type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			VFIS-TR-2064301-05	01/01/2015	01/01/2016	EACH OCCURRENCE	\$ 1,000,000.00
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
							MED EXP (Any one person)	\$ 10,000.00
							PERSONAL & ADV INJURY	\$ 1,000,000.00
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			VFIS-TR-2064301-05	01/01/2015	01/01/2016	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000.00
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			VFIS-CU-5057643-05	01/01/2015	01/01/2016	EACH OCCURRENCE	\$ 1,000,000.00
							AGGREGATE	\$ 2,000,000.00
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N 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"/> OTHER	
							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**CANCELLATION**

CITY OF BLACKHAWK P O BOX 68 BLACKHAWK, 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 

COUNCIL BILL 3
ORDINANCE 2015-3
AN ORDINANCE AMENDING
SECTION 304 OF THE CITY OF
BLACK HAWK EMPLOYEE
HANDBOOK

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

COUNCIL BILL NUMBER: CB3

ORDINANCE NUMBER: 2015-3

**TITLE: AN ORDINANCE AMENDING THE CITY OF BLACK HAWK
EMPLOYEE HANDBOOK**

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

Section 1. Pursuant to Article VIII, Section 18 of the City of Black Hawk Home Rule Charter, Section 304 of the City of Black Hawk Employee Handbook is hereby amended to read as follows:

304 HOLIDAYS

Holiday pay will be calculated based on the employee's straight-time wage (as of the date holiday time is taken) times the number of hours used. Eligible employee classifications:

- Full-time employees
- Introductory full-time employees

Holiday Bank: Holiday leave is provided to enable employees to enjoy periodic respite from their regular duties. Eligible employees shall be afforded the opportunity to take holiday leave.

Amount, Accrual, and Usage: Eligible employees are provided a Holiday Bank of ~~ninety six (96)~~ eighty-eight (88) hours per year at the beginning of each year. If an eligible employee is hired during the year, they will receive the number of holiday bank hours left during the remainder of that year. Holiday Banks must be used within the year earned and cannot be carried over from one year to the next. Paid holiday leave may be used in minimum increments of one-half (1/2) hour.

Records of Leave: The Finance Department shall maintain records of annual leave and its use. Each Department Director shall develop and maintain a leave schedule for their employees.

Effect of Holidays and Vacations: When a legal holiday falls during an employee's scheduled vacation, such holiday shall first be charged to the holiday bank and if no hours remain in the holiday bank then charged to the employee's annual vacation leave.

Floating Holiday: Eligible employees may designate ~~twenty-four (24)~~ thirty-two (32) hours during a calendar year as a floating holiday, to be used as a paid time off. Floating Holiday time may be used in minimum one-half (1/2) hour increments following receipt of supervisory approval.

The City will grant holiday time off to eligible employees on the holidays listed below:

- New Year's Day (January 1)
- Martin Luther King, Jr. Day (third Monday in January)
- Presidents' Day (third Monday in February)
- Memorial Day (last Monday in May)
- Independence Day (July 4)
- Labor Day (first Monday in September)
- ~~Veterans' Day (November 11)~~
- Thanksgiving (fourth Thursday in November)
- Day after Thanksgiving
- Christmas Eve (December 24)
- Christmas (December 25)
- New Year's Eve (December 31)

A recognized holiday that falls on a Saturday will be observed on the preceding Friday.
A recognized holiday that falls on a Sunday will be observed on the following Monday.

If an eligible non-exempt employee is required to work on a holiday, they will receive "Holiday Pay," which is defined as one-and-one-half (1½) their regular rate for the actual hours worked, up to the amount of hours recognized for that holiday (eight [8] hours for a full day). All hours worked on a holiday in excess of the recognized hours will be paid at the employee's straight-time rate.

Eligible non-exempt employees may elect to work on a designated holiday and retain their holiday hours to use another day, with prior permission from their supervisor. However, in such case the employee is not eligible for "Holiday Pay" and will be paid at their straight-time rate.

Essential personnel, including uniformed fire department personnel, police officers, dispatchers, and Public Works personnel who are necessary for the operation of the City will receive "Holiday Pay" for the recognized holiday hours if their shifts start on the holiday and they work the number of hours recognized for that holiday.

ALL holiday leave must be used by the end of the calendar year. In unusual circumstances, any essential personnel may request to carry forward up to twenty-four (24) hours of holiday leave, to be used in the first quarter of the following year. The City Manager upon recommendation of the Department Director may approve the request.

Upon termination of employment, the remaining scheduled holiday hours for the year will be deducted from the employee's Holiday bank. If the deduction results in a negative Holiday bank balance, such hours will be deducted from the employee's final leave paycheck at straight-time rate. Any remaining Floating Holiday hours will be paid in the employee's final leave paycheck at straight-time.

Section 2. Pursuant to Article VIII, Section 18 of the City of Black Hawk Home Rule Charter, Section 703 of the City of Black Hawk Employee Handbook is hereby amended to read as follows:

703 PERSONAL APPEARANCE AND DRESS CODE

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image the City presents to customers and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, non-exempt employees will not be compensated for the time away from work.

~~Consult the supervisor or Department Director if there are any questions as to what constitutes appropriate professional attire.~~

Employees shall adhere to the following principles:

- A. Appropriate workplace apparel and overall presentation are important as they imply good individual judgment and promote a professional City image.
- B. Employees are required to dress comfortably, but appropriately, in all weather conditions.
- C. Safety should be the primary factor when selecting clothing, jewelry, and footwear for the workplace. Employees who are required to wear personal protective equipment, and/or special footwear by the nature of their job shall do so unless specifically directed otherwise by the supervisor/manager.
- D. Appropriate dress and presentation involves a balance between projecting the desired City image, while allowing functionality for required work.
- E. All employees are prohibited from wearing/displaying body art in the workplace. Body art is defined as visible body piercings (except ears), ear gauges, tongue piercings, tattoos, atypical hairstyles and/or colors. For purposes of this policy,

atypical shall be based on application of the principals set forth in the Policy regarding the propriety of workplace apparel and overall presentation.

Appropriate Attire Types

Appropriate – Field & Office	Inappropriate – Field and Office
Slacks	
<ul style="list-style-type: none"> • Khakis, corduroys or any other style • Jeans (must be clean and free of rips, holes, and tears) 	<ul style="list-style-type: none"> • Sweatpants, leggings, shorts, exercise clothing unless working out on duty as a condition of employment • Mini Skirts
Shirts	
<ul style="list-style-type: none"> • Company logo encouraged & required if purchased with City funds • Polo collar knit or golf shirts • Oxford or other dress shirts, long/short sleeved - men • Blazers or sport coats • Jackets, sweaters, or hoodies • Blouses or work appropriate tops - women • Turtle Necks 	<ul style="list-style-type: none"> • Shirts with writing (other than company logo) • Beachwear • Crop tops • T-shirts • Low cut or revealing tops (women)

Pursuant to Section 207 of the Employee Handbook, the City Manager shall adopt an administrative procedure implementing this Section 703.

Section 3. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

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

READ, PASSED AND ORDERED POSTED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Council Bill requesting an amendment to the Employee Handbook, Section 304, Holidays, and Section 703, Personal Appearance.

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

MOTION TO APPROVE Council Bill 3, An Ordinance Amending the Employee Handbook.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Section 304, Holidays

This Ordinance affirms Council's decision during the December 10, 2014 Council Meeting to remove Veterans' Day as an scheduled holiday from the bank of 96 hours (for a total of 88 schedule holiday hours) and adding 8 hours of annual floating holiday (for a total of 32 floating holiday hours):

Amount, Accrual, and Usage: Eligible employees are provided a Holiday Bank of ~~ninety six (96)~~ eighty-eight (88) hours per year at the beginning of each year. If an eligible employee is hired during the year, they will receive the number of holiday bank hours left during the remainder of that year. Holiday Banks must be used within the year earned and cannot be carried over from one year to the next. Paid holiday leave may be used in minimum increments of one-half (1/2) hour.

Floating Holiday: Eligible employees may designate ~~twenty four (24)~~ thirty-two (32) hours during a calendar year as a floating holiday, to be used as a paid time off. Floating Holiday time may be used in minimum one-half (1/2) hour increments following receipt of supervisory approval.

Section 703, Personal Appearance

Please see policy attached.

AGENDA DATE: January 14, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: [X]Yes []No

STAFF PERSON RESPONSIBLE: Melissa A. Greiner, Administrative Services Dir.

DOCUMENTS ATTACHED: Employee Dress Code & Personal Appearance Policy

RECORD: []Yes [X]No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

Melissa Greiner

Melissa Greiner, Admin. Serv. Dir.

REVIEWED BY:

Jack Lewis

Jack D. Lewis, City Manager



Document Owner: Romero, Gina (HR Generalist)	Date Created: 08/18/2014
Approver(s): Melissa Greiner (Administrative Services Director)	Date Approved: Not Approved Yet

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Policy: The City of Black Hawk believes it is important that all employees present a consistent, citizen focused, professional image compatible with the community that the City serves. It is the City's policy that employees wear appropriate Field or Office/Meeting Attire depending on their work day responsibilities. It is the City's intent to promote professionalism, maintain public health, safety and welfare, avoiding disruption with respect to agency operations and contact with the public, gaining public trust and respect.

Purpose: The purpose of this Policy is to outline expectations of acceptable workplace dress and presentation while conducting City business.

Scope: This policy applies to all City employees including permanent and temporary employees. In addition to this policy, uniformed Fire and Police personnel should refer to their departments' dress codes for more specific departmental policies which may be more restrictive.

Definitions:

- **Field Attire** – Attire that is field work appropriate.
- **Office/Meeting Attire** - Attire that is less formal than formal business dress, but more formal than field attire; the attire is not worn/torn or has holes, and is clean, neat, and professional.

Principals:

The following principles apply to this policy:

- A. Appropriate workplace apparel and overall presentation are important as they imply good individual judgment and promote a professional City image.
- B. Employees are required to dress comfortably, but appropriately, in all weather conditions.
- C. Safety should be the primary factor when selecting clothing, jewelry, and footwear for the workplace. Employees who are required to wear personal protective equipment, and/or special footwear by the nature of their job shall do so unless specifically directed otherwise by the supervisor/manager.
- D. Appropriate dress and presentation involves a balance between projecting the desired City image, while allowing functionality for required work.
- E. All employees are prohibited from wearing/displaying body art in the workplace. Body art is defined as visible body piercings (except ears), ear gauges, tongue piercings, tattoos, atypical hairstyles and/or colors. For purposes of this policy, atypical shall be based on application of the principals set forth in the Policy regarding the propriety of workplace apparel and overall presentation.

Appropriate Attire Types

Appropriate – Field & Office	Inappropriate – Field and Office
Slacks	
<ul style="list-style-type: none"> • Khakis, corduroys or any other style • Jeans (must be clean and free of rips, holes, and tears) 	<ul style="list-style-type: none"> • Sweatpants, leggings, shorts, exercise clothing unless working out on duty as a condition of employment • Mini Skirts
Shirts	
<ul style="list-style-type: none"> • Company logo encouraged & required if purchased with City funds • Polo collar knit or golf shirts • Oxford or other dress shirts, long/short sleeved - men • Blazers or sport coats • Jackets, sweaters, or hoodies • Blouses or work appropriate tops - women • Turtle Necks 	<ul style="list-style-type: none"> • Shirts with writing (other than company logo) • Beachwear • Crop tops • T-shirts • Low cut or revealing tops (women)
Shoes	
<ul style="list-style-type: none"> • Boots – required out in the field • Recreational Shoes (tennis, hiking, etc.) • Ladies – low heel shoes for office, suggested 	<ul style="list-style-type: none"> • Flip flops

City Employee Clothing Allowance Guidelines:

The City provides uniformed and non-uniformed employees with a clothing allowance annually to purchase work related clothing. The following clothing guidelines are approved for non-uniformed employees to purchase with their allowance and should be adhered to. Uniformed Fire and Police personnel should refer to their departments' policy.

<u>Field Workers Include:</u>	<u>Office Staff Include:</u>
<ul style="list-style-type: none"> • Street Maintenance Workers • Fleet Mechanics/Technicians • Facilities Maintenance Workers • Water 	<ul style="list-style-type: none"> • Administrative Assistants • City Manager Staff • City Clerk Staff • Communication Officers • Engineers • Finance • IT • Management Team

Approved to Purchase

- Polo collar knit or golf shirts
- Oxford or dress shirts
- Blazers or sport coats
- Jackets, sweaters, or hoodies
- Blouses
- Turtle Necks
- Jeans (non-logo item)
- Boots (non-logo item)

Approved to Purchase

- Polo collar knit or golf shirts
- Oxford shirts
- Blazers or sport coats
- Jackets or sweaters
- Blouses
- Turtle Necks
- Cold Weather Boots (One time only must be approved by department director)

RESPONSIBILITIES

Employee

- Maintain proper hygiene and consistently present a well-groomed image for a professional presentation.
- Use best judgment as to whether the selected clothing and footwear is appropriate.
- Ask Manager or Supervisor for clarification.

Manager

- Ensure staff understands and remains in compliance with this policy.
- Apply consistent corrective action for policy violations. When correcting violators, discuss why their attire does not comply with the policy and what they can do to comply.
- Consult your Director or Employee Services if you have any questions.

Violations of the policy can range from inappropriate clothing items to offensive perfumes and improper hygiene. If a staff member comes to work in inappropriate dress, the staff member will be required to go home without pay.

If a staff member's poor hygiene or use of too much perfume/cologne is disruptive to the work environment, the supervisor should discuss the problem with the staff member in private and should point out the specific areas to be corrected. If the problem persists, supervisors should follow the normal corrective action process.

**INTRODUCTION OF AN
ORDINANCE AMENDING
THE INTERNATIONAL
BUILDING CODE, 2012
EDITION, AND THE
INTERNATIONAL
EXISTING BUILDING
CODE, 2012 EDITION, AS
ADOPTED BY THE CITY
OF BLACK HAWK, BY THE
ADDITION THERETO OF A
NEW SUB-SECTION 18-5
(24) OF THE BLACK
HAWK MUNICIPAL CODE
REGARDING ELEVATORS**

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: *Introduction to consider an amendment to the “International Building Code”, 2012 Edition, as adopted by reference as the building code for the City of Black Hawk.*

RECOMMENDATION: *At the next regular meeting following this hearing, Staff recommends the Board of Aldermen consider passage of the adopting Ordinance containing conditions and modifications to the International Building Code, 2012 Edition and International Existing Building Code, 2012 Edition.*

MOTION TO APPROVE (or deny, etc.) *At the next regular meeting following this hearing, the Board of Aldermen will consider passage of the adopting Ordinance Amending the International Building Code, 2012 Edition, And the International Existing Building Code, 2012 Edition, As Adopted by the City of Black Hawk.*

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Section 18-5, subsection (a) of the City of Black Hawk Municipal Code, containing additions and modifications to the International Building Code, 2012 Edition, is amended by the addition thereto of a new sub-subsection (24) to read as follows:

*(24) **Elevators.** The provisions of the most current edition of ASME A17.1-Safety Code for Elevators and Escalators, A17.3 Safety Code for Existing Elevators and A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts as adopted by the State of Colorado shall apply to the installation of conveyance systems, including alterations, repairs and maintenance thereto.*

Section 18-5, subsection (g) of the City of Black Hawk Municipal Code, containing additions and modifications to the International Existing Building Code, 2012 Edition, is amended by the addition thereto of a new sub-subsection (4) to read as follows:

*(4) **Elevators.** The provisions of the most current edition of ASME A17.1-Safety Code for Elevators and Escalators, A17.3 Safety Code for Existing Elevators and A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts as adopted by the State of Colorado shall apply to the installation of conveyance systems, including alterations, repairs and maintenance thereto.*

AGENDA DATE: *January 14, 2015.*

WORKSHOP DATE: *N/A.*

FUNDING SOURCE: *N/A.*

DEPARTMENT DIRECTOR APPROVAL: Yes []No

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

DOCUMENTS ATTACHED: *Request for Council Action, Draft Notice of Public Hearing, and Draft Ordinance.*

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:

Cynthia L. Linker

Jack D. Lewis

Cynthia L. Linker
CP&D Administrator

Jack D. Lewis, City Manager



NOTICE OF PUBLIC HEARING

NOTICE is hereby given of a public hearing before the Board of Aldermen of the City of Black Hawk, at 3:00 P.M. on Wednesday, January 28, 2015, at 211 Church Street, Black Hawk, Colorado, for the purpose of considering an amendment to the "International Building Code", 2012 Edition, as adopted by reference as the building code of the City of Black Hawk.

Copies of the above referenced code are on file at the office of the City Clerk and may be inspected during regular business hours. If enacted as an ordinance of this City, this code as amended will not be published in full, but in accordance with state law, copies will be kept on file.

The above referenced code is published by the International Code Council, 5360 Workman Mill Road, Whittier, CA 90601. The subject matter of this code relates primarily to the building regulations for the City. The purpose of the Ordinance and the Code adopted therein is to provide a system of building regulations consistent with state law and generally conforming to similar regulations throughout the state and nation.

This notice is given and published by the order of the Board of Aldermen.

DATED this 5th day of January, 2015.

CITY OF BLACK HAWK

Melissa A. Greiner
City Clerk

First Notice of hearing published on January 8, 2015

Second notice of hearing published on January 15, 2015

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

COUNCIL BILL NUMBER: _____

ORDINANCE NUMBER: 2015-_____

TITLE: AN ORDINANCE AMENDING THE INTERNATIONAL BUILDING CODE, 2012 EDITION, AND THE INTERNATIONAL EXISTING BUILDING CODE, 2012 EDITION, AS ADOPTED BY THE CITY OF BLACK HAWK.

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

Section 1. Section 18-5, subsection (a) of the City of Black Hawk Municipal Code, containing additions and modifications to the International Building Code, 2012 Edition, is amended by the addition thereto of a new sub-subsection (24) to read as follows:

(24) **Elevators.** The provisions of the most current edition of ASME A17.1-Safety Code for Elevators and Escalators, A17.3 Safety Code for Existing Elevators and A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts as adopted by the State of Colorado shall apply to the installation of conveyance systems, including alterations, repairs and maintenance thereto.

Section 2. Section 18-5, subsection (g) of the City of Black Hawk Municipal Code, containing additions and modifications to the International Existing Building Code, 2012 Edition, is amended by the addition thereto of a new sub-subsection (4) to read as follows:

(4) **Elevators.** The provisions of the most current edition of ASME A17.1-Safety Code for Elevators and Escalators, A17.3 Safety Code for Existing Elevators and A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts as adopted by the State of Colorado shall apply to the installation of conveyance systems, including alterations, repairs and maintenance thereto.

Section 3. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

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

READ, PASSED AND ORDERED POSTED this _____ day of _____, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

RESOLUTION 1-2015
A RESOLUTION
ESTABLISHING A
DESIGNATED PUBLIC
PLACE FOR THE POSTING
OF MEETING NOTICES AS
REQUIRED BY THE
COLORADO OPEN
MEETINGS LAW

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

Resolution No. 1-2015

TITLE: A RESOLUTION ESTABLISHING A DESIGNATED PUBLIC PLACE FOR THE POSTING OF MEETING NOTICES AS REQUIRED BY THE COLORADO OPEN MEETINGS LAW

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

Section 1. Black Hawk City Hall shall constitute the public place for the posting of meeting notices as required by the Colorado Open Meetings Law. The City Clerk shall be responsible for posting the required notices no later than twenty-four (24) hours prior to the holding of the meeting. All meeting notices shall include specific agenda information, where possible.

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Request for Resolution establishing a designated public place for the posting of Meeting Notices as required by the Colorado Open Meeting Law

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

MOTION TO APPROVE Resolution 1-2015 Establishing a designated public place for the posting of Meeting Notices as required by the Colorado Open Meeting Law

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

AGENDA DATE: January 14, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Melissa Greiner, City Clerk

DOCUMENTS ATTACHED: N/A

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Melissa Greiner, City Clerk

Jack D. Lewis, City Manager

RESOLUTION 2-2015
A RESOLUTION
RATIFYING FINDINGS OF
FACT IN SUPPORT OF
THE DECISION TO GRANT
A RETAIL MARIJUANA
STORE LICENSE TO 5B1S,
LLC DBA 1859

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

Resolution No. 2-2015

TITLE: A RESOLUTION RATIFYING FINDINGS OF FACT IN SUPPORT OF THE DECISION TO GRANT A RETAIL MARIJUANA STORE LICENSE TO 5B1S, LLC DBA 1859

WHEREAS, the City Council of the City of Black Hawk acting as the City’s Retail Marijuana Local Licensing Authority conducted a hearing on the request by Applicant 5B1S, LLC dba 1859 (“Applicant”) for a new Retail Marijuana Store License to be located at 231 Gregory Street, Black Hawk, Colorado 80422, on December 10, 2014, pursuant to C.R.S. § 12-43.4-302 and Article 18 of Chapter 6 of the Black Hawk Municipal Code;

WHEREAS, the City Council at the December 10, 2014 hearing took evidence and heard arguments regarding the qualifications of the Applicant and the criteria set forth in the Black Hawk Municipal Code;

WHEREAS, after hearing the evidence, hearing arguments, and deliberating on the evidence, the City Council approved the issuance of a Retail Marijuana Store License to Applicant;

WHEREAS, pursuant to Section 6-557 of the Black Hawk Municipal Code, the local licensing authority’s decision shall be by Resolution and shall state the reasons for the decision; and

WHEREAS, this Resolution is therefore necessary to ratify *nun pro tunc* effective December 10, 2014 the findings of the City Council acting as the licensing authority.

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

Section 1. The recitals set forth above are hereby incorporated herein by this reference.

Section 2. The City Council hereby makes the following findings of fact:

- A. The members and agents of Applicant are not prohibited as licensees pursuant to Section 6-564 of the Black Hawk Municipal Code;
- B. The location of the licensed premises complies with Section 6-563 of the Black Hawk Municipal Code;

- C. The evidence presented at the hearing showed that the number, type and availability of medical marijuana outlets and other pertinent factors as set forth in the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-101, *et seq.*, and Article 18 of Chapter 6 of the Black Hawk Municipal Code did not preclude the issuance of a license to Applicant pursuant to the Black Hawk Municipal Code; and
- D. No evidence was presented that would require denial of the Application.

Section 3. Based on the findings of fact in Section 2 above, the City Council therefore determines to GRANT the application for a new Retail Marijuana Store License to be located at 231 Gregory Street, Black Hawk, Colorado 80422. Said granting of the application is effective, *nunc pro tunc*, as of December 10, 2014.

Section 4. City staff is directed to send a copy of this decision to the Applicant, and to transmit the decision to the state licensing authority as required by law.

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Request for a Resolution ratifying Findings of Fact in support of Council's decision to grant a Retail Marijuana Store License to 5B1S, LLC dba 1859

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

MOTION TO APPROVE Resolution 2-2015 A Resolution Ratifying Findings of Fact in Support of the Decision to Grant a Retail Marijuana Store License to 5B1S, LLC dba 1859

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Findings of Fact were presented to the Mayor and Board of Aldermen during the Public Hearing on December 10, 2014. Council voted unanimously to approve the Recreational Marijuana Center license for 1859, with noted conditions, during the Public Hearing. Black Hawk City Ordinance 2014-10 requires Council's decision to be stated in the form of a Resolution.

1859 satisfied all outstanding conditions of the license approval as of December 31, 2014.

AGENDA DATE: January 14, 2015

PUBLIC HEARING DATE: December 10, 2014

FUNDING SOURCE: N/A

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Melissa Greiner, City Clerk

DOCUMENTS ATTACHED: N/A

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Melissa Greiner, City Clerk

Jack D. Lewis, City Manager

RESOLUTION 3-2015
A RESOLUTION RATIFYING
THE PHONE POLL
APPROVING THE
CONTRACT WITH
PINNACOL ASSURANCE
FOR WORKERS'
COMPENSATION
INSURANCE

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

Resolution No. 3-2015

TITLE: A RESOLUTION RATIFYING THE PHONE POLL APPROVING THE CONTRACT WITH PINNACOL ASSURANCE FOR WORKERS' COMPENSATION INSURANCE

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 contract with Pinnacol Assurance for Workers Compensation Insurance in the amount of \$160,410.

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: 2015 Workers' Compensation

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

MOTION TO RATIFY the 12/19/2014 phone poll approving the contract as quoted for the 2015 Workers' Compensation Insurance with Pinnacol Assurance in the amount of \$160,410.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Pinnacol Assurance's board of directors approved an average of 3.2% rate increase across their book of business for 2015. The City's 2013 loss experience (118% after reserves were removed) took the City from the highest premium tier (best rate) which we earned in past years, downward 2 tiers, and continues to negatively impact our experience modification (emod). The quote received from Pinnacol for 2015 is \$21,894 higher than 2014 even though the estimated payroll is less, which represents an approximate 16% increase over the 2014 rates. Credit adjustments are in place for emod rating, designated provider program, and cost containment policy. Emods are based on a rolling 5 year loss experience. The City's final emod for 2015 is .83 or 17% premium credit.

To ensure the City is receiving the best possible rates for WC coverage, a quote was solicited from CIRSA, the City's Property Casualty carrier. CIRSA's quote for 2015 WC coverage was \$195,519, which is \$35,109 or 22% higher than Pinnacol's quote.

AGENDA DATE: January 14, 2015

WORKSHOP DATE: N/A

FUNDING SOURCE: WC line item for each department

DEPARTMENT DIRECTOR APPROVAL: [X]Yes []No

STAFF PERSON RESPONSIBLE: Melissa Greiner, Administrative Services Director

DOCUMENTS ATTACHED: N/A

RECORD: []Yes [X]No

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

SUBMITTED BY:



Melissa Greiner
Administrative Services Director

REVIEWED BY:



Jack D. Lewis
City Manager

RESOLUTION 4-2015
A RESOLUTION
RATIFYING THE PHONE
POLL APPROVING
ADOPTION AND
ENTRANCE INTO THE
TRUST AGREEMENT FOR
THE COLORADO
FIREFIGHTER HEALTH
AND CIRCULATORY
BENEFITS TRUST AND
TAKING OTHER ACTIONS
IN CONNECTION
THEREWITH

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

Resolution No. 4-2015

TITLE: A RESOLUTION RATIFYING THE PHONE POLL APPROVING ADOPTION AND ENTRANCE INTO THE TRUST AGREEMENT FOR THE COLORADO FIREFIGHTER HEALTH AND CIRCULATORY BENEFITS TRUST AND TAKING OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, under state law, specifically, Part 3 of Article 5 of Title 29, Colorado Revised Statutes (C.R.S.), an employer as defined therein is required to maintain certain firefighter heart and circulatory malfunction benefits in accordance with and subject to the requirements and limitations of said Part 3; and

WHEREAS, in order to provide such benefits, an employer, which includes the City of Black Hawk (the “City”) is authorized to participate in a multiple employer health trust; and

WHEREAS, the Board of Aldermen has authority under Article XIV, Section 18(2)(a) of the Colorado Constitution, and Sections 10-3-903.5, 29-1-201, et seq., and 29-5-302, C.R.S., as amended, to participate with other employers in a multiple employer health trust for the provision of such benefits and for related claims handling, risk management, and other functions and services related to such benefits; and

WHEREAS, the Board of Aldermen has reviewed the Trust Agreement for the Colorado Firefighter Heart and Circulatory Benefits Trust, a copy of which is attached hereto as Exhibit A, by and through which the Members (as defined therein) desire to establish a trust (the “Trust”) and provide a benefit plan that provides firefighter heart and circulatory malfunction benefits consistent with the provisions of Part 3 of Article 5 of Title 29, C.R.S., as specified in the Colorado Firefighter Heart and Circulatory Malfunction Benefits Plan (the “Plan”); and

WHEREAS, the Members intend that the Trust, together with the Plan, shall constitute an irrevocable trust exempt from taxation under Internal Revenue Code Section 115; and

WHEREAS, the Board of Aldermen finds that membership and participation in the Trust and Plan would be in the best interests of the City, its employees and its taxpayers; and

WHEREAS, the Board of Aldermen by this enactment desires to adopt and enter into the Trust Agreement for the Colorado Firefighter Heart and Circulatory Benefits Trust, and to take other actions in connection therewith.

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 contract entitled Trust Agreement for the Colorado Firefighter Heart and Circulatory Benefits Trust, a copy of which is attached hereto as Exhibit A and incorporated into this Resolution by this reference (the “Trust Agreement”).

Section 2. The Board of Aldermen further authorizes and directs the Mayor to execute the Trust Agreement on behalf of the City.

Section 3. The Board of Aldermen directs that staff transmit to the Colorado Firefighter Heart and Circulatory Benefits Trust (the “Trust”), McGriff, Seibels & Williams Inc., PO Box 1539, Portland, OR 97207-1539, an executed and attested copies of this Resolution and such Trust Agreement.

Section 4. The Board of Aldermen designates Melissa Greiner as its initial Member Representative to the Trust and designates Gina Romero as its initial Alternate Representative to the Trust, such persons having the addresses stated below.

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

Section 5. The Board of Aldermen understands that, with the adoption of this Resolution and subject to the terms of the Trust Agreement, the City becomes a Member of the Trust, with its participation to commence effective as of the date determined in accordance with the Trust Agreement.

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: Request for Resolution Ratifying Phone Poll regarding Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust

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

MOTION TO APPROVE Resolution 4-2015, A Resolution Ratifying the Phone Poll Approving Adaption and Entrance into the Trust Agreement for the Colorado Firefighter Health and Circulatory Benefits Trust and Taking Other Actions in Connection Therewith

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Senate Bill 14-172 requires employers to provide benefits to firefighters for cardiac illnesses resulting from a strenuous work event, and, allows for reimbursement for the benefits from DOLA.

AGENDA DATE: January 14, 2015

PUBLIC HEARING DATE: December 10, 2014

FUNDING SOURCE: Pass through charge

DEPARTMENT DIRECTOR APPROVAL: Yes No

STAFF PERSON RESPONSIBLE: Melissa Greiner, City Clerk

DOCUMENTS ATTACHED: Trust Agreement

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:

REVIEWED BY:



Melissa Greiner, City Clerk



Jack D. Lewis, City Manager

TRUST AGREEMENT

FOR

**COLORADO FIREFIGHTER HEART AND CIRCULATORY
BENEFITS TRUST**

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TRUST AGREEMENT

THIS TRUST AGREEMENT (this “Agreement”) is entered into on this ____ day of _____, ~~2014~~ (the “Effective Date”) by and between the undersigned Colorado governmental entities (who, together with and any other Colorado governmental entities that becomes a participating Member under this Trust, are collectively the “Members”) and the undersigned trustees constituting the “Trust Committee” for the Trust, as defined herein (the “Trust Committee”).

WITNESSETH:

WHEREAS, the Members are exempt from federal income tax under the Internal Revenue Code of 1986, as amended, as a state or territory of the United States, or any political subdivision, municipality or agency thereof, or an agency of such political subdivision or municipality (including any corporation owned or controlled by any state or territory of the United States or by any political subdivision, municipality, or agency); and

WHEREAS, the Members desire by and through this Agreement to provide a benefit plan that provides heart and circulatory malfunction benefits consistent with the provisions of Part 3 of Article 5 of Title 29, Colorado Revised Statutes (C.R.S.), as specified in the Colorado Firefighter Heart and Circulatory Malfunction Benefits Plan (the “Plan”); and

WHEREAS, the Members desire for the Trust to accept funds that shall from time to time be paid over to the Trust Committee in accordance with the terms of this Agreement, together with the earnings and profits thereon, if any, and to hold the funds in trust (the “Trust”) and to make disbursements from the Trust in accordance with the provisions of this Agreement and the Plan; and

WHEREAS, the Members desire to appoint the Trust Committee as a trustee to hold and administer the assets of the Plan in accordance with this Agreement; and

WHEREAS, the Trust Committee has agreed to serve as trustee of the trust established under this Agreement; and

WHEREAS, the Members intend that the Trust hereby established, together with the Plan, shall constitute an irrevocable trust exempt from taxation under Internal Revenue Code Section 115; and

WHEREAS, the Members intend that the Trust hereby established, together with the Plan, shall constitute a multiple employer health trust for the purpose of Part 3 of Article 5 of Title 29, C.R.S.;

NOW, THEREFORE, the Members and the Trust Committee hereby mutually covenant and agree as follows:

ARTICLE I DEFINITIONS

The following words and phrases, when used herein with an initial capital letter, shall have the meanings set forth below unless a different meaning plainly is required by the context. Any reference to a section number shall refer to a section of this Agreement unless otherwise specified.

- 1.1 **Administrator** means the person, committee or entity appointed by the Trust Committee to serve as plan administrator of the Plan. The Administrator shall be retained by the Trust Committee and shall administer the Plan pursuant to an administrative services agreement entered into between the Administrator and the Trust Committee.
- 1.2 **Authorized Investment** means and is limited to those investments that are defined as permissible for investment of public funds in Section 24-75-601 et seq. C.R.S., as in effect from time to time.
- 1.3 **Beneficiary** means any person designated under the terms of the Plan to receive benefits payable upon the death of a Participant.
- 1.4 **Code** means the Internal Revenue Code of 1986, as amended.
- 1.5 **Custodian** means Wells Fargo Bank, N.A., which shall serve as custodian for the Trust Fund. To the extent any assets are held by any custodian other than Wells Fargo Bank, N.A., such party shall also be considered a Custodian for the Trust.
- 1.6 **Fiscal Year** means the accounting year of the Trust, which shall commence on January 1 and end on December 31 of each year, except that the first year shall commence on the Effective Date and shall end on the immediately following December 31.
- 1.7 **Investment Committee** means the person, committee or entity appointed in accordance with the terms of the Trust to make and effect investment decisions under the Plan and Trust. Unless the Trust Committee appoints an Investment Committee, the Trust Committee shall be deemed to be the Investment Committee.
- 1.8 **Investment Fund** means any of the separate funds established by the Investment Committee for the investment of Plan assets.
- 1.9 **Investment Manager** means any person, corporation or other organization or association appointed by the Trust Committee pursuant to the terms of Section 4.3 to manage, acquire or dispose of the assets of an Investment Fund.
- 1.10 **Members or Member** means those governmental employers listed on Exhibit A and any other governmental employer that becomes a participating Member under this Trust pursuant to Article VIII, below.

- 1.11 **Member Representative** means that person who has been designated in writing by a Member as its representative to the Trust.
- 1.12 **Participant** means an employee or former employee of the Member.
- 1.13 **Plan** means the Colorado Firefighter Heart and Circulatory Benefits Plan set forth in Part 3 of Article 5 of Title 29, Colorado Revised Statutes, and in the Plan Summary of Benefits as such Plan may be amended from time to time.
- 1.14 **Trust** means the trust established by this Agreement.
- 1.15 **Trust Committee** means the Trust Committee appointed pursuant to Section 3.1 of this Trust Agreement, acting as a group or body.
- 1.16 **Trust Fund** means the total amount of cash and other property held in the Trust under this Agreement.
- 1.17 **Trustee** means the Trust Committee members and their successors as provided by this Agreement.

ARTICLE II ESTABLISHMENT OF THE TRUST

- 2.1 **Trust Established.** The Members hereby establish with the Trust Committee, as a funding medium for the Plan, a Trust consisting of the Trust Fund and such earnings, profits, increments, additions and appreciation thereto and thereon as may accrue from time to time.
- 2.2 **Limit of Interest - Impossibility of Diversion.** It shall be impossible at any time for any part of the Trust to be used for or diverted to purposes other than for the exclusive benefit of the Participants and Beneficiaries covered under the Plan, except that the payment of taxes and administration expenses may be made from Trust funds as hereinafter provided. Funds of the Trust may not be transferred to any other account or fund of a Member.
- 2.3 **Trust Committee's Acceptance.** The Trust Committee accepts the Trust hereby created and agrees to perform the duties hereby required of the Trust Committee.

ARTICLE III TRUSTEES AND SUCCESSOR TRUSTEES

- 3.1 **Trustees.** The Trust shall be administered by the Trust Committee. The Trust Committee shall be comprised of seven (7) individual Trustees; provided, however, that the Trust Committee shall be deemed duly constituted and may commence operations of the Trust upon seating of and execution of this Agreement by four (4) initial Trustees. Each Trustee must be a Participant and current employee of a Member, except as provided below. Trustees shall be

appointed by the Board of Directors of the Colorado State Fire Chiefs (“CSFC Board”) from among the following:

- (a) One Trustee who is a Member Representative from a fire district or fire authority serving an area having less than thirty thousand (30,000) in population;
- (b) One Trustee who is a Member Representative from a fire district or fire authority serving an area having more than thirty thousand (30,000) in population;
- (c) One Trustee who is a Member Representative from a municipality having less than thirty thousand (30,000) in population;
- (d) One Trustee who is a Member Representative from a municipality having more than thirty thousand (30,000) in population;
- (e) One Trustee who is a Participant and officer of the Colorado Professional Firefighters Association (“CPFF”), who is designated for appointment by CPFF; and
- (f) Two Trustees who are Member Representatives from two other Members of any size or type, who are elected or appointed officials or employees of the Member and are not firefighters eligible for participation in the Plan.

Nominations for Trustees from the Members and CPFF shall be made by elected governing body of the Member (i.e., district board of directors, city council, CPFF Board of Directors) and be submitted to the CSFC Board at such time as the CSFC Board may provide. Terms of the Trustees shall be two-year, overlapping terms or until their successors have been appointed, except that among the initial Trustees, four of them shall serve an initial term of two years and three of them shall serve an initial term of one year as set for below so as to establish the staggering of terms. The term shall begin on a January 1, and end at midnight on a December 31, except that the initial undersigned Trustees’ terms shall begin upon the formation of the Trust.

A vacancy shall occur on the Trust Committee when a Trustee (1) submits a written resignation to the Trust Committee; (2) dies; (3) ceases to be a Participant; (4) ceases to be a Member Representative, except in the case of the CPFF Trustee to whom such requirement (4) does not apply; (5) fails to attend three consecutive regular meetings of the Trust Committee without the Committee having entered upon the record its proceedings an approval for an additional absence or absences, except that such additional absence or absences shall be excused for temporary mental or physical disability or illness; or (6) is convicted of a felony. Any vacancy on the Trust Committee shall be filled by appointment by the CSFC Board for the unexpired portion of the term. Upon appointment and written acceptance thereof, a successor Trustee shall have all the title, rights, powers and privileges and duties conferred or imposed upon the initial or predecessor Trustee.

3.2 **Successor Trustees.** No successor Trustee need examine the accounts, records and acts of any previous Trustee of any allocation of the Trust assets, nor shall such successor Trustee be

responsible for any act or omission to act on the part of any previous Trustee. All Trustees and their successors from time to time acting under this Agreement shall have all the rights, powers and duties of the initial Trustees named in this Agreement, unless this Agreement is amended to provide otherwise.

3.3 **Compensation.** The Trustees shall receive no compensation for their services rendered under this Agreement other than any compensation as an employee of a particular Member. The Trust Committee may adopt policies to reimburse Trustees for actual meeting expenses and attendance at the Trust Committee meetings and other properly incurred expenses on Trust matters.

3.4 **Chair and Officers; Sub-Committees.** The officers of the Trust Committee shall be the chair, vice chair and secretary. The officers shall be appointed by the Trust Committee from among its members. Appointment of officers shall occur at the first meeting of the Trustee Committee each year. The Trust Committee may establish sub-committees necessary or appropriate to the exercise of its powers.

3.5 **Meetings.** The Trust Committee shall determine the time and place of its regular meetings. Special meetings of the Trust Committee may be called by the chair or by three (3) Trustees. The Trustees shall be provided with at least ten (10) days prior written notice designating the time, place and agenda of a regular meeting and three (3) days prior written notice designating the time, place and agenda of any special meeting. The manner of giving notice of meetings may include, without limitation, service by electronic mail to the Trustee's e-mail address. Regular and special meetings of the Trust Committee may be held by telephone or electronic (internet-based) conference call. Any meeting at which all Trustees are present in person, or concerning which all Trustees have waived notice in writing, shall be a valid meeting without the requirement to provide any notice.

3.6 **Proxy.** Any Trustee may duly authorize in writing another Trustee to cast a vote on one (1) or more specific matters to be voted on at a meeting, on behalf of such Trustee. Any such written authorization must specify the matter or matters and be given for a specific meeting and may not carry over to subsequent meetings.

3.7 **No Delegates.** A Trustee and/or the Trustee's Member Representative may not appoint a delegate to serve in his or her place.

3.8 **Quorum and Voting.**

- (a) To constitute a quorum at any regular or special meeting of the Trust Committee and for any action to be valid at such meeting, there must be present in person or by proxy at least four (4) of the seven (7) Trustees.
- (b) Valid actions at meetings at which a quorum is present require the affirmative vote of a simple majority of those Trustees present and voting, except where an absolute majority is expressly required. Each Trustee shall cast his or her vote on each matter upon which action is taken, except where abstention from voting is

required because of conflict of interest.

- (c) To approve the following items, an absolute majority vote (as defined below) is required:
 - (1) Annual budget;
 - (2) Incurring any debt other than liabilities in the ordinary course of business; and
 - (3) Settling any litigation involving the Plan or Trust.

An absolute majority vote is the affirmative vote of at least four (4) Trustees.

3.9 **Action without a Meeting.** Any action that may be taken at a meeting of the Trust Committee may be taken without a meeting upon the written consent of a sufficient number of the Trustees otherwise required to approve such action at a meeting and shall be effective on the date of the last consent, unless two (2) or more Trustees object to taking the action without a meeting. A copy of such written consent, signed by the Trustees, shall be provided within ten (10) days of the effective date of the consent to each Trustee. Consent may be signified by a signature of the Trustee on a written consent or by an electronic means, such as an affirmative email response to a request for confirmation of favorable action on a matter, approval of a specific resolution, etc.

3.10 **Conflicts of Interest.** Trustees should avoid the appearance of impropriety. A Trustee shall exercise care that the Trustee's independent judgment in the discharge of Trust Committee responsibilities is not impaired as a result of conflicts between the interests of the Trust and the Trustee's own financial interests or personal interests, or the financial interests or personal interests of the members of the Trustee's family or associates. A Trustee shall not vote or decide upon any matter relating solely to himself or herself or vote in any case in which his or her individual right or claim to any benefit under the Plan is particularly involved or in which he or she otherwise has a conflict of interest. In the event that a Trustee believes that he or she has a conflict of interest, the Trustee shall disclose the conflict to the Trust Committee and shall refrain from participating in the matter to which the conflict relates. The minutes of the meeting where the disclosure is made shall reflect the disclosure and the fact of the Trustee having abstained from participation in the matter. A Trustee shall not use confidential information acquired in the course of the performance of Trust Committee responsibilities to further that Trustee's own financial interests or personal interests, or the financial interests or personal interests of the members of the Trustee's family or associates.

3.11 **Office Location and Meeting Place.** All meetings of the Trust Committee shall be held at a place designated at least annually by the Trust Committee, or the chair, if the Trust Committee is unable to reach an agreement regarding a meeting location. The Trust shall have its principal office at 433 S. Allison Parkway, Lakewood, CO 80226.

3.12 **Agent for Service of Legal Process.** The designated agent for service of legal process

shall be Samuel J. Light, Light Kelly, P.C. 101 University Blvd., Suite 210, Denver, Colorado 80206, or any successor agent as the Trust Committee shall designate.

3.13 **Rules and Regulations.** The Trust Committee shall have the power at any regular or special meeting to adopt bylaws, rules, regulations and policies for the administration of the Trust, and for the conduct of the affairs of the Trust Committee. Any bylaws, rules, regulations and policies of the Trust Committee shall be consistent with the written provisions of the Trust Agreement, and shall be binding upon all persons dealing with the Trust and upon any and all persons claiming any benefits under the Plan.

ARTICLE IV DUTIES OF TRUST COMMITTEE

4.1 **Duties.** It shall be the duty of the Trust Committee:

- (a) **Receipt of Contributions.** To receive any contributions paid to it under this Agreement in cash or in other property acceptable to the Trust Committee. The Trust Committee shall not be responsible for the calculation or collection of any contribution required to be paid by the Member to the Trust under the Plan, but shall be responsible only for property actually received by it pursuant to this Agreement.
- (b) **Management of Funds.** To hold, invest, reinvest, manage and administer (except as otherwise provided herein) all contributions so received, together with the income therefrom and any other increment thereon, for the benefit of Participants and their Beneficiaries in accordance with the terms of this Agreement.
- (c) **Payments.** To direct payments under the Plan; provided, however, that the Trust Committee may rely upon the directions received from the Administrator, and the Administrator hereby indemnifies the Trust Committee from any loss, claim, damage or liability, including legal expenses, that may arise in connection with the Trust Committee's acting upon such direction.
- (d) **Appointment of Administrator.** To appoint such person, committee or entity as the Trust Committee shall determine to serve as Administrator of the Plan, and to contract with the Administrator for provision of its services. The Trust Committee shall have the power to terminate the appointment of the Administrator upon written notice with or without cause.
- (e) **Appointment of Investment Committee.** To appoint as the Investment Committee such person, committee or entity as the Trust Committee shall determine to make and effect investment decisions under the Plan and Trust; provided, however, that the Trust Committee may appoint itself as the Investment Committee.

ARTICLE V INVESTMENT OF TRUST ASSETS

5.1 General Investment Power/Investment Funds.

- (a) **Authority of Investment Committee.** Except as provided in Sections 5.2 and 5.3, the Investment Committee shall have all authority and responsibility for the management, disposition and investment of the Trust Fund, and the Trust Committee shall comply with directions of the Investment Committee. The Investment Committee shall not issue any directions that are in violation of the terms of the Plan or this Agreement.
- (b) **Investment Funds.** The Trust may be divided into one or more separate Investment Funds, the number, makeup and description of which shall be determined from time to time by the Investment Committee. The Trust Committee shall implement, terminate, value, transfer to and from and allocate the gains, losses and expenses among the Investment Funds in accordance with the proper directions of the Investment Committee, the Administrator, or their delegates, and, to the extent applicable under the terms of this Agreement, the directions of Investment Managers.
- (c) **Funding Policy.** The Trust Committee shall have responsibility for selecting or establishing and carrying out a funding policy and method, consistent with the objectives of the Plan. The Trust Committee shall be responsible for the proper diversification of the Trust Fund, for the prudence of any investment of Trust assets consistent with State law, for compliance with statutory limitations on the amount of investment in securities, and for assuring that any such investments meet the requirements of State law.

5.2 Investment Managers.

- (a) **Appointment.** The Investment Committee may, but shall not be required to, appoint one or more Investment Managers to manage the assets of all or any one or more of the Investment Funds. Each such Investment Manager shall be either (i) registered as an investment adviser under the Investment Advisers Act of 1940; (ii) a bank, as defined in such Act; or (iii) an insurance company qualified to perform the services of Investment Manager under the laws of more than one state. The Investment Committee shall obtain from any Investment Manager so appointed by it a written statement acknowledging (i) that such Investment Manager is or on the effective date of its appointment will become a fiduciary with respect to the Trust assets under its management; (ii) certifying that such Investment Manager has the power to manage, acquire or dispose of Trust assets in the manner contemplated by the contract or other written instrument by which its appointment is or will be effected; and (iii) certifying that it is either an investment adviser, a bank or an insurance company which is qualified to be appointed as an Investment Manager under this Agreement.

- (b) **Contractual Arrangement.** The Investment Committee shall enter into a written contract or agreement with each such Investment Manager in connection with its appointment as such, and such contract shall be subject to such terms and conditions and shall grant to the Investment Manager such authority and responsibilities in the management of the applicable Investment Fund assets as the Investment Committee deems appropriate under the circumstances. Without limiting the generality of the foregoing, such contract may establish investment objectives for the assets of the Investment Fund(s) under the management of the Investment Manager and may limit the types of assets that may be acquired or held by such Investment Fund(s).
- (c) **Trust Committee's Duties.** With respect to each Investment Fund the management of which has been delegated to an Investment Manager, the Trust Committee shall follow and carry out the instructions of the appointed Investment Manager with respect to the acquisition, disposition and reinvestment of assets of such Investment Fund, including instructions relating to the exercise of all ownership rights in such assets.
- (d) **Failure to Direct.** In the event that an appointed Investment Manager shall fail to direct the Trust Committee with respect to investment of all or any portion of the cash held in an Investment Fund under its management, the Trust Committee shall invest such cash only when and as directed by the Investment Committee.
- (e) **Termination of Appointment.** The Investment Committee shall have the power to terminate the appointment of an Investment Manager upon written notice with or without cause. Upon the termination of the appointment of an Investment Manager, the Investment Committee shall (i) appoint a successor Investment Manager with respect to the Investment Fund(s) formerly under the management of the terminated Investment Manager, (ii) direct the Trust Committee to merge or combine such Investment Fund(s) with other Investment Fund(s) or Trust assets, or (iii) direct the Trust Committee to invest the assets of such Investment Fund as the Investment Committee deems appropriate in accordance with the existing funding policy.

5.3 **Manner and Effect of Directions.**

- (a) **Delegation of Authority to Custodian.** The Custodian is delegated the authority and responsibility for receiving and carrying out the directions of the Trust Committee, the Administrator, the Investment Committee, any Investment Manager or their designees. With respect to any assets held by a party other than Trust Committee, the Trust Committee is authorized and directed to delegate to the Custodian the authority and responsibility for receiving and carrying out the directions of the Investment Committee, any Investment Manager or their designees. The Trust Committee is authorized and directed to enter into such

agreements with another Custodian as are deemed necessary or appropriate to effect such delegation.

- 5.4 **Authorization of Designee(s).** The Administrator and the Investment Committee may each appoint one or more designees to act on their behalf. If a designee (or designees) is appointed, the appropriate committee shall furnish the Trust Committee with written documentation of the appointment and a specimen signature of each designee. The Trust Committee shall be entitled to rely upon such documentation until the Trust Committee is otherwise notified in writing.

ARTICLE VI POWERS OF TRUST COMMITTEE

- 6.1 **General Authority.** In accordance with the directions of the Investment Committee and any Investment Managers as provided in Article V, the Trust Committee shall receive, hold, manage, convert, sell, exchange, invest, reinvest, disburse and otherwise deal with the assets of the Trust, including contributions to the Trust and the income and profits therefrom, without distinction between principal and income and in the manner and for the uses and purposes set forth in the Plan and as hereinafter provided.
- 6.2 **Specific Powers.** In the management of the Trust, the Trust Committee shall have the following powers in addition to the powers customarily vested in trustees by law and in no way in derogation thereof; provided, all such powers shall be exercised only upon and in accordance with the directions of the Investment Committee and, to the extent applicable, any duly appointed Investment Managers:
- (a) **Purchase of Property.** With any cash at any time held by it, to purchase or subscribe for any authorized investment (as defined in Section 6.3) and to retain the same in trust.
 - (b) **Disposition of Property.** To sell, exchange, transfer or otherwise dispose of any property at any time held by it.
 - (c) **Retention of Cash.** To hold cash without interest in administrative accounts for contribution and distribution processing in such amounts as may be reasonable and necessary for the proper operation of the Plan and the Trust.
 - (d) **Exercise of Owner's Rights.** The Members acknowledge and agree that the Trust Committee shall have the right or power to vote proxies appurtenant to securities that it holds. The Members acknowledge and agree that the Trust Committee shall have the power to make any review of, or consider the propriety of, holding or selling any assets held in the Trust Fund in response to any tender offer, conversion privilege, rights offering, merger, exchange, public offering and/or any proxy action for any of such assets.

- (e) **Registration of Investments.** To cause any stock, bond, other security or other property held as part of the Trust to be registered in its own name or in the name of one or more of its nominees; provided, the books and records of the Trust Committee shall at all times show that all such investments are part of the Trust.
- (f) **Borrowing.** To the extent permitted by State law and at the direction of the Investment Committee, to borrow or raise money for the purposes of the Trust in such amounts, and upon such terms and conditions, as determined by the Investment Committee; and, for any sum so borrowed, to issue its promissory note as Trust Committee and to secure the repayment thereof by pledging all or any part of the Trust Fund to the extent permitted by State law; and no person lending money to the Trust Committee shall be bound to see to the application of the money lent or to inquire into the validity, expediency or propriety of any such borrowing.
- (g) **Purchase of Contracts.** To apply for, purchase, hold, transfer, surrender and exercise all incidents of ownership of any insurance, re-insurance, excess or stop loss insurance or annuity contract that the Trust Committee determines or the Investment Committee directs it to purchase or that is necessary or appropriate to carrying out the purposes of the Plan. The Trust Committee shall endeavor to obtain stop loss insurance to provide coverage for payment of benefits under the Plan above specified per claim and aggregate limits, provided such stop loss coverage can be obtained at a reasonable cost as determined by the Trust Committee.
- (h) **Execution of Instruments.** To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments, which may be necessary or appropriate to carry out the powers herein granted.
- (i) **Settlement of Claims and Debts.** To settle, compromise or submit to arbitration any claims, debts or damages due or owing to or from the Trust, to commence or defend suits or legal or administrative proceedings and to represent the Trust in all suits and legal and administrative proceedings.
- (j) **Establish Rules and Policies.** To establish, to the extent consistent with this Agreement and the Plan, rules and policies necessary or appropriate to the administration of the Trust or the carrying out of the powers herein granted;
- (k) **Trustee Insurance.** To purchase on behalf of the Trust Committee and the Investment Committee, trustees' errors and omissions insurance or similar coverage in such amounts as are recommended by a licensed insurance broker for benefit plans and a trust of similar size and purpose.
- (l) **Risk Management.** To establish reasonable risk management policies and procedures.

- (m) **Delegation.** To delegate in writing fiduciary responsibilities or ministerial powers and duties to such officers, agents, representatives and independent contractors as determined desirable, provide such delegation does not conflict with the provisions of this Agreement or the Plan.
- (n) **Employment of Agents, Advisers and Counsel.** To employ suitable agents, actuaries, auditors, accountants, investment advisers, brokers and counsel, and to pay their reasonable expenses and compensation.
- (o) **Appointment of Custodian.** The Trust Committee shall designate a custodian to hold Trust assets. The Trust Committee may change the custodian upon an affirmative vote of four (4) Trustees.
- (p) **Power to do any Necessary Act.** To do all acts which it may deem necessary or proper and to exercise any and all powers under the Plan and this Agreement upon such terms and conditions as it may deem in the best interests of the Trust.

6.3 **Authorized Investments.**

- (a) **General Definition.** “Authorized investment” as used in this Article VI shall mean and be limited to those investments that are defined as permissible for investment of public funds in Section 24-75-601 et seq. C.R.S., as in effect from time to time.
- (b) **Responsibility for Compliance.** The responsibility for determining whether any investment of Trust assets complies with the terms of this Agreement and applicable law shall lie solely with the Trust Committee.

ARTICLE VII CONTRIBUTIONS TO THE TRUST FUND

7.1 **Member Contributions.** Subject to the limitations of this Agreement, each Member shall pay or cause to be paid contributions to the Trust at such times and in the amounts determined by the Trust Committee as are necessary to ensure funding of the Trust is sufficient, that operation of the Trust is not hazardous to the public or Participants or which the Trust Committee otherwise deems beneficial to protect the financial condition of the Trust. The Trust Committee shall establish Member contributions consistent with this Agreement, the Plan and any guidelines consistent with this Agreement and the Plan as established by the Trust Committee from time-to-time.

7.2. **Contributions on Annual Basis; Rate Structure.** The contribution rate structure for Member contributions shall provide for contributions to be made on an annual basis. Contributions shall be sufficient to fund the projected benefits and applicable expenses for the Participants receiving benefits under the Plan.

7.3 **Failure to Make Contributions.**

- (a) If any Member fails to make its Member contribution to the Trust within thirty (30) business days after the date on which they are due, such contributions shall bear interest from the date due at the rate of return for the three (3) month LIBOR rate set on the date when such contribution was first due plus one percent (1%), compounded monthly.
- (b) Any other Member may, with the consent of the Administrator, make the contribution on behalf of the delinquent Member and, such amount shall become a debt of the delinquent Member to the contributing Member.
- (c) The Trust Committee has the right, upon an affirmative vote of four (4) Trustees, with any Trustees from a Member in default excluded from the vote, should the delinquent Member not cure the delinquency within thirty (30) calendar days after the Administrator provides written notice to the Member of its delinquency, to terminate:
 - (1) such Member's participation in the Plan and Trust at the end of an additional thirty (30) calendar day notice period or the end of the Plan year of the Member's delinquency, if earlier, if such delinquency is not cured, and
 - (2) upon such termination, no claims submitted by Participants of the delinquent Member for benefits subsequent to the date of the termination, shall be paid by the Trust.
- (d) The Trust Committee also has the right, upon an affirmative vote of four (4) Trustees, with any Trustees from the Member in default excluded from the vote, to notify the Participants of such delinquent Member that such Member's participation in the Plan and Trust has been or will be terminated.
- (e) Nothing herein, however, shall relieve the delinquent Member of its responsibility for benefits payable to its Participants.

7.4 **TABOR Compliance.** This Agreement does not create a multiple fiscal year direct or indirect debt or other financial obligation. All financial obligations of a Member under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. No Member's contribution for any Fiscal Year shall exceed the annual contribution billed for such Fiscal Year unless additional funds for payment thereof have been appropriated by the Member.

7.5 **State Funding.** For benefits required under Section 29-5-302, C.R.S., no Member shall be required without its consent to make a contribution for a Fiscal Year in excess of the amount of state funding paid or payable to the Member under Section 29-5-302(11), C.R.S. for that Fiscal Year. There is reserved to the Members and to the Trust the right set forth in Section 29-

5-302(12) C.R.S., providing that if, at any time, the state funding provided for the benefit required by Section 29-5-302, C.R.S. is insufficient to cover the cost of the benefit, then the requirements of Section 29-5-302, C.R.S. to maintain the benefit shall become optional pursuant to Section 29-1-304.5. C.R.S. The Trust Committee may establish guidelines consistent with this Agreement governing any exercise of the right under said Section 29-5-302(12), C.R.S.

7.6 **Reports.** The Trust Committee shall provide reports needed for purposes of administration of this Agreement and the Plan.

ARTICLE VIII

PARTICIPATION, WITHDRAWAL AND OBLIGATIONS OF MEMBERS

8.1 **Participation in Trust by Members.** The initial participating Members in the Trust are as set forth on Exhibit A. Additional Members may participate in the Trust subject to the approval of the Trust Committee, which participation shall be effective as of the beginning of the next Fiscal Year or such other date as determined by the Trust Committee. Participation in the Trust is limited to those employers who are governmental entities participating for purposes of Part 3 of Article 5 of Title 29, C.R.S. The Trust Committee reserves the right to require a new participating Member at the time of joining the Trust to contribute to the reserves of the Trust or to make such other appropriate financial contribution as determined by the Trust Committee. The Trust Committee may reject requested participation by any additional Member for any reason. To participate in the Trust, a Member must properly adopt and enter into this Trust Agreement, which shall be evidenced by providing to the Trust Committee (i) a certified copy of the resolution or ordinance of the governing body of the Member approving and entering into this Trust Agreement, and (ii) a signed counterpart original of this Trust Agreement duly executed by presiding officer of the governing body or other authorized officer of the Member.

8.2 **Withdrawal by Member.** A Member may withdraw from participation in the entire Trust on the following terms and conditions:

- (a) Except as provided in this section, any Member which intends to withdraw from participation in the Trust must give at least ninety (90) days advance written notice to the Trust Committee. Upon a Member's withdrawal from the Trust, any Trustees who are employees of such Member shall no longer serve as Trustees.
- (b) Upon withdrawal, the Member shall be deemed to have withdrawn from participation in the entire Trust. Upon the effective date of withdrawal, the Member's Participants shall cease to participate in the Plan, provided, that if required by law, a Participant's benefits may be extended pursuant to, if and to the extent applicable, the terms and provisions of the Plan, including those Participants who have filed a claim for or are receiving benefits under the terms of the Plan prior to the effective date of the Member's withdrawal, in which case benefits shall continue subject to the withdrawing Member's payment of required contributions.
- (c) Upon withdrawal, the Trust Committee also has the right to notify the Participants

of such withdrawing Member that such Member's participation in the Plan and Trust has ceased or will cease.

- (d) In the event of a Member's withdrawal pursuant to this section, such withdrawing Member shall have no right to any of the assets, income or reserves of the Trust at any time, nor shall such Member have any right to a refund or rebate of any of its contributions to the Trust.

8.3 **Successors and Assigns.** Upon approval of the Trust Committee, a participating Member may transfer or assign its participation in the Trust to any successor in interest, whether by merger, consolidation, reorganization, restructuring, transfer of employees, or dissolution, creation or consolidation of Member entities or governing boards or otherwise.

8.4 **Powers of Members.** In addition to powers herein vested in the Members, the Members shall have the power to:

- (a) Amend the Trust Agreement by a two-thirds (2/3) vote of the Members present at a meeting. Written notice of any proposed amendment shall be provided to each Member at least forty-five (45) days in advance of any vote on the amendment.
- (b) Terminate the Plan and disburse its assets by a two-thirds (2/3) vote of all Members, pursuant to such notice and in keeping with such procedure as shall be established by the Trust Committee. In the case of such a vote, termination of the Plan shall be pursuant to provisions of Article X.

8.5 **Meetings of the Members.** Meetings of the Members shall be held as follows:

- (a) Members shall meet at least once annually at a time and place to be set by the Trust Committee, with notice mailed to each Member at least thirty (30) days in advance.
- (b) Special meetings of the Members may be called by the Trust Committee upon its own motion and shall be called by the Trust Committee upon written request of thirty (30) percent of the Members, with notice mailed to each Member at least thirty (30) days in advance.
- (c) The chair of the Trust Committee shall preside at the meetings; the vice chair shall preside in the absence of the chair.
- (d) Thirty percent (30%) percent of the Members shall constitute a quorum to conduct business.
- (e) Except for action to terminate the Plan, proxy voting shall be allowed, pursuant to such procedures as the Trust Committee may determine. Each Member shall be entitled to one vote on each issue, to be cast by its Member Representative.

8.6 **Member Obligations.** In addition to the other provisions, hereof, each Member shall have the obligation to:

- (a) Pay all contributions or other payments to the Trust at such times and in such amounts as shall be established by the Trust Committee. Any delinquent payments shall be paid with interest pursuant to a policy established by the Trust Committee and uniformly applied.
- (b) Designate in writing a Member Representative and one or more alternates for the Members' meetings. The Representative and any alternate shall be an employee of the Member, except as provided in Section 3.1, and may be changed from time to time. Any alternate may exercise all the powers of the Representative during a Member meeting in the absence of the Member Representative.
- (c) Allow the Trust Committee and Administrator and their agents reasonable access to records of the Member as required for the administration of Plan and Trust.
- (d) Cooperate fully with the Trust Committee and Administrator and their agents in matters relating to the administration of the Plan and Trust and the administration and coordination of benefits under the Plan.
- (e) Allow the Trust Committee to make decisions regarding, and to designate attorneys to represent the Member in, the investigation, settlement and litigation of any claim within the scope of benefits furnished through the Plan.
- (f) Comply with the benefits administration, claims handling and related policies established by the Trust Committee.

ARTICLE IX ADMINISTRATION

9.1 **Accounting.**

- (a) **Books and Records.** The Administrator generally shall be responsible for keeping accurate and detailed records of all investments, receipts and disbursements and other transactions hereunder, including such specific records as shall be required by law and such additional records as may be agreed upon in writing between the Administrator and the Trust Committee. All books and records relating thereto shall be open to inspection and audit at all reasonable times by any person or persons designated by the Administrator, the Member, or the Investment Committee. The Trust Committee shall promptly provide copies of such books or records to any persons designated by the Administrator.
- (b) **Accounting.** Following the close of each Plan year of the Plan, or more frequently as the Trust Committee and the Administrator may agree, the Trust Committee, with the assistance of the Administrator, shall cause to be prepared a

written statement setting forth all investments, receipts, disbursements and other transactions effected during such year or during the period beginning as of the close of the last preceding year. Except as may be required by statute or by regulations published by State or federal government agencies with respect to reporting and disclosure, as may be required pursuant to the terms of the Plan or this Agreement or as reasonably may be requested by a majority of the Members or the Investment Committee, no person shall have the right to demand or to be entitled to any further or different accounting by the Trust Committee.

- (c) **Release.** Except with regard to claims of breach of fiduciary duty, upon the expiration of 90 days from the date of presentation to the Members of such annual or other statement, the Trust Committee shall forever be released and discharged from any liability or accountability to anyone as respects the propriety of its acts or transactions shown in such account, except with respect to any acts or transactions as to which, within such 90-day period, a Member whose interest is affected by such act or transaction shall file with the Trust Committee its written disapproval. In the event such a disapproval is filed, and unless the matter is compromised by agreement of the Trust Committee, the Trust Committee shall file its statement covering the period from the date of the last annual statement to which no objection was made in any court of competent jurisdiction for audit or adjudication. The applicable statutes of limitation shall be available to the Trust Committee in the event of a claim of breach of fiduciary duty.
- (d) **Valuations.** The Trust Committee shall designate a party to be responsible for valuations of assets of the Trust for which prices are not readily available on a nationally recognized securities exchange.
- (e) **Reliance on Administrator.** The Trust Committee shall be entitled to rely on the Administrator and any Custodian, other than Trust Committee, for the maintenance and provision of all records specified in this Section.

- 9.2 **Expenses.** The expenses incurred by the Trust Committee in the performance of its duties hereunder, including fees for legal and other services rendered and all other proper charges and disbursements of the Trust Committee, including taxes of any and all kinds whatsoever, that may be levied or assessed under existing or future laws upon or in respect of the Trust or any money, property or security forming a part of the Trust Fund, shall be paid by the Trust Committee from the Trust Fund, and the same shall constitute a charge upon the Trust Fund. To the extent the Member pays any expenses that are properly payable from the Trust Fund, the Trust Committee shall reimburse the Member that has made payment from the Trust Fund if requested to do so by the Member.

ARTICLE X

AMENDMENT OF TRUST; TERMINATION OF PLAN

- 10.1 **Amendment of Trust.**

- (a) **Right to Amend.** The Members may amend this Agreement at any time or from time to time by the affirmative vote of two-thirds (2/3) of all Members, and any such amendment by its terms may be retroactive. An amendment shall require compliance with the terms of Section 8.4(a). An adopted amendment shall become effective upon the date specified in the ballot approved by the Members, without necessity of further written consent or signatures by the Members. Upon adoption of any amendment, the Trust Committee shall cause a current copy of this Agreement to be sent to each Member.
- (b) **Exclusive Benefit.** Notwithstanding the foregoing, no amendment shall be made which would authorize or permit any assets of the Trust Fund, other than such assets as are required to pay taxes and administration expenses, to be used for or diverted to purposes other than the exclusive benefit of Participants or Beneficiaries.
- 10.2 **Termination of Plan.** The Trust shall continue for such time as may be necessary to accomplish the purposes for which it was created and shall terminate only upon the complete distribution of the Trust. The Trust may be terminated as of any date (and shall in fact terminate upon the complete distribution of the funds of this Trust on such date or thereafter) by unanimous vote of the Trust Committee and approval by a two-thirds (2/3) vote of all Members. Upon termination of the Trust, provided that the Trust Committee has not received instructions to the contrary, the Trust Committee shall liquidate the Trust and, after paying the reasonable expenses of the Trust, including expenses involved in the termination, distribute the balance thereof according to the written directions of each Member for the provision of benefits similar to those provided under the Plan for the benefit of each such Member's Participants and Beneficiaries covered thereunder; provided, however, that the Trust Committee shall not be required to make any distribution until the Trust Committee is reasonably satisfied that adequate provision has been made for the payment of all taxes, if any, which may be due and owing by the Plan and the Trust; and provided, further, that in no event shall any distribution be made by the Trust Committee until the Trust Committee is reasonably satisfied that the distribution will not be contrary to the applicable provisions of the Plan dealing with termination of the Plan and the Trust.
- 10.3 **Final Accounting.** At such time as the Trust is terminated, the Trust Committee shall render a final accounting of the affairs of the Trust to each participating Member, and thereafter there shall be no claim or action against the Trust Committee or any Trustee, and they shall have no further responsibilities or duties and shall be discharged.

ARTICLE XI MISCELLANEOUS

- 11.1 **Nonalienation of Benefits.** Neither the benefits payable from the Trust Fund nor any interest in any of the assets of the Trust Fund shall be subject in any manner to the claim of any creditor of a Participant, or Beneficiary or to any legal process by any creditor of such Participant, or Beneficiary; and neither a Participant nor any Beneficiary shall have

any right to alienate, commute, anticipate or assign any right to benefits payable from or any interest in the Trust, except as provided in the Plan.

11.2 **Benefit.** Except as otherwise provided in the Plan and this Agreement, no part of the Trust hereunder shall be used for or diverted to any purpose other than for the benefit of Participants and Beneficiaries or the payment of expenses as herein provided.

11.3 **Effect of Plan.** The Trust Committee is not a party to the Plan, and in no event shall the terms of the Plan, either expressly or by implication, be deemed to impose upon the Trust Committee any power or responsibility other than as set forth in this Agreement. In the event of any conflict between the provisions of the Plan and this Agreement, this Agreement shall be deemed to be incorporated into and be a part of the Plan, and the terms of this Agreement shall control over any inconsistent terms of the Plan not contrary to State law.

11.4 **Dispute Resolution.**

(a) Disputes arising in relation to benefits under the Plan shall be resolved in accordance with the procedures established in the Plan.

(b) The parties to this Agreement (each, a “party”) are mutually committed to collaborative problem solving for resolving issues that may arise among or between them concerning this Agreement. In the event of a dispute, the complaining party may notify the other party of the dispute in writing and each party to the dispute will each appoint a representative to negotiate in good faith to resolve the dispute. These negotiations between representatives of the parties shall continue until the earliest of: (a) the time the dispute has been resolved; (b) the designated representatives have concluded that continued negotiation does not appear likely to resolve the dispute; or (c) thirty (30) days from the date of written notice of the dispute. If the dispute is not resolved through direct negotiations, the parties may, with the consent of all parties, attempt to settle any dispute arising out of or related to this Agreement through mediation. Unless otherwise agreed by the parties, mediation shall proceed as follows: The parties may agree on a mediator. If they are unable to agree on a mediator within thirty (30) days of the agreement to mediate, the parties shall contact an agreed upon dispute resolution organization or service and shall use its selection process to select a mediator. Each party shall bear its own costs of the mediation and the parties shall share the costs of the mediator. The mediation shall be scheduled within sixty (60) days of the agreement to mediate. If the direct negotiation process is unsuccessful and the parties do not consent to mediation or the agreed-upon mediation process does not successfully resolve the dispute within ninety (90) days of the agreement to mediate, the parties shall be entitled to pursue any other remedy allowed by law or this Agreement. However, no party shall pursue such a remedy without first exhausting the direct negotiation process.

- 11.5 **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto with regard to the subject matter hereof, and there are no other agreements or understandings between the parties relating to the subject matter hereof other than those set forth or provided for herein.
- 11.6 **Approval of the Members.** The Members shall have the right, on behalf of all individuals at any time having any interest in the Trust, to approve any action taken or omitted by the Trust Committee.
- 11.7 **Liability for Predecessor or Successor.** No successor Trustee hereunder in any way shall be liable or responsible for any actions or omissions of any prior Trustee in the administration of the Trust or the Trust Fund prior to the date such successor Trustee assumes its obligations hereunder, nor shall any prior Trustee in any way be liable or responsible for any actions or omissions of any successor Trustee.
- 11.8 **Liability for Acts of Others.** No Trustee shall be liable for the acts or omissions of a Member, the Custodian, the Administrator, the Investment Committee or any Investment Manager except with respect to any acts or omissions of any such party in which the Trustee participates knowingly or which the Trustee knowingly undertakes to conceal, and which the Trustee knows constitutes a breach of fiduciary responsibility of such party.
- 11.9 **Governmental Immunity.** It is specifically understood and agreed that nothing contained in this Agreement shall be construed as an express or implied waiver by the Trust, the Trust Committee, the individual Trustees, or the Members of governmental immunity or of the sovereign immunity of the State of Colorado or its instrumentalities or any provision of the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S.
- 11.10 **Controlling Law.** This Agreement shall be construed according to the laws of the State of Colorado.
- 11.11 **Effective Date.** This Agreement shall be effective on and after _____, 2014.
- 11.12 **Execution in Counterpart.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Member and the Trust Committee have caused this Agreement to be signed by their duly authorized officers or representatives as of the day first written above.

TRUST COMMITTEE:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

By: _____
Trustee

Date: _____

Member Representative of:

ADMINISTRATOR:

By: _____

Title: _____

Date: _____

MEMBER: _____

Sign: _____

By: _____

Title: _____

Attest:

Sign: _____

By: _____

Title: _____

Date of Member Adoption of Agreement:

Michele G. Martin

Subject: FW: 2015 CFH Trust Memorandum of Coverage - Black Hawk Fire Department
Attachments: Black Hawk Fire Department_dec_page.pdf

From: Viji Ashok <VAshok@McGriff.com>

Date: December 29, 2014 at 13:21:59 EST

To: "dtaylor@cityofblackhawk.org" <dtaylor@cityofblackhawk.org>

Cc: Lei Shi <LShi@McGriff.com>

Subject: 2015 CFH Trust Memorandum of Coverage - Black Hawk Fire Department

Dear Don Taylor:

Attached is your Memorandum of Coverage which is DOLA's requested "Proof of Coverage" and "Paid Receipt" required for reimbursement.

DOLA recently ruled that reimbursement for coverage required by CRS 29-5-302 must align with the state's fiscal year, which begins annually on July 1. This differed from the Trust's coverage term, so only a portion of the previously designated term would be subject to reimbursement in this year; the other piece would be reimbursable in the following fiscal year. This would create unnecessary budgetary and administrative wrangling for all involved.

To address this, the Trustees have approved changing the Coverage Plan Document to run congruent with the state's fiscal year of July 1 to June 30 annually. This will initiate a six (6) month term of January 1, 2015 to June 30, 2015 for the initial period and allows us to send out this Memorandum of Coverage which is fully reimbursable. This will not change the pricing for the initial term since financing the eighty weeks of risk requires this level of capitalization regardless of the coverage period. Members will still be eligible to receive 100 percent reimbursement for their full-time firefighters for this initial period.

The Trust will review its financial position and pricing options in the spring ahead of the first annual renewal on July 1, 2015. Members will then be eligible for 100 percent reimbursement for coverage for their full-time firefighters from DOLA. Funds paid for Volunteer and Part-time Firefighters will be credited toward the July 1, 2015 renewal since this coverage is not eligible for reimbursement.

Getting the program on track with the state's fiscal year allows members the best opportunity to take advantage of available state funding. Please do not hesitate to call or write us with any questions or concerns.

If you have any questions, please let us know.

Viji Ashok

Sent on Behalf of Lei Shi
Colorado Firefighter Heart and Circulatory Benefits Trust
lshi@mcgriff.com
503.943.6649



Colorado Firefighter Heart and Circulatory Benefits Trust

MEMORANDUM OF COVERAGE

Coverage Number: 15CFHT-0273-0273

Coverage Period: 01/01/2015 through 06/30/2015

Member:

Black Hawk Fire Department
P.O. Box 68
Black Hawk, CO 80422

State: Colorado

Member Annual Contribution Paid in Full: \$3,150.00

Annual Aggregate Limit: \$250,000.00

Per census on file with Trust Administrator

Reimbursable from DOLA - 18 Full-Time Firefighters: \$3,150.00

Non-reimbursable - 0 Part-Time Firefighters: \$0.00

Non-reimbursable - 0 Volunteer Firefighters: \$0.00

Schedule of Benefits:

Basic Schedule

Class	Covered Accident	Applicable Benefits
1	A medical exam reveals a firefighter has a covered Heart or Circulatory Malfunction	\$4,000 lump sum payment
2	A firefighter makes an emergency room visit and is admitted to a hospital for up to 48 hours for a covered Heart or Circulatory Malfunction	\$1,500 per week, for up to 7 weeks
3	A firefighter makes an emergency room visit and is admitted to a hospital for more than 48 hours for a covered Heart or Circulatory Malfunction	\$2,000 per week, for up to 25 weeks
4	A firefighter has a covered Heart or Ciculatory Malfunction prohibiting the firefighter from returning to employment	\$2,500 per week, for up to 80 weeks

Additional Benefit Schedule

Covered Accident	Applicable Benefits
A firefighter requires rehabilitative employment services for a covered Heart or Circulatory Malfunction	Up to \$25,000 for services
A firefighter incurs cost for cosmetic disfigurement from a covered Heart or Circulatory Malfunction	\$10,000 lump sum payment
A firefighter shall receive advance payment of funds already due when a medical exam reveals the firefighter has a terminal Heart or Circulatory Malfunction	Up to \$25,000 lump sum payment

This Memorandum of Coverage is made and is mutually accepted by the Trust and Member subject to all terms which are made a part of the Benefits Trust Coverage Plan. This Memorandum represents only a brief summary of coverage. Please refer to the Coverage Plan Document - CFHT2015 at www.cfhttrust.com for actual coverage, definitions, benefits, terms, conditions, and exclusions.

Countersigned by:

Authorized Representative

Colorado Firefighter Heart and Circulatory Benefits Trust

Print Date: 12/29/2014

RESOLUTION 5-2015
A RESOLUTION
APPROVING THE
AGREEMENT BOUNDARY
LINE AGREEMENT
BETWEEN THE CITY OF
BLACK HAWK AND
SMITHLOCH, LLC, BLOCK
29, LOT 1

CITY OF BLACK HAWK
REQUEST FOR COUNCIL ACTION

SUBJECT: *Boundary Line Agreement – 141 Gregory Street – Between Smithloch, LLC and the City of Black Hawk.*

RECOMMENDATION: *Staff recommends the following motion to the Mayor and Board of Aldermen: I move to recommend **APPROVAL** of the Boundary Line Agreement between Smithloch, LLC, a Colorado limited liability company whose address is 141 Gregory Street, Black Hawk, Colorado and the City of Black Hawk.*

MOTION TO APPROVE (or deny, etc.) *Resolution No. 5-2015 - A Resolution Approving the Boundary Line Agreement between the City of Black Hawk and Smithloch, LLC.*

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Smithloch is the owner of real property located in the City of Black Hawk legally described as Lot 1, Black 29, City of Black Hawk, County of Gilpin, State of Colorado (Lot 1). The City is the owner of right-of-way along Gregory Street and Selak Street adjoining Lot 1. The building located on Lot 1 encroaches on City right-of-way outside the lot lines of Lot 1 as shown by surveys prepared following the enactment of Ordinance No. 98-1. Smtihloch, LLC, disputes whether the building encroached on City right-of-way prior to the enactment of Ordinance No. 98-1. Smithloch, LLC and the City of Black Hawk desire to enter into a Boundary Line Agreement to adjust the lot lines for Lot 1 so that the building located on Lot 1 does not encroach on City right-of-way.

AGENDA DATE: *January 14, 2015.*

WORKSHOP DATE: *N/A.*

FUNDING SOURCE: *N/A.*

DEPARTMENT DIRECTOR APPROVAL: Yes No

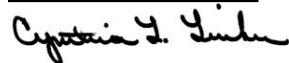
STAFF PERSON RESPONSIBLE: *Cynthia L. Linker, CP&D Administrator.*

DOCUMENTS ATTACHED: *Request for Council Action, Resolution No. 5-2015, Boundary Line Agreement signed by Smithloch, LLC, Exhibit A, and Exhibit B.*

RECORD: Yes No

CITY ATTORNEY REVIEW: Yes N/A

SUBMITTED BY:



Cynthia L. Linker
CP&D Administrator

REVIEWED BY:



Jack D. Lewis, City Manager

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 5-2015

**TITLE: A RESOLUTION APPROVING THE BOUNDARY LINE AGREEMENT
BETWEEN THE CITY OF BLACK HAWK AND SMITHLOCH, LLC**

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

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

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

BOUNDARY LINE AGREEMENT

THIS BOUNDARY LINE AGREEMENT (Agreement) is dated this ____ day of _____, 2014, and is between SMITHLOCH, LLC, a Colorado limited liability company ("Smithloch"), whose address is 141 Gregory Street, Black Hawk, Colorado 80422, and the CITY OF BLACK HAWK, COLORADO ("City"), whose address is 211 Church Street, Black Hawk, Colorado 80422.

RECITALS

A. Smithloch is the owner of real property located in the City of Black Hawk, Colorado, legally described as Lot 1, Block 29, City of Black Hawk, County of Gilpin, State of Colorado (Lot 1).

B. The City is the owner of right-of-way along Gregory Street and Selak Street adjoining Lot 1.

C. The City, acting by and through its City Council, enacted Ordinance No. 98-1 on January 28, 1998, which adopted the map of Black Hawk surveyed by Albert Johnson, City Surveyor, dated May and June 1866 ("Johnson Survey").

D. The building located on Lot 1 encroaches on City right-of-way outside the lot lines of Lot 1 as shown by Surveys prepared following the enactment of Ordinance No. 98-1.

E. Smithloch disputes whether the building encroached on City right-of-way prior to the enactment of Ordinance No. 98-1.

F. The parties desire to enter into this Boundary Line Agreement to adjust the lot lines for Lot 1 so that the building located on Lot 1 does not encroach on City right-of-way.

NOW, THEREFORE, in consideration of the recitals above, and the mutual covenants and conveyances set forth below, the parties agree as follows:

1. For all purposes, Smithloch and the City agree that the true, correct and final lot lines for, and configuration of, Lot 1 shall be as shown on Exhibit A, attached hereto and made a part hereof by this reference.

2. Each of the parties conveys and quitclaims to the other party the adjoining real property which is in conflict with the Lot 1 configuration as shown by Exhibit B, attached hereto and made a part hereof by this reference. Specifically, Smithloch conveys and quitclaims that portion formerly of Lot 1 labeled as "Smithloch to City" on Exhibit B, and the City conveys and quitclaims to Smithloch that portion formerly of City right-of-way labeled as "City to Smithloch" on Exhibit B.

3. This Agreement has been executed by the parties voluntarily and in accordance with the specific provisions of Section 38-44-112, Colorado Revised Statutes, in order to determine and permanently establish by written agreement of all parties thereby affected the lot lines for Lot 1 and the boundary between Lot 1 and the City right-of-way for Gregory Street and Selak Street.

4. Each of the parties represents to the other that each is the owner of its respective property, that each has the full power and authority to enter into and execute this Agreement, and that no other owner, lienor or mortgagee has any right, title or interest in its respective property.

5. This Agreement shall be recorded by Smithloch in the records of the Clerk and Recorder of Gilpin County, State of Colorado, as an instrument affecting real estate, shall run with the land as covenants burdening and benefitting Lot 1 and the City right-of-way, and this shall inure to the benefit of and be binding upon the successors and assigns of the parties.

DATED the day and year first set forth above.

SMITHLOCH, LLC, a Colorado limited liability company

By: Joseph B. Lochnikar
Joseph B. Lochnikar, Manager

CITY OF BLACK HAWK, COLORADO

By: _____
David B. Spellman, Mayor

Attest:

By: _____
Melissa Greiner, City Clerk

EXHIBIT A

IMPROVEMENT SURVEY PLAT OF A PORTION OF LOT 1 AND LOTS 2 - 4, BLOCK 29, 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

DESCRIPTION:

THE EAST 71 FEET OF LOT 1 AND LOTS 2, 3 AND 4, BLOCK 29
CITY OF BLACK HAWK, COUNTY OF GILPIN, STATE OF COLORADO
CONTAINING 0.20 ACRES MORE OR LESS.

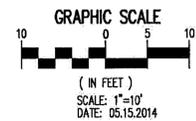
SURVEYOR'S CERTIFICATE:

I NOEL L. POTTER, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO,
DO HEREBY CERTIFY THAT THE SURVEY OF THE LOTS AS SHOWN HEREON, WAS
MADE UNDER MY SUPERVISION AND THAT THE ACCOMPANYING MAP ACCURATELY
AND PROPERLY SHOWS SAID SURVEY THEREOF.



C.C.S. CONSULTANTS, INC.
NOEL L. POTTER P.L.S. 26296

C.C.S. CONSULTANTS, INC. HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR
EASEMENTS RECORDED/UNRECORDED, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP
TITLE EVIDENCE OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH
MAY DISCLOSE.



NOTES:

1. THIS IMPROVEMENT SURVEY PLAT IS BASED UPON THE APPROVED CITY OF BLACK HAWK SURVEY MAP OF BLOCK 29. THIS SURVEY MAP IS RECOGNIZED BY THE CITY OF BLACK HAWK AS THE CONTROLLING BOUNDARY INFORMATION.
2. ●=SET NO. 4 REBAR AND CAP OR NAIL AND SHINER LS 26296, UNLESS OTHERWISE NOTED.
3. BEARINGS ARE BASED ON THE WESTERLY LINE OF BLOCK 29, PER THE CITY OF BLACK HAWK SURVEY MAP OF SAID BLOCK, BEARING N 38°49'42" E, 391.24 FEET BETWEEN FOUND IN PLACE 2" DIAMETER ALUMINUM CAPS, MARKED BLOCK CORNER PLS 26296.
4. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
5. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED 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 CERTIFICATION SHOWN HEREON.
6. THE SURVEY REPRESENTED BY THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH BY C.C.S. CONSULTANTS, INC. TO DETERMINE EASEMENTS OR RIGHT OF WAY OF RECORD.
7. ACREAGE CALCULATIONS ARE BASED UPON THE PERIMETER BOUNDARY AS SHOWN HEREON.
8. SITE ADDRESSES: 125, 131, 135 AND 141 GREGORY STREET

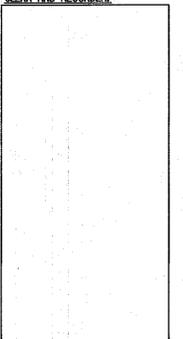
COUNTY SURVEYOR'S CERTIFICATE:

DEPOSITED THIS _____ DAY OF _____, 20____, AT _____, M.,
IN BOOK _____ OF THE COUNTY SURVEYOR'S LAND SURVEY PLATS/RIGHT-OF-WAY SURVEYS
AT PAGE _____, RECEPTION NUMBER _____

THIS LAND SURVEY PLAT COMPLIES WITH SECTION 38-51-102, C.R.S.

(SIGNED) _____
COUNTY SURVEYOR

CLERK AND RECORDER:



C.C.S. CONSULTANTS, INC.
4860 Robb Street, Suite 208
Wheat Ridge, Colorado 80033
Phone: 303-403-4706, Fax: 303-403-0800

PREPARED FOR EDWARD E. SMITH

EXHIBIT B

IMPROVEMENT SURVEY PLAT OF A PORTION OF LOT 1 AND LOTS 2 - 4, BLOCK 29, 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

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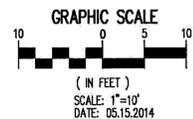
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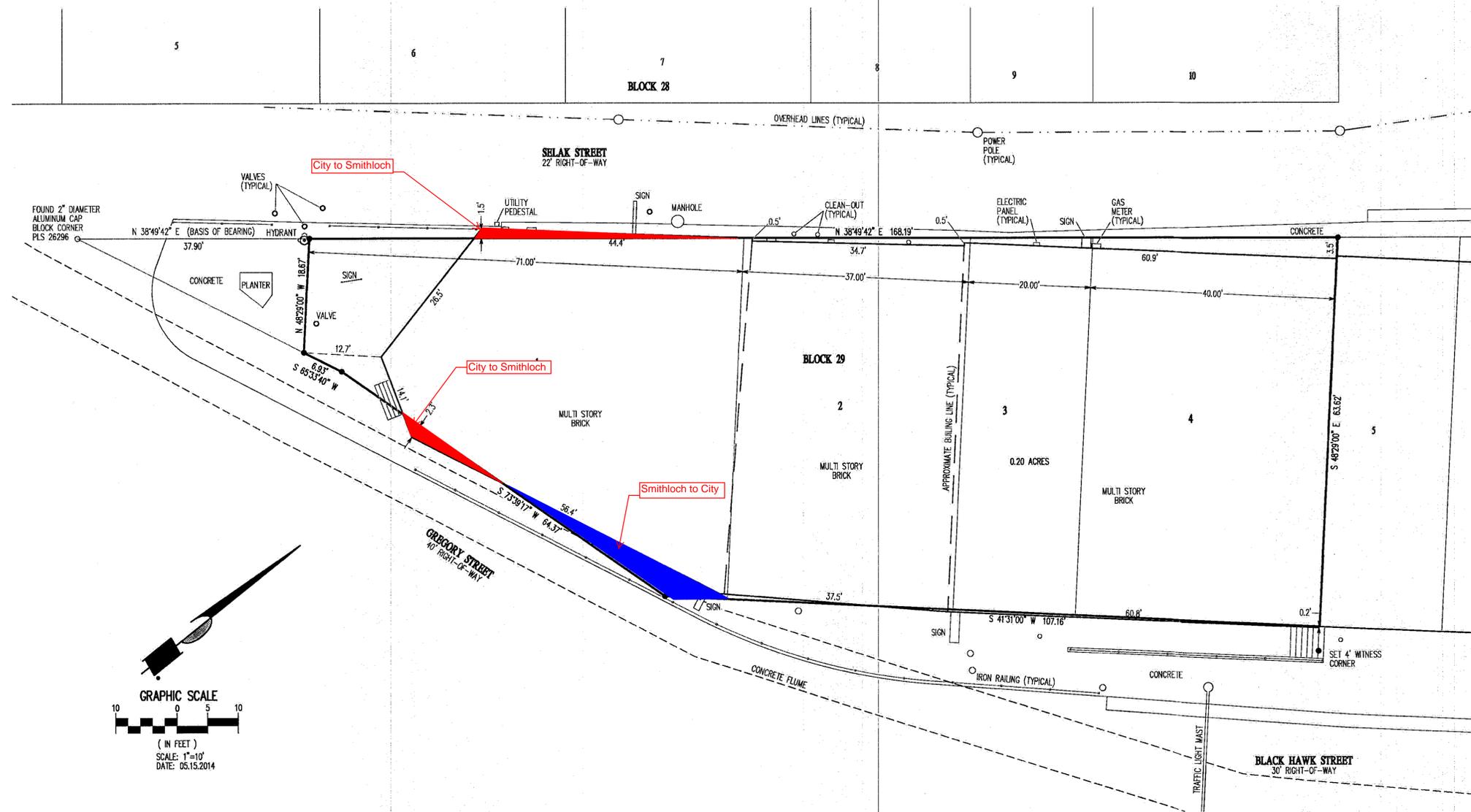
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5. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.
6. THE SURVEY REPRESENTED BY THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH BY C.C.S. CONSULTANTS, INC. TO DETERMINE EASEMENTS OR RIGHT OF WAY OF RECORD.
7. ACREAGE CALCULATIONS ARE BASED UPON THE PERIMETER BOUNDARY AS SHOWN HEREON.
8. SITE ADDRESSES: 125, 131, 135 AND 141 GREGORY STREET



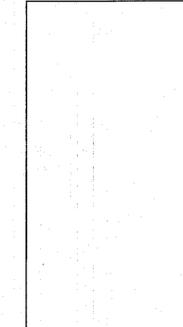
COUNTY SURVEYOR'S CERTIFICATE:

DEPOSITED THIS _____ DAY OF _____, 20____, AT _____ M.,
IN BOOK _____ OF THE COUNTY SURVEYOR'S LAND SURVEY PLATS/RIGHT-OF-WAY SURVEYS
AT PAGE _____, RECEPTION NUMBER _____

THIS LAND SURVEY PLAT COMPLIES WITH SECTION 38-51-102, C.R.S.

(SIGNED) _____
COUNTY SURVEYOR

CLERK AND RECORDER:



C.C.S. CONSULTANTS, INC.
4860 Robb Street, Suite 208
Wheat Ridge, Colorado 80033
Phone: 303-403-4706, Fax: 303-403-0800

PREPARED FOR EDWARD E. SMITH

RESOLUTION 6-2015
A RESOLUTION
APPROVING THE
PROPERTY EXCHANGE
AGREEMENT BETWEEN
THE CITY OF BLACK
HAWK AND QUARTZ
VALLEY RANCH
COMPANY

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

Resolution No. 6-2015

TITLE: A RESOLUTION APPROVING THE PROPERTY EXCHANGE AGREEMENT BETWEEN THE CITY OF BLACK HAWK AND QUARTZ VALLEY RANCH COMPANY

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

Section 1. The Property Exchange Agreement between the City of Black Hawk and Quartz Valley Ranch Company, attached hereto as **Exhibit A**, is hereby approved, and the Mayor is authorized to execute the same on behalf of the City.

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk



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

SUBJECT: Approve Property Exchange with Quartz Valley Ranch, LLC.

RECOMMENDATION:

If City Council chooses to approve Resolution 6-2015, a resolution approving property exchange with Quartz Valley Ranch, LLC., the recommended motion is as follows: “Approve Resolution 6-2015 Approving Property Exchange with Quartz Valley Ranch, LLC. And the City of Black Hawk”

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The City has proposed open space uses and a water storage reservoir up in the Quartz Valley/Maryland Mountain area. This exchange provides the land necessary to clean up ownership of areas the City requires as well as sets in place a large reservoir easement on property owned by the Quartz Valley Ranch. The agreement also includes a \$50,000 payment to Quartz Valley Ranch as well as requirements for the City to construct fencing along new property lines and build access roads at the time of reservoir construction.

FUNDING SOURCE: 501-3151-460-71-02 System Improvements/Land Acquisition

WORKSHOP DATE: January 14, 2015

ORIGINATED BY: Tom Isbester

STAFF PERSON RESPONSIBLE: Tom Isbester

PROJECT COMPLETION DATE: December 31, 2015

DOCUMENTS ATTACHED: resolution & exchange agreement

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

SUBMITTED BY:

Thomas Isbester, Public Works Director

REVIEWED BY:

Jack D. Lewis, City Manager

PROPERTY EXCHANGE AGREEMENT

THIS PROPERTY EXCHANGE AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2015, by and between the **City of Black Hawk, Colorado**, a Colorado home rule municipality (the "**City**") and Quartz Valley Ranch Company, a Colorado corporation ("**Quartz Valley**").

RECITALS

WHEREAS, the City desires to construct a reservoir (the "Reservoir") and provide open space opportunities, including but not limited to hiking and mountain biking trails on property currently owned in part by Quartz Valley;

WHEREAS, the City further desires to construct the Reservoir and provide open space opportunities on the Quartz Valley Exchange Property in such a manner so as to minimize the impacts of such activities on Quartz Valley and to provide long-term benefits and certainty to Quartz Valley regarding such activities; and

WHEREAS, the City and Quartz Valley therefore desire to enter into this Agreement, which memorializes both the exchange of certain properties between the City and Quartz Valley, and memorializes the creation and conveyance of a reservoir easement from Quartz Valley to the City regarding the construction of the Reservoir, and the City's associated obligations regarding Quartz Valley.

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 Quartz Valley agree:

ARTICLE I DEFINITIONS

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

- A. *City* shall mean the City of Black Hawk;
- B. *City Exchange Property* shall be that property more particularly described in **Exhibit E**, attached hereto and incorporated herein by this reference, which property is being conveyed by the City to Quartz Valley;
- C. *Reservoir Easement Property* shall mean that property upon which Quartz Valley shall convey a reservoir easement for purposes of the City constructing the Reservoir as defined herein and shall be upon that property more particularly described in **Exhibit C**, attached hereto and incorporated herein by this reference;

D. *Quartz Valley* shall mean the Quartz Valley Ranch Company, its principals, successors and assigns;

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

F. *Quartz Valley Remainder Property* shall mean that property owned and retained by Quartz Valley following the exchange contemplated herein; and

G. *Reservoir* shall mean the Quartz Valley Reservoir to be constructed in the future by the City upon certain City-owned property following the exchange set forth herein and also including construction on the Reservoir Easement Property.

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 A**, to cause the City to acquire from Quartz Valley the Quartz Valley Exchange Property.

B. In addition, at the time of acquisition of the Quartz Valley Exchange Property, Quartz Valley shall also grant to the City a reservoir easement over the Reservoir Easement Property. Said reservoir easement will be granted by separate document, which document shall contain, at a minimum, the following limitations:

1. The City shall limit its use of the Reservoir Easement Property to use of the property for the Reservoir, but only for water storage, and the installation, maintenance and operation of measuring devices as may be required by the Colorado Division of Water Resources.

2. The City agrees that it shall not use the portion of the Reservoir within the Reservoir Easement Property, or any other portion of the Reservoir Easement Property, for public access for any active open space purposes, including, but not limited to mountain biking or hiking, or otherwise for public access to the Reservoir. No public access to the Reservoir Easement Property or public use of the Reservoir Easement Property shall be permitted.

3. To the extent permitted by law, Quartz Valley shall retain use of the Reservoir Easement Property for any private recreational use, excluding motorized watercraft and excluding any use that would be detrimental to the City's water supply.

C. The City further agrees that it shall not use any portion of the Quartz Valley Remainder Property for public access for open space purposes, including, but not limited to

mountain biking or hiking, or otherwise for public access to the Reservoir or any other City property. No public access to or use of the Quartz Valley Remainder Property shall be permitted.

ARTICLE III
PROPERTY ACQUISITION BY QUARTZ VALLEY

In partial consideration for the conveyance of the property described in **Exhibit B** by Quartz Valley to the City as described in Article I, 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 Quartz Valley to acquire from the City the City Exchange Property. Prior to conveyance of the City Exchange Property to Quartz Valley, the City agrees to complete, at the City's expense, disconnection proceedings consistent with part 5 of Article 12 of Title 31 of the Colorado Revised Statutes to cause such City Exchange Property to be located in unincorporated Gilpin County as of the date of conveyance by the City to Quartz Valley. In addition, since the City Exchange Property is less than 35 acres in size, the City shall secure any necessary approvals from Gilpin County ratifying and authorizing the conveyance of the City Exchange Property to Quartz Valley and combining the City Exchange Property with the Quartz Valley Remainder Property.

ARTICLE IV
OTHER OBLIGATIONS OF THE PARTIES

A. The City shall, in addition to the other consideration set forth herein, pay the amount of Fifty Thousand Dollars (\$50,000.00) to Quartz Valley in exchange for the property identified as the Reservoir Easement Property as set forth herein.

B. The property exchange and the conveyance of the reservoir property shall occur at a simultaneous closing no later than thirty (30) days after securing the approvals contemplated by this Agreement.

C. No later than September 30, 2015, the City shall construct fencing consisting of a three-strand barbed wire fence and a locked gate crossing Chase Gulch Road at the point where it enters the Reservoir Easement Property. The fencing shall run from said gate northeasterly along the southerly line of the East Keystone Lode to its intersection with the section line, north along the section line between Sections 1 and 2 to delineate and separate the newly acquired City property from the Quartz Valley property, and along the common boundary of the City Exchange property. Such fencing shall run north along the City Exchange Parcel to a point at least fifty (50) feet beyond the tree line, and shall be adequate to allow for Quartz Valley to conduct grazing on the Quartz Valley property, and specifically keep such livestock from exiting the Quartz Valley property and entering the City property. Only the City and Quartz Valley shall have a key to the Chase Gulch Road gate. The fence and gate shall be marked with signage stating "PRIVATE PROPERTY – NO TRESPASSING – NO PUBLIC ACCESS BEYOND THIS POINT."

D. The City and Quartz Valley understand and acknowledge that the construction and installation of a gate along Chase Gulch Road shall cause the closure of Chase Gulch Road, which is identified by Gilpin County as an "Unadjudicated County Road." The City agrees to be responsible

for defending the City's actions in blocking access to Chase Gulch Road as set forth herein, and shall incur any associated legal fees on behalf of both the City and Quartz Valley to the extent any action is brought challenging the closure of Chase Gulch Road.

E. At the time of construction of the Reservoir by the City, the City shall construct a twelve (12) foot wide gravel road, with all necessary drainage improvements along the southwesterly and northwesterly limits of the Reservoir, to the ranch house currently located on the Quartz Valley Remainder Property. The road shall be constructed in accord with customary engineering standards for such a gravel road. Following construction, the City shall be responsible for maintaining the road to the western tip of the Reservoir (the location of the flow measuring structure such as a weir, flume or similar measuring device), and Quartz Valley shall be responsible for maintenance from that point to the ranch house.

F. The City shall further as part of the construction of the Reservoir install buoys within the Reservoir delineating the Reservoir Easement Property from the remainder of the Reservoir.

G. In connection with the fencing and road closure described in subparagraphs C. and D. above, the City shall remove its existing gate, surveillance camera, and any other City property from the Reservoir Easement Property and the Quartz Valley Remainder Property.

H. Until construction of the Reservoir commences and the new gravel access road is completed, Quartz Valley's existing access road and gate crossing the future Reservoir site shall remain in existence for the sole and exclusive use of Quartz Valley.

I. The City further specifically consents to Quartz Valley keeping a certain amount of livestock on the Quartz Valley Remainder Property. Prior to construction of the Reservoir, the number of livestock shall not be restricted and the livestock may occupy and graze on the Reservoir Easement Property. After construction of the Reservoir, the number of such livestock shall be determined by the City and Quartz Valley taking into account best engineering practices to assure that the number of such livestock do not have a detrimental impact on the Reservoir, but shall not be less than ten (10) or more than twenty five (25) cow/calf units. It is recognized and acknowledged that there will not be any fencing between the Reservoir Easement Property and the Quartz Valley Remainder Property, and that after construction of the Reservoir the livestock may graze on that portion of the Reservoir Easement Property not occupied by the Reservoir

J. The City further agrees that the obligations contained herein, and the lands being sought by the City herein, are all of the properties necessary to complete the Reservoir and associated open space acquisitions for the Reservoir, and the City therefore agrees, to the extent permitted by law, that it will not seek to acquire any further lands either in fee or by easement from Quartz Valley.

K. The City further agrees to add Quartz Valley as an additional insured upon the City's insurance policy to the extent the City uses the Reservoir Easement Property as part of the operation of the Reservoir.

ARTICLE V
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, phrase, 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
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 16th Street, Suite 200
Denver, Colorado 80202

To Quartz Valley: Kurt O. Linn
555 South Miller Street
Lakewood, Colorado 80226

With a copy to: Scott D. Albertson, Esq.
Holley, Albertson & Polk, P.C.
1667 Cole Blvd., Suite 100
Golden, Colorado 80401

J. United Power/Electrical Easement. Quartz Valley receives power from United Power (f/k/a Union REA) through a power line that crosses City property. The City shall grant an easement to Quartz Valley or United Power for this line. Quartz Valley may, in its discretion, provide United Power with a key to the access gate set forth in Section IV, subsection C. above.

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

CITY OF BLACK HAWK, COLORADO

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

QUARTZ VALLEY RANCH COMPANY

By: _____

ATTEST:

Exhibit A

CONTRACT TO BUY AND SELL REAL ESTATE

_____, 2015

1. PARTIES AND PROPERTY. The City of Black Hawk, Colorado (Buyer), agrees to buy, and Quartz Valley Ranch Company, a Colorado corporation (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. N/A

3. PURCHASE PRICE AND TERMS. The purchase price shall be the consideration as more particularly described in that Property Exchange Agreement between the City and Quartz Valley Ranch Company dated January 14, 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. 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 in an amount equal to Fifty Thousand Dollars (\$50,000.00), on or before January 30, 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 insurance 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 insurance 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. If Seller furnishes a title insurance commitment, Seller will pay the premium at closing and have the title insurance policy delivered 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 February 6, 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 January 23, 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 February 6, 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 February 13, 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 March 27, 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.

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; 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 (Specific Performance).
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. (The language of these additional provisions has not been approved by the Colorado Real Estate Commission.)

15. RECOMMENDATION OF LEGAL COUNSEL. By signing this document, Buyer and Seller acknowledge that the Selling Company or the Listing Company has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this contract.

16. 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 QUARTZ VALLEY RANCH COMPANY

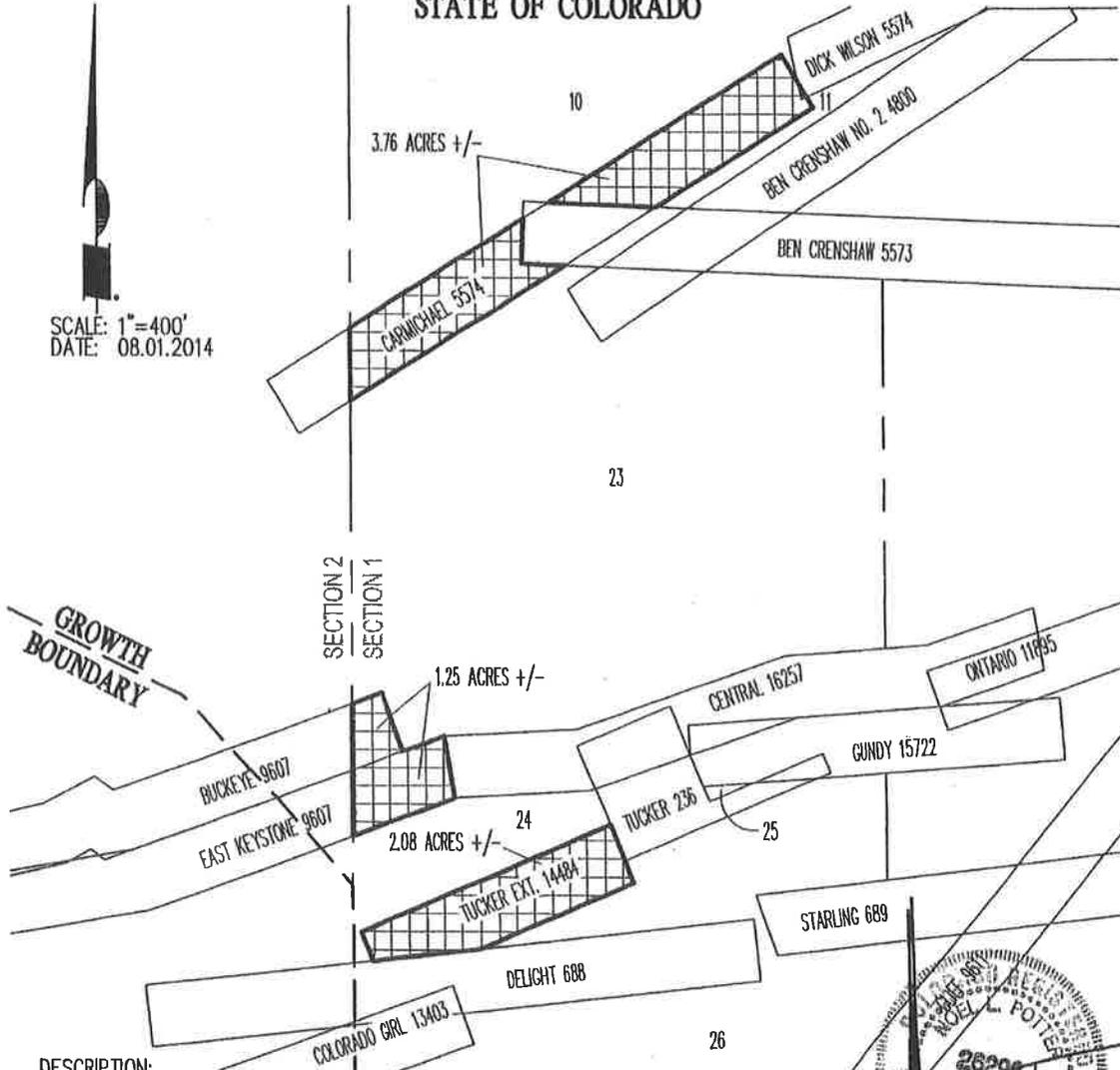
By: _____ Date _____

Seller's Address: _____

EXHIBIT A

PORTIONS OF THE CARMICHAEL MS 5574, BUCKEYE MS 9607
 EAST KEYSTONE MS 9607 AND THE TUCKER EXT. MS 14484
 LOCATED WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 73 WEST
 OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN
 STATE OF COLORADO

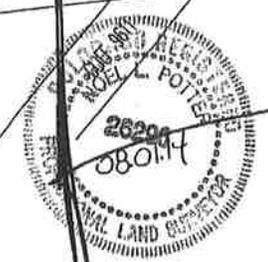
SCALE: 1" = 400'
 DATE: 08.01.2014



DESCRIPTION:

PORTIONS OF THE CARMICHAEL MS 5574, BUCKEYE MS 9607, EAST KEYSTONE MS 9607
 AND TUCKER EXT. MS 14484 LOCATED WITHIN SECTION 1, TOWNSHIP 3 SOUTH,
 RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF
 COLORADO, CONTAINING 7.09 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

PROJECT NO.: CC-BLH\TOBLHD\QUARTZ VALLEY RESERVOIR PROJECT LAND SWAP LINN to CITY

Exhibit B

To that certain Contract to Buy and Sell Real Estate dated _____, 2015, by and between Quartz Valley Ranch Company, a Colorado corporation, 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):

- 16.A. Broker Commission: None.
- 16.B. Closing Costs:
- 16.C. Facsimile Signatures: Facsimile signatures are acceptable.
- 16.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.
- 16.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: | Quartz Valley Ranch Company
Kurt O. Linn
555 South Miller Street
Lakewood, Colorado 80226 |
| Buyer: | The City of Black Hawk
Attn: Jack D. Lewis, City Manager
P.O. Box 68
Black Hawk, Colorado 80422 |
- 16.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.
- 16.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.

- 16.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.
- 16.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.

16.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.

SELLER:

QUARTZ VALLEY RANCH COMPANY, a
Colorado corporation

By:

BUYER:

The City of Black Hawk, Colorado

By: _____

David D. Spellman, Mayor

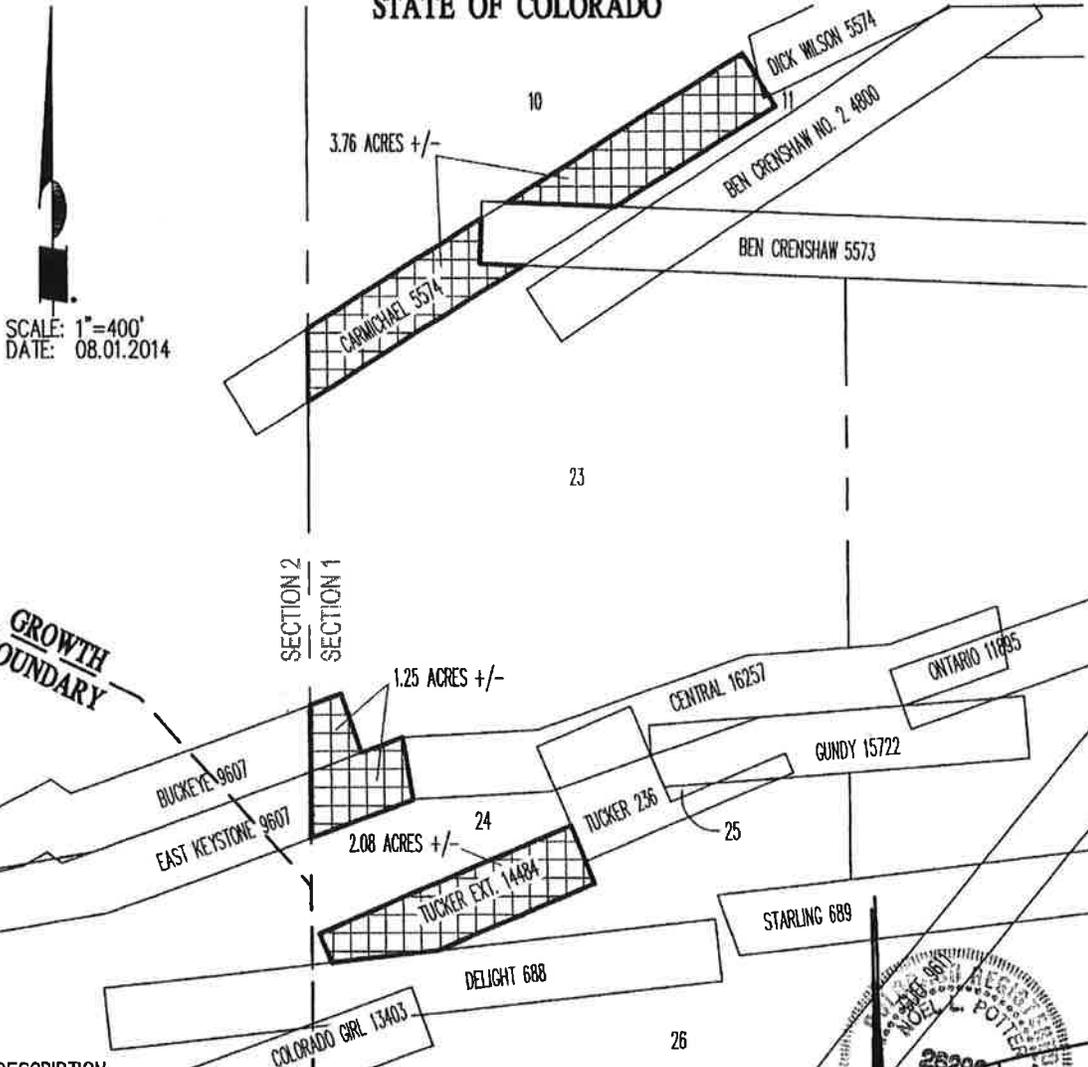
Attest: _____

Melissa Greiner, City Clerk

Exhibit B

EXHIBIT B

PORTIONS OF THE CARMICHAEL MS 5574, BUCKEYE MS 9607
 EAST KEYSTONE MS 9607 AND THE TUCKER EXT. MS 14484
 LOCATED WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 73 WEST
 OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN
 STATE OF COLORADO



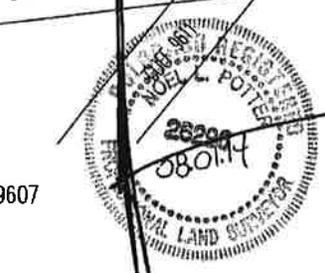
SCALE: 1"=400'
 DATE: 08.01.2014

PROJECT NO.: CCS-BLH-HOBH01 QUARTZ VALLEY RESERVOIR PROJECT LAND SWAP LUNN TO CITY

DESCRIPTION:

PORTIONS OF THE CARMICHAEL MS 5574, BUCKEYE MS 9607, EAST KEYSTONE MS 9607
 AND TUCKER EXT. MS 14484 LOCATED WITHIN SECTION 1, TOWNSHIP 3 SOUTH,
 RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF
 COLORADO, CONTAINING 7.09 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

Exhibit C

EXHIBIT C
A RESERVOIR EASEMENT, LOCATED WITHIN SECTION 2
TOWNSHIP 3 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN
COUNTY OF GILPIN, STATE OF COLORADO

DESCRIPTION:

A PARCEL OF LAND, LOCATED WITHIN SECTION 2, TOWNSHIP 3 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 2, WHENCE THE SOUTHEAST CORNER OF SAID SECTION IS ASSUMED TO BEAR S 00°10'41" W, 2643.15 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO, THENCE ALONG THE EAST LINE OF SAID SECTION S 00°10'41" W, 925.05 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST LINE S 00°10'41" W, 945.64 FEET MORE OR LESS TO THE POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF THE EAST KEYSTONE LODE MS 9607; THENCE ALONG SAID SOUTHERLY LINE S 70°15'00" W, 84.85 FEET TO THE POINT OF INTERSECTION WITH THE BLACK HAWK GROWTH BOUNDARY; THENCE ALONG SAID GROWTH BOUNDARY THE FOLLOWING TWO (2) COURSES:

1. N 42°19'33" W, 498.55 FEET;
2. THENCE N 63°40'53" W, 1214.19 FEET;

THENCE N 53°57'33" E, 247.69 FEET; THENCE N 80°11'09" E, 583.34 FEET; THENCE N 89°48'48" E, 282.23 FEET; THENCE S 76°07'46" E, 320.84 FEET; THENCE S 53°35'49" E, 171.49 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 20.32 ACRES MORE OR LESS.



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

SHEET 1 OF 2

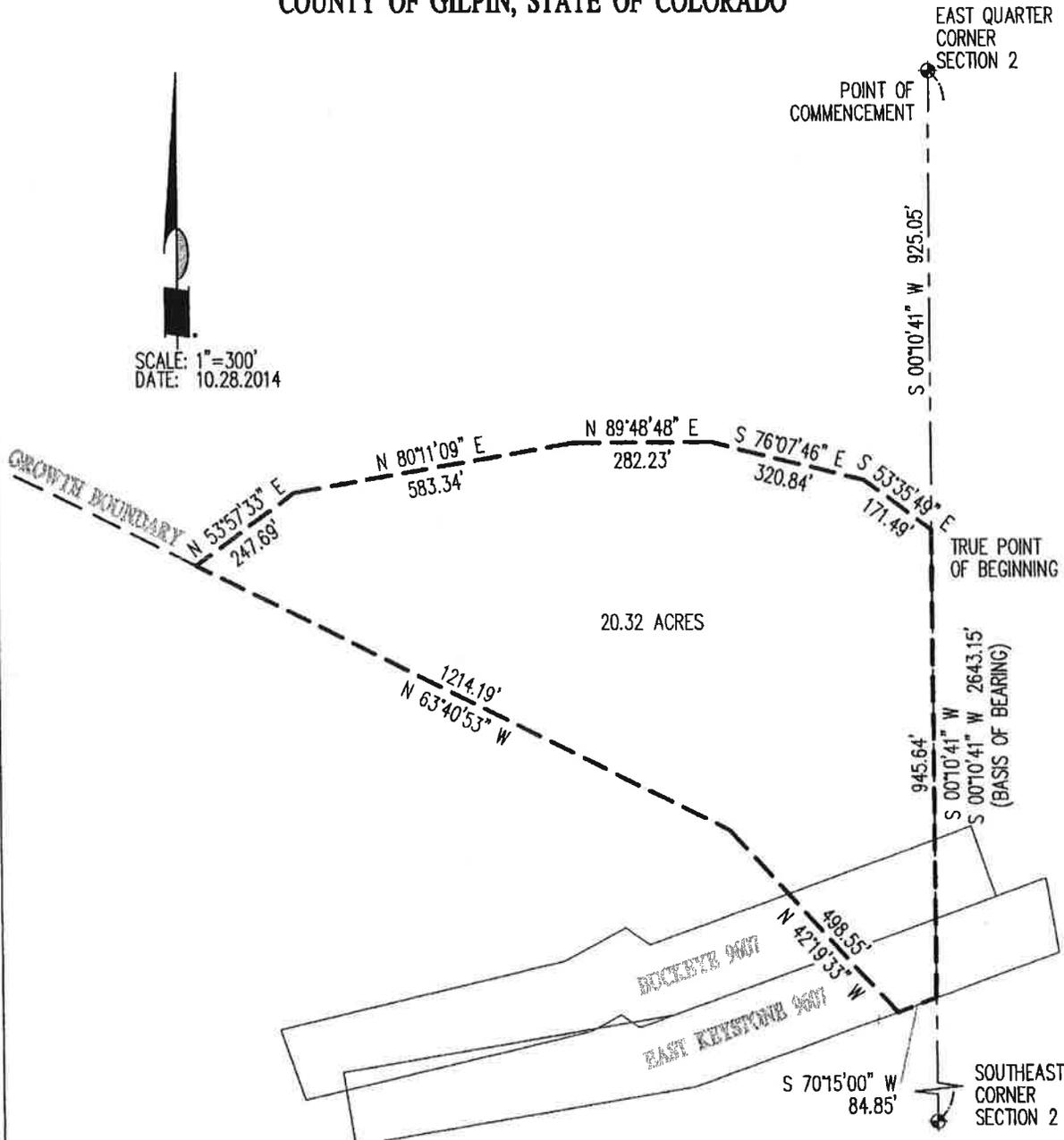
C.C.S. CONSULTANTS, INC.

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

EXHIBIT C

A RESERVOIR EASEMENT, LOCATED WITHIN SECTION 2
 TOWNSHIP 3 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN
 COUNTY OF GILPIN, STATE OF COLORADO

SCALE: 1" = 300'
 DATE: 10.28.2014



PROJECT NO.: CCS-BLH\10BLH01\QUARTZ VALLEY\RESERVOIR PROJECT\CONSERVATION EASEMENT

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

RESERVOIR EASEMENT

THIS RESERVOIR EASEMENT (the "Reservoir Easement") is entered into this ____ day of _____, 2015 by and between Quartz Valley Ranch Company, a Colorado corporation ("Grantor"), and the **City of Black Hawk**, a Colorado home rule municipality ("Grantee" or the "City") (collectively the "Parties").

RECITALS

A. Grantor is the sole owner of certain property needed by Grantee for the construction of a reservoir located in Gilpin County, Colorado, attached hereto as **Exhibit A**, and incorporated herein by this reference (the "Property"); and

B. For the consideration set forth herein, and other good and valuable consideration, Grantor desires to grant to Grantee an easement for the construction, operation, access, and maintenance of a reservoir facility as set forth herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, and of the mutual covenants, terms, conditions and restrictions contained herein, Grantor does hereby grant and convey to Grantee, its successors and assigns, a perpetual Reservoir Easement, over, on and across the Property.

1. Purpose. It is the purpose of this Reservoir Easement to allow the Grantee to construct a Reservoir on the Property as a public water storage facility, subject to the terms and conditions set forth herein. The Reservoir shall be located in part of the Property, and in part on City-owned property. The rights set forth herein, unless otherwise specifically indicated, shall only apply to the portion of the Reservoir located on the Property.

2. Affirmative Rights Conveyed. The affirmative rights and interests granted and conveyed to Grantee by this Reservoir Easement are the following:

a. To construct, operate, access and maintain a reservoir on the Property, which shall include use of the Property for the Reservoir, but only for water storage, and the installation, maintenance and operation of measuring devices as may be required by the Colorado Division of Water Resources; provided however, the City as Grantee agrees that it shall not use the portion of the Reservoir within the Property, or any other portion of the Property, for public access for any active open space purposes, including, but not limited to mountain biking or hiking, or otherwise for public access to the Reservoir. No public access to the Property or public use of the Property shall be permitted;

b. To remove or eliminate any conditions or uses that violate the terms of this Reservoir Easement;

c. To prevent any activity on or use of the Property that is inconsistent with the purposes of this Reservoir Easement;

d. To cause the City as Grantee to take those actions necessary to maintain the characteristics of a water storage reservoir and associated facilities including all of those actions regarding the construction, operation, access to and maintenance of the water storage reservoir.

3. Permitted Uses and Practices. Grantor intends that this Reservoir Easement shall restrict the future use of the Property. Provided, however, Grantor may use the Property consistent with a reservoir and associated uses for Grantor's benefit, including Grantor's use of the Property appurtenant to Grantor's single family residence adjacent to the Property (the "Remainder Property"). In addition, to the extent permitted by law, Quartz Valley shall retain use of the Property for any private recreational use, excluding motorized watercraft and excluding any use that would be detrimental to the City's water supply.

4. Prohibited Uses and Practices by Grantor. The following uses and practices are inconsistent with the purposes of this Reservoir Easement and shall be prohibited upon or within the Property, except as permitted under Paragraph 3 above:

- a. The change, disturbance, alteration, or impairment of the Property;
- b. Commercial recreational uses;
- c. The construction, placement or erection of any sign or billboard without consent of Grantee;
- d. The dumping or accumulation of trash, ashes, garbage, waste or other unsightly or offensive material on the Property. The storage, dumping or other disposal of toxic and/or hazardous materials on the Property is prohibited;
- e. The conveyance of any new access easement or other right-of-way, the paving of any roadway or otherwise covering any portion of the Property with concrete, asphalt or any other paving material, the resurfacing, widening, grading or any other improvement of any roadway that would provide vehicular access than that which exists at the time of conveyance, or the construction of any new trails or roadways without the written consent of Grantee, which consent shall be in Grantee's sole discretion;
- f. The mining or extraction of geothermal resources, soil, sand, gravel, rock, oil, natural gas, fuel, other hydrocarbons or any other mineral substance shall be prohibited upon or within the Property. Grantor shall not transfer, encumber, lease or otherwise separate the geothermal resources, soil, sand, gravel, rock, oil, natural gas, fuel, other hydrocarbons or any other mineral substance from the Property;
- g. The establishment or maintenance of a commercial feed lot is prohibited. For purposes of this Reservoir Easement, "commercial feed lot" is defined as a permanently constructed confined area or facility within which the land is not grazed or

cropped annually that is used and maintained for the purpose of feeding and fattening livestock for future commercial sales;

h. The degradation or pollution of any surface or sub-surface water on the Property;

i. Any new draining of any surface or sub-surface water on the Property; or

j. Grading, contouring, berming, reshaping, or otherwise altering the topography of the Property, including without limitation, the movement, excavation or removal of plants, plant material, soil, sand, gravel, rock, peat or sod, without the prior written consent of Grantee.

5. Grantee's Approval. Whenever this Reservoir Easement requires that Grantor obtain Grantee's approval of any activity on or use of the Property, Grantee's determination regarding Grantor's application for approval shall not be unreasonably withheld or delayed. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within forty-five (45) days of receipt of Grantor's written request therefore unless a different time period is specified herein for the matter in question.

6. Additional Terms and Conditions of Reservoir Easement.

a. At the time of construction of the Reservoir by the City, the City shall construct a twelve (12) foot wide gravel road, with all necessary drainage improvements along the southwesterly and northwesterly limits of the Reservoir, to the ranch house currently located on the Remainder Property. The road shall be constructed in accord with customary engineering standards for such a gravel road. Following construction, the City shall be responsible for maintaining the road to the western tip of the Reservoir (the location of the flow measuring structure such as a weir, flume or similar measuring device), and Grantor shall be responsible for maintenance from that point to the ranch house.

b. The City shall further as part of the construction of the Reservoir install buoys within the Reservoir delineating the Property defined herein from the remainder of the Reservoir constructed by the City.

c. Until construction of the Reservoir commences and the new gravel access road is completed, Grantor's existing access road and gate crossing the future Reservoir site shall remain in existence for the sole and exclusive use of Grantor.

d. Subject to the provisions of Section 4 above, the City further specifically consents to Grantee keeping a certain amount of livestock on the Remainder Property. Prior to construction of the Reservoir, the number of livestock shall not be restricted and the livestock may occupy and graze on the Reservoir Easement Property. After construction of the Reservoir, the number of such livestock shall be determined by the City and Grantor taking into account best engineering practices to assure that the number

of such livestock do not have a detrimental impact on the Reservoir, but shall not be less than ten (10) or more than twenty five (25) cow/calf units. It is recognized and acknowledged that there will not be any fencing between the Reservoir Easement Property and the Quartz Valley Remainder Property and that after construction of the Reservoir the livestock may graze on that portion of the Reservoir Easement Property not occupied by the Reservoir

7. Restoration. Grantor further understands that should any prohibited activity be undertaken on the Property, Grantee shall have the right to cause the restoration of that portion of the Property affected by such activity to the condition that existed prior to the undertaking of such prohibited activity.

8. Enforcement Rights of Grantee. In the event Grantee believes that a violation of any term, condition, covenant, or restriction contained in this Reservoir Easement has occurred, Grantee shall immediately notify Grantor in writing of the alleged violation. Upon receipt of such written notice, Grantor shall either (a) restore the Property to its condition prior to the violation or (b) provide a written explanation to Grantee of the reason why the alleged violation should be permitted. If the condition described in clause (b) above occurs, both parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. Grantor shall discontinue any activity that could increase or expand the alleged violation while the activity is being disputed. Should mediation fail to resolve the dispute within a reasonable time, not to exceed sixty (60) days from Grantor's receipt of Grantee's notice, Grantee may, at its discretion, take appropriate legal action. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may obtain an injunction to stop it, temporarily or permanently. A court may also issue an order to require Grantor to restore the Property to its condition prior to the violation. In the event Grantor does not provide a written explanation for the alleged violation under (b) above within thirty (30) days after receiving Grantee's violation notice, Grantee may institute a suit to enjoin such violation by temporary and/or permanent injunction, or for damages for breach of covenant, or may take such other action as it deems necessary to ensure compliance with the terms, conditions, covenants and purposes of this Reservoir Easement; provided, however, that any failure to so act by Grantee shall not be deemed to be a waiver or a forfeiture of the right to enforce any term, condition, covenant, or purpose of this Reservoir Easement in the future.

9. Waiver. Enforcement of the terms of this Reservoir Easement shall be at the sole discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Reservoir Easement in the event of any breach of any term of this Reservoir Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Reservoir Easement or of any of Grantee's rights under this Reservoir Easement.

10. Acts Beyond Grantor's Control. Nothing contained in this Reservoir Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor

under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

11. No Public Access. Nothing contained herein shall be construed as affording the general public access to any portion of the land subject to this Reservoir Easement.

12. Severability. If any of the provisions of this Reservoir Easement are held to be invalid or unenforceable, then the remaining balance of this Reservoir Easement shall be deemed severable and held to be in full force and effect.

13. Grantor's Warranty of Title. Grantor warrants that Grantor has good and sufficient title to the Property, that Grantor has good right, full power and lawful authority to grant and convey this Reservoir Easement, that any mortgages or liens on the Property are and shall remain subordinate to the terms of this Reservoir Easement, and Grantor hereby promises to warrant and forever defend the title to this Reservoir Easement against all and every person or persons lawfully claiming by, through, or under Grantor, the whole or any part thereof, except for the rights-of-way, easements, restrictions, covenants, and mineral reservations of record at the time of the execution of this Reservoir Easement.

14. Notices. Within sixty (60) days after a change of Grantor's address, Grantor shall provide Grantee with written notice of any change of address. Whenever notice is required to be given hereunder, it shall be in writing and may be faxed or delivered to the party entitled thereto or mailed to the party entitled thereto, by registered or certified mail, return receipt requested. If delivered or faxed, said notice shall be effective and complete upon delivery or completion of the fax. If mailed, said notice shall be effective and complete as of the date of mailing. Unless changed by notice in writing, notice shall be given as follows:

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
Hayes, Phillips, Hoffmann & Carberry, P.C.
1530 16th Street, Suite 200
Denver, Colorado 80202

To Quartz Valley: Kurt O. Linn
555 South Miller Street
Lakewood, Colorado 80226

With a copy to: Scott D. Albertson, Esq.
Holley, Albertson & Polk, P.C.
1667 Cole Blvd., Suite 100
Golden, Colorado 80401

15. No Third Party Beneficiaries. This Reservoir Easement is entered into by and between Grantor and Grantee, and is solely for the benefit of Grantor and Grantee and their respective successors and assigns for the purposes set forth herein, and does not create any rights or responsibilities in any third parties.

16. Entire Agreement. This instrument sets forth the entire agreement of the Parties with respect to this Reservoir Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to this Reservoir Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with the Amendment Paragraph herein.

17. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not part of this instrument and shall have no effect upon construction or interpretation.

18. Exhibits. All references to exhibits herein shall incorporate such exhibits by their reference.

19. Counterparts. This Reservoir Easement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement. Facsimile signatures shall be acceptable to and binding upon the Parties.

20. Recording. This Reservoir Easement shall be recorded in the office of the Clerk and Recorder of Gilpin County, Colorado.

CITY OF BLACK HAWK

By: _____
David D. Spellman, Mayor

ATTEST:

Melissa Greiner, City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF GILPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015,
David D. Spellman as the Mayor of the City of Black Hawk.

Witness my hand and official seal.

(SEAL)

Notary Public

My commission expires: _____

Exhibit D

CONTRACT TO BUY AND SELL REAL ESTATE

_____, 2015

1. PARTIES AND PROPERTY. Quartz Valley Ranch Company, a Colorado corporation (Buyer), agrees to buy, and the City of Black Hawk, Colorado (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. N/A

3. PURCHASE PRICE AND TERMS. The purchase price shall be the consideration as more particularly described in that Property Exchange Agreement between the City and Quartz Valley Ranch Company dated January 14, 2015, plus closing costs, said closing costs to be paid in full by Seller 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. 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 Seller's expense a current commitment for owner's title insurance policy in an amount equal to Fifty Thousand Dollars (\$50,000.00), on or before January 30, 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 insurance commitment also be furnished to Buyer at Seller'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 insurance 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. If Seller furnishes a title insurance commitment, Seller will pay the premium at closing and have the title insurance policy delivered 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 February 6, 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 January 23, 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 February 6, 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 February 13, 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 March 27, 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.

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; 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. Seller 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 (Specific Performance).

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, or Seller may elect to treat this contract as being in full force and effect and Seller shall have the right to specific performance or damages, or both.

(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.

(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. (The language of these additional provisions has not been approved by the Colorado Real Estate Commission.)

15. RECOMMENDATION OF LEGAL COUNSEL. By signing this document, Buyer and Seller acknowledge that the Selling Company or the Listing Company has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this contract.

16. 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.

SELLER CITY OF BLACK HAWK

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

Attest: _____
Melissa Greiner, City Clerk

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

BUYER QUARTZ VALLEY RANCH COMPANY

By: _____ Date _____

Seller's Address: _____

EXHIBIT A

A PORTION OF THE ONONDAGA CHIEF MINERAL SURVEY AND GOVERNMENT LOT 10 LOCATED WITHIN SECTIONS 1 AND 2, TOWNSHIP 3 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

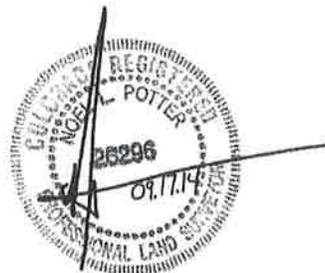
DESCRIPTION:

A PORTION OF THE ONONDAGA CHIEF, MINERAL SURVEY NO. 15506, LOCATED WITHIN SECTIONS 1 AND 2 AND A PORTION OF GOVERNMENT LOT 10, LOCATED WITHIN SECTION 1, ALL IN TOWNSHIP 3 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 1, WHENCE THE NORTHWEST CORNER OF SAID SECTION BEARS N 00°08'14" E, 2564.74 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION, N 00°08'14" E, 431.42 FEET TO THE POINT OF INTERSECTION WITH THE SOUTHERLY LINE OF SAID ONONDAGA CHIEF MINERAL SURVEY; THENCE ALONG SAID MINERAL SURVEY THE FOLLOWING THREE (3) COURSES:

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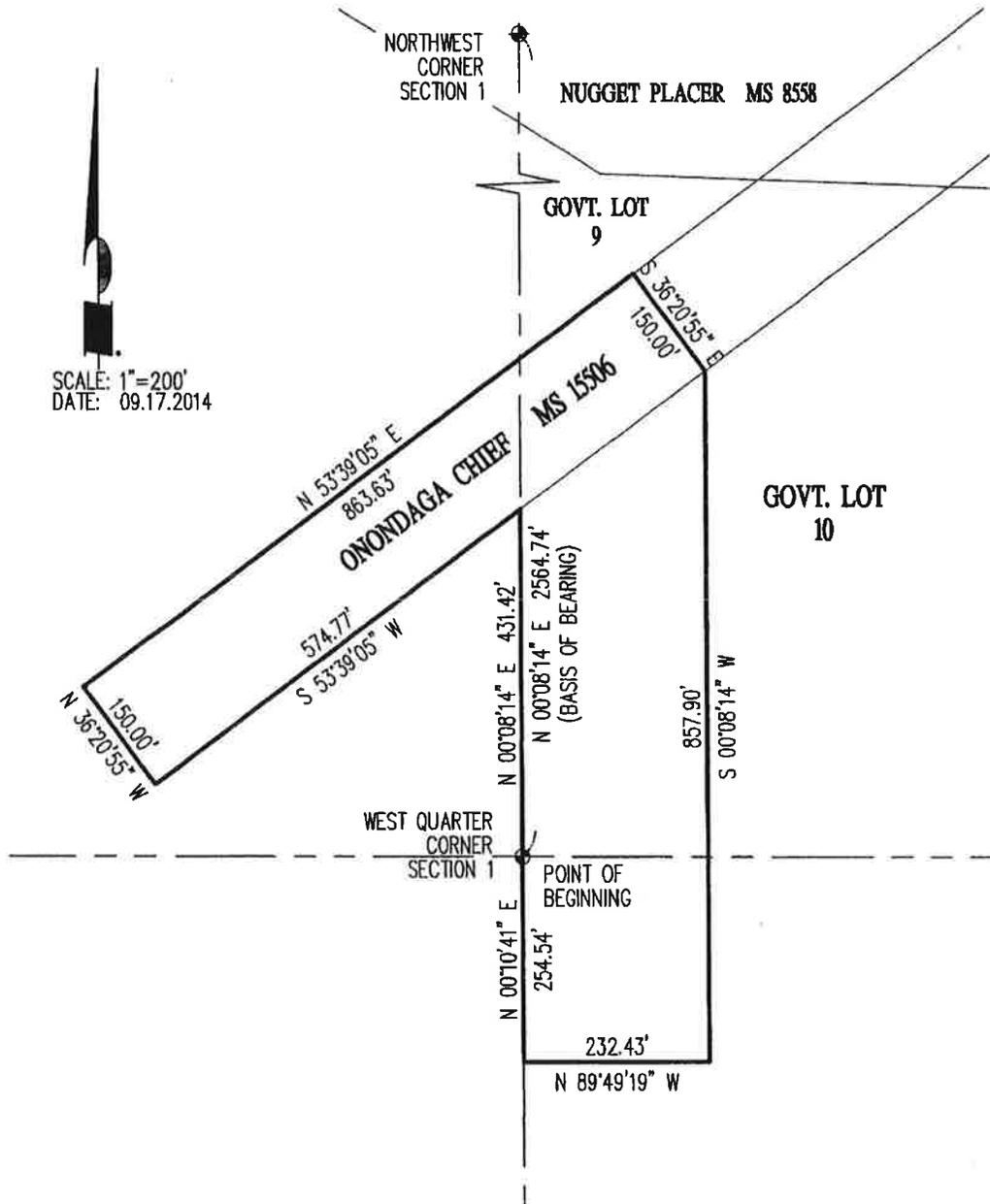
SHEET 1 OF 2

C.C.S. CONSULTANTS, INC.

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

EXHIBIT A

A PORTION OF THE ONONDAGA CHIEF MINERAL SURVEY AND GOVERNMENT LOT 10
 LOCATED WITHIN SECTIONS 1 AND 2, TOWNSHIP 3 SOUTH, RANGE 73 WEST
 OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



SCALE: 1"=200'
 DATE: 09.17.2014

PROJECT NO.: CCS-BLH\10BLH01\QUARTZ VALLEY RESERVOIR PROJECT\LAND SWAP

NOTE:
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SHEET 2 OF 2

C.C.S. CONSULTANTS, INC.

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

Exhibit B

To that certain Contract to Buy and Sell Real Estate dated _____, 2015, by and between Quartz Valley Ranch Company, a Colorado corporation, as Buyer, and the City of Black Hawk, Colorado, as Seller, 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):

- 16.A. Broker Commission: None.
- 16.B. Closing Costs:
- 16.C. Facsimile Signatures: Facsimile signatures are acceptable.
- 16.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.
- 16.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:

Buyer: Quartz Valley Ranch Company
Kurt O. Linn
555 South Miller Street
Lakewood, Colorado 80226

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

- 16.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.
- 16.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.

- 16.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.
- 16.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.

16.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:

QUARTZ VALLEY RANCH COMPANY, a
Colorado corporation

By:

SELLER:

The City of Black Hawk, Colorado

By:

David D. Spellman, Mayor

Attest: _____
Melissa Greiner, City Clerk

Exhibit E

EXHIBIT E

A PORTION OF THE ONONDAGA CHIEF MINERAL SURVEY AND GOVERNMENT LOT 10
LOCATED WITHIN SECTIONS 1 AND 2, TOWNSHIP 3 SOUTH, RANGE 73 WEST
OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO

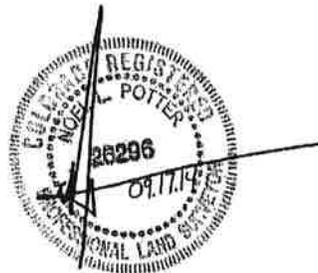
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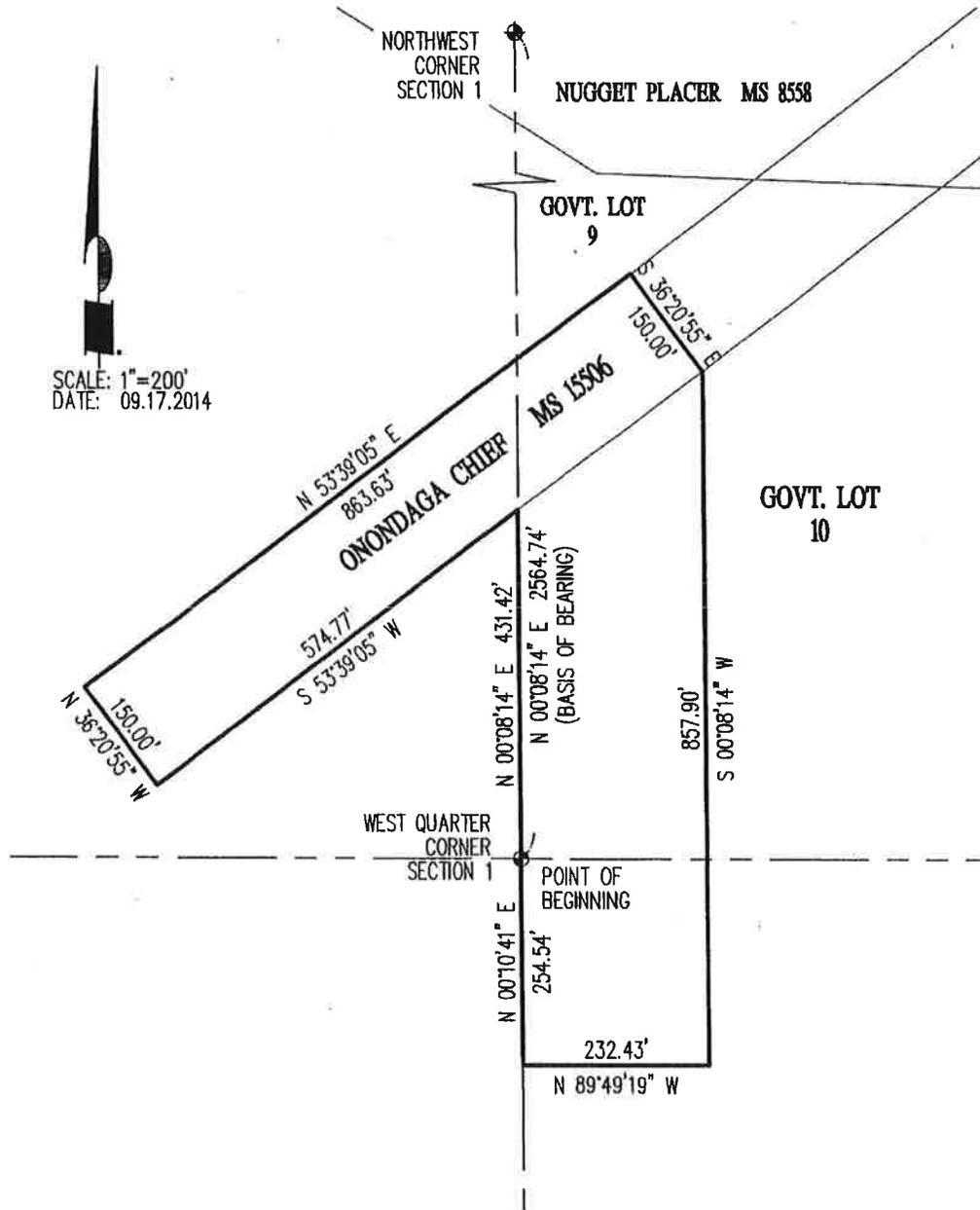
SHEET 1 OF 2

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EXHIBIT E

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 OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF GILPIN, STATE OF COLORADO



SCALE: 1"=200'
 DATE: 09.17.2014

PROJECT NO.: CCS-BLH\10BLH01\QUARTZ VALLEY RESERVOIR PROJECT\LAND SWAP

NOTE:
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SHEET 2 OF 2

C.C.S. CONSULTANTS, INC.
 4860 Robb Street, Suite 206
 Wheat Ridge, Colorado 80033
 Phone: 303-403-4706, Fax: 303-403-0800

RESOLUTION 7-2015
A RESOLUTION
APPOINTING TWO NEW
REGULAR MEMBERS TO
THE CITY OF BLACK
HAWK HISTORIC
PRESERVATION
COMMISSION

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

Resolution No. 7-2015

TITLE: A RESOLUTION APPOINTING TWO NEW REGULAR MEMBERS TO THE CITY OF BLACK HAWK HISTORIC PRESERVATION COMMISSION

WHEREAS, two of the regular members of the Historic Preservation Commission, Richard Smith and Terry Peterson, have resigned; and

WHEREAS, the City Council desires to make the appointment set forth below to replace Mr. Smith and Mr. Peterson.

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

Section 1. The City Council hereby appoints Lynnette Hailey as a regular member of the Historic Preservation commission to complete the four (4) year term of Richard Smith.

Section 2. The City Council further appoints Thomas Gish as a regular member of the Historic Preservation Commission to complete the four (4) year term of Terry Peterson.

RESOLVED AND PASSED this 14th day of January, 2015.

David D. Spellman, Mayor

ATTEST:

Melissa A. Greiner, City Clerk

CITY OF BLACK HAWK

REQUEST FOR COUNCIL ACTION

SUBJECT: *Historic Preservation Commission – Letters of Interest - Lynnette Hailey and Thomas Gish.*

RECOMMENDATION: Staff recommends the following motion to the Mayor and Board of Aldermen: *Move to appoint both Lynnette Hailey and Thomas Gish to the Historic Preservation Commission to fill the two (2) unexpired terms of August 11, 2013 to August 10, 2017.*

MOTION TO APPROVE (or deny, etc.) *Resolution 7-2015 - A Resolution Appointing Two New Regular Members to the City Of Black Hawk Historic Preservation Commission.*

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Members of the Historic Preservation Commission shall be residents of the City of Black Hawk and shall have such qualifications as the City Council deems necessary and desirable in the best interests of the City. To the extent possible, the commission shall be composed of both professional and lay members and shall be selected from fields of history, architecture, landscape architecture, architectural history, prehistoric or historic archaeology, planning or related disciplines such as the building trades, culture geography, cultural anthropology, real estate or law. Recognizing that professionals may not be available in some communities, this requirement can be waived if the local government makes a good faith effort to recruit professionals and demonstrates that it is capable of carrying out commission responsibilities.

The Commission shall consist of five (5) members appointed by the City Council. All members shall serve a four (4) year term unless a Commission member is filling and unexpired term, in which case the Commission member shall serve the remaining portion of the unexpired term. The City Council shall appoint a member to fill the unexpired term of the member whose place has become vacant.

The Commission currently has two commissioner vacancies for the unexpired terms of August 11, 2013 to August 10, 2017.

Letters of Interest have been received from Lynnette Hailey and Thomas Gish. Both are City of Black Hawk residents. Lynnette Hailey has a wide range of experience in the field of Historic Preservation and possesses the professional qualifications to be considered for one of the vacant unexpired terms. Thomas Gish is a civic-minded individual with no professional experience, but actively takes an interest in the community needs and the affairs of the City. He is devoted to making a difference in the community and is often appointed as an election judge and enthusiastically volunteers his time by participating in the City-wide beautification event sponsored each May by the Historic Preservation Commission in conjunction with Historic Preservation month. Serving on the Historic Preservation Commission would create a learning experience to further promote his appreciation of Black Hawk history and the historic residential district. Thomas Gish possesses the civic behavior and qualities to be considered for one of the vacant unexpired terms.

AGENDA DATE: *January 14, 2015.*

WORKSHOP DATE: N/A.

FUNDING SOURCE: N/A.

DEPARTMENT DIRECTOR APPROVAL: [] Yes [X] No

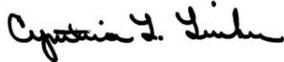
STAFF PERSON RESPONSIBLE: Cynthia L. Linker, CP&D Administrator

DOCUMENTS ATTACHED: Council Action Form, Resolution 7-2015, Letters of Interest, Current Term Limits, and By-Laws.

RECORD: [] Yes [X] No

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

SUBMITTED BY:

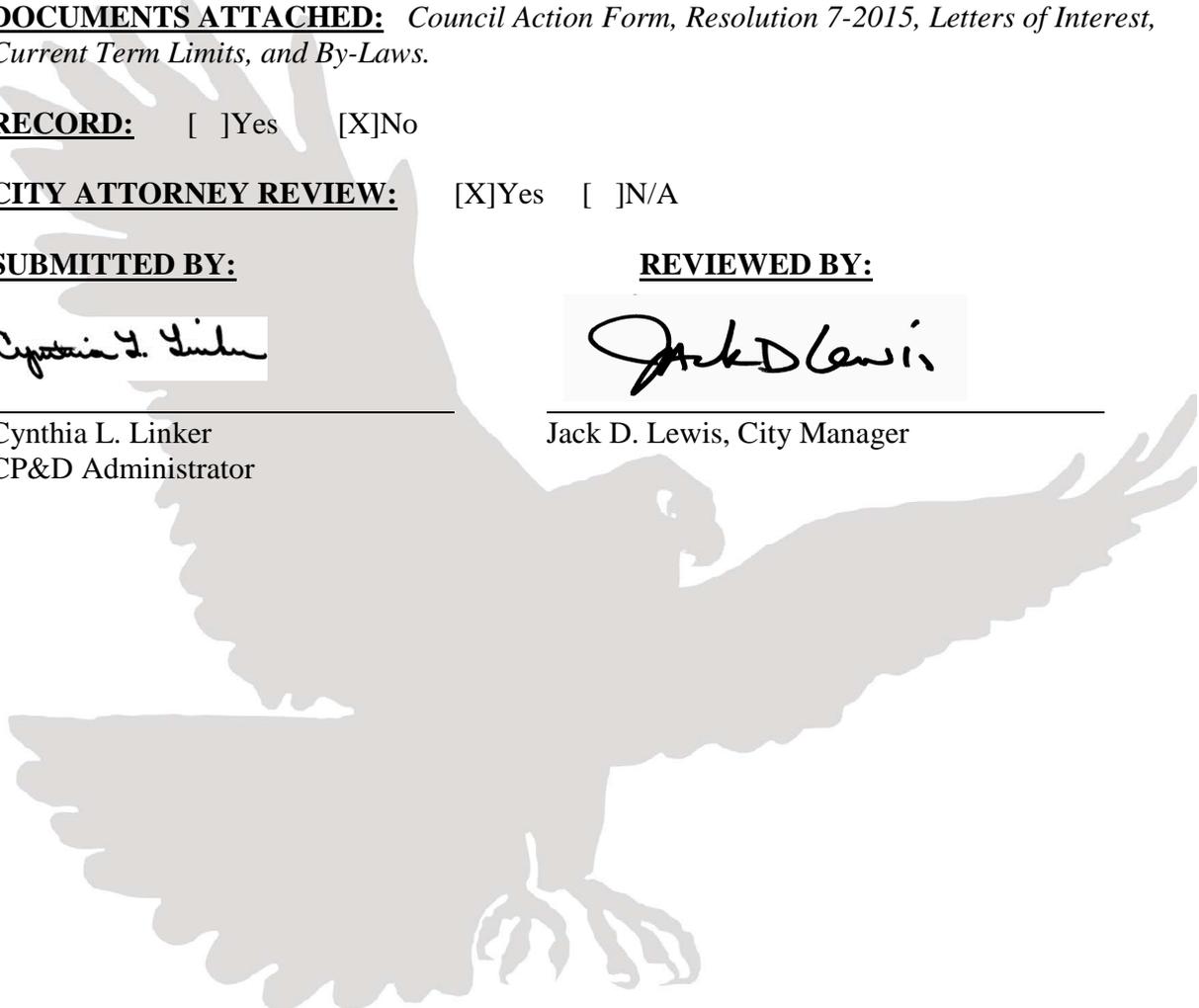


Cynthia L. Linker
CP&D Administrator

REVIEWED BY:



Jack D. Lewis, City Manager



Lynnette Hailey
100 Marchant Street
P. O. Box 562
Black Hawk, CO 80422
lhailey@centurylink.net
303-582-3165

December 17, 2014

City of Black Hawk
Community Planning and Development
P. O. Box 68
Black Hawk, CO 80422

In consideration of the current Black Hawk Historic Preservation Commissions vacancies, please accept this letter as my interest in serving as a member of this Commission.

My past experience includes the following:

March 1987 to April 1995 - City Administrator in Idaho Springs with one of the duties being the Planner/Historic Preservation Officer; and, Support Staff to the Historic Preservation Commission;

March 1995 to November 1999 - City Manager in Black Hawk with one of the duties being Support Staff to the Historic Architectural Review Commission; and, administrating the residential grant program;

June 2003 to March 2010 - City Manager in Central City with one of the duties being the Historic Preservation Officer; Support Staff to the Commission; and, administrating the commercial and residential grant programs.

I would be honored if the Black Hawk City Council would consider my appointment to fill one of the vacancies. I believe I would be an asset to the Commission if appointed.

If you have any questions or need additional information, please do not hesitate to contact me.

Respectfully submitted,


Lynnette Hailey

Cynthia Linker

From: ThomasJ Gish <thomasjgish@gmail.com>
Sent: Monday, January 05, 2015 7:29 AM
To: Cynthia Linker
Subject: Open HPC position

Follow Up Flag: Follow up
Flag Status: Flagged

January 5, 2015

Dear Mrs. Linker,

I would like to be considered for the open position on the City of Black Hawk's Historic Preservation Commission.

I am a long-time resident and would enjoy serving our community.

Thank you for your consideration.

Sincerely,

Thomas J. Gish
251 High Street
P.O. Box 81
Black Hawk, CO 80422
303-817-7691



HISTORIC PRESERVATION COMMISSION

Updated: January 1, 2015

COMMISSION MEMBERS

Vacant, Commissioner

Term Limit Four (4) Years: August 11, 2013 – August 10, 2017

Patricia Torres, Vice Chairman

211 Horn Street, PO Box 632, Black Hawk, CO 80422

circleofthedrum@msn.com

Term Limit Four (4) Years: August 11, 2013 – August 10, 2017

Larry Linker, Commissioner

311 Chase Street, PO Box 366, Black Hawk, CO 80422

linkerlarry73@gmail.com

Term Limit Two (2) Years: August 11, 2013 – August 10, 2015

Curtis Linder, Commissioner

111 Marchant Street, PO Box 137, Black Hawk, CO 80422

linson831@aol.com

Term Limit Two (2) Years: August 11, 2013 – August 10, 2015

Vacant, Commissioner

Term Limit Four (4) Years: August 11, 2013 – August 10, 2017

ALTERNATE COMMISSION MEMBERS

(Vacant Positions)

CITY OF BLACK HAWK CONTACTS

Vacant Position

Commission Secretary

PO Box 68, 211 Church Street, Black Hawk, CO 80422

tarcher@cityofblackhawk.org

303-582-2223 (W)

Cynthia Linker

Community Planning and Development Administrator

PO Box 68, 211 Church Street, Black Hawk, CO 80422

clinker@cityofblackhawk.org

303-582-0615 (W)

303-582-0667 (Cell)

PER ARTICLE II OF THE HISTORIC PRESERVATION COMMISSION BYLAWS, SECTION 2.2, THE COMMISSION HOLDS A DISCUSSION AND VOTES TO ELECT A NEW CHAIRMAN AND VICE CHAIRMAN AT THE FIRST MEETING IN AUGUST EACH YEAR. EACH OFFICER TERM SHALL BE FOR ONE YEAR FROM THE DATE OF APPOINTMENT. THE ELECTION MAY BE HELD BY SECRET BALLOT OR BY A ROLL CALL VOTE IF THE COMMISSION CHOOSES SO IN ADVANCE OF THE BALLOT AT THE SAME MEETING.

CITY OF BLACK HAWK



**BYLAWS AND ADMINISTRATIVE REGULATIONS
GOVERNING THE HISTORIC PRESERVATION COMMISSION**

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Article 5	Meetings and Hearings	6
Article 6	Order of Business for HPC Meetings	9
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CITY OF BLACK HAWK

RULES AND REGULATIONS GOVERNING THE HISTORIC PRESERVATION COMMISSION

ARTICLE 1

GENERAL PROVISIONS

Section 1.1 Applicable City Charter, Local Ordinances, and Rules and Regulations

The Historic Preservation Commission (hereinafter referred to as the "Commission") shall be governed by the City Charter, local ordinances, Guide to Programs, Design Standards, Secretary of the Interior's Standards for the Treatment of Historic Properties, Comprehensive Plan and the rules and regulations of the Commission as set forth herein.

Section 1.2 Requirements for Familiarity with City Charter, Local Ordinances, Rules and Regulations Affecting the Commission and information pertaining to cases presented for review to the Commission.

Upon taking office all members of the Commission shall familiarize themselves with the materials listed in Section 1.1 above, and while in office, they shall maintain such knowledge, and knowledge of amendments and additions. The Commission members should make all efforts to visit a site which is the subject of a request for review by the Commission for the purpose of acquainting them with the site's physical layout, its relation to surrounding properties and uses, and to help them in visualizing the effect of recommending the particular request (Certificate of Appropriateness, Grant applications, Historic Designations, etc.)

ARTICLE 2

MEMBERS AND OFFICERS

Section 2.1 Members

Members of the Commission shall be residents of the City of Black Hawk and shall have such qualifications as the City Council deems necessary and desirable in the best interests of the City. To the extent possible, the commission shall be composed of both professional and lay members and shall be selected from fields of history, architecture, landscape architecture, architectural history, prehistoric or historic archaeology, planning, or related disciplines such as the building trades, cultural geography, cultural anthropology, real estate or law.

Section 2.2 Officers

The Historic Preservation Commission shall appoint a Chairperson and a Vice-Chairperson who shall serve as officers of the Commission. The Commission shall hold its annual election of

officers at the first meeting of any calendar year or at a date determined by the Commission. Each officer term shall be for one year from the date of appointment. The election may be held by secret ballot or by a roll call vote if the Commission chooses so in advance of the ballot at the same meeting. In the case of a tie vote, the Secretary to the Historic Preservation Commission shall disclose the names of the tie contestants and another ballot shall be taken, until one person has received a majority vote of all regular seated members of the Commission. The Vice-Chairperson shall be selected in the same manner as the Chairperson. The Vice-Chairperson shall perform the same functions as the Chairperson during the disqualification, absence or disability of the Chairperson. The Vice-Chairperson may also be designated as the acting Chair at the discretion of the Chair in order to provide additional training for the Vice-Chair. In case of vacancy in the office of Chairperson, the Vice-Chairperson shall succeed the Chairperson and serve the unexpired term as Chairperson. A new Vice-Chairperson shall be selected at the next regular session of the Commission. The Chairperson or, in his absence, the Vice-Chairperson shall conduct the hearing in accordance with local ordinances and these rules and regulations as well as Roberts Rules of Order. In the absence of the Chairperson and the Vice-Chairperson, the members present shall elect a temporary chair to preside over the meeting and the agenda for that day. The officers are voting members and are accorded the same rights and privileges accorded other members.

Section 2.3 Secretary to the Historic Preservation Commission

The City of Black Hawk shall provide the Commission with a secretary. The secretary will attend all meetings and hearings, shall prepare the agenda for all meetings, shall take and prepare minutes of meetings, showing the outcome of each vote upon every question, and shall administer oaths to people who want to testify during public hearings. The Secretary shall be the custodian of the Commission's records and shall conduct official correspondence, send out all notices, compile records and maintain the files. No later than the Friday preceding each regular Commission meeting, the Secretary shall have an agenda of the next meeting including all attachments, staff reports and a copy of the minutes of the previous meeting delivered to each Commission member.

Section 2.4 Advising Candidates During the Selection Process

It shall be the responsibility of the City Council to advise candidates applying for appointment to the Historic Preservation Commission of the commitment required in terms of time needed for the review of staff reports and regular attendance at meetings. Candidates shall indicate their ability to meet this commitment during their interview. Each candidate shall receive a copy of these Rules and Regulations upon receipt of his application.

Section 2.5 Appointment

The Commission shall consist of five (5) members appointed by the City Council. The City Council shall also appoint three (3) alternate members from residents of Black Hawk.

Section 2.6 Term of Office

All Commission members shall serve a four (4) year term unless a Commission member is filling an unexpired term, in which case the Commission member shall serve the remaining portion of the unexpired term. Additionally, two (2) of the initial five (5) regular appointment terms shall be two (2) years in duration in order to create staggered terms.

Section 2.7 Compensation

Each member of the Board may be reimbursed for actual expenses incurred as a result of such membership. The expenses shall be documented to the Secretary to the Board.

Section 2.8 Removal for Cause

Any member may be removed for cause by the City Council upon presentation of written charges after a hearing. Making continuous inappropriate comments, suggestions, or actions may be cause for removal. Failure to attend three (3) or more regular meetings without prior explanation to the Secretary of the Commission may be considered a cause for removal.

Section 2.9 Vacancies

A vacancy shall exist when any member dies, resigns, is removed for cause, is not reappointed, ceases to be a resident of the City, or becomes an elected official or an employee of the City. The City Council shall appoint a member to fill the unexpired term of the member whose place has become vacant. A member who ceases to be a resident of the City may continue to serve for up to six (6) months until a new member has been appointed by the City Council to replace that member.

ARTICLE 3

POWERS OF THE COMMISSION

Section 3.1 Certificates of Appropriateness as required in the Zoning Ordinance

The Historic Preservation Commission shall have the authority to review and issue Certificates of Appropriateness (COAs) for building and demolition permits for locally designated historic landmarks.

Section 3.2 Historical Grants as outlined in the Guide to Programs

The Historic Preservation Commission shall hear applications for historical grants and make recommendations to the City Council regarding said applications.

Section 3.3 Nomination or designation of properties or structures as Historic Landmarks.

The Commission is authorized to review and make recommendations to the City Council regarding applications for local historic designations. The Commission shall, after reasonable opportunity for public comment, prepare a report indicating whether the subject property meets the criteria set forth in Section 16-426 of the Black Hawk Municipal Code.

The Commission's design standards and decisions shall be consistent with the Secretary of the Interior's Standards for Treatment of Historic Properties and such standards shall also be used to evaluate applications before the Commission.

Section 3.4 Appeals

The Commission is authorized to hear appeals of denials of any staff determinations related to Historic preservation, if allowed and made. The Commission may uphold staff determinations, approve subject plans with or without conditions or continue the case to allow changes.

Section 3.5 Conditions

The Commission may impose conditions upon the issuance of any COA or recommendation made to the City Council in accordance with the City's Ordinances and Regulations.

Section 3.6 Other Plans

The Commission shall review all proposed adoptions of changes or amendments to the Comprehensive Plan, Guide to Programs, Park Plans, Historic Plans and any other plans that may be presented to the Commission.

ARTICLE 4

CONDUCT OF MEMBERS

Section 4.1 Right of Floor

No member, staff or citizen shall speak unless recognized by the Chairperson according to Robert's Rules of Order.

Section 4.2 Motions

After a resolution or motion is introduced and seconded, the Chairperson shall restate the resolution or motion and ask for discussion from Commission members. After all Commission members have had an opportunity to speak, the Chairperson shall instruct the Secretary to conduct a roll call vote. Any amendment to a motion, whether it is for the purpose of adding to, deleting from, or changing the character of the original motion, shall require a majority vote of members for adoption of the amendment.

Section 4.3 Representation of Applicant

No member of the Commission shall represent an applicant before the Historic Preservation Commission on matters on which the Commission is to make determinations. This section shall not prevent the Commission Member from appearing before the Commission as a property owner or citizen. No Commission member may sit at the dias during a hearing if he or she intends to address the Commission as a citizen. When such member makes a statement as a citizen, he or she shall not identify himself or herself as a member of the Commission. In addition, he or she shall not discuss the application with any Commission member in advance of or during the hearing.

Section 4.4 Conflict of Interest

No member of the Commission shall participate as a Commissioner in any case in which he has financial interest in the property or action concerned. Commission Members may voluntarily excuse themselves if there is a conflict for any other reason.

Section 4.5 Expressions of Bias, Prejudice or Opinion

No member shall discuss a case with any other parties except staff prior to a public hearing, or express any bias, prejudice, or individual opinion on proper judgment of a case prior to a hearing. The Commission may discuss general matters pertaining to planning and development in the City.

Section 4.6 Decorum and Order

The Chairperson shall preserve decorum and decide all questions of order before the Commission. All meetings of the Commission shall be in accordance with Robert's Rules of Order.

ARTICLE 5

MEETINGS AND HEARINGS

Section 5.1 Regular Meetings

Regular meetings of the Commission shall generally be held at 1:00 P.M. on the 1st and 3rd Tuesday of each month at the City of Black Hawk Annex Building, 211 Church Street, except as otherwise designated by the Commission. Changes in meeting times and dates shall be posted with the agenda for such meetings.

Section 5.2 Special Meetings

Special meetings may be called by the Chairperson or at the request of a majority of Commission Members.

Section 5.3 Study Sessions

Study sessions are informal meetings during which general historic preservation topics are discussed which contribute to the continuing education and training of Commission members. Study sessions are open to the public and are to be recorded and minutes taken. Study sessions shall be held at the discretion of the Commission.

Section 5.4 Continued Cases

Any regular hearing may be continued to the next regularly scheduled meeting or any other meeting, and such continuance shall not require additional public notice. If a member was not present at the meeting from a case that was continued, the member shall listen to the official tapes of the meeting and then be qualified to vote on the case. An applicant may request that a case be continued to a later date certain if all five (5) voting members of the Commission are not present at the beginning of the public hearing.

Section 5.5 Cancellation

If no business is scheduled before the Commission, a meeting may be canceled by the Secretary to the Commission after consulting with the Chairperson and by giving notice to all members at least two (2) hours before the time set for the hearing.

Section 5.6 Quorum

A quorum of the Commission shall consist of a majority of the regular members. If a quorum is not present, the matter shall be continued to the next hearing date. A concurring vote of a majority of those members present and voting is required to approve any matter before the Commission.

Section 5.7 Order of Business at Meetings

The order of business is generally established by the agenda. Changes in the agenda will be discussed by the Commission and the decision on any changes will be announced by the Chairperson at the beginning of the public hearing. The normal order of business shall be as follows:

- a. Call to Order
- b. Conflicts of Interest
- c. Approval of Minutes
- d. Consent Agenda
- e. Historic Grant Applications

- f. Certificate's of Appropriateness
- g. Recommendations for Local Historic Designation
- h. Comprehensive Plan and/or other plans
- i. Other Business
- j. Adjournment

Cases pertaining to the same parcel of property may be considered together or sequentially but moved upon separately.

Section 5.8 Public Hearings

- A. The Commission shall hold a public hearing on all applications if required by the Black Hawk Municipal Code.
- B. Prior to a public hearing, the Chairperson shall explain to those present the order of business at a commission meeting. The Chairperson shall also inform the Commission as to the requirements of the law and what must be proven to substantiate their application.
- C. Those citizens who want to testify during a hearing shall be sworn in by the Secretary. Prior to any individual giving testimony at a hearing, the Chairperson shall instruct the Secretary to administer the oath.
- D. The order of business for each case at a public hearing shall be as follows:
 - 1. The Chairperson shall announce the case;
 - 2. A staff person shall present the staff report;
 - 3. The applicant shall present the case;
 - 4. Persons wishing to comment upon the applicant's request may speak;
 - 5. The Commission may question the applicant, interested persons and staff;
 - 6. The Commission shall close the hearing and discuss the case;
 - 7. The Commission makes findings and votes on the application; and
 - 8. The Chairperson shall state the outcome of the vote.
- E. Any materials presented to the Commission during the public hearing must be identified and entered into the record as an exhibit. Such materials shall be kept in the case file.
- F. The Commission shall approve, modify or deny; or recommend approval or denial of any matter before the Commission using the form of a resolution.
- G. The Commission shall keep minutes of its proceedings and it shall also keep records of its examinations and of the official actions, all of which shall be filed immediately in the offices of the City and shall be public record.

ARTICLE 6

ORDER OF BUSINESS FOR HISTORIC PRESERVATION COMMISSION HEARINGS

Section 6.1 INTRODUCTION

Chairperson: Welcome to the Black Hawk Historic Preservation Commission Hearing. I would like to explain the following guidelines:

1. I would ask that all testimony be given at the microphone.
2. When you first speak, please state your full name and complete address.
3. If you wish to speak again, you must request permission from the Chairperson.
4. All testimony should be relevant and not be repetitious.
5. Proper decorum must be maintained in this room. Clapping, booing and audible conversations among the audience are not appropriate.
6. If you have any objections to any testimony, you may request permission to re-address the Commission.

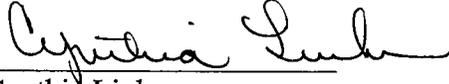
Section 6.2 ORDER OF TESTIMONY

Testimony shall be received in the following order:

1. If the roster indicates that there is opposition to the case, staff shall present its full report or recommendation. Staff will be allowed a maximum of ten (10) minutes to present.
2. The applicant will make a statement in support of this application. The applicant will be allowed a maximum of fifteen (15) minutes to present.
3. A maximum of five (5) minutes will be allowed for other citizens to speak in the following order:
 - a) Those in support of the application
 - b) Those opposed
4. Applicant's rebuttal testimony. Applicant will be allowed a maximum of five (5) minutes for rebuttal.
5. After completion of all testimony, the Chairperson may close the public hearing and open the proceedings to discussion and questions by the Commission. At the discretion of the Chairperson, additional testimony may be entertained, but such additional testimony must not be repetitious and must serve to clarify points raised in the earlier testimony. Although a case may be continued to a subsequent meeting for further study, the Historic Preservation Commission normally makes a decision on a case the same afternoon as the public hearing.

RECOMMENDED AND APPROVED:

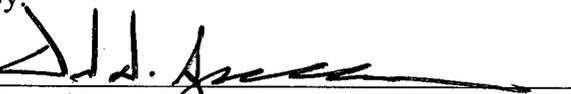
By:


Cynthia Linker
Community Planning and Development Coordinator

By:

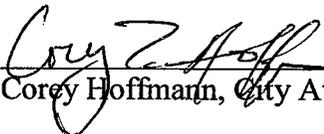

City of Black Hawk Historic Preservation Commission

By:


City of Black Hawk Board of Aldermen

APPROVED AS TO FORM:

By:


Corey Hoffmann, City Attorney